

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

**To:** Environment and Transport Cabinet Committee – 15 June 2017

**Decision No:** 17/00064

**Subject:** Renewal of contracts for post mortems

**Classification:** Unclassified

**Past Pathway of Paper:** N/A

**Future Pathway of Paper:** Cabinet Member Decision

**Electoral Divisions:** Countywide

#### **Summary**

This report concerns the renewal of the contracts for body storage and post mortem (PM) facilities for three of the four Kent coroner areas. It specifically recommends that KCC renews its contract with Medway NHS Trust to carry out PMs at Medway Maritime Hospital for the Mid Kent & Medway coroner area.

With respect to the North West Kent and North East Kent/Central & South East Kent area contracts, negotiations are ongoing, but will be completed next month and will be reported to the next meeting of the Cabinet Committee in September.

#### **Recommendation**

The Cabinet Committee is asked to consider and endorse, or make recommendations to the Cabinet Member for Community & Regulatory Services on the proposed decision to award a four year contract for Post Mortems for the Mid Kent & Medway coroner area to Medway NHS Trust for the period 1 July 2017 to 31 March 2021 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 eg 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.

- 1.3. Three of the contracts for body storage and PM facilities expired on 31 March and need to be renewed. Although negotiations to renew the contracts began in the Autumn of 2016, it was not possible to agree terms by the renewal date and so contract extensions have been put in place as follows:
  - Mid Kent and Medway – 30 June 2017
  - North West Kent – 30 September 2017
  - North East Kent/Central & South East Kent – 30 September 2017
- 1.4 These extensions will ensure this essential service continues uninterrupted whilst the negotiations are concluded.
- 1.5 This report sets out the needs of the Mid Kent and Medway Coroner area and the options and context for re-providing these services, before recommending an option for KCC to procure these necessary services.

## **2. Mid Kent and Medway Coroner Area**

- 2.1. HM Senior Coroner for Mid Kent and Medway is responsible for providing the coronial service for part of the KCC administrative area (the district council areas of Maidstone and Tonbridge and Malling) and for the whole of the Medway Council administrative area. 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 its share of the costs.
- 2.2. In particular, KCC supports the Senior Coroner by putting in place contracts for the major areas of activity which includes the provision of body storage and PM facilities. In 2016, of 2,272 deaths referred to the Senior Coroner, Mid Kent and Medway, 988 required a PM (43% of deaths referred).
- 2.3. To date, Medway NHS Trust has always provided body storage and PM facilities to the Mid Kent and Medway Coroner at Medway Maritime Hospital.
- 2.4. With the recent expiration of the contract 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 Mid Kent and Medway PM workload. Likewise, there is no capacity at the other Kent NHS providers.
- 2.6. Commissioning the work outside of Kent at another NHS provider is not an option for two reasons. Firstly, because with the exception of Greenwich Public Mortuary 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. The use of Greenwich Public Mortuary, whilst technically possible, does not meet the needs of the customers of the service, who would have to travel to Greenwich to view bodies of the deceased. The service has some previous experience with the use of Greenwich Public Mortuary, when Maidstone and Tunbridge Wells NHS Trust did not renew its contract with KCC for PMs for a year as the work was not seen as core business. 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 eventually intervened and brokered a solution with the Trust to take the work. However, the lesson learned is that from a customer perspective, procuring services at such a distance from the coroner area places an unsustainable strain on bereaved families and therefore is not a viable option.

### 3. Procurement route

3.1. The current level of expenditure on PMs with Medway NHS Trust is in the region of £330,000 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 to take on this work, KCC is left with no alternative but to seek to renew the contract with Medway NHS Trust. This would ensure continuity as there has been a long standing and successful partnership between the Trust, KCC and the Senior Coroner.

### 4. Options

4.1. **Do nothing** – this is not an option. Unless a contract is put in place the system of coronial death investigation and certification in the Mid Kent and Medway area will collapse.

4.2. **Go out to tender** – this is not an option. The Kent and adjoining area NHS Trusts do not have capacity to take on this work and so would not apply. 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 that such an arrangement 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.

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 Mid Kent & Medway contract 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 the other Kent NHS providers. KCC is therefore left with little alternative but to renew its contract for PM's for the Mid Kent and Medway area with the current provider.

## **8. Recommendation(s)**

### **8.1 Recommendation**

The Cabinet Committee is asked to consider and endorse, or make recommendations to the Cabinet Member for Community & Regulatory Services on the proposed decision to award a four year contract for Post Mortems for the Mid Kent & Medway coroner area to Medway NHS Trust for the period 1 July 2017 to 31 March 2021 as shown at Appendix A.

## **9. Appendices**

Proposed Record of Decision

## **10. Contact details**

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