

Decision Maker: PUBLIC PROTECTION AND ENFORCEMENT PORTFOLIO HOLDER

Date: Tuesday 21st August 2018

Decision Type: Non-Urgent Executive Key

Title: GATEWAY 1 MEMBERS REPORT: NEGOTIATED CONTRACT FOR HER MAJESTY'S CORONERS POST MORTEM & MORTUARY SERVICES PART 1 (PUBLIC) INFORMATION

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Ward: Borough-wide

1. Reason for report

- 1.1 Bromley has a statutory obligation to ensure adequate mortuary provision for deceased individuals where the circumstances of their death must be referred for investigation by the Coroner. The current contract for mortuary provision is provided by the Princess Royal University Hospital (PRUH King's Trust), and is due to expire on the 30th September 2018.
 - 1.2 The service was tendered through ProContract, with an initial closing date of June 15th 2018. As no bids were received, the closing date was subsequently extended to July 6th 2018. This extension did not yield any bids.
 - 1.3 This report considers the options for the provision of mortuary services in light of the failed bid, and makes recommendations.
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2. **RECOMMENDATIONS**

2.1 That the Portfolio Holder for Public Protection and Enforcement:

- i) Agrees to negotiate with the incumbent provider for a 3+3 year contract, as detailed in Option Three (see Paragraph 5.3 of Report ES18056);
- ii) Approves an exemption from tender to maintain the provision of a statutory service by the incumbent provider;
- iii) Agrees to the formation of a Task and Finish Group to explore the options for the future provision of the mortuary service, and make recommendations as appropriate (see Paragraph 5.1 of Report ES18056).

Impact on Vulnerable Adults and Children

1. Summary of Impact: None
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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: Estimated Cost: In excess of £540k for the six year period
 2. Ongoing costs: Recurring Cost: £90k per annum
 3. Budget head/performance centre: Mortuary Service
 4. Total current budget for this head: £90k
 5. Source of funding: Existing revenue budget for 2018/19
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Personnel

1. Number of staff (current and additional): 0.1FTE
 2. If from existing staff resources, number of staff hours: Not Applicable
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Legal

1. Legal Requirement: Statutory Requirement
 2. Call-in: Applicable:
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Procurement

1. Summary of Procurement Implications: Under Regulation 32 of the Public Contracts Regulations 2015, the Council may use the negotiated procedure to award a contract direct to the incumbent contractor provided, the initial contract conditions are not substantially altered and a report is sent to the European Commission upon request. An exemption from tendering can be granted under the Council's Contract Procedure Rule 13 for the reasons outlined above and elsewhere in the report.
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Customer Impact

1. Estimated number of users/beneficiaries (current and projected): Borough Wide
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable

3. COMMENTARY

- 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 Four Borough Consortium). The Coroners and Justice Act 2009 places a duty on Coroners to investigate deaths that are referred to them if they have reason to think that:
- The death was violent or unnatural;
 - The cause of death is unknown; or
 - The deceased died while in prison, police custody or another form of state detention.
- 3.2 Local authorities are responsible for funding local Coroner services, and where a coronial area spans two or more local authority areas, one of those authorities will be designated as the relevant authority, however, each local authority is responsible for the costs of the Coroner's service attributable to its area. LB Croydon is the relevant authority for the HM South London District Coroner's Court.
- 3.3 Section 24 of the 2009 Act requires the relevant authority for a coroner area to, inter alia, provide, or secure the provision of, accommodation that is appropriate to the needs of those coroners in carrying out their functions. This duty naturally extends to the provision of mortuary facilities; whilst the Coroner is responsible for all of the Statutory Coronial duties within these four boroughs, the statutory responsibility for the provision of a public mortuary falls to Bromley Council under the Public Health Act 1936.
- 3.4 The provision of mortuary facilities was historically provided in-house within in its own public mortuary in Beckenham. However, in 2004/5 the premises was partially demolished. At this point, the public mortuary facilities were moved on a temporary and informal basis to the Princess Royal University Hospital (PRUH), and the building that previously accommodated the public mortuary was returned to the LB Bromley property portfolio.
- 3.5 Following this decision, it was agreed to continue using the PRUH for the Borough's mortuary services; this was formalised through a service level agreement, until the current tender was awarded 1 October 2014. This contract was via a Bexley Framework that Bromley subsequently joined.
- 3.6 The current total contract value is £384k, the current contract term is for 4 years and is due to expire on 30 September 18. There is no further option in the contract to extend, however an exemption from tender is being sought for a 3 + 3 year negotiated contract.
- 3.7 Approval from the Commissioning Board was given for this proposal on the 6th August 2018.
- 3.8 Previous Gateway reports on the procuring of this service have stated that there are restrictions on the geographical location of a Bromley Mortuary, as the Coroner will not agree to Bromley's mortuary service being located outside of the Coronial district, and, that in addition, legislation does not allow for the positioning of the facilities to be further than an adjacent district. Legal opinion has confirmed that whilst there is a duty to consult the Coroner on service provision, her preference is not binding, and further, that there is no restriction on location. Having said that, should the provision of mortuary services be provided outside of the Coronial district, and so disregarding her preference, this may be deemed 'unreasonable' and lead to a legal challenge. There will be additional costs and reputational considerations (covered in 5.5) that would need to be considered if this option were pursued.
- 3.9 The Portfolio Holder for PPS (now PP& E) agreed the current strategy to procure a new contract to provide a Public Mortuary Service for the London Borough of Bromley, and agreed to a

