

DATED

2007

THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF BRENT

AND

**THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF
HARROW**

AGREEMENT

For the management of a public mortuary at Northwick Park Hospital

Borough Solicitor
Brent Legal Services
Brent Town Hall Annexe
Forty Lane
Wembley
Middlesex HA9 9HD

Ref: ALA/604/4/CON

“Agreement”	Means this agreement which confirms and varies the First Agreement;
“Annual Account”	Means the annual account of income and expenditure as described in clause 6.5;
“Assets Jointly Owned”	Means any assets purchased by the Councils pursuant to the First Agreement or this Agreement for use in the operation of the Mortuary including but not limited to furnishings, equipment, stores, office equipment but excluding the Mortuary building itself and any fittings or fixtures thereof;
“Capital Costs”	Means those expenses described at clause 6.2.2;
“the Chief Officers”	Means the Director of Cemeteries and Mortuary Service of Brent Council and the Chief Environmental Officer of Harrow Council;
“the Commencement Date”	Means the date of this Agreement;
“the Expiry Date”	Means the date that this Agreement expires, as stated in clause 2.3;
“the First Agreement”	Means the initial agreement entered into by the Councils for the management of the Mortuary dated 1 March 1984;
“the Lease”	Means the lease dated 10 June 1982 of the area at Northwick Park Hospital on which the Mortuary is sited;
“the Mortuary”	Means the public mortuary jointly operated by the Councils and located on the grounds of Northwick Park Hospital;
“the Mortuary Staff”	Means those persons who are employed by Brent Council to work at the Mortuary; and
“Revenue Costs”	Means those costs described at clause 6.2.1.

1.2 Words in the singular include the plural and vice versa.

- 1.3 Words importing masculine shall be deemed also to include the feminine and vice versa.
- 1.4 Headings are included for ease of reference only and shall not affect the construction of the Agreement.
- 1.5 Any references to clauses and schedules are references to clauses and schedules of this Agreement.
- 1.6 A reference to any Act of Parliament, or to any Order, Regulation, Statutory Instrument or the like shall be deemed to include a reference to any subsequent amendments or re-enactments.

2. DURATION OF THE AGREEMENT

- 2.1 This Agreement shall commence on the date set out above (“the Commencement Date”).
- 2.2 As at the Commencement Date, the First Agreement shall be entirely replaced by the provisions of this Agreement.
- 2.3 This Agreement shall continue only during the subsistence of the Lease and shall end immediately on the date that the Lease expires, being 24 December 2080 or such earlier date that the Lease determines in accordance with the terms of the Lease (“the Expiry Date”) unless terminated earlier in accordance with clause 10.
 - 2.3.1 The expiry of this Agreement shall not prejudice any right that either Council may have against the other arising from this Agreement.
 - 2.3.2 Clause 10.3 shall apply on the expiry of this Agreement.

3. MANAGEMENT OF THE MORTUARY

- 3.1 From and on the Commencement Date, the Councils shall continue to jointly operate and manage the Mortuary by virtue of the Public Health Act 1936 and in accordance with the provisions of this Agreement.
- 3.2 Any legal advice related to the operation and management of the Mortuary that is required shall be sought and paid for by Brent Council.
- 3.3 The Chief Officers shall from time to time provide such advice and information to the Councils on the operation and management of the Mortuary as may be necessary and shall attend meetings of the Councils, or any other relevant meetings, as and when required.
- 3.4 Each Council shall consider any suggestion and/or proposal by the other concerning the efficiency, the operation, the management or

staffing of, and the public service provided at, the Mortuary. Any such suggestion or proposal shall only be implemented by the Councils by mutual agreement.

4. MORTUARY STAFF

- 4.1 Brent Council shall pay the Mortuary Staff's remuneration and shall employ them on Brent Council's employment conditions and on such other conditions of service and employment practices that Brent Council may from time to time apply to its employees.
- 4.2 The number, categories and scales of remuneration of the Mortuary Staff shall be determined by Brent Council.
- 4.3 Brent Council shall be solely liable for any disputes, grievances or claims resulting in any liability, loss or damage arising from the employment of the Mortuary Staff at any time throughout the duration of the Agreement, save where Harrow Council has directly contributed to any such liability, loss or damage in which case it shall also be liable to the extent that it has directly contributed to the liability, loss or damage.

