

**Decision Maker:** **Public Protection and Safety Portfolio Holder**

**For Pre-Decision Scrutiny by the Public Protection and Safety PDS on**

**Date:** **21st November 2017**

**Decision Type:** Non-Urgent                      Non-Executive                      Key

**Title:** **GATE REVIEW FOR MORTUARY SERVICE**

**Contact Officer:** Jim McGowan, Head of Environmental Protection  
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**Chief Officer:** Nigel Davies, Executive Director of Environment & Community Services

**Ward:** all wards

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1. Reason for report

The joint contract with Bexley for the provision of the Public Mortuary Service comes to an end in October 2018 and it is therefore necessary to recommission the service.

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2. **RECOMMENDATION(S)**

The Portfolio Holder is recommended to:

- (i) Agree to procure a new contract to provide a Public Mortuary Service for the London Borough of Bromley for a period of 3 + 3 years;
- (ii) Agree to a limited tender list of suitable mortuaries, acceptable to the HM South London Coroner, having regard to the limitations of HM South London Coronial district.

## Impact on Vulnerable Adults and Children

1. Summary of Impact: No impact
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## Corporate Policy

1. Policy Status: Existing Policy
  2. BBB Priority: Excellent Council
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## Financial

1. Cost of proposal: £576k
  2. Ongoing costs: £96k
  3. Budget head/performance centre: Mortuary Budget
  4. Total current budget for this head: £96k
  5. Source of funding: Existing controllable revenue budget 2017/18
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## Personnel

1. Number of staff (current and additional): 0.1 FTE
  2. If from existing staff resources, number of staff hours:
- 

## Legal

1. Legal Requirement: Statutory Requirement: see paragraph 10.
  2. Call-in: Applicable:
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## Procurement

1. NA.
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## Customer Impact

1. Estimated number of users/beneficiaries (current and projected): There are approximately one million residents within the HM Coroner Southern District. The Public Mortuary for Bromley processes an average 360 of bodies per annum
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## Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments: n/a

### **3. COMMENTARY**

#### **The Coroners Service**

- 3.1 The London Borough of Bromley forms part of HM South London Coronial district along with the London Boroughs of Bexley, Croydon and Sutton. The Coroner is responsible for all of the Statutory Coronial duties within these four boroughs.
- 3.2 The funding and resources for the Coroner Service are the statutory responsibility of these four Local Authorities within the HM South London Coronial district (see sec 5 Legal Implications). The budget for this service is currently managed by the financial services team at the London Borough of Croydon and contributed to by each of the four Boroughs proportionally based on population and the London Borough of Bromley proportion is 28.3%.
- 3.3 However, the provision of the Public Mortuary Service remains the statutory responsibility of the individual Local Authorities.

#### **The Public Mortuary Service**

- 3.4 The provision of mortuary facilities was historically provided under the 1936 Public Health Act within the Borough of Bromley in its own Public Mortuary in Beckenham. However, in 2004/5 the Bromley Public mortuary, which was owned and operated by LB Bromley, developed serious structural building faults and had to be partially demolished.
- 3.5 The public mortuary facilities were moved on a temporary, informal basis to the Princess Royal University Hospital (PRUH). The decision was subsequently taken not to return and the building was returned to the LBB property portfolio. At this time it was agreed to continue using the PRUH for the Borough's mortuary services and these arrangements with the PRUH were subsequently formalised through an SLA, which expired in March 2013; since this time the Mortuary service has continued to be provided by the PRUH, and it is currently as part of a joint contract with the London Borough of Bexley.
- 3.6 The current mortuary is based centrally within HM South London Coronial district and the Coroner is will not to agree to Bromley's mortuary services being located outside of the Coroner district and the legislation does not allow for the positioning of Bromley's public mortuary facilities further than an adjacent District. This is primarily to avoid the family and friends of the deceased having to travel great distances to see and advise on the deceased person.
- 3.7 The services provided by the PRUH mortuary service currently include the following:
  - 24/7 access to the Mortuary facility and Mortician call-out outside normal working hours
  - Use of the refrigerated body stores and the body freezers for the storage of up to 450 deceased persons in any year, under the jurisdiction of HMC South London
  - Access to Post Mortem facilities and the use of hospital mortuary staff to support Post Mortem examinations carried out on behalf of HMC South London
  - Provision of all post mortems as directed by the Coroner or their staff
  - Provision of all necessary licensing e.g the Human Tissue Authority.
  - Provision of all consumables and overspill nutwell cube supplementary systems
  - Provision of specialist Home Office Post Mortems