limited tender list of suitable mortuaries acceptable to the HM South London Coroner, having regard to the limitations of the HM South London Coronial District.

- 3.10 The decision was scrutinised by the Public Protection and Safety PDS Committee on 21 November 17 and the proposal was supported (decision reference PPS15046).
- 3.11 Bromley Council made the decision through Gateway report (Reference ES17062) on November 21st 2017 to put this service out to the market for tender, and the resultant tender expired on July 6th 2018.
- 3.12 LBB Contract Procedure Rule 14.9 requires that once a tender deadline has elapsed, it is no longer possible to be extended without authority where a bidder has submitted a late bid. As no bids were received this is considered a failed tender. As such, this report gives consideration to the various options available at this stage, and makes a recommendation that Option Three (5.3) be pursued.
- 3.13 Entering into a single negotiated contract with the incumbent at the time of the tender would have been contrary to both the Contract Procedure Rules and the Financial Regulations of the Council. However, as the tender process failed to provide any bidders, The Procurement Team subsequently advised that this is now an option that can be considered under Section 13 of the Contract Procedure Rules.

4. SERVICE PROFILE/DATA ANALYSIS

- 4.1 Bromley has a statutory obligation to ensure adequate mortuary provision for deceased individuals where the circumstances of death are being investigated by the Coroner; there is no option to decommission this service.

The services provided by the PRUH mortuary 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 special Home Office Post Mortems

4.2 Trend in Post mortems

Table 1 below provides a trend analysis showing the numbers of post mortems and special post mortems carried out for Bromley since 2014.

Table 1: trend Analysis for Post Mortems

Bromley Stats 2014 - 2017								
	2014		2015		2016		2017	
Month	PMs	Special	PMs	Special	PMs	Special	PMs	Special
Jan	35	1	47	2	36	0	34	0
Feb	41	0	30	0	28	0	29	0
March	44	3	33	0	38	0	30	1
April	29	1	28	0	26	0	29	1
May	31	1	30	0	24	0	25	0
June	35	1	29	1	33	0	16	0
July	34	3	26	1	29	0	22	0
Aug	20	2	27	1	29	0	22	0
Sep	20	0	23	0	24	2	27	0
Oct	34	1	33	0	25	0	33	0
Nov	24	2	26	0	34	0	30	1
Dec	43	0	37	0	32	0	39	1
Totals	390	15	369	5	358	2	336	4

4.3 Considering the figures since 2014, there is an apparent downward trend, whereby the number of post mortems carried out has fallen by 13.8% since 2014, with an average annual decrease of 4.6%. According to the Senior Coroner, one reason for this decline is due to non-suspicious deaths no longer being routinely referred for post mortem. With this in mind, it is unlikely that the trend will rise significantly, and may fall further.

