

Item No.	Classification: Open	Date: 4 May 2021	Meeting Name: Strategic Director of Housing and Modernisation
Report title:		Gateway 3 – Variation Decision Communal Ventilation	
Ward(s) or groups affected:		All	
From:		Director of Asset Management	

RECOMMENDATION

1. That the Strategic Director of Housing and Modernisation approves the variation of the communal ventilation replacement contract to Ductclean UK Ltd to extend the term of the contract for a period of two years from 1 November 2021 to 31 October 2023 at an estimated additional cost of £770k making a total revised estimated contract value of £2.695m.

BACKGROUND INFORMATION

2. A Gateway 2 report was approved on 7 September 2016 to award the communal ventilation contract to Ductclean UK Ltd (DCUK) for a period of five years with the option to extend up to a maximum of a further three years (in increments at the council's discretion),
3. The scope of the contract encompasses the following work streams:
 - a. replacement of communal ventilation plant;
 - b. refurbishment of ductwork and grills to improve fire safety; and
 - c. annual maintenance service checks and cleaning planned preventative maintenance (PPM) to ensure operation and provide a means to extract moisture and odours from kitchen and bathroom areas.
4. The contract was for an initial period of five years from 1 November 2016. The annual cost was estimated at £385k plus the option to extend up to a maximum of a further three years making a total estimated contract value of £3.080m.
5. The tendered prices are subject to an annual general maintenance index adjustment which is calculated and applied annually thereafter.
6. The actual expenditure to date against the original Gateway 2 approval is shown below in tables to illustrate the financial year and contract year expenditures.
7. Contract spend in contractual years:

DCUK – Communal Ventilation Replacement Contract					
Contractual Period		Original Gateway Approval	Actual Expenditure	Revenue Spend	Capital Spend
01/11/2016	31/10/2017	£385k	£506k	£154k	£352k
01/11/2017	31/10/2018	£385k	£500k	£61k	£439k
01/11/2018	31/10/2019	£385k	£153k	£104k	£49k

01/11/2019	31/10/2020	£385k	£118k	£92k	£26k
01/11/2020	28/02/2021	£128k	£157k	£16k	£141k
Estimated work in progress to 31/03/2021.			£155k		£155k
Estimated anticipated work for remainder of initial 5 year term up to 31/10/2021.		£257k	£336k	£26k	£310k
Totals		£1.925m	£1.925m	£453k	£1.472m

8. Contract spend in financial years:

DCUK – Communal Ventilation Replacement Contract					
Financial Period		Original Gateway Approval	Actual Expenditure	Revenue Spend	Capital Spend
01/11/2016	31/03/2017	£160k	£353k	£125k	£228k
01/04/2017	31/03/2018	£385k	£383k	£74k	£309k
01/04/2018	31/03/2019	£385k	£365k	£70k	£295k
01/04/2019	31/03/2020	£385k	£91k	£57k	£34k
01/04/2020	28/02/2021	£385k	£242k	£101k	£141k
Estimated work in progress to 31/03/2021.			£155k		£155k
Estimated anticipated work for remainder of initial 5 year term up to 31/10/2021.		£225k	£336k	£26k	£310k
Totals		£1.925m	£1.925m	£453k	£1.472m

9. The estimated annual expenditure in the original gateway approval was based on the anticipated demand for communal ventilation works. The initial overspend was due to greater demand on obsolete equipment and legal disrepair cases. Budget re-profiling in 2019/20 was required due to increase in financial pressures on the quality homes improvement programme.
10. This contract has performed well and this report is seeking approval for a two year extension to 31 October 2023 to ensure service continuity.

KEY ISSUES FOR CONSIDERATION

Key Aspects of Proposed Variation

11. The nature of the proposed variation is to exercise the option in the contract with DCUK to extend the term for a period of two years and increase the value to £2.695m. The revised completion date will therefore be 31 October 2023.
12. The estimated value of the proposed variation to the contract is £770k combined with the actual expenditure to the end of the initial five year term brings the estimated total to £2.695m. The value of this extension as a percentage is estimated to be 40% of the initial approved contract value.

13. The retention of the option to extend for a further one year up to 31 October 2024 remains available.

Reasons for Variation

14. The reason for the extension is that as a landlord, it is essential that the council has the capability to deliver communal ventilation repair works across the borough to manage its housing stock; to ensure resident and other user health and safety; and to reduce financial and reputational risks. Six months notice to vary this contract was given to DCUK in accordance with the contract terms and DCUK has stated that they wish for the contract to be extended. This extension will be affected through a deed of variation.
15. The housing health and safety rating system sets out the requirement to assess the hazards and risks of poor ventilation and removal of moisