

From: Barbara Cooper, Corporate Director, Growth, Environment & Transport

To: Mike Hill, Cabinet Member for Community and Regulatory Services

Decision No: 17/00079

Subject: Renewal of contracts for post mortems

Classification: Unrestricted

Electoral Divisions: All divisions except Maidstone Central, Maidstone North East, Maidstone Rural East, Maidstone Rural North, Maidstone Rural South, Maidstone Rural West, Maidstone South, Maidstone South East, Malling Central, Malling North East, Malling Rural East, Sheppey, Sittingbourne North, Sittingbourne South, Swale West.

Summary: This is a follow up report to one submitted to this Cabinet Committee on the 15 June 2017 which sought views on the proposed renewal of the contract for body storage and post mortems for the Mid Kent & Medway area. It specifically recommends that KCC renews its contracts (a) with Dartford & Gravesham NHS Trust to carry out PM's at Darent Valley Hospital for the North West Kent coroner area, and (b) with East Kent NHS Trust to carry out PMs at QEQM Hospital Margate and William Harvey Hospital Ashford for the North East Kent and Central & South East Kent coroner areas.

Although generally procurement does not support single sourcing, instead preferring a competitive approach, it is recognised that in some circumstances that there is very little in the viable alternative. This is one of those circumstances and for all of the reasons outlined, 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 KCC. Therefore the recommendation is to follow the negotiated route without call for competition as outlined in the report.

Recommendation(s):

The Cabinet Member for Community & Regulatory Services is asked to agree to award four year contracts for post mortems for the North East Kent, North West Kent and Central and South East Kent coroner areas for the period 1 October 2017 to 30 September 2021.

1. Introduction

1.1. 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, for example, where a Deprivation of Liberty Safeguard Order (DoLS) is in place

- 1.2 In some cases the Coroner will order a post mortem (PM) to establish the cause of death, and in such cases, the deceased is taken to a pre-designated mortuary for this purpose. On behalf of the Kent Senior Coroners, KCC ensures access to body storage and PM facilities across the four Kent coroner areas. Two of the contracts for body storage and PM facilities for the four Kent coroner areas expire on 30 September 2017 and need to be renewed.
- 1.3 This report sets out the needs of the North West Kent, North East Kent and Central & South East Kent coroner areas and the options and context for re-providing these services, before recommending an option for KCC to procure these necessary services.

2. North West Kent, North East Kent and Central & South East Kent coroner areas

- 2.1. HM Senior Coroner for North West Kent is responsible for providing the coronial service for part of the KCC administrative area (the district council areas Dartford, Gravesham, Sevenoaks, Tunbridge Wells and Tonbridge & Malling (part)). HM Senior Coroner for North East Kent and Central & South East Kent is responsible for providing the coronial service for part of the KCC administrative area (the district council areas of Thanet, Canterbury, Dover, Shepway, Ashford and Swale (part)). By virtue of The Coroners and Justice Act 2009 KCC is responsible for meeting all the costs of the coroner service although Medway Council meets a share of the costs for the Mid Kent and Medway coroner area.
- 2.2. In particular, KCC supports the Senior Coroners by putting in place contracts for the major areas of activity which includes the provision of body storage and PM facilities. In 2016, of 1,973 deaths referred to the Senior Coroner, North West Kent, 750 required a PM (38% of deaths referred). Also for 2016, of 3,695 deaths referred to the Senior Coroner, North East Kent and Central & South East Kent, 1,516 required a PM (41% of deaths referred).
- 2.3. To date, Dartford and Gravesham NHS Trust has always provided body storage and PM facilities to the North West Kent coroner at Darent Valley Hospital and East Kent NHS Trust has always provided body storage and PM facilities to the North East Kent and Central & South East Kent coroner at QEQM Hospital Margate and William Harvey Hospital Ashford..
- 2.4. With the impending expiry of these two contracts with the NHS Trust, the service has explored alternative providers to inform the procurement process. However, there are no viable alternative service providers.
- 2.5. There are no private sector PM providers anywhere in England and Wales to take on the North West Kent, North East Kent and Central & South East Kent PM workload. Likewise, there is no capacity at the other Kent NHS providers with the exception of Medway NHS Trust which had capacity to take on the PM caseload currently provided by Dartford & Gravesham NHS Trust at Darent Valley Hospital. However, whilst discussions were held with Medway NHS Trust about the possibility of taking on this work it was not able to offer a more competitive price.