5. SUPPLIES, EQUIPMENT AND FITTINGS

- 5.1 Brent Council shall provide, maintain and replace such stores and equipment as may be required for the operation of the Mortuary and shall make arrangements for and pay the costs of the furnishing, fittings, heating, lighting, cleaning, water, telephone and facsimile, refuse collection, property insurance, computer systems and equipment, security and non domestic rates of the Mortuary.
- 5.2 Brent Council shall be responsible for the daily operation and management of the Mortuary and for making any arrangement with the North West London Strategic Health Authority concerning the operation and use of the Mortuary either by the Councils, the London Mass Fatality Plans or by the North West London Strategic Health Authority.

6. FINANCE

- 6.1 In respect of financing the management and operation of the Mortuary, Brent Council shall:
 - 6.1.1 Keep a separate record of the income and expenditure it incurs for the purpose of this Agreement and provide a copy of such record to the Chief Officer of Harrow Council in the form of a monitoring report on a quarterly basis within 30 days of the end of the relevant quarter including the final quarter in the form of an end of year outturn.

- 6.1.2 Calculate the net estimated expenditure it incurs for the purposes of this Agreement in accordance with the current recommendations of the Chartered Institute of Public Finance and Accountancy (“CIPFA”); and
 - 6.1.3 Ensure that its Director of Finance submits an estimate of the net expenditure to be incurred in the subsequent financial year for the purposes of this Agreement to the Chief Officer of Harrow Council by the 30th September in each year which includes a detailed estimate of all revenue and capital costs including programmed forward maintenance, and shall send a copy of that estimate to the Director of Finance of Harrow Council, and shall provide such details and explanations as may reasonably be requested.
- 6.2 The net expenditure Brent Council incurs for the purposes of this Agreement shall include Revenue Costs and Capital Costs.
- 6.2.1 Revenue Costs are the general running costs of the Mortuary and shall include but not be limited to: staff costs, cleaning, refuse collection, heating, lighting, water, telephone and facsimile charges, printing and stationery, telephones, facsimile machines, computer equipment, other office expenses, stores, building maintenance, fittings, rates, property insurance and legal costs.
 - 6.2.2 Capital Costs shall include but not be limited to: moveable furnishings and equipment.
- 6.3 The net expenditure Brent Council incurs for the purposes of this Agreement in each financial year (ending on 31 March) shall be attributed to and borne by the Councils in proportion to the population figure of their respective areas according to the most recent population estimates issued by the Registrar General’s estimate (CIPFA statistics) before each financial year.
- 6.4 Harrow Council shall pay Brent Council nine tenths of Harrow Council’s proportion of the estimated net expenditure attributed to it (per clause 6.3 above) no later than the 30 September in the financial year to which the estimated expenditure relates.
- 6.5 Brent Council shall prepare an audited annual account of income and expenditure at the end of each financial year (“Annual Account”) for submission to Harrow Council as soon as possible and no later than 30 November following the end of each financial year for Harrow Council’s approval. Such approval shall be confirmed, or refuted, no later than four calendar weeks after submission.
- 6.6 If the Annual Account shows that the net expenditure attributable to Harrow Council per clause 6.3 has exceeded the sum payable by

Harrow Council per clause 6.4 above, then Harrow Council shall pay to the Director of Finance of Brent Council, within 30 days after receipt of the Annual Account, that residual amount of unpaid net expenditure.

- 6.7 However, if the Annual Account shows that the sum payable by Harrow Council per clause 6.4 above exceeds the net expenditure attributable to Harrow Council (per clause 6.3), then Brent Council shall promptly repay Harrow Council such overpayment.
- 6.8 On an annual basis, Brent Council shall provide Harrow Council with a copy of its accounts relating to the Mortuary Staff or kept for the purposes of this Agreement that are subject to audit by a District Auditor.

7. ANNUAL REVIEW

- 7.1 There will be an annual meeting scheduled between the Councils to review and discuss quality standards, performance standards, the financial position and any other matter relevant to the operation and management of the Mortuary that the Councils may wish to discuss. The annual meeting shall take place at the beginning of January each year.
- 7.2 The Chief Officers shall attend the annual meeting.
- 7.3 The annual meeting shall be held at each Council's premises on alternate years (i.e. Brent Council's premises one year and Harrow Council's premises the next year and so on) and shall be run in accordance with a meeting process to be agreed between the Councils.