#### **4. MARKET CONSIDERATIONS**

- 4.1 There are restrictions on the geographical location of a Bromley Mortuary, which limits the market.
- 4.2 The incumbent (Princess Royal University Hospital (PRUH)) ran out of space completely last winter and, after using up all of their overspill spaces, they set up a Board level "gold" group to authorise the use of distant mortuaries, for which they were obliged to cover the additional costs as part of the contract stipulations. They are currently reviewing their contracts and have stated that they may not be in a position to bid for Bromley and Bexley next year, without investment from their trust to increase the capacity on the PRUH site. Other mortuaries in the vicinity were also in the same position last year and this may further restrict the numbers of interested providers.
- 4.3 In contacting Mortuaries within and adjacent to the South London Coronial district, it is clear there is very limited capacity for them to take on an additional contract the size of Bromley's.
- 4.4 Discussions have taken place with LB Bexley procurement regarding the future of a joint tender exercise and in view of limited local capacity it is proposed not to enter into a joint contract but to go to the market as a single entity.

##### **Provision of public mortuaries**

- 4.5 There is only one public mortuary provided within the South London Coroner's jurisdiction:

- Croydon Mortuary – London Borough of Croydon;

The remaining are accommodated in local hospitals:-

- Bromley Mortuary – The Princess Royal University Hospital
- Bexley Mortuary – The Princess Royal University Hospital
- Sutton Mortuary – St Helier Hospital.

- 4.6 Bexley closed their public mortuary in Queen Mary's hospital (QMH) and has moved all of their mortuary work to the PRUH and use of the QMH public mortuary is no longer possible.
- 4.7 Sutton has a public mortuary provision in St. Helier Hospital and due primarily to the size and the relatively large number of cadavers from LB Bromley and Bexley annually, would not be able to take on the Bromley mortuary services.
- 4.8 Croydon would consider taking on additional mortuary services but would first need to extend their buildings significantly, building in more capacity for body storage and taking on more staff.
- 4.9 Initial discussions have taken place with all three Boroughs with a view to building a single Public Mortuary for all four Consortium members. To assess the viability of this an option would need a feasibility study including a full costing to assess if this is an option that would provide security and value for money for the Mortuary service for Bromley in the long term.

##### **Alternative provision**

- 4.10 There are other hospitals in districts neighbouring HM South London district that the Coroner might consider, e.g. The Queen Elizabeth at Woolwich, Greenwich Public Mortuary and Darenth Valley Mortuary and it is intended that we contact all public mortuaries geographically acceptable to HM Coroner and ask them if they are prepared to submit a tender.

- 4.11 Permission to use hospital mortuary outside the HM Coroner's district would also mean varying the body transportation contract such that the Service Provider would no longer be limited to the Coronial District and this would then incur additional costs for Bromley to transfer bodies outside of the District. For example, if an Inner London mortuary were to be awarded this contract then this would involve a congestion charge for each cadaver in as well as the additional movement charge by the contractor.
- 4.12 These additional charges would also need to be factored in if an open tender to involve the Inner London Hospital mortuaries and other mortuaries outside of the Coronial District was to be considered.

### **Summary**

- 4.13 The current Contract for the Mortuary provisions with the PRUH expires in October 2018 and a new contract needs to be in place by that time.
- 4.14 There is a very limited market, and those Mortuaries who were contacted, including those in and adjacent to Bromley, stated that they would not have the capacity to take on an additional contract of up to 400 bodies pa. This is a particular concern as Bexley are also currently going to the market to re tender their contract for the Mortuary services, which is of a similar size.

### **Options appraisal.**

- 4.15 Having given consideration to the Market and the restrictions upon the location of the Mortuary Service, the options for the provision of a mortuary service for Bromley were considered to be as follows:

#### **Option 1. Do nothing/decommission the service**

- 4.16 The service is a statutory service and as such, ceasing to provide a service is not an option. Entering into a contract as a single negotiated contract with the incumbent would not satisfy the Contract Procedure Rules and the Financial Regulations of the Council.

