

ABERDEEN CITY COUNCIL

COMMITTEE	Finance and Resources
DATE	22 November 2023
EXEMPT	No
CONFIDENTIAL	No
REPORT TITLE	Partnership with NHS Grampian to provide Statutory Mortuary Services on behalf of Aberdeen City Council
REPORT NUMBER	RES/23/368
DIRECTOR	Steven Whyte
CHIEF OFFICER	Mark Reilly
REPORT AUTHOR	Hazel Stevenson
TERMS OF REFERENCE	2.1.1 and 2.1.2

1. PURPOSE OF REPORT

- 1.1 To seek approval from the Committee that NHS Grampian will deliver, through a partnership arrangement, the statutory mortuary services currently delivered by Aberdeen City Council, with such delivery to be via the new mortuary hub at Foresterhill.

2. RECOMMENDATIONS

That the Committee:

- 2.1 approve that the statutory mortuary services currently delivered by Aberdeen City Council shall be delivered by NHS Grampian via the new Shared North East Scotland Mortuary (to be operated by NHS Grampian) from around mid-2024; and instruct the Chief Officer - Operations and Protective Services, following consultation with the Head of Commercial and Procurement and the Chief Officer – Finance, to enter into a new partnership working agreement with NHS Grampian for the provision of mortuary services; and
- 2.2 agree the transfer of Aberdeen City Council mortuary staff to NHS Grampian, once the new Shared North East Scotland Mortuary is completed, subject to the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE); and instruct the Chief Officer - Operations and Protective Services, following consultation with the Chief Officer – People and Organisational Development and the Chief Officer – Finance, to undertake the necessary processes to effect this transfer.

3. CURRENT SITUATION

Provision of mortuaries by local authorities

- 3.1 In Scotland there are only three public mortuaries that are not delivered through the NHS. These are Aberdeen and Edinburgh which are provided by local authorities and Dundee which is delivered by Police Scotland.

- 3.2 The Public Health etc. (Scotland) Act 2008 places a statutory duty on local authorities for the provision of mortuaries. Local authorities can make arrangements for this provision to be delivered by other organisations (see Appendix_1 for more detail).
- 3.3 However this statutory duty to “*provide or ensure the provision for its area*” of mortuary premises and facilities remains with the local authority. Accordingly, whatever arrangements may be put in place, Aberdeen City Council will remain ultimately responsible for the performance of this duty.

Current Arrangements

- 3.4 Queen Street Public Mortuary is located under the old Police Scotland Building. Aberdeen City Council (ACC) are responsible for the running of this facility, with agreements in place with other partners for the use of the facility.
- 3.5 There is an agreement between ACC and Crown Office Procurator Fiscals Service (COPFS), this is for use of the facility to carry out post mortems, possibly including any intensive mass fatality events.
- 3.6 There is also an agreement between ACC, Moray, Aberdeenshire Councils. This is mainly for storage of indigent dead, but also puts in place arrangements for ACC to provide the post mortem facilities for them.
- 3.7 Shetland and Orkney Islands Council also use the facility, no agreement is in place and is on an ad-hoc basis, this is solely for the use of the post mortem facility and is at the direction of COPFS.
- 3.8 There is only 21 refrigerated storage spaces within the facility and no provision for storage of bariatric bodies. At certain times of the year there may be need for additional storage space and also bariatric storage. There is an informal arrangement with NHS Grampian for use of storage space at ARI mortuary in these instances. However, there are occasions when capacity at the ARI mortuary is limited.
- 3.9 The agreements detail what facilities and staff are provided, who has access to the facility and normal working hours. Contained within the agreement is financial arrangements of how costs will be allocated between the partners. Shetland and Orkney Island Councils are billed on a usage basis as they are not part of the agreements.

Future Arrangements

- 3.10 The Queen Street Mortuary has been operating at capacity for a number of years and the facility does not meet the standards expected for a modern mortuary facility (Appendix 2) The opportunity arising from Police Scotland's Public Office vacating Queen Street offices, redevelopment of Queen Street, capacity issues at ARI mortuary, and the lack of a suitable modern mortuary facility in the North East of Scotland led to approaches to Scottish Government from all partners for funding. This was successful and the new mortuary hub is

currently in its construction phase with the facility commencing operations Autumn 2024.

