

4 June 2021

## Open letter to members of Tower Hamlets Health & Adults Scrutiny Sub-committee

We are writing to you as members of the Council's Health & Adults Scrutiny Sub-committee, to ask you to pay particular attention to changes taking place in primary care in the borough.

### Operose Health takeover

You will have heard about the four Tower Hamlets GP surgeries,<sup>1</sup> under two NHS contracts,<sup>2</sup> which changed hands in February 2021 – moving from AT Medics, a company led by GPs, to Operose Health, which is a UK subsidiary of the US health insurance giant, the Centene Corporation. In all, Operose took on 37 GP practices formerly owned by AT Medics, across 49 sites. Of these, 13 are in NE London.

The Mayor of Tower Hamlets, both our MPs, local doctors and campaigners have all expressed their concerns about these practices falling into American hands. There is particular concern about the lack of transparency surrounding the decision to accept a 'change of control' over the NHS general practice contracts.

In fact, in each affected area, the decision was taken under 'Chair's action' by the relevant Primary Care Commissioning Committees. This therefore meant no scrutiny from councillors and no accountability to members of the public.

You may be heartened to hear that Leigh Day, acting for Anjna Khurana, filed a legal claim on Monday 17 May, requesting a judicial review on this issue (see Appendix). Anjna is a patient of Hanley Primary Care Centre in Islington and a councillor for Tollington ward. The claim is a test case, where the court is being asked to determine whether North Central London Clinical Commissioning Group acted unlawfully in making their decision. Any decision in Anjna's favour should also apply to NE London.

### Further at-risk surgeries

Please be aware that three other surgeries in Tower Hamlets are being retendered, putting them at risk of being taken over by commercial and foreign companies like Operose Health.

In November 2020, the Prior Information Notice<sup>3</sup> listed them as:

- LOT 1: Barkantine Surgery, 121 Westferry Rd, Isle of Dogs, London E14 8JH. (This practice is currently led by a doctor who is set to retire.)
- LOT 2: St Andrews, 2 Hannaford Walk, London E3 3FF. (The current contract is held by the Bromley by Bow Partnership.)
- AND St Paul's Way, First Floor, 11 Selsey St, London E14 7LJ. (The current contract is held jointly by the practices in Network 6 – ie the two practices now at new premises in

Wellington Way (formerly Merchant St & Stroudley Walk) and the Bromley by Bow Partnership.)

According to the bidstats document, the next phase of procurement was due to be published by early February 2021. However, we understand they have been given an extension till March 2022. Given the long lead time on procurements, we want to point to the importance of keeping track of this process, so that we can protect our surgeries from further takeovers by remote US health corporations or large private chains.

Please note that we are likely, over the coming months, to hear the Government and others claim that these surgery takeovers are not important, because “all GPs are private anyway”. We recommend reading an excellent blog<sup>5</sup> on the Keep Our NHS website, which explains why this is not true.

### Health Scrutiny possible actions

We would urge Committee members who share our concerns to consider:

- asking NEL CCG for documentation around the Operose Health ‘change of control’ decision – in order to scrutinise how this decision was made
- asking NEL CCG for details and a timetable for the reprocurement of the Barkantine, St Andrews and St Paul’s Way surgeries
- recommending that NEL CCG looks to alternatives to reprocuring these surgeries on short-term Alternative Provider Medical Services (APMS contracts) – the surgeries could be added to permanent General Medical Services (GMS) contracts held nearby, for example
- reminding NEL CCG that there are considerable and legitimate public and council concerns about passing local GP surgeries into the hands of remote private companies that have little or no knowledge of the needs of Tower Hamlets patients – especially if they are subsidiaries of US health giants, and
- using any powers the committee has to insist on being given the opportunity to be consulted on and scrutinise any decisions made about GP contracts.

### NOTES

1. Whitechapel Health Centre in Hessel Street and its Portsoken branch in Somerset Street, also East One Health, which has branches in Deancross St and Cable Street.
2. These two contracts are due to merge into one, when the surgeries relocate to the new surgery at the Goodman Fields development.
3. <https://bidstats.uk/tenders/2020/W46/738852922>
5. <https://keepournhspublic.com/but-arent-all-gps-private-anyway>

### ABOUT US

*[Tower Hamlets Keep Our NHS Public](#) is a group of local patients and health workers. We are affiliated to Keep Our NHS Public and belong to the NE London Save Our NHS umbrella group. Email us at: [THkeepournhspublic@gmail.com](mailto:THkeepournhspublic@gmail.com)*

## APPENDIX

### Operose Health takeover of GP surgery contracts: Next step judicial review

Campaigners are supporting a legal case against the takeover of NHS GP surgery contracts by Operose Health, a UK subsidiary of the Centene Corporation.

Anjna Khuran is a patient at Hanley Primary Care Centre and Councillor of Tollington ward in Islington. In a claim filed by Leigh Day on Monday 17 May, she is asking the court to grant permission to take North Central London Clinical Commissioning Group (NCL CCG) and NHS Commissioning Board to judicial review over their decision to allow a change of control of GP contracts in favour of Operose Health.

Her case is being backed by Keep Our NHS Public, 999 Call for the NHS and We Own It.

Meanwhile, a CrowdJustice appeal hit its initial target of £25,000 in less than 24 hours and is already well on the way to raise a stretch target of £40,000.

#### About the case

In North Central London, the CCG gave permission for eight GP contracts to pass from AT Medics to Operose Health.

Anjna's case points to significant public concerns because:

- equivalent decisions were made by 12 other CCGs – in all, 49 GP practices have been affected, covering 375,000 patients
- there are “legitimate concerns” about the ultimate owner of the contracts – the Centene Corporation
- Operose Health is a loss-making company, which relies on cash injections from Centene, and
- there was no public engagement or transparency – despite the risk to patient care if Operose Health later ceases to provide services.

The key grounds for challenging NCL CCG's decision are that:

- NCL CCG was legally wrong to assume it had very limited grounds on which to refuse to allow a change of control
- it failed to get substantive information on the financial viability of the companies involved, or information about the suitability of the Centene Corporation
- it failed to consult affected patients or stakeholders, including councillors, as it should have, and
- it failed to protect patient data adequately.

Claims for judicial review normally have to be mounted within three months of a decision. However, in this case, it was not until May that Anjna was able to establish that the decision had been finalised in January. Leigh Day believe there are good grounds for applying to extend the time limit.

Providing permission is granted for the case to go ahead, Anjna's lawyers will then go to court to prove the decision was unlawful and should be quashed.

A successful outcome in North Central London is expected to have an impact in all the areas in London where similar decisions were taken.