

## Notice of NON-KEY Executive Decision containing exempt information

This Executive Decision Report is part exempt, and Appendices A is not available for public inspection as it contains exempt information within the meaning of paragraph number 3 of Schedule 12A to the Local Government Act 1972. It is exempt because it *refers* to Information relating to the financial or business affairs of any particular person (including the authority holding that information), and the public interest in maintaining the exemption outweighs the public interest in disclosing the information

<b>Subject Heading:</b>	Approval to procure a mortuary storage service
<b>Decision Maker:</b>	Helen Oakerbee, Director of Planning and Public Protection
<b>Cabinet Member:</b>	Councillor Barry Mugglestone, Cabinet Member for Environment
<b>SLT Lead:</b>	Neil Stubbings, Director of Regeneration Programme Delivery
<b>Report Author and contact details:</b>	Tina Nelan, Senior Public Protection Officer, Tina.nelan@havering.gov.uk
<b>Policy context:</b>	It is a statutory requirement for the Council to provide a mortuary service under the Public Health Act 1936 s198)
<b>Financial summary:</b>	The current budget for mortuary provision is £0.094m per annum held under A26240. A corporate provision c£0.060m has been identified to fund the potential increase in mortuary costs.
<b>Relevant OSC:</b>	Place

**Non-key Executive Decision**

<b>Is this decision exempt from being called-in?</b>	Yes, it is a non-key decision
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**The subject matter of this report deals with the following Council Objectives**

People - Things that matter for residents

X Place - A great place to live, work and enjoy

Resources - A well run Council that delivers for People and Place.

## Part A – Report seeking decision

### DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

This report seeks approval to proceed to procure a mortuary service via an open tender for a period of three years with the option to extend for two years at an estimated contract value of £0.755m over the five-year period. The contract is anticipated to commence on 1<sup>st</sup> September 2024 and continue until 31<sup>st</sup> August 2027.

### AUTHORITY UNDER WHICH DECISION IS MADE

Part 3 [Responsibility for Functions] of the Council's Constitution

3.3 Powers of Members of the Senior Leadership Team

Contract powers

(a) To approve commencement of a tendering process for all contracts above a total contract value £500,000.

### STATEMENT OF THE REASONS FOR THE DECISION

All Local Authorities pay for storage of deceased residents when their deaths are being investigated by the coroner. This provision in councils tends to sit with Environmental Health or Public Health. There is a statutory requirement under the Public Health Act 1936 on the Council to provide a mortuary service. In Havering, this rests within Environmental Health.

This mortuary service paid for by the Council is solely for patients who are deceased on arrival (DOA) or who pass away in the Emergency Department (ED) at Queens Hospital. There are several outcomes for these deceased patients, and some will require post-mortems when death is unexplained and requested by the coroner.

The provision is restricted to the storage of deceased persons and their organs (if removed). Normal mortuary service for patients who pass away while receiving treatment is part of NHS storage arrangements for deceased and not charged to the Council.

### Non-key Executive Decision

The Council currently have a contract with Barking Havering and Redbridge NHS University Trust (BHRUT) which is due to expire on 31 August 2024.

Ahead of the current contract expiring, officers in conjunction with the Strategic Procurement Unit, intend to carry out an open tender to procure a mortuary service. The tender evaluation will be based on 25 % Quality, 5% Social Value and 70% Price.

### **OTHER OPTIONS CONSIDERED AND REJECTED**

#### Option 1

Implement a direct award to BHR NHS Trust for a longer period. This is not recommended as a tender ensures best value for the council and ensures the Council is compliant with the Public Contract Regulations 2015.

#### Option 2

Cease the service – not an option as this is a statutory service that the Council is required to provide.

#### Option 3

The use of a framework has been rejected as there are no appropriate frameworks available.

#### Option 4

Bring the service in-house, however London Borough of Havering would need to build their own mortuary for this to happen. There would be a significant resource and asset cost to do this. This would also take time, and interim arrangements would be required.