#### **Option 2. To tender the existing service for a 3 + 3 year contract to a restricted list of Mortuaries, as agreed with the HM Coroner South London**

- 4.17 This option proposes to tender the service to a limited list of Mortuaries, being suitable and acceptable to the South London Coroner, having regard to the limitations of the Legislation and the impact on local residents.

#### **Option 3. To partner with the 3 other boroughs within the South London Coroners district**

- 4.18 The proposal to work collaboratively with the partner boroughs to consider the design and build of a new Public Mortuary, owned and operated jointly, has not yet been explored in sufficient detail to warrant consideration at this stage but it is recommended that discussions continue with Sutton, Croydon and Bexley and a further report be brought back to members, if considered viable as a future option for 2021.

## **5. CONTRACTING PROPOSALS**

**Estimated Contract Value – £576k (£96k pa)**

**Other Associated Costs – Nil**

**Proposed Contract Period.** The contract is proposed to be for 3 years with an option to extend for up to a further 3 years.

- 5.1 It was considered that a joint contract with the LB of Bexley, in continuation of the existing would not be viable and that it would only afford very minor savings e.g joint purchase of Human Tissue Authority licence for the mortuary. However, the contract relates primarily to the number of bodies processed each year by the Mortuary and the number of Post Mortems and an increase in the number of bodies, as would happen with a joint contract, is actually likely to increase the costs for the contract.

## **6. POLICY IMPLICATIONS**

- 6.1 There is no specific policy in relation to this service as it is driven by Statute and Government guidance.

## **7. COMMISSIONING AND PROCUREMENT IMPLICATIONS**

### **Summary of Procurement Implications:**

- 7.1 The available service requirements can only be provided by a limited number of Mortuaries situated around, or near to the Boundaries of the Four Boroughs in the HM Coronial District or an adjacent authority.
- 7.2 The viable mortuaries will be contacted in advance and asked if they are prepared to bid and three to six mortuaries that meet the criteria will be invited to submit a tender
- 7.3 The Contracting arrangements will be completed under Part 4 of the Public Contracts regulation 2015 and the tendering arrangements it provides for , including the issue of an advert within Contract Finder etc. Otherwise it falls in to the “Light touch” requirement Contained in Chapter 3 of the Procurement Regulations as the service relates to a health related activity.

## **8. FINANCIAL IMPLICATIONS**

- 8.1 The existing Mortuary Service is provided at the Princess Royal University Hospital as a joint contract with LB of Bexley and the current budget is £96k. The contract is made up of a fixed sum of £84k and a variable sum of £12k which is set aside the cost of special post mortems and Home Office post mortems.
- 8.2 A three year contract with an optional three year extension is estimated to cost £576k.

## **9. PERSONNEL IMPLICATIONS**

- 9.1 Should the contract move to a different supplier then TUPE is likely to apply to the staff who operate this current contract, within the PRUH hospital mortuary .

## **10. LEGAL CONSIDERATIONS**

- 10.1 There is an existing duty on Local Authorities to provide local mortuary facilities (sec 198 Public Health Act 1936) as amended by the Local Government Act 2000 power of well-being.
- 10.2 This report seeks approval to carry out a tendering exercise to appoint a provider for providing mortuary services. The current contract is jointly held with London Borough of Bexley, the portfolio holder is also requested to authorise for LBB to proceed without London Borough of Bexley as a joint party.

- 10.3 The estimated value of the contract over the three years plus the 3 year extension is £576,000.
- 10.4 When carrying out the consultation the Council should have regard to its duties under the Equalities Act 2010 and the Public Sector (Social Value) Act 2012.
- 10.5 The Public Contracts Regulations 2015 apply to this contract but it is a contract which falls under the light touch regime and is under the financial threshold for that regime so the procurement procedures under Part 2 of the Regulations do not apply.
- 10.6 Rule 8 of the Contract Procedure Rules provides that contracts with an estimated value of £100,000 up to EU Threshold, the 'Invitation to Tender' process should be followed, making use of the Public advertisement and Contracts Finder and the Council's eProcurement System.
- 10.7 In accordance with the Council's constitution, contracts with values over £500k, to be authorised by a Portfolio Holder.
- 10.8 The report author will need to consult with the Legal Department regarding the contract terms and conditions.

<b>Non-Applicable Sections:</b>	N/A