



Mayor and Cabinet

Pan London temporary arrangements for the provision of mortuary facilities and mortality management

Date: 16 September 2020

Key decision: Yes

Class: Part 1

Ward(s) affected: All

Contributors: Acting Chief Finance Officer and Director of Law, Governance and HR

Outline and recommendations

This report asks Mayor and Cabinet to agree that the Council, along with all other London Boroughs, join the pan-London temporary arrangements for the provision of mortuary facilities and mortuary management, involving payment of £551,321 to the London Borough of Camden in advance of a potential second wave of the Covid 19 pandemic.

Mayor and Cabinet are recommended to:

- agree to delegate to the Director of Law, Governance and HR the authority to finalise the terms of and enter into the Inter-Authority Agreement for Pan-London Mortality Management on behalf of the Council regarding the pan-London temporary arrangements for the provision of mortuary facilities and mortality management in response to the Covid 19 pandemic; and
- approve the payment of £551,321 to the London Borough of Camden to hold on account in respect of the matters involved in the Inter-Authority Agreement.

GENERAL EXCEPTION

This item was not shown on a Key Decision Plan notice and pursuant to Regulation 10 of the Local Authorities Executive Arrangements (Meetings and Access to Information) England Regulations 2012 this report is submitted as a General Exception. The reason why compliance with Regulation 10 is impracticable is set out below.

This report is being submitted under general exception in order to ensure Lewisham's commitment to the proposed pan-London temporary arrangements for the provision of mortuary facilities and mortality management are agreed in time to respond to the possibility of a second wave of Covid 19 in London in the coming weeks so that the necessary preparations can be concluded in time. The item was not on the forward plan as the proposed pan-London temporary arrangements have only recently been finalised.

1. EXECUTIVE SUMMARY

- 1.1. This report asks Mayor and Cabinet to agree that the Council, along with all other London Boroughs, join the pan-London temporary arrangements for the provision of mortuary facilities and mortuary management and payment, involving payment of £551,321 to the London Borough of Camden in advance of a potential second wave of the Covid 19 pandemic.

2. RECOMMENDATIONS

- 2.1. Mayor and Cabinet agree to delegate to the Director of Law, Governance and HR the authority to finalise the terms of and enter into the Inter-Authority Agreement for Pan-London Mortality Management on behalf of the Council regarding the pan-London temporary arrangements for the provision of mortuary facilities and mortality management in response to the Covid 19 pandemic.
- 2.2. Mayor and Cabinet approve the payment of £551,321 to the London Borough of Camden to hold on account in respect of matters involved in the Inter-Authority Agreement.

3. POLICY CONTEXT

- 3.1. The Council's strategy and priorities drive the Budget with changes in resource allocation determined in accordance with policies and strategy. The Council launched its new Corporate Strategy in 2019, with seven corporate priorities as stated below:

3.2. Corporate Priorities

- **Open Lewisham** - Lewisham will be a place where diversity and cultural heritage is recognised as a strength and is celebrated.
- **Tackling the housing crisis** - Everyone has a decent home that is secure and affordable.
- **Giving children and young people the best start in life** - Every child has access to an outstanding and inspiring education, and is given the support they need to keep them safe, well and able to achieve their full potential.
- **Building and inclusive local economy** - Everyone can access high-quality job opportunities, with decent pay and security in our thriving and inclusive local economy.
- **Delivering and defending health, social care and support** - Ensuring everyone receives the health, mental health, social care and support services they need.
- **Making Lewisham greener** - Everyone enjoys our green spaces, and benefits from a healthy environment as we work to protect and improve our local environment.

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- **Building safer communities** - Every resident feels safe and secure living here as we work together towards a borough free from the fear of crime.

Values

- 3.3. Values are critical to the Council's role as an employer, regulator, and securer of services and steward of public funds. The Council's values shape interactions and behaviours across the organisational hierarchy, between officers, and members, between the council and partners and between the council and citizens. In taking forward the Council's Budget Strategy, we are guided by the Council's four core values:
- We put service to the public first.
 - We respect all people and all communities.
 - We invest in employees.
 - We are open, honest, and fair in all we do.
- 3.4. In addition, at this time the Council is prioritising critical services consistent with the national response to the Covid 19 pandemic.