5. OPTIONS APPRAISAL

5.1 Option One - Negotiate with the incumbent provider for a 1+1+1 year contract.

This option provides for extensions in the contract to suit Bromley's requirements. For example, this proposal allows sufficient time for any potential partnership arrangements that may be presented in the future.

It further allows for a task and finish group to be formed, with the purpose of examining all the options available to Bromley in providing this service, and to make recommendations as appropriate. These would include determining the feasibility of:

- A capital spend solution – Bromley Council working alone to build and operate a mortuary.
- A capital spend solution – Bromley Council working with others to build and operate.
- A revenue expenditure solution – Capital spend by others to construct and operate a mortuary for Bromley to procure a service under a long-term agreement, e.g. 20 years for a return on investment.
- Potential Partnership arrangements within the Coronial District.

Finally, the arrangement with the incumbent is tested and adequate, and the location has been approved by HM Coroner.

The risks associated with this option are as follows:

- The 1+1+1 option leaves the Council vulnerable, it does not provide for medium term business continuity, as at the point of retendering at the 1 year point, it again places LB Bromley in a position where the retender may receive no bids.

- The 1+1+1 arrangement may not be an attractive option for the incumbent as it offers no long term financial security. To agree to such a short term arrangement may pose logistical problems for the PRUH that cannot be attenuated through furnishing this arrangement.
- In December 2017 the King's Trust was placed in Financial Special Measures by NHS Improvement, following serious concerns about the trust's growing deficit. Where trusts enter special measures for financial reasons, they will be supported, and held to account, to deliver rapid, accelerated and sustainable financial recovery – including the development and delivery of a financial recovery plan and improved financial control. The trust is now receiving extra help and oversight, with the appointment of a financial improvement director (FID). Whilst any external business may be welcomed by the FID, such a short term contract may result in a significant increase in the contract price to make the proposal worthwhile.
- The Trust being in Financial Special Measures may affect its financial standing with the Council.

The risks associated with this option outweigh any potential benefit, as such, this option has been **discounted**.

5.2 Option Two – Negotiate with the incumbent provider for a 2+2 year contract

This option also provides for extensions in the contract to suit Bromley's requirements, albeit at longer intervals. As such the benefits in Option One above are the same, with the addition of providing further stability to service provision, and a slightly higher degree of financial security for the incumbent.

The risks for this option are broadly the same as those listed in Option One, however, they are somewhat ameliorated as this option provides the incumbent with a longer contract term, which may assist LB Bromley in their ability to negotiate on price.

The risks associated with this option still outweigh any potential benefit, as such, this option has been **discounted**.

5.3 Option Three – Negotiate with the incumbent provider for a 3+3 year contract

This option provides for the service provision originally envisioned by the tender process, and is in accordance with the Procurement Strategy agreed by the Portfolio Holder for PP& E (see 3.11).

It also offers stable service provision, and supports LB Bromley in discharging its statutory duty in the medium term. It further provides the incumbent provider with medium term financial stability, and places LB Bromley in a stronger negotiating position when agreeing price.

As with Options one and Two above, it allows for a task and finish group to be formed, with the purpose of examining all the options available to Bromley in providing this service, and make recommendations as appropriate (see 5.1).

The extended contract period will also allow LB Bromley to appraise the suitability of Partnering with other authorities should the opportunity arise.

Whilst this option seeks to address the risks given in Option One and Two, there are still risks associated with this option.

As stated in 5.1, King's Trust is in financial measures, and this may affect their financial standing, however, this is the preferred option as the benefits outweigh the potential risks.

5.4 Option Four - Re-start tender process in accordance with the strategy agreed by the Portfolio Holder, where it was agreed to a limited tender list of suitable mortuaries acceptable to the HM South London Coroner, having regard to the limitations of the HM South London Coronial District.

This has the same benefits as the preferred Option three, and broadly the same risks. Having said that, there are no obvious advantages in pursuing this route, as the time and effort to conclude the process will be longer than that of a negotiated contract, and, it is unlikely that if this option were progressed, that anyone other than the incumbent would bid .

It also has the additional risk, that of no bid being received and LB Bromley would again be considering a negotiated contract with the incumbent.

