

From: Mike Hill, Cabinet Member for Community and Regulatory Services
Barbara Cooper, Corporate Director of Growth, Environment and Transport

To: Environment and Transport Cabinet Committee – 16 July 2019

Decision No: 19/00055

Subject: Contract for Coroners' Post-Mortem Examinations, North West Kent Coroners Area

Classification: Part 1 Report – Unrestricted
Part 2 Appendix - Exempt as defined in Schedule 12A of the Local Government Act 1972

Past Pathway of Paper: N/A

Future Pathway of Paper: N/A

Electoral Division: All in North-West Kent

Summary: This paper describes the proposed future provision of contractual arrangements for mortuary and Post Mortem Examination (PME) services in the Mid Kent & Medway coroner area.

Recommendation(s): The Environment and Transport Cabinet Committee is asked to consider and endorse or make recommendations to the Cabinet Member for Community and Regulatory Services on the decision to award a four-year contract to Maidstone & Tunbridge Wells NHS Trust (MTW) for the provision of post mortem (PM) facilities at Tunbridge Wells Hospital, Pembury for the Mid Kent & Medway coroner area as shown as Appendix A.

1. Introduction

- 1.1 Coroners are independent judicial office holders, appointed by the local authority within the coroner area. Local authorities have a legal obligation to support the work of coroners, to fund all the costs of the service and to provide the necessary resources to enable them to carry out their statutory obligations under the Coroners and Justice Act 2009. This includes the provision of contractual arrangements for mortuary and PME services.
- 1.2 KCC does not have its own public mortuary and has always commissioned the NHS in Kent & Medway to provide this service as no such facilities exist outside the NHS in Kent. For the administrative areas of KCC and Medway Council, KCC is legally responsible for meeting all the costs of the coroner service. However, Medway Council meets 15.3% of the total cost (based on Medway population as a percentage of the total Kent & Medway population

and this is updated annually using the mid-year population estimates) and the detailed arrangements for this are set out in a SLA.

1.3 Coroners investigate deaths that have been reported 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 type of state detention.

1.4 When a death is reported to the Coroner, he or she:

- Establishes whether an investigation is required.
- If yes, investigates to establish the identity of the person who has died and how, when, and where they died, and any information to register the death.
- Uses information discovered during the investigation to assist in the prevention of other deaths where possible.

1.5 In some cases, the coroner will order a PME to establish the cause of death and the deceased is taken by KCC's body removal provider to a pre-designated Kent NHS Trust mortuary for this purpose. On behalf of the Kent Senior Coroners, KCC ensures access to body storage and PME facilities across the four Kent coroner areas.

1.6 Mortuary and PME facilities are a business-critical function, a statutory responsibility and, importantly should it fail, carries a high risk of reputational damage to KCC, Medway Council, the Provider and the Kent and Medway Senior Coroners.

2. The Report

2.1 The contract for mortuary and PME services at Tunbridge Wells Hospital, with Maidstone & Tunbridge Wells NHS (MTW) expired on the 31st March 2019 and needs to be renewed. Although negotiations to renew the contract began in August 2018, it was not possible to agree terms by the renewal date and so a contract extension is currently in place.

2.2 In Kent the supplier market for coroners' mortuary and PME facilities is limited to the NHS as there are no private sector suppliers of this highly specialised service.

2.3 Our Kent NHS partners only provide sufficient body storage capacity for deaths at their own hospitals which are not subject to referral to the coroner, and for coroner cases for the relevant coroner's area based on past local demand. Body storage capacity is therefore finite and during the winter period it is sometimes necessary for the Trusts to hire temporary storage units for which KCC contributes to the cost. Therefore, none of the other Kent NHS

mortuaries have sufficient body storage capacity to absorb the PME activity currently undertaken by MTW.

- 2.4 The nearest public mortuary is at Greenwich and past experience has shown this not to be a suitable alternative location. We therefore have just one option to continue provision of this statutory service and that is to enter into a new contract with MTW. The benefit of this approach is the continued delivery of this critical service with a proven provider who has delivered to a high level for many years.

3. Financial Implications

- 3.1 Based on 2018-19 activity levels the estimated cost for the four years (based on the proposed new rates) is £676,000. This is a 21% increase over the previous contract and is an unavoidable pressure on the budget which the service seeks to address through the Medium Term Financial Planning process. The provider is required to perform the following services:
- 24 hours a day, 365 days of the year for short term refrigerator body storage.
 - 24 hours a day, 365 days of the year for long term freezer body storage.
 - 8am - 4pm Monday to Friday for carrying out routine and complex coroners PMEs.
 - 8am - 4pm for the release of deceased to family funeral directors following completion of a PME.
 - Out of hours provision of mortuary services for forensic PMEs.
 - 8am - 4pm Monday to Friday for ID of the deceased.

Further financial details are shown in the confidential appendix.

4. Legal considerations

- 4.1 This 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.

5. Equality considerations

- 5.1 An Equality Impact Assessment has been carried out and there is no potential for discrimination and all opportunities to promote equality are currently being taken in line with KCC policies and statutory requirement. Should any issues arise they will be dealt with in accordance with KCC policies and statutory requirements.

6. Conclusions

- 6.1 Local authorities have a legal obligation to support the work of coroners and this includes the provision of contractual arrangements for mortuary and PME services.
- 6.2 The supplier market for coroners' mortuary and PME facilities is limited to the NHS and a small number of local authority owned public mortuaries as there are no private sector suppliers of this highly specialised service.
- 6.3 The only viable option given the very specialist nature of the work and absence of any alternative providers in the current market is to renew the contract with current provider without competition.

7. Recommendation

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- 7.1 The Environment and Transport Cabinet Committee is asked to consider and endorse or make recommendations to the Cabinet Member for Community and Regulatory Services on the decision to award a four-year contract to Maidstone & Tunbridge Wells NHS Trust (MTW) for the provision of post mortem (PM) facilities at Tunbridge Wells Hospital, Pembury for the Mid Kent & Medway coroner area as shown as Appendix A.

8. Contact details

Report Author:

Giles Adey
Contracts & Projects Manager
07740 186032
giles.adey@kent.gov.uk

Relevant Director:

Stephanie Holt-Castle
Interim Director, Environment, Planning and Enforcement
(03000) 412064
Stephanie.holt-castle@kent.gov.uk