- 2.6. Commissioning the work outside of Kent at another NHS provider is not an option for two reasons. Firstly, there is no capacity within the outlying NHS mortuaries in Sussex, Surrey, Bromley and Bexley. This has been confirmed in engagement with the Surrey Coroner Service which is also renewing its contracts for PM 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.
- 2.7. Second, whilst it is technically possible to use other mortuaries outside of the Kent area (assuming they have capacity), this does not meet the needs of the customers of the service who would have to travel long distances to view bodies of the deceased. The service has some previous experience of using a Trust outside of the Kent area when it used Greenwich Public Mortuary in 2013 when Maidstone and Tunbridge Wells NHS Trust did not renew a contract with KCC for PMs at Pembury Hospital, Tunbridge Wells. At the time, there was a public outcry by families and funeral directors about the costs of transporting the deceased from Greenwich once the PM 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. However, the lesson learned is that from a customer perspective, procuring services at such a distance from the coroner area places an unacceptable stress on bereaved families and therefore is not a viable option.

3. Procurement route

- 3.1. The current level of expenditure on PMs at Dartford and Gravesham and East Kent NHS Trusts is in the region of £820,000 a year depending on activity levels. Normally this level of expenditure would require a full tender process compliant with the European Procurement Regulations and KCC's Procurement Standing Orders.
- 3.2. However, in the absence of a private sector provider and with no capacity available at nearby Trusts at a more competitive price to take on this work, KCC is left with no alternative but to seek to renew the contracts with Dartford and Gravesham NHS Trust and East Kent NHS Trust. This will ensure continuity as there has been a long standing and successful partnership between the two Trusts, KCC and the Senior Coroner.

4. Options

- 4.1. **Do nothing** – this is not an option. Unless contracts are put in place the system of coronial death investigation and certification in the North West Kent, North East Kent and Central & South East Kent coroner areas will collapse.
- 4.2. **Go out to tender** – this is not an option. Two of the three Kent area NHS Trusts do not have capacity to take on this work and so would not apply; whilst the third one does have capacity to take on part of the work it is unable to compete on price. Whilst it is possible that NHS providers further afield, for example in the greater London area may have some capacity, research has shown that they have insufficient capacity to take on this work. Furthermore, this would mean bodies being transported for PM out of the county which will incur additional transportation costs for KCC. We also know from experience such an arrangement could damage KCC and the Senior Coroner's

reputation and would be very distressing for families as it would add to funeral costs because the deceased will need to be collected from the mortuary by the families funeral director, and the necessity to travel longer distances for viewings of the deceased.

4.3 **Use a framework or other viable contract mechanism** – there are no known frameworks or other viable mechanisms in existence elsewhere in England and Wales.

4.4 **Renew contract through single source procurement** – this is 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.

5. Financial Implications

5.1. The financial implications of the North West Kent, North East Kent and Central & South East Kent contracts are set out in Part 2 (exempt) of this report

6. Policy Framework

6.1. 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.

7. Conclusions

7.1. KCC supports the Kent Senior Coroners by ensuring contracts are in place for body storage and PM's to ensure they are able to discharge their statutory duties in accordance with the Coroners and Justice Act 2009. There are no private sector PM providers anywhere in England and Wales to take on the Kent and Medway PM workload. Likewise, there is no capacity at a more competitive price at the other Kent NHS providers. KCC is therefore left with little alternative but to renew its contract for PM's for the North West Kent, North East Kent and Central & South East Kent areas with the current providers.

8. Recommendation(s)

The Cabinet Member for Community & Regulatory Services is asked to agree to award four year contracts for post mortems for the North East Kent, North West Kent and Central and South East Kent coroner areas for the period 1 October 2017 to 30 September 2021.

9. Contact details

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