The risks associated with this option outweigh any potential benefit, as such, this option has been **discounted**.

5.5 Option Five Re-start tender process, removing the element of a limited tender list, and accept tenders from outside the Coronial District.

Although appearing broadly similar to Option Three in approach and benefits, this Option has the additional benefit of attracting bidders from further afield. For example, this option would afford the various mortuaries within London together with NHS Trusts within Kent County Council (KCC) to bid for the service, providing for a competitive tender.

However, this Option also has additional risks not associated with the other options.

Market analysis has demonstrated (see section 7) that commissioning the work outside of the Coronial District at another NHS provider is not necessarily a viable option.

Research has shown that there is limited capacity within the outlying NHS mortuaries in Sussex, Surrey and Kent. This has been confirmed in engagement with the Surrey Coroner Service (by KCC) which is also renewing its contracts for post mortem provision, and who are also restricted to using their existing NHS providers because there is no spare capacity at mortuaries in the adjoining London boroughs or counties (see 7.4). Whilst it is accepted that Bromley's service requirements will be lower than that of a County Council, and that capacity may not be the issue it is for them, the wishes of the Coroner are still a consideration that must be factored in.

LB Bromley provides the mortuary provision on behalf of the Coroner, she is the main stakeholder, and there is a duty to consult and take her view into account when making decisions around accommodation, and in deciding how to discharge the function.

Under the Coroners and Justice Act 2009 the Local Authority has to provide services for Coroners, and when considering location, must take into consideration the Coroner's opinion as to whether it is appropriate and meets her needs.

The new Senior Coroner for the South London Coronial district was appointed on the 1st July 2017; on consulting with her on the 30th July 2018, she has confirmed that that she will not agree to Bromley's mortuary service being located outside of the Coronial district; whilst it is technically possible to use other mortuaries outside of the Consortium district (assuming they have capacity, and assuming the Coroner is in agreement), this would not necessarily meet the needs of the customers of the service, who would have to travel long distances to view bodies of the deceased.

KCC has some previous experience of using a Trust outside of the Kent area when it used Greenwich Public Mortuary in 2013. At the time, there was a public outcry by families and funeral directors about the costs of transporting the deceased from Greenwich once the post mortem had been done, and the travelling time to view the deceased. The local MP intervened and brokered a solution with the Trust to take the work back, which it did so in 2014 (see 7.4).

Such an arrangement could damage Bromley Council's and the Senior Coroner's reputation, and the lesson learned from KCC is that from a customer perspective, procuring services at such a distance from the coroner area places an unacceptable stress on bereaved families

The risks associated with this option outweigh any potential benefit, as such, this option has been **discounted**.

6. PREFERRED OPTION

6.1 Option Three

Generally procurement does not support single sourcing or negotiated contracts, instead a competitive approach is preferred. However, the failed result of this procurement exercise has demonstrated that currently there is very little available as a viable alternative. This is one of those circumstances and for all of the reasons outlined in this report, single sourcing through a negotiated procedure provides the lowest risk option, and the solution most likely to deliver the best commercial and sustainable outcome for LB Bromley. Therefore the recommendation is to follow the negotiated route as detailed in Option Three (5.3).

The Option of negotiating with the incumbent provider for a 3+3 year contract will provide a mortuary service that is in accordance with the Procurement Strategy agreed by the Portfolio Holder for PP & E, and has been approved by HM Coroner.

It provides for stable service provision, and supports LB Bromley in discharging its statutory duty in the medium term. It allows the incumbent provider medium term financial stability, and places LB Bromley in a stronger negotiating position when agreeing a price.

The rationale provided in Options One, Two, Four and Five demonstrate that the associated risks exceed the benefits. Moreover, it can be seen that there are no obvious advantages in retendering at this stage, as the time to conclude the process will be longer than that of negotiating the contract, and, it is unlikely that anyone other than the incumbent would bid. In addition, retendering at this stage carries the additional risk, that of no bid being received; LB Bromley would again be considering a negotiated contract.

As per the other Options, Option Three allows for a task and finish group to be formed, with the purpose of examining all the options available to Bromley in providing this service, and to make recommendations as appropriate.