8. COMPLAINTS

- 8.1 Complaints about the service provided by the Mortuary Staff or the arrangements under this Agreement shall be handled in accordance with the appropriate complaints procedure of Brent Council.
- 8.2 Harrow Council shall be advised of any substantive complaints received, as and when required.

9. LIABILITIES AND INSURANCE

- 9.1 Brent Council shall be solely liable for all proceedings, claims, damages, demands, fines, penalties, expenses, compensation, court or tribunal orders (including any order for reinstatement or re-engagement), awards, costs and all other liabilities whatsoever payable or incurred which arise out of or are connected with this Agreement ("the liabilities") save where Harrow Council has directly contributed to the liabilities in which case it shall also be liable for the liabilities to the extent that it has directly contributed to the liabilities

- 9.2 Brent Council shall be responsible for maintaining the insurance policy against loss or damage by fire required by the provisions of the Lease.

10. TERMINATION

- 10.1 The Agreement may be terminated by the Councils by mutual agreement at any time throughout the duration of the Agreement.

- 10.2 In addition to clause 10.1, either Council may terminate this Agreement before the Expiry Date subject to giving the other Council at least 12 months' prior written notice that they wish to terminate the Agreement.

- 10.3 Upon the termination of this Agreement pursuant to clause 10.1 or clause 10.2 above, or on the Expiry Date:

10.3.1 The Councils shall fully cooperate to ensure that there is an orderly wind down of their joint activities as set out in this Agreement and/or to ensure that there is an orderly transition to the arrangements that will supersede this Agreement;

10.3.2 In respect of the Mortuary Staff, the Councils agree to be jointly liable for all claims, costs, expenses, damages, compensation, redundancy costs, fines and other liabilities that may arise from the termination of this Agreement;

10.3.3 In respect of any Assets Jointly Owned, the Councils agree that ownership of such assets shall be determined by calculating the percentage of the net expenditure attributed to and borne by each Council per clause 6.2 (with reference to the population figure of their respective areas current at the date of termination or on the Expiry Date) and applying such percentages to the total market value of the Jointly Owned Assets as at the date of termination or the Expiry Date; and

10.3.4 If the effective termination date or Expiry Date of the Agreement is part way through a financial year, Brent Council shall promptly repay Harrow Council any over payment proportionate to its financial contribution per clause 6.3 above.

11. DISPUTE RESOLUTION

- 11.1 If any dispute arises in respect of the interpretation of any of this Agreement's provisions, the Annual Account, any suggestion or proposal raised by one of the Councils, or any matter relating to the Agreement, such dispute shall be referred in the first instance to the Chief Officers who shall use all reasonable efforts to resolve it by agreement within 28 days.

11.2 If the Chief Officers cannot reach a unanimous agreement on the resolution of any matter referred to it in accordance with clause 11.1, then the dispute shall be referred to the Director of Environment & Culture (Brent Council) and the Executive Director of Urban Living (Harrow Council) who shall endeavour to resolve the dispute within a further 28 days.

11.3 If the dispute cannot be resolved pursuant to clause 11.2 above, then the Councils may terminate the Agreement in accordance with clause 10.1 or 10.2.

12. VARIATION

This Agreement shall only be varied in writing and by signature of the duly authorised representatives of each Council. Any such variation shall be annexed to this Agreement.

13. GOVERNING LAW AND JURISDICTION

This Agreement shall be governed by and construed and interpreted in accordance with English law and the parties submit to the exclusive jurisdiction of the English Courts.

IN WITNESS WHEREOF this Agreement has been executed as a deed on the date set out above.

THE COMMON SEAL OF the MAYOR)
AND BURGESSES OF THE)
LONDON BOROUGH OF BRENT)
was hereunto affixed to this Deed in)
the presence of:)

.....
Authorised Signatory

THE COMMON SEAL OF the MAYOR)
AND BURGESSES OF THE)
LONDON BOROUGH OF HARROW)
was hereunto affixed to this Deed in)
the presence of:)

.....
Authorised Signatory

DATED

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