4. PROPOSAL FOR TEMPORARY PAN-LONDON MORTUARY ARRANGEMENTS

- 4.1. There is an urgent need to put in place arrangements to secure pan-London mortuary provision for the coming months and plan for a potential second wave of Covid 19 cases. The Councils for Westminster and Camden have agreed to oversee these arrangements on behalf of all London Boroughs with a request that all Boroughs enter into a formal commitment to recognise the shared responsibility and commitment of all to ensure the proposed temporary arrangements for future pan-London mortuary provision are sufficient in the coming months, through to March 2021.
- 4.2. These arrangements are additional and separate to the continuing 'business as usual' ones the Council has in place with the Royal Borough of Greenwich for mortuary services. Hence they are temporary in nature and limited to addressing the possible services pressures which may arise from the Covid 19 pandemic in the coming months.
- 4.3. Approval of this report will enable officers to provide the necessary assurances for Westminster City Council and London Borough of Camden regarding the Council's participation in the pan-London arrangements, through entry into an 'Inter-Authority Agreement for Pan-London Mortality Management' to secure the provision of temporary mortuary facilities and the mortality management function on a pan-London basis.
- 4.4. Under the terms of that Agreement (once agreed by all parties), Westminster City Council will enter into the necessary contractual arrangements, relying on the provisions of regulation 32(2)(c) of the Public Contract Regulations (the appropriate route for ensuring provision of urgent Covid-related services) in order to conclude the future arrangements for Emergency Mortuary services for pan-London temporary mortuary provision and will undertake the mortality management function. The London Borough of Camden will hold and administer a sinking fund, thus taking responsibility for ensuring finances are secured. Contributions to the sinking fund will be from each London Borough proportionate to their population and all London boroughs will contribute and comply with the terms of the inter-authority agreement.
- 4.5. Westminster City Council will manage the mortuary arrangements in consultation with the Ministry for Housing, Communities and Local Government and Cabinet Office and will draw down from the sinking fund on monthly basis to cover the provision of temporary mortuary facilities and any associated costs. These costs will be overseen by

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representatives from the London Chief Executives and s151 Officers and reported to the Leaders and Chief Executives of all London local authorities on a monthly basis.

- 4.6. Based on the initial cost estimates and Lewisham's population the Lewisham Council's share of the sinking fund is set at £551,321. If agreed by Mayor and Cabinet, this will be paid to the London Borough of Camden and available to be drawn by Westminster City Council. If not drawn, any balance will be returned to Lewisham on the winding up of the temporary arrangements, currently expected by March 2021.
- 4.7. These arrangements and costs will be subject to a further review in 2021 to confirm how they will be wound up or extended as needed. This will be reported to Members.

5. LEGAL IMPLICATIONS

- 5.1. It is intended that the Council should enter into an 'INTER-AUTHORITY AGREEMENT for PAN LONDON MORTALITY MANAGEMENT'. The purpose of this Agreement and the arrangements within it are set out in the body of the report. The report also refers to the provisions in the Agreement for the use of a sinking fund, and that the Council's contribution to that fund will be £551,321. As set out in the inter-authority agreement, the parties will 'co-operate in the management and provision of mortuary and mortality management services across London in response to the COVID-19 pandemic'.
- 5.2. The Council has the power to enter into these arrangements. Given the public authority nature of all the participants, the requirements of the procurement regulations for competition do not apply and a direct award of these arrangements is permissible (Public Contracts Regulations Regulation 12(7)), and the provisions of the Council's Contract Procedure Rules for external competition accordingly also do not apply. Further, the Council has powers and duties in relation to the functions involved in the Inter-Authority Agreement the delivery of which will be supported by the Agreement.
- 5.3. The decision requested is a key decision.