The extended contract period within Option Three will also afford LB Bromley the opportunity to appraise the suitability of Partnering with other authorities should the opportunity arise.

When comparing the risks associated with Option Three against the other Four Options, the following can be seen:

- The vulnerability resultant of the 1+1+1 negotiated contract term with Option One is ameliorated.
- Option Three provides for medium term business continuity, whereas Option One does not. Moreover, with Option One, at the point of retendering at the one year point, again places

LB Bromley in a position where there is a possibility of no bids being received.

- The 1+1+1 arrangement of Option One is unlikely to be attractive to the incumbent, as it offers no long term financial security, whereas Option Three does.

The issue of the Trust being in Financial Special Measures is apparent regardless of what Option is chosen, and it is important to reiterate that there is no option to decommission, as LB Bromley is under a statutory duty to provide a Mortuary Service, in order that the Coroner may undertake her duties.

7. MARKET CONSIDERATIONS

- 7.1 A market assessment has been undertaken, to establish what service provision is provided by Bromley's nearest neighbours, and to identify suitable alternative mortuary provision within a reasonable distance of the borough and with sufficient capacity.

Table 2 below details the public mortuary provision of our near neighbours.

Table 2:

Borough	Consortium	Mortuary Provider	Relevant Authority
Greenwich	Inner South London Consortium	Greenwich Public Mortuary	Southwark
Lambeth	Inner South London Consortium	Greenwich Public Mortuary	Southwark
Southwark	Inner South London Consortium	Guys and St Thomas' Hospital	Southwark
Lewisham	Inner South London Consortium	Greenwich Public Mortuary	Southwark
Croydon	South London Consortium	Croydon Public Mortuary	Croydon
Bexley	South London Consortium	Princess Royal Hospital	Croydon
Bromley	South London Consortium	Princess Royal Hospital	Croydon
Sutton	South London Consortium	St Helier Hospital	Croydon
Sevenoaks Dartford Maidstone Malling, Sheppey, Sittingbourne, Swale West.	Kent Consortiums	Dartford & Gravesham NHS Trust at Darent Valley Hospital for the North West Kent coroner area, and (b) with East Kent NHS Trust at QEQM Hospital Margate and William Harvey Hospital Ashford for the North East Kent and Central & South East Kent coroner areas	Kent CC
West Sussex	No Consortium	East Surrey Hospital, Princess Royal Hospital, Worthing Hospital and St Richard's Hospital	West Sussex CC

- 7.2 The contracts for mortuary provision for the following authorities have been examined in detail:

- LB Bexley (in part 2 report)
- LB Croydon (in part 2 report)
- LB Lambeth
- Kent County Council
- West Sussex County Council

The above Councils were chosen as they have all recently reviewed their service provision, and the results are summarised as follows:

7.3 LB Lambeth

The London Borough of Lambeth forms part of HM Inner South London Coronial district along with the London Boroughs of Southwark, Lewisham and Greenwich.

Since the closure of Lambeth's public mortuary many years ago, they have been utilising the mortuary run by the Royal Borough of Greenwich.

This arrangement was ongoing until 2016, when it came to light that this was an informal arrangement. As a result, the procurement of mortuary services was regularised.

During 2015, due to the pressure on their facility, LB Greenwich introduced a surcharge of £10/day for each body, commencing from day 11. From 1 April 2016 they increased their base charge from £250 to £400 and retained the £10/day surcharge from day 11.

Additional charges were also applicable in certain circumstances. For example, additional non-routine post-mortems or toxicology tests may be required and these are carried out at Guys and St Thomas's Hospital, where Lambeth's annual spend was in the region of £25,000. The latter at Lambeth is subject to a separate agreement and purchase order.

At these new rates Lambeth's mortuary charges for 2016/17 were anticipated to start at approximately £133,000 (270x400+25,000). Assuming an average retention for 40 days, based on current usage, the overall cost increased to £236,000. However, they recognised that it could easily be higher, depending on the level of complex cases.

Following from the above, a market assessment was undertaken to determine options for alternative service provision, and this highlighted that there was an acute shortage of mortuary provision within London. As such, Officers were unable to identify suitable alternative mortuary provision options (other than going out to tender) within a reasonable distance of the borough and with sufficient capacity.