### **PRE-DECISION CONSULTATION**

N/A

### **NAME AND JOB TITLE OF STAFF MEMBER ADVISING THE DECISION-MAKER**

Name: Tina Nelan

Designation: Senior Public Protection Officer

Signature:



Date: 31<sup>st</sup> January 2024

## Part B - Assessment of implications and risks

### LEGAL IMPLICATIONS AND RISKS

Section 198 of the Public Health Act 1936 places a duty on local authorities to provide a mortuary service where required by the Minister.

The Council has the general power of competence under section 1 of the Localism Act 2011 to do anything an individual may generally do subject to any statutory constraints on the Council's powers.

The total value of the proposed contract is approximately £0.750m which is above the threshold for service contracts as set out in the Public Contracts Regulations (as amended) 2015 (PCR) and thus is subject to the full rigours of the Regulations. Officers have confirmed that an open procedure in accordance with Regulation 27 of PCR will be carried out.

We note that the annual cost of the contract may increase to an estimated £151,000. Clear, precise, and unequivocal review clauses ought to be contained in the contract and the specification to reflect the price increase or decrease in the service. The Council may use this service as and when the need arises. The contract will need to specify that there is no set volume which is guaranteed to be placed by the Council. The contract will also need to have a no-fault termination clause or a right to termination for convenience which may be relied upon the Council.

Officers will also need to comply with the Council's Contracts Procedure Rules (CPR).

For the above reason, the Council may proceed with the procurement of this contract

### FINANCIAL IMPLICATIONS AND RISKS

Public Protection hold a budget of £0.094m for this activity. Based on the benchmarking exercise undertaken in 2022, with other London Local Authorities (see Exempt Appendix A) it is anticipated that the annual cost of the contract could be circa £0.151m. Therefore, there is a possibility that following the procurement there may be a short fall in funding of approximately £0.060m. The funding gap up to £0.060m has been identified Corporately, anything above this amount would be unbudgeted and require the identification of further funding.

### HUMAN RESOURCES IMPLICATIONS AND RISKS (AND ACCOMMODATION IMPLICATIONS WHERE RELEVANT)

The recommendations made in this report do not give rise to any identifiable HR risks or implications that would affect either the Council or its workforce as services will be provided by the successful bidder.

### EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS

## Non-key Executive Decision

The Public Sector Equality Duty (PSED) under section 149 of the Equality Act 2010 requires the Council, when exercising its functions, to have 'due regard' to:

- (i) the need to eliminate discrimination, harassment, victimisation, and any other conduct that is prohibited by or under the Equality Act 2010;
- (ii) the need to advance equality of opportunity between persons who share protected characteristics and those who do not, and;
- (iii) foster good relations between those who have protected characteristics and those who do not.

Note: 'Protected characteristics' are age, disability, gender reassignment, marriage and civil partnerships, pregnancy and maternity, race, religion or belief, sex/gender, and sexual orientation.

The Council is committed to all the above in the provision, procurement and commissioning of its services, and the employment of its workforce. In addition, the Council is also committed to improving the quality of life and wellbeing for all Havering residents in respect of socioeconomics and health determinants.

EQ IA is not required.

### **HEALTH AND WELLBEING IMPLICATIONS AND RISKS**

Proper mortuary provision is essential and will have a positive impact on the health and wellbeing of loved ones affected by the death of a family member knowing their loved one is being taken care of respectfully.

### **ENVIRONMENTAL AND CLIMATE CHANGE IMPLICATIONS AND RISKS**

There are no environmental or climate implications and risks with going out to tender, each bid will be addressed on 5 % social value which will include emissions and any actions taken to mitigate climate change.

### **BACKGROUND PAPERS**

None

### **APPENDICES**

Appendix A Finance benchmarking and considerations for budget forecasting  
*(Exempt)*

**Non-key Executive Decision**

**Part C – Record of decision**

I have made this executive decision in accordance with authority delegated to me by the Leader of the Council and in compliance with the requirements of the Constitution.

**Decision**

Proposal agreed

**Details of decision maker**

Signed 

Name: Helen Oakerbee, Director of Planning and Public Protection

Date: 2 February 2024

**Lodging this notice**

The signed decision notice must be delivered to Democratic Services, in the Town Hall.

**For use by Committee Administration**

This notice was lodged with me on \_\_\_\_\_

Signed \_\_\_\_\_