6. FINANCIAL IMPLICATIONS

- 6.1. The report recommends paying the London Borough of Camden £551,321. This money was not budgeted for in 2020/21 and will therefore be paid from provisions and reserves. The Council will also include it in its monthly Covid 19 return to the MHCLG as a cost of the response to the pandemic. The government may then compensate the Council for these costs. However, it should be noted as reported to Members separately that the current government funding towards the cost of responding to the pandemic is less than the costs and lost income experienced by the Council.
- 6.2. While the impact of the Covid 19 response may reduce the Council's financial resilience to face future shocks, it is the section 151 officer's assessment that the circumstances do not require consideration of a section 114 notice with the Head of Paid Services and Monitoring Officer at this time.

7. EQUALITIES IMPLICATIONS

- 7.1. The Equality Act 2010 (the Act) introduced a public sector equality duty (the equality duty or the duty). It covers the following protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

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- 7.2. In summary, the Council must, in the exercise of its functions, have due regard to the need to:
- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
 - advance equality of opportunity between people who share a protected characteristic and those who do not; and
 - foster good relations between people who share a protected characteristic and those who do not.
- 7.3. It is not an absolute requirement to eliminate unlawful discrimination, harassment, victimisation or other prohibited conduct, or to promote equality of opportunity or foster good relations between persons who share a protected characteristic and those who do not. It is a duty to have due regard to the need to achieve the goals listed in the paragraph above.
- 7.4. The weight to be attached to the duty will be dependent on the nature of the decision and the circumstances in which it is made. This is a matter for members, bearing in mind the issues of relevance and proportionality. They must understand the impact or likely impact of the decision on those with protected characteristics who are potentially affected by the decision. The extent of the duty will necessarily vary from case to case and due regard is such regard as is appropriate in all the circumstances.
- 7.5. The Equality and Human Rights Commission has issued Technical Guidance on the Public Sector Equality Duty and statutory guidance entitled “Equality Act 2010 Services, Public Functions & Associations Statutory Code of Practice”. The Council must have regard to the statutory code in so far as it relates to the duty and attention is drawn to Chapter 11 which deals particularly with the equality duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found at:
- <https://www.equalityhumanrights.com/en/advice-and-guidance/equality-act-codes-practice#>
- <https://www.equalityhumanrights.com/en/advice-and-guidance/equality-act-technical-guidance>
- 7.6. The Equality and Human Rights Commission (EHRC) has previously issued five guides for public authorities in England giving advice on the equality duty:
- [The essential guide to the public sector equality duty](#)
 - [Meeting the equality duty in policy and decision-making](#)
 - [Engagement and the equality duty: A guide for public authorities](#)
 - [Objectives and the equality duty. A guide for public authorities](#)
 - [Equality Information and the Equality Duty: A Guide for Public Authorities](#)
- 7.7. The essential guide provides an overview of the equality duty requirement including the general equality duty, the specific duties and who they apply to. It covers what public authorities should do to meet the duty including steps that are legally required, as well as

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recommended actions. The other four documents provide more detailed guidance on key areas and advice on good practice. Further information and resources are available at:

<https://www.equalityhumanrights.com/en/advice-and-guidance/public-sector-equality-duty-guidance>

- 7.8. There are no direct equalities implications from the recommendations in this report although it is known, from the first wave of Covid 19 cases, that contributory factors, as well as underlying health conditions and weight, have included disproportionately high numbers of those who are elderly, in poverty, or are Black, Asian and Minority Ethnic (BAME). These relationships are part of the research the Council is participating in with the University of Birmingham to understand the impacts and potential mitigations.

8. CLIMATE AND ENVIRONMENT IMPLICATIONS

- 8.1. There are no specific climate or environment considerations at this time.

9. CRIME AND DISORDER

- 9.1. There are no specific crime and disorder implications at this time.

10. BACKGROUND PAPERS

- 10.1. Monthly reports to Members since May 2020 on the Council's Covid 19 response.

Contributors

Author	Acting Chief Finance Officer
Legal implications	Principal contracts and procurement lawyer
Financial implications	Acting Chief Finance Officer

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