Therefore, a full EU procurement exercise for mortuary provision was carried out, and a two year contract was awarded to the Royal Borough of Greenwich (who submitted the only tender) for the total estimated sum of £490,000 (£245,000 per year) from 19 April 2018 to 18 April 2020; with two possible one year extensions to 18 April 2022, with a total maximum contract value of £980,000.

In this case, the Royal Borough of Greenwich submitted a set price for 10 days storage and a post-mortem, as well as a stepped fee structure for daily charges after the initial 10-day period.

It should be noted that Lambeth is in the process of installing additional refrigeration units at West Norwood Crematorium. From 2018 Lambeth will have its own mortuary of 15 (and then increasing to 30) fridges. This will provide a level of contingency so that at least storage is covered when the Greenwich mortuary is full.

7.4 Kent County Council (KCC)

HM Senior Coroner for North West Kent is responsible for providing the coronial service for part of the district council areas of: Dartford, Gravesham, Sevenoaks, Tunbridge Wells and Tonbridge & Malling (part). Whereas HM Senior Coroner for North East Kent and Central & South East Kent is responsible for providing the coronial service for the district council areas of Thanet, Canterbury, Dover, Shepway, Ashford and Swale (part).

Research demonstrated that KCC, (which covers provision for two of our near neighbours, Sevenoaks and Dartford), had explored alternative providers to inform their procurement process, as the contracts for the Mid Kent and Medway areas were expiring in 2017.

Their option appraisal demonstrated that going out to tender was not an option for them for two reasons, these being capacity and customer needs.

Capacity- two of the three Kent area NHS Trusts did not have capacity to take on their work and so would not apply; whilst the third one did have capacity to take on part of the work, but was unable to compete on price.

They also considered whether providers in Surrey, Sussex or greater London (including Bromley) may have some capacity, however, their research (via engagement with the various Coroners Services) highlighted that there was/is an acute shortage of mortuary provision, with no identified capacity within the outlying NHS mortuaries in Sussex, Surrey, Kent or Greater London.

Customer Needs- their research determined that whilst it is technically possible to use other mortuaries outside of the Kent area (assuming they have capacity), that this did not meet the needs of the customers of the service who would have to travel long distances to view bodies of the deceased.

As such, their preferred option was to renew contract through single source procurement, as in their specific case this was the only viable option given the very specialist nature of the work and the absence of any alternative providers with sufficient capacity in Kent or nearby adjoining areas.

7.5 West Sussex County Council

The West Sussex County Council (WSSCC) contracts were negotiated during 2014 with two NHS Trusts, one in West Sussex and one in Surrey, to provide mortuary services to the Coroner, and a smaller contract for body storage was also negotiated with a West Sussex Funeral Director. These contracts are all due to expire in January 2019.

Table 3 below details WSSCC's current provision.

Table 3:

Provider	Contract Position	Approximate Spend PA
West Sussex Hospitals Trust (Mortuary and Post Mortem Facilities)	Contract currently extended to January 2019. Can be extended to 2021 if required	£400K
Surrey and Sussex Health Trust (Mortuary and Post Mortem Facilities)	Contract currently extended to January 2019. Can be extended to 2021 if required	£60K
Dignity Funeral Services (Body storage only) –	Contract currently extended to January 2019. Invitations to tender for this contract will shortly be issued	£20K

According to WSCC, the current arrangements, whilst adequate, were vulnerable as there is a short notice period under the current contracts and experience has shown that to put in place alternative provision is extremely challenging when the market is very small.

In order to explore possible service improvements a market consultation day was conducted on 5 March 2018 to test the readiness of the market to provide mortuary services to the County Council for the use of the Coroner.

The results of that consultation indicated that the market is likely to be in a position to offer the Council a purpose built facility under a long- term arrangement, within the current level of spend on mortuary services. As such, the proposal is to enter into a formal, open procurement process in which the requirements for a future dedicated West Sussex mortuary service provision, including storage space and post mortem facilities, are clearly set out.

