

COUNCIL – 12 JULY 2022

PART I

6. WEST HERTS CREMATORIUM JOINT COMMITTEE NEW GOVERNANCE STRUCTURES

(CEO)

1 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 recommended to the Joint Committee on 13 June 2022 that a Lead Authority model approach to the operation of the Joint Committee be adopted. This was approved by the Joint Committee.

2 Details

- 2.1 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.
- 2.2 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.
- 2.3 The second crematorium is also on the site of a new cemetery which will be owned and operated by Dacorum Borough Council.
- 2.4 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.
- 2.5 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.
- 2.6 In practical terms the operation of a Lead Authority means 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.

- 2.7 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.
- 2.8 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.
- 2.9 If the Councils approve the proposal 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.
- 2.10 The intention would be for the new arrangements to take effect from 1 January 2023 in time for the opening of the new crematorium.

3 Options and Reasons for Recommendations

- 3.1 Appendix 1 sets out the alternative options that were considered and the Joint Committee agreed to progress with the Lead Authority Arrangement at its meeting in June 2022.

4 Policy/Budget Reference and Implications

- 4.1 The recommendations in this report are not within the Council's agreed policy and budgets. The Crematorium currently operates as a separate entity and as such it is not anticipated that these proposals would impact on the current strategic objectives.

5 Financial Implications

- 5.1 The full financial information will not become apparent until the new Joint Committee Agreement has been approved. The existing Joint Committee Agreement sets out how costs, risks and surpluses are shared between the constituent councils and this will need to be included in the new agreement.
- 5.2 Three Rivers District Council will not expect to see any increase in its costs as a result of becoming the Lead Authority. It is anticipated that any additional costs will be met from either the Crematorium or from contributions from the other constituent councils.
- 5.3 Three Rivers already provides financial management support to the crematorium. The Lead Authority arrangement is likely to provide operational benefits for both Three Rivers and crematorium staff through simplification of systems and processes.

6 Legal Implications

- 6.1 Legal advice has been sought from Anthony Collins Solicitors as set out in point 2.5 of the report and attached at Appendix 2.
- 6.2 Further legal implications will need to be considered as the Joint Committee Agreement is updated. The current agreement sets out how all five constituent

councils share any costs, risks and surpluses. We would look to ensure that the new agreement continues to set this out and that Three Rivers does not carry any additional risk as a result of agreeing to become the Lead Authority.

7 Equal Opportunities Implications

7.1 Relevance Test

<p>Has a relevance test been completed for Equality Impact?</p> <p>The proposals would not change the way in which the service is currently delivered, it will merely change the employer for the existing staff and provide a legal entity through which the administration of the organisation can be delivered.</p>	No
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8 Staffing Implications

8.1 Under the current proposals the staff who are employed by the Crematorium would become employees of Three Rivers District Council.

8.2 It is important that as part of any transfer process there are clear communications and discussions with the staff who are covered by these changes. A plan would be established to ensure that staff were fully briefed and consulted on the proposed changes.

8.3 All costs associated with the transfer and employment of the staff would be split between the constituent councils in accordance with the Joint Committee Agreement.

8.4 The line management of the Crematorium Manager would fall to Three Rivers District Council.

8.5 As the Crematorium has different policies and procedures to Three Rivers District Council these would need to be considered as part of the transfer process.

9 Environmental, Community Safety, Public Health, Customer Services Centre, Communications and Website Implications

9.1 None specific.

10 Risk and Health & Safety Implications

10.1 The risks associated with the proposal are outlined below.

Nature of risk	Consequence	Suggested Control Measures	Response (treat, tolerate, terminate or transfer)	Risk Rating (combination of severity and likelihood)
That the joint Committee constituent councils do not	The joint committee continues as is	That a revised structure and	treat	3

endorse the recommendation	with the potential for challenge	agreement is adopted		
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10.2 The above risks are scored using the matrix below. The Council has determined its aversion to risk and is prepared to tolerate risks where the combination of impact and likelihood scores 6 or less.

Very Likely ----- Likelihood ----- ▼ Remote	Low 4	High 8	Very High 12	Very High 16
	Low 3	Medium 6	High 9	Very High 12
	Low 2	Low 4	Medium 6	High 8
	Low 1	Low 2	Low 3	Low 4
Impact ----- Low -----> Unacceptable				

Impact Score

Likelihood Score

4 (Catastrophic)

4 (Very Likely (≥80%))

3 (Critical)

3 (Likely (21-79%))

2 (Significant)

2 (Unlikely (6-20%))

1 (Marginal)

1 (Remote (≤5%))

10.3 In the officers' opinion none of the new risks above, were they to come about, would seriously prejudice the achievement of the Strategic Plan and are therefore operational risks. The effectiveness of the management of operational risks is reviewed by the Audit Committee annually.

11 Recommendation

That:

11.1 That the adoption of a Lead Authority model for the future operation of the Joint Committee is agreed.

11.2 That Three Rivers District Council agrees to become the Lead Authority, subject to agreeing the terms in the new Joint Committee Agreement.

- 11.3 The decision to enter into the new Joint Committee Agreement is delegated to the Chief Executive Officer and the Director of Finance, in consultation with the Leader of the Council and the Lead Member for Resources and Shared Services. With the new agreement setting out the terms for the Lead Authority arrangements.

Data Quality

Data sources:

West Hertfordshire Crematorium Joint Committee Report June 2022.

1	Poor	
2	Sufficient	X
3	High	

Background Papers - none

APPENDICES / ATTACHMENTS

Appendix 1 – Existing Joint Committee Agreement.

Appendix 2 – Legal advice