

14 September 2020

Agenda Item: 11

REPORT OF THE CORPORATE DIRECTOR, ADULT SOCIAL CARE AND HEALTH

RETENDER OF THE FUNERAL SERVICES CONTRACT

Purpose of the Report

1. To seek approval to retender the current funeral service contract (which ends on 31st March 2021) to run until 31st March 2024 with a two-year extension option.

Information

Background

2. It is an individual's responsibility to make provision for their own funeral and as part of any assessment or review, social workers or community care officers are required to ensure that service users have plans in place or encourage them to make plans.
3. However, under Section 46 of the Public Health (Control of Diseases) Act 1984, the Council has a statutory duty to arrange a funeral for any person who dies in care home accommodation in Nottinghamshire where that individual;
 - a. has not made any funeral arrangements
or
 - b. there is no-one willing or able to make funeral arrangements for them.
4. The Council is responsible for the funeral arrangements for people funded by Nottingham City Council in care homes within the County boundary. The Council is also responsible for arranging a funeral for people in Nottinghamshire who are funding their own care in a care home or supported living complex if there is no one able to arrange the funeral on their behalf.
5. The Council will, as far as possible, respect any known wishes of the deceased person regarding the funeral service and other arrangements.
6. A private funeral will be arranged in accordance with the deceased person's wishes if the person has left written instructions and there are enough funds in the person's estate to pay for one. In all other situations the appointed funeral director will provide a dignified contract funeral.

7. The Council claims the cost, or a contribution towards the cost, of the funeral back from the deceased person's estate, whether the funeral is a private or contract arrangement. Payment of funeral expenses takes precedent over all other debts of the estate or beneficiaries to the estate.
8. The Council does not get involved in funeral arrangements in the following circumstances:
 - a. if a person dies whilst living in their own home it is the responsibility of the Environmental Health Department within the appropriate District, Borough or City Council to make the necessary arrangements.
 - b. if a person dies in hospital (NHS) prior to formal admission to a ward, it is the responsibility of the District Council, to make the necessary arrangements.
 - c. if a person dies in hospital (NHS) following admission, it is the responsibility of the Hospital Bereavement Centre where the person died to make the necessary arrangements, unless the person was under the Court of Protection, in which case, the Council is responsible for the arrangements.
 - d. if the person dies in the Queen's Medical Centre, it is the responsibility of Nottingham City Council Environmental Health Department.
 - e. in most circumstances, where the Council incurs costs for funerals, it can and does recover these retrospectively and fully from the executors of estates (see **Table 1**).

Current Provision

9. The current provider is AW Lymn who are located at various locations across Nottinghamshire enabling them to provide a responsive service. This provision commenced on 1st November 2015 and is scheduled to end on 31st March 2021 following a six-month contract extension that was implemented in response to the Covid-19 pandemic. A key facet of the existing contract is for fees to be allocated for each area of a funeral including hire of cars, coffin, and flowers.
10. To 31st March 2020 (see **Table 1**) 106 funerals have been arranged over the five-year contract duration at a gross cost of approximately £177,000. Of which, on average, approximately 85% of costs were recovered from the deceased estate by the Council.

Table 1 NCC Funeral services contract transactions and costs 2015-2020 – AW Lymn

Year	2015/16*	2016/17	2017/18	2018/19	2019/20	TOTAL
Number of funerals	13	21	25	22	25	106
Total cost	£15,391.89	£34,854.75	£40,315.50	£45,835.34	£41,003.72	£177,401.20
Costs recovered from estate of deceased	£7,091.75	£31,192.05	£35,315.50	£41,675.17	£34,997.46	£150,271.93
Net Cost to NCC	£8,300.14	£3,662.70	£4,904.46	£4,160.17	£6,006.26	£27,033.73

*2015-16 Year 1st November to 31st March due to contract start date.

11. Further data extrapolated for the 2020-21 financial year show that 22 funerals have occurred between 1st April and August 2020 which is three times the average number expected at this time of year compared with previous years. This marked increase can primarily be attributed to the impact of the Covid-19 pandemic.

Other Options Considered

12. **To further extend the existing contract:** this option has been considered and discounted since the terms of the agreed contract that went live on 1st November 2015 were for a three-year duration with a two-year option to extend (an additional six months have also been added as a Covid-19 emergency measure) and this contract will shortly expire. Furthermore, the contract tender needs to comply with The Public Contracts Regulations 2015 and the Council's own Financial Regulations.
13. **To do nothing:** this option has been considered and discounted due to Section 46 of the Public Health (Control of Diseases) Act 1984, the Council has a statutory duty to arrange a funeral for any person who dies in residential accommodation in Nottinghamshire where there is no-one willing or able to make funeral arrangements for them.

Reason/s for Recommendation/s

14. The Council has a statutory duty to arrange a funeral for any person who dies in care home accommodation in Nottinghamshire where that individual has not made any funeral arrangements or there is no-one willing or able to make funeral arrangements for them. In order to meet that duty, the Council needs to commission a service to commence 1st April 2021.

Statutory and Policy Implications

15. This report has been compiled after consideration of implications in respect of crime and disorder, data protection and information governance finance, human resources, human rights, the NHS Constitution (public health services), the public sector equality duty, safeguarding of children and adults at risk, service users, smarter working, sustainability and the environment and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

Data Protection and Information Governance

16. In line with the Data Protection Act 2018 and General Data Protection Regulations (GDPR), a full data privacy impact assessment (DPIA) has been completed for the Funeral service provision.

Financial Implications

17. The gross Funeral Services contract value is approximately £50,000 per annum. This cost is offset by income from the people's estates so the net cost to the Council is normally much lower. The net costs incurred by the Council for each year of the current contract are shown in **Table 1**.

Implications for Service Users

18. This service affords a dignified funeral to those who have not pre-arranged their own funerals or do not have relatives or friends to undertake them on their behalf.

RECOMMENDATION/S

- 1) That the Committee approves the retender of the current funeral arrangements contract to commence on 1st April 2021 until 31st March 2024. A two-year option to extend will also be incorporated into the agreed contract.

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Constitutional Comments (AK 01/09/2020)

19. The report falls within the remit of Adult Social Care and Public Health Committee by virtue of its terms of reference.

Financial Comments (KAS 03/09/20)

20. The gross contract value of £50,000 per year will be offset by client income so the net costs are much lower. There is currently a net budget of £11,260 per annum to cover the net costs.

Background Papers and Published Documents

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

Protection of Property and Pets, and Funeral Arrangements Policy 20th March 2019
<https://www.nottinghamshire.gov.uk/policy-library/39047/protection-of-property-and-pets-and-funeral-arrangements-policy>

Data Privacy Impact Assessment

Electoral Division(s) and Member(s) Affected

All.

