

## Notice of KEY Executive Decision

<b>Subject Heading:</b>	Authority to Award a contract for Mortuary Storage.
<b>Decision Maker:</b>	Neil Stubbings Strategic Director of Place
<b>Cabinet Member:</b>	Councillor Barry Mugglestone
<b>SLT Lead:</b>	Neil Stubbings Strategic Director of Place
<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 award of the mortuary storage provision contract at the estimated cost of £0.743m over 5 years. Averaging at £0.149m per year, will be funded through a combination of existing budget and Corporate identified MTFS allocation.
<b>Reason decision is Key</b>	Expenditure or saving (including anticipated income) of £500,000 or more
<b>Date notice given of intended decision:</b>	15 <sup>th</sup> November 2023

**Key Executive Decision**

<b>Relevant Overview &amp; Scrutiny Committee:</b>	Places OSSC
<b>Is it an urgent decision?</b>	No
<b>Is this decision exempt from being called-in?</b>	No

**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 award a mortuary storage contract for a period of three years with the option to extend for two years at an estimated contract value of £0.742.5m over the five-year period. The contract is to commence on 1<sup>st</sup> September 2024 and continue until 31<sup>st</sup> August 2027, or until 31<sup>st</sup> August 2029 if extended

### **AUTHORITY UNDER WHICH DECISION IS MADE**

#### **Part 3 of the Council's Constitution**

#### **Scheme 3.3.3 Powers common to all Strategic Directors**

##### **1. General**

1.1 To take any steps, and take any decisions, necessary for the proper management and administration of their allocated directorate, in accordance with applicable Council policies and procedures.

##### **4. Contracts**

4.2 To award all contracts with a total contract value of below £1,000,000 other than contracts covered by Contract Procedure Rule 16.3.

### **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.

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

Since the Executive decision to approve the procurement of this contract, a tender process has been carried out via open tender on fusion.

Two bids were submitted through the fusion portal. Both bidders passed the supplier questionnaire. In the quality evaluation, one bidder failed to supply the requested information.

The London Borough of Waltham Forest scored highly on the quality questions, met the evaluation criteria and was the most economical and advantageous tender. It is therefore proposed to appoint this contractor.

### **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**

None.

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

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Name: Tina Nelan

Designation: Senior Public Protection Officer

Signature:

A handwritten signature in black ink, appearing to read "Tina Nelan", written in a cursive style.

Date:

## 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 overall value of the proposed contract is £0.742.5m 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 PCR.

The award of the contract must be in compliance with Regulation 56 and 67 of the PCR.

The award of the contract must also be in compliance with the Council's Contracts Procedure Rules (CPR), in particular with CPR 18.

For the reasons set out above, the Council can award the contract.

### **FINANCIAL IMPLICATIONS AND RISKS**

The current budget for mortuary provision is £0.094m held under A26240. A corporate provision c£0.060m has been identified to fund the increase in mortuary costs.

The estimated five-year contract value of between £0.648m and £0.743m, does not include costs relating to out of hours viewings as there is no historical data with which to make assumptions, these out of hours 15-minute viewings are chargeable at a rate of £351.25 in year one rising to £495.82 by Year five. This could result in pressure on the budget for which there is no current mitigation plan.

Nor does it include estimated costs for overstays (greater than 14 days), there is a daily rate fee of £26.43 in year one rising to £37.31 by year five. Based on overstay data from years 2018/2019 to 2022/2023, there is an average of 440 days overstays per year, the impact of which could be an increase in costs of c£0.012m in the first year rising to c£0.016m in year five.

However, the contract will be managed to ensure overstays are kept to the minimum with safeguards in place within the specification and the contract under performance.

The contract value of £0.743m is based on an estimated 330 community deceased persons in a year, this estimate is the highest level of community deceased persons anticipated per year and therefore may give rise to a margin on the budget which could in turn be utilised for any overstays.

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The service is statutory and needs to be provided. It should be noted however that in approving the award of the contract the Council is committing to funding the contract and that funding will either need to be found from savings within the service or more likely from the award of growth.

Below is a table with the high level estimation outlined:

**N.B. the following tables 1 & 2 do not take into account costs relating to out of hours viewings or over stays**

**Table 1**

<u>Estimated core costs</u>						<b>5 year total</b>
Charge for average of 330 deceased persons per annum based on the last 6 years data.	£148,500.00	£148,500.00	£148,500.00	£148,500.00	£148,500.00	£742,500.00
<u>Available Budget</u>						
Revenue Budget	£94,000.00	£94,000.00	£94,000.00	£94,000.00	£94,000.00	£470,000.00
Corporate funding via MTFS	£60,000.00	£60,000.00	£60,000.00	£60,000.00	£60,000.00	£300,000.00
<b>Total available budget</b>	<b>£154,000.00</b>	<b>£154,000.00</b>	<b>£154,000.00</b>	<b>£154,000.00</b>	<b>£154,000.00</b>	<b>£770,000.00</b>
<b>Variance</b>	<b>£5,500.00</b>	<b>£5,500.00</b>	<b>£5,500.00</b>	<b>£5,500.00</b>	<b>£5,500.00</b>	<b>£27,500.00</b>

### **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**

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:

- (1) the need to eliminate discrimination, harassment, victimisation, and any other conduct that is prohibited by or under the Equality Act 2010;
- (2) the need to advance equality of opportunity between persons who share protected characteristics and those who do not, and;
- (3) 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

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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.

Equality Impact Assessment is not required.

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

Proper mortuary provision is essential and will have a positive impact on the psychological 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**

As part of the tender process, each bid was assessed on 5 % social value.

The successful bidder, London Borough of Waltham Forest has its own social value policy in place and understands its importance. It has systems in place to report on social values, positive outcomes as well as difficulties and future plans.

Within the social pillar the London borough of Waltham Forest has pledged to carry out mental health campaigns for staff, under community safety. As well as provide equality, diversity and inclusion training under modern day slavery. They have also stated it will carry out climate change training within the environment pillar. The total value promised is £199,179.

### **BACKGROUND PAPERS**

None

### **APPENDICES**



**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

*Delete as applicable*

Proposal NOT agreed because

**Details of decision maker**

Signed

Name:

Cabinet Portfolio held:

CMT Member title:

Head of Service title

Other manager title:

Date:

**Lodging this notice**

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

**For use by Committee Administration**

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

Signed \_\_\_\_\_