The proposed procurement process is a revenue expenditure solution, whereby capital spend by others will be used to construct and operate a mortuary for West Sussex to procure a service under a long-term agreement, e.g. 20 years for a return on investment.

It is expected that the procurement process will commence in May 2018 and be completed by December 2018 at which point a further report will be prepared to secure endorsement of the preferred approach emerging from the procurement process.

7.6 Private Provision through Viapath

Viapath currently provide mortuary services for the King’s Trust within King’s College Hospital. They reviewed the tender and confirmed in July that they would not bid as currently they did not have the capacity to deliver the service; however, they stated they would reconsider in the future.

8. STAKEHOLDER ENGAGEMENT

8.1 As LB Bromley provides the mortuary service on behalf of the Coroner, she is the main stakeholder. LB Croydon (as the Lead/Relevant Authority) is under a duty to consult and take into account the view of the senior coroner in making decisions around accommodation etc., and in deciding how to discharge its function.

8.2 Miss Sarah Ormond-Walsh was appointed as Senior Coroner for the South London Coronial district, on the 1st July 2017. Following discussions with her on the 30th July 2018, she

confirmed that she will not agree to Bromley's mortuary service being located outside of the Coronial district.

9. PROCUREMENT AND PROJECT TIMESCALES AND GOVERNANCE ARRANGEMENTS

- 9.1 Having tested the market through a competitive tender process, it is proposed to award a contract to the existing provider through a negotiated agreement, via requesting an exemption to competitive tendering as per Section 13 of the Contract Procedure Rules.
- 9.2 Negotiation with the existing provider for a 3+3 contract will support LB Bromley to fulfil its statutory obligations, secure service continuity in the medium term, and provide the flexibility to retender to a broader market should partnership opportunities present themselves. It will also allow for additional options thus far unidentified to be explored by the task and finish group.
- 9.3 Approval for Option 3 was given by the Commissioning on the 6th August 2018 to present this report for approval to the Chief Officers and Portfolio Holder of PP & E (outside of PDS) to enable negotiations to start as soon as possible.

10. SUSTAINABILITY AND IMPACT ASSESSMENTS

- 10.1 With regards to equalities, mortuary services are provided for all bodies received by the Coroner. In particular the following have been considered:
- Some religions and cultures do not wish bodies to be cut after death. The Coroner must carry out whatever investigations are necessary in order to carry out her duties. It may be necessary to carry out an invasive post mortem which may conflict with certain religions, cultures or family wishes. However, every consideration is given to such wishes and these are accommodated wherever possible.
 - Some religions and cultures require a body to be interred or cremated very quickly after death and, subject to the need for adequate investigation, every consideration is given to such wishes and these are accommodated wherever possible.
 - A single centre solution reduces the need for body transfers with the accompanying road travel. Such a facility could also offer some specialist services which would preclude the need for some bodies to travel out of the area for those services.

11. POLICY CONSIDERATIONS

- 11.1 This tendering opportunity has not been subject to competition. This is supported by Regulation 32(2)(b)(ii) of the Public Contract Regulations which states that a Negotiated Procedure without Prior Publication may be used where services can be supplied only by a particular economic operator where competition is absent for technical reasons..

12. LEGAL CONSIDERATIONS

- 12.1 The statutory basis for providing a mortuary service arises under section 24 of the Coroners and Justice Act 2009. The Council tendered this service and no tenders were received. Therefore under Regulation 32 of the Public Contracts Regulations 2015, the Council may use the negotiated procedure to award a contract direct to the incumbent contractor provided, the initial contract conditions are not substantially altered and a report is sent to the European Commission upon request.

An exemption from tendering can be granted under the Council's Contract Procedure Rule 13 for the reasons outlined above and elsewhere in the report.

13. FINANCIAL CONSIDERATIONS

13.1 The current budget for the Mortuary Service is £90k, £82k of which is for body storage and post mortems with an additional £8k set aside to meet the cost of special post mortems.

13.2 Further details are provided in the Part two report.

Non-Applicable Sections:	GDPR and IT Considerations, Procurement Considerations, HR considerations
Background Documents: (Access via Contact Officer)	Business Case Minutes from Commissioning Board 6 th August 2018