- 3.11 A suitable location for the building was identified on Foresterhill Campus at ARI and it has been agreed that NHS Grampian will undertake the running of the new facility on completion of the new building.
- 3.12 Just before the facility becomes fully operational the current arrangements that are in place with ACC and other partners for the running of the Queen Street Mortuary will cease.
- 3.13 A Service Transfer Group has been established, the purpose of this group is to form and agree service level agreements for the sharing of the operating costs and overall management of the new facility.
- 3.14 This group consists of partners from Aberdeen City, Aberdeenshire and Moray Councils, NHS Grampian and COPFS. Each of the Local authority's will have a service level agreement in place with NHS Grampian regarding use of the facilities on their behalf and how the operating costs will be allocated.
- 3.15 NHS Grampian will have a separate service level agreement with COPFS.
- 3.16 This will effectively put in place arrangements for NHS Grampian to deliver mortuary services on behalf of ACC.

Staffing implications

- 3.17 There are currently three staff working at Queen Street Mortuary who are employed by ACC. It has been identified that TUPE will apply to these individuals; for reasons of business transfers where part of a business moves from one employer to another, and the identity of the employer changes. There are no other staff from other Local Authorities affected by this.
- 3.18 A Workforce Planning Group has been set up to work through and manage the TUPE process. This group consists of partners from NHS Grampian, ACC and Trade Unions. To date all matters within the process have been progressed as far as possible at this time.
- 3.19 A timeline for the process and approximate start time has been agreed.(Appendix 3) This can be reviewed and amended as required throughout the process. It has been identified that there are upcoming opportunities for site visits, training for use of new equipment and general familiarisation with the new working environment for all staff who will work out of the new mortuary, this forms part of the important ongoing engagement.
- 3.20 The date, which reflects the opening of the new mortuary is expected to be Autumn 2024, and therefore, the formal process will commence early 2024 and be completed by April 2024, this will allow a seamless transfer of staff into the new mortuary for when it is fully operational.

- 3.21 The ACC part of the TUPE process is being supported by People and Organisational Development (P&OD). They are working in closely with NHS Grampian Human Resources staff to support an appropriate and smooth TUPE exercise.
- 3.22 Attached is a flow chart which gives more detail on each of the processes referred to on the timeline.(Appendix 4)
- 3.23 There will continue to be regular joint meetings between the ACC and NHS Grampian, with all partners present, this will cover any potential issues / ideas around TUPE should these arise.
- 3.24 The TUPE process is an important and key part of this project.

Benefits of change in service delivery

- 3.25 Development of the new facility will result in the replacement of the two existing Aberdeen based mortuaries with a purpose-built facility. This new facility will be operated as a single integrated multi-partner, multi-purpose mortuary serving all providers including NHS Grampian, Aberdeen City Council, Aberdeenshire Council, Moray Council, Orkney and Shetland Island Councils, the University of Aberdeen, Crown Office Procurator Fiscal Service and Police Scotland.
- 3.26 The services located in this new integrated mortuary will not only ensure clinical accreditation through compliance with all technical and clinical standards but also deliver an innovative design that will meet expectations of the bereaved, provide dignity for the deceased, support growth in the scope and nature of locally delivered forensic and educational activity, and improve resilience through additional capacity to support civil contingencies.
Benefits include:
- Improved experience for the bereaved and improved dignity for the deceased.
 - Reduction in complaints around speed of release of the deceased
 - Compliance with appropriate national guidance.
 - Accreditation by the appropriate professional bodies e.g., UKAS.
 - Reduction or elimination of offsite temporary / emergency facilities.
 - improved working and training environment for staff leading to improved recruitment and retention.
 - Reduction in communication costs and transportation costs between facilities to zero.

4. FINANCIAL IMPLICATIONS

- 4.1 There is already agreement in principle for sharing of operating costs of the new facility, and this is in the process of being further developed into a full Service Level Agreement which will be in place prior to operations commencing at the new site.
- 4.2 The Council currently pays the running costs for the existing mortuary, and then recovers most of the cost from partner organisations, leaving the Council with its small share of the cost – based on usage. Under the new operating

arrangements the Council can expect to simply be invoiced for its usage of the new facility. The Council has an existing budget to fund its share of the cost of the mortuary, which will have to reviewed once the facility becomes operational and final operating costs are known.

