

From: Simon Jones, Corporate Director for Growth, Environment and Transport

To: Clair Bell, KCC Cabinet Member for Community and Regulatory Services

Subject: Coroners' Removals and Transfer Service Contract

Key decision 24/00033

Classification: Unrestricted

Past Pathway of Report: Growth, Economic Development and Communities Cabinet Committee – 14 May 2024

Future Pathway of Report: For Cabinet Member Decision

Electoral Division: All

Summary: This report concerns the award of Contracts for Body Removals and Body Transfers that KCC puts in place on behalf of the Kent and Medway Senior Coroners.

Recommendation(s):

The Cabinet Member for Community and Regulatory Services is asked to agree:

- To tender for the award of Contracts for the Coroners Removal and Transfer Service for the Kent and Medway coroners areas for an initial 3-year period, with an option to extend for up to 2 years;
- Delegate authority to the Director of Growth & Communities in consultation with the Cabinet Member for Community and Regulatory Services to take relevant actions, including but not limited to, awarding, finalising the terms of and entering into the relevant contracts or other legal agreements, as necessary, to implement the decision;
- Delegate authority to the Director of Growth & Communities in consultation with the Cabinet Member for Community and Regulatory Services to Award Renewals of the current contracts in accordance with the current clauses within the contract for the period 00:00 on 22nd May 2024 to 23:59 on 31st December 2024 to accommodate the required procurement process as shown at Appendix A.

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 e.g., where a Deprivation of Liberty Safeguard Order (DoLS) is in place.

- 1.2 When a death is reported to the coroner, he or she:
- establishes whether an investigation is required.
 - if an investigation is required, investigates to establish the identity of the person who has died; how, when, and where they died, and any information to register the death; and
 - uses information discovered during the investigation to assist in the prevention of other deaths where possible.
- 1.3 In some cases, the coroner will order a Postmortem (PM) to establish the cause of death. On behalf of the Kent and Medway Senior Coroners, KCC ensures access to body storage and PM facilities across the four Kent and Medway coroner areas. When a PM is necessary there is a requirement that the deceased be transported to a designated mortuary. KCC puts contracts in place on behalf of the Kent and Medway Senior Coroners for such transportation with funeral service providers.
- 1.4 The current contracts expire at 23:59 on 21st May 2024. An extension period of approximately seven months is proposed to allow the procurement and governance process to take place, with a view to the new contracts commencing at 00:00 on 1st Jan 2025. The proposed procurement timescale allows market engagement activity to take place. TUPE is anticipated to apply to the current contracts; this period allows a suitable mobilisation period to manage any staff transfers as a result of the award of the new contracts.

2. Background

The Current Service

- 2.1 There are two aspects to this service – Coroners' Body Removals and Coroners' Body Transfers.
- 2.2 **Coroners' Body Removals.** The coroner may decide that a suitable practitioner is required, (normally a Pathologist), to examine the body and conduct a postmortem examination to help find the cause of death. In such cases the body needs to be transported from where it is lying to a designated mortuary pending further enquiries being made, or to hold a postmortem examination (PM). This movement of the body is usually referred to as a 'Coroner's removal.'
- 2.3 **Coroners' Body Transfers.** In some cases, it is necessary to transfer the deceased from a designated mortuary to another designated mortuary either within Kent and Medway or outside Kent to more specialised mortuaries for example to London (child deaths) or Brighton (infectious cases) or to a mortuary where a Pathologist is available. This movement is usually referred to as a 'Coroner's Transfer.'
- 2.4 Historically the number of transfers was low, but due to the lack of Pathologists who are available to carry out Coroners' PMs, KCC Coroners Service must transfer a much greater number of deceased to where the Pathologist is based rather than vice versa. This is because hospital based Pathologists are allowed by their NHS Trust employers to carry out Coroner PMs during Hospital Trust time but this is on the basis that this is a private arrangement between the Pathologist and the Coroner and so the Pathologist has to 'make the time up' to their employer including any travelling time.

2.5 Prior to the current Contracts, providers either fully or partially subsidised the service because they absorbed the costs as a loss leader on the basis that the family of the deceased may appoint them to carry out the funeral arrangements. This scenario would not always materialise meaning funeral directors were incurring the costs associated with the service, without the guarantee of recovering the costs of a removal. Suppliers now view this requirement as a separate business opportunity alongside the 'core' funeral business. Additional staff are employed to deliver this service.

2.6 The providers are required to perform the following services:

- 24 hours a day, 365 days of the year.
- For a coroner's body removal to be at the place of death within 1 hour of being directed to attend by Kent County Constabulary.
- For a coroner's body transfer, to have completed it within 48 hours of being directed to do so by a Coroners Officer.
- Bodies that require removal include deaths in the community and in hospitals without a designated postmortem facility and including open spaces, remote locations, houses, care homes, public highway, railway or water.

