

Part A

Report to: West Herts Crematorium Joint Committee

Date of meeting: 13 June 2022

Report author: Honorary Secretary

Title: Changing the Joint Committee Agreement

1.0 Summary

1.1 The Joint Committee is currently in the process of building a new crematorium at Bunkers Farm in Dacorum which is due to be completed in December 2022 and opened in January 2023.

1.2 In order to facilitate the operation of the new crematorium discussions have taken place between the Chief Executives and Monitoring Officers of the councils that make up the Joint Committee and it has become apparent that a revised Joint Committee agreement will be required in order for the councils to effectively manage 2 crematoria.

1.3 The councils are therefore recommending to the Joint Committee that a Lead Authority model approach to the operation of the Joint Committee be adopted. This report sets out the rationale for this approach.

2.0 Risks

2.1

Nature of risk	Consequence	Suggested Control Measures	Response (treat, tolerate, terminate or transfer)	Risk Rating (combination of severity and likelihood)
That the joint Committee does not endorse the recommendation	The joint committee continues as is with the potential for challenge	That a revised agreement is adopted	treat	3

3.0 Recommendations

3.1 That the West Herts Crematorium Joint Committee agrees to the adoption of a Lead Authority model for the future operation of the Joint Committee.

- 3.2 That the West Herts Crematorium Joint Committee recommends to each of its constituent councils that the Lead Authority model be adopted and that Three Rivers District Council be the Lead Authority.
- 3.3 That the West Herts Crematorium Joint Committee agrees to the development of a new Joint Committee Agreement and associated legal documents and delegates authority to the Monitoring Officers of each council to develop the agreement for final approval by the Joint Committee and partner councils.
- 3.3 That the West Herts Crematorium Joint Committee agrees the recommendations in the staffing paper at appendix 2.

Further information:

Donna Nolan Honorary Secretary

Report approved by:

4.0 Detailed proposal

- 4.1 The West Herts Crematorium Joint Committee has been in existence for many years and is made up of 5 councils in South West Hertfordshire namely, Dacorum, Hertsmere, St. Albans, Three Rivers and Watford. The Joint Committee has had the responsibility of running the crematorium in Three Rivers, employing the staff and entering into all contracts related to the operation of the crematorium.
- 4.2 The Joint Committee is also in the process of building a second crematorium at Bunkers Farm in Dacorum which is due to complete in December and open in January 2023.
- 4.3 The second crematorium is also on the site of a new cemetery which will be owned and operated by Dacorum Borough Council.
- 4.4 It has become clear that formal legal agreements need to be in place relating to the ownership and management of the crematorium and its relationship with the cemetery. Whilst these issues were being discussed between the councils it also became apparent that stronger governance was required in relation to the overall operation of the Joint Committee's activities. In particular the Joint Committee's legal status, its ability to enter into contractual arrangements, sharing of surplus and liabilities etc.
- 4.5 Independent legal advice was commissioned by the councils from Anthony Collins solicitors on options for going forward. Anthony Collins have produced a detailed advice note on the issues, the options considered and the recommended approach going forward. This is attached as appendix 1.

- 4.6 The Honorary Secretary has met with the Chief Executives of the councils involved in the Joint Committee and they are recommending that the Joint Committee operate as a Lead Authority model. What this means in practical terms is that rather than the Joint Committee itself, which is not a separate legal entity, one of the councils will be responsible for employing the crematorium staff, for entering into any contracts necessary for the operation of the crematorium and for entering into a land management or lease arrangement with the council that the crematorium is in and who currently owns the land.
- 4.7 It would still be overseen by the Joint Committee who would act as now, on behalf of the 5 councils to have overall management responsibility.
- 4.8 Three Rivers District Council has volunteered to undertake the Lead Authority role. The existing crematorium is in their area and therefore 2 land management or lease agreements will not be needed.
- 4.9 If the Joint Committee approves the proposal then a report will go to each of the constituent councils seeking their agreement to the change. Work will then commence to draft a new Joint Committee agreement and also to put in place appropriate indemnity agreements between each of the councils to ensure that the Lead Authority is indemnified and will only incur its fifth share of the costs and liabilities. The current staff will be consulted and TUPE transfer from the Joint Committee to Three Rivers. Contracts in existence will need to be assigned over as well. This work to transition from the current way of operating to the new operating model will be led by Three Rivers as the proposed Lead Authority. HR have started reviewing existing posts and a report is attached at appendix 2 for consideration.
- 4.10 The intention would be for the new arrangements to take effect from 1 January 2023 in time for the opening of the new crematorium.

5.0 **Implications**

5.1 **Financial**

- 5.1.1 The Shared Director of Finance for Three Rivers District Council and Watford Borough Council comments that under the Lead Authority model, financial transactions relating to the West Herts Crematorium Joint Committee will form part of the Three Rivers District Council statement of accounts. Financial support to the Joint Committee is already provided by Three Rivers District Council and there are no issues anticipated with the transition. The Joint Committee is currently registered separately for VAT. Advice on VAT matters will be sought, however, it is not anticipated that the proposed changes will have an impact on the VAT efficiency of Three Rivers District Council or the Joint Committee. The new Joint Committee

agreement will be a critical document to ensure that liabilities, risks and rewards remain shared between the members of the Joint Committees.

5.2 **Legal Issues** (Monitoring Officer)

5.2.1 Independent legal advice has been sought by the councils from Anthony Collins Solicitors LLP and is attached as appendix 1. They will continue to assist with the drafting of the new Joint Committee agreement and other legal work required to effect the change.

5.3 **Equalities, Human Rights and Data Protection**

5.3.1

Having had regard to the council's obligations under s149, it is considered there are no equalities implications in this proposal.

Having had regard to the council's obligations under the General Data Protection Regulation (GDPR) 2018, it is considered that officers are not required to undertake a Data Processing Impact Assessment (DPIA) for this report.

5.4 **Staffing**

5.4.1 Staff are currently employed directly by the Joint Committee they will need to be formally consulted on the proposal and would TUPE transfer to Three Rivers. In addition Three Rivers will need to enter into a subsumption agreement with the Pension Provider. Details of the proposed staffing arrangements are attached as appendix 2.

5.5 **Accommodation**

5.5.1 A land management or lease will need to be entered into between Three Rivers and Dacorum acting on behalf of the Joint Committee for the new crematorium. The form of agreement will be developed alongside the Joint Committee Agreement.

5.6 **Community Safety/Crime and Disorder**

5.6.1 There are no implications in this report.

5.7 **Sustainability**

5.7.1 There are no direct implications in this report.

Appendices

Appendix 1 Anthony Collins LLP legal advice,
Appendix 2 HR report on Job Evaluations

Background papers

No papers were used in the preparation of this report.