- 4.3 The property, plant and equipment that is currently being commissioned for the new Shared North East Scotland Mortuary will transfer to NHS Grampian on the completion of the new facility. That is at zero cost to NHS Grampian, as the package of funding has already been secured, including Scottish Government and Local Authority capital funding.

5. LEGAL IMPLICATIONS

- 5.1 The Commercial Legal Team is currently engaged with NHS and partner councils to agree an appropriate inter authority agreement addressing the sharing and payment of costs.
- 5.2 As an organised grouping of staff has been identified as part of the proposed transfer of services, consultation shall require to proceed as per the Transfer of Undertakings (Protection of Employment) Regulations 2006
- 5.3 Appendix 1 summarises provisions of the Public Health etc. (Scotland) Act 2008 and other relevant legislation.

6. ENVIRONMENTAL IMPLICATIONS

- 6.1 There are no direct environmental implications arising from the recommendations of this report.

7. RISK

Category	Risks	Primary Controls/Control Actions to achieve Target Risk Level	*Target Risk Level (L, M or H) *taking into account controls/control actions	*Does Target Risk Level Match Appetite Set?
Strategic Risk	Continuing with current arrangements presents strategic risks in terms of being able to deliver an appropriate service and an unsuitable working	Moving to the proposed arrangements allows for improved service delivery and enhance working environment for staff	M	Yes

	environment for staff			
Compliance	The current premises was outdated and not allowing room for improvement and expansion which would have impacted on over all capability to deliver a suitable service	Move to new modern premises has allowed for a bespoke, purpose built mortuary which is future proofed allowing opportunities to expand and keep up to date with any legislative changes,	H	Yes
Operational	The current premises was outdated and had no option for expansion or improvement meaning that there was no opportunity to change and realign with modern day services. No opportunity to increase storage capacity	Move to new modern premises has allowed for a bespoke, purpose-built mortuary which is future proofed and complies with standards for any such premises	H	Yes
Financial	The current premises were outdated and old requiring structural repairs, also lack of opportunity to modernise and provide a suitable service	Move to new modern premises has allowed for a bespoke, purpose-built mortuary which is future proofed	M	Yes
Reputational	In current premises	Move to new modern premises has allowed	H	Yes

	there was an increasing risk that a suitable service could not be provided, including having to use temporary storage arrangements at certain times of year	for a bespoke, purpose-built mortuary which is future proofed		
Environment / Climate	No Significant risk identified			

8. OUTCOMES

<u>COUNCIL DELIVERY PLAN 2023-2024</u>	
	Impact of Report
Aberdeen City Council Policy Statement <u>Working in Partnership for Aberdeen</u>	<p>The proposed mortuary relocation is a key component of the Queen Street Redevelopment programme which supports the delivery of Economy Policy Statement 4 – Increase city centre footfall through delivery of the City Centre Masterplan. The paper seeks approval to progress the next stages of mortuary relocation to enable land assembly, site clearance to facilitate delivery of city centre living in Queen Street</p> <ul style="list-style-type: none"> •
<u>Aberdeen City Local Outcome Improvement Plan 2016-26,</u>	
Prosperous Economy Stretch Outcomes	The proposed mortuary relocation is a key component of the Queen Street Redevelopment programme which supports LOIP Stretch Outcome 1 – 10% increase in employment across priority and volume growth sectors by 2026
Prosperous People Stretch Outcomes	Whilst there is no specific stretch outcome related to mortuary facilities, the proposed new mortuary will provide a significantly improved and accessible experience for the bereaved and improved dignity for the deceased.
Prosperous Place Stretch Outcome	
Regional and City Strategies	The proposed mortuary relocation is a key component of the Queen Street Redevelopment programme which supports both the City Centre Masterplan and policies and strategies outlined in the

	Local Development Plan. The Queen Street Redevelopment will address housing shortage in Aberdeen (specifically in relation to affordable housing in the city-centre). The supply of new high quality urban homes will be delivered alongside increased public amenity space to combat air quality issues in the area.
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9. IMPACT ASSESSMENTS

Assessment	Outcome
Integrated Impact Assessment	Stage 1 Assessment has been completed.
Data Protection Impact Assessment	Not required
Other	N/A

10. BACKGROUND PAPERS

None

11. APPENDICES

- 11.1 Relevant parts of Public Health (Scotland) Act 2008 and The Burials and Cremation (Scotland) Act 2016 -Appendix 1
- 11,2 Scottish Health Planning Note 16-01 – Appendix 2
- 11,3 TUPE Timeline - Appendix 3
- 11.4 TUPE Flow Chart –Appendix 4

12. REPORT AUTHOR CONTACT DETAILS

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Statutory Duties on Local Authorities

There is a statutory requirement on local authorities to provide or ensure the provision for its area of mortuary premises and facilities. In addition there is a further statutory duty on local authorities to make provision for indigent deaths. These bodies will be required to be temporarily stored prior to arrangements being made for suitable disposal of the individual.