2.7 Historically KCC has procured these services from Funeral Directors who have the necessary vehicles, staff and professional expertise to provide the service. The removal of bodies is a service-critical function, a statutory responsibility of the County Council and, importantly should it fail it has a high risk of reputational damage to KCC, Medway Council and the Kent and Medway Senior Coroners. Should this service not be delivered, there would be a significant Public Health risk. Therefore, whilst price is important in the tender evaluation, other factors such as speed and quality of service, robustness of arrangements, and the proposed business model are also of importance.

3. Current arrangements

3.1 The tables below show the number of body removals and body transfers completed in 2023-24. This number can vary from year to year depending on the number of deaths reported to the coroners.

	Contract Area	Designated Mortuary	Volumes of Service
1 +2	Sevenoaks (A & B)	Tunbridge Wells Hospital	177
3	Dartford & Gravesham	Darenth Valley Hospital	292
4	Tunbridge Wells	Tunbridge Wells Hospital	146
5	Tonbridge and Malling	Tunbridge Wells Hospital	141
6	Medway	Medway Maritime Hospital	414
7	Maidstone	Medway Maritime Hospital	293
8	West Swale	Medway Maritime Hospital	179
9	East Swale	William Harvey Hospital	65
10	Ashford	William Harvey Hospital	223
11	Canterbury	William Harvey Hospital	299

12	Shepway	William Harvey Hospital	172
13	Thanet	QEQM Hospital	320
14	Dover NEK	QEQM Hospital	112
15	Dover CSEK	William Harvey Hospital	125

4. Options considered and dismissed, and associated risk

- **Direct Award** of Coroners' Removals and Transfer Service Contract (Discounted) – This approach is not compliant with the Public Contracts Regulations 2015 and would bring significant risk of legal challenge. Lack of competition does not demonstrate compliance with the Council's Best Value Statutory obligations.
- **Do Nothing** (Discounted) – These Contracts support delivery of KCC's statutory responsibilities with respect to the Coroners and Justice Act 2009. Suitable contractual arrangements are required to ensure security of supply and service rates.
- **Use of External Procurement Framework** (Discounted) – There are no available Frameworks that can be used to procure these localised services.
- **Delivery of Transport Service In-House** (Discounted) – The Council has not provided an in-house transport service to date. The Service would require the availability of trained staff 24/7 365 days per year; detailed cost information would need to be established to understand the viability of this option. This option can be explored in the long term. There may be some potential for efficiencies through delivery across a wider geographical area. Should this option be considered in future, the proposed initial contract term should not impact potential to bring this service in house.

5. Financial Implications

- 5.1 This requirement is funded from the Coroners Service revenue budget.
- 5.2 The proposed Contract extensions would be funded at the current contract rate (with CPI linked inflationary increase from April 2024, as per the terms and conditions).
- 5.3 Contract spend will vary depending on volumes required (and where these occur in the County). Based on historic spend, the anticipated total value for all Coroners' Removals and Transfer Contracts is c.£800,000k per year. The indicative Contract cost (based on historic volumes and spend to date during the current contract) is £2.4m (£4m should all potential extension periods be taken). Where the required spend has exceeded budgeted figures during the current contract, the Coroners Service revenue budget has been rightsized to meet this pressure (£37,000 for the financial year 2024-5).
- 5.4 Payment to Suppliers is made in arrears based on removals and transfers satisfactorily completed; financial risk to the Council is therefore limited.

5.5 Inflationary uplifts during the contract term will be based upon CPI (suitably capped). This is reflected in the Medium-Term Financial Plan.

6. Legal implications

6.1 The Coroners and Justice Act 2009 defines Kent County Council as the relevant authority for the four coroner areas covering Kent and Medway. As a result, KCC has a duty to provide such officers and other staff as are needed for the coroners to carry out their functions together with appropriate accommodation for the carrying out of those functions.

6.2 Legal advice is to be commissioned during procurement process of the substantive contract to ensure appropriate terms and conditions are in place.

6.3 All procurement activity will be conducted in accordance with the Public Contracts Regulations 2015.

7. Equalities implications

7.1 An EqIA has been completed for this critical service and is attached. It identifies that there is no potential for discrimination and all opportunities to promote equality are currently being taken in line with KCC policies and statutory requirement.

8. Other corporate implications

None

9. Governance

9.1 The Director of Growth and Communities will inherit the main delegations via the Officer Scheme of Delegation, including approval to award the new contracts.

10. Conclusions

10.1 KCC enables the Kent and Medway Senior Coroners to discharge their roles by ensuring contracts are in place for body removals and body transfers to ensure the Senior Coroners are able to discharge their statutory duties in accordance with the Coroners and Justice Act 2009. The current extension period expires on 21st May 2024 and following a Public Contracts Regulations compliant procurement process the Council plans to award contracts for a three-year period, with the option to extend the contracts for up to two years. A short-term extension period of approximately seven months is required ahead of that substantive award.

Recommendation(s):

The Cabinet Member for Community and Regulatory Services on the proposed decision:

- To tender for the award of Contracts for the Coroners Removal and Transfer Service for the Kent and Medway coroners areas for an initial 3-year period, with an option to extend for up to 2 years;
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11. Background Documents

Appendix A - Record Of Decision

Appendix B - Equality Impact Assessment

12. Contact details

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