Extracts from the relevant Acts are given below.

a) Provision of Public Mortuary for Post Mortems

The Public Health etc. (Scotland) Act 2008 is the relevant legislation which places a statutory duty on Local Authorities for the provision of mortuaries:

- Section 87(1) of the 2008 Act provides that:

Each local authority must provide or ensure the provision for its area of such –

- (a) premises and facilities for the reception and temporary storage of the bodies of persons who die in the authority's area; and
- (b) premises and facilities for the post-mortem examination of such bodies, as it considers appropriate.

- Local authorities need not provide such premises and facilities for the bodies of persons who die in a hospital in the health board's area or who die elsewhere and whose bodies are brought to such a hospital (section 87(2) of the 2008 Act). Each health board is required to provide or ensure the provision for its area of premises and facilities for such bodies under section 88 of the 2008 Act - unless it is in relation to bodies of persons the reception, storage or post-mortem examination of which is required for COPFS purposes, in which case the local authority must provide the premises and facilities.
- A local authority can under section 87(3) of the 2008 Act enter into an agreement with any person for the provision by that person of the premises and facilities referred to in section 87(1) of the 2008 Act.
- Premises and facilities provided under section 87(1) of the 2008 Act need not be in the area of the local authority providing them or ensuring their provision.

The legislation also places a statutory duty on health boards to provide mortuary services:

- Section 88 of the 2008 Act provides that:

Each health board must provide or ensure the provision for its area of such –

- (a) premises and facilities for the reception and temporary storage of the bodies of persons [who die in a hospital in the board's area or who die elsewhere and whose bodies are brought to such a hospital]; and
- (b) premises and facilities for the post-mortem examination of such bodies, as it consider appropriate.

- Health boards do not need to provide premises and facilities in relation to bodies of persons the reception, storage or post-mortem examination of which is required for COPFS purposes (section 88(3) of the 2008 Act).

Local authorities and health boards are also required to co-operate in these matters:

- Section 89 of the 2008 Act provides that local authorities and health boards must co-operate with one another in complying with their respective duties under section 87(1) or, as the case may be, 88(1) of the 2008 Act.

b) Provision by Local Authorities for Indigent Death

- Local authorities have a duty under the Burial and Cremation (Scotland) Act 2016 to arrange for the burial or cremation of a person who has died or been found dead in their area, and where it appears to the authority that no arrangements have been or are being made for the remains to be buried or cremated.

- Sections 87(3) and 87(4) of the 2016 Act provide that a local authority that looked after a child who has died or cared for or provided assistance to an adult who has died must make arrangements for that person's remains to be buried or cremated if no other arrangements are being made for the disposal of the remains.

- Section 87(5) of the 2016 Act requires that in making arrangements under subsection (2), (3) or (4) of Section 87, the local authority must, so far as known to the authority, have regard to—

- o (a) any wishes that the person expressed as to means of disposal of the person's remains, and
- o (b) whether the person was of a particular religion or belief.

- Section 87(6) of the 2016 Act provides that the local authority may recover from the estate of the person expenses incurred under subsection (2), (3) or (4) of Section 87.

- In the case of b) above, the Council will not act immediately. ACC will take steps before committing to public expenditure to be satisfied that no one is likely to come forward to make the arrangements and that there are no other known relatives or interested parties expected to do so.

Appendix 2

Scottish Health Planning Note 16-01 (SHP16-01) highlights the expectation of the public that public organisations provide a high level of care to both the bereaved and the deceased which makes this project a high priority for all stakeholders. SHP16-01 further highlights the inadequacies of the current facilities in Aberdeen with regard to bereaved visitors facilities, body receipt, storage and removal facilities, post mortem facilities, teaching and research and gives credence to the provision of a new building to provide a high level of service to North East Scotland

[SHPN 16-01 v2.0 Nov 2017 \(nhs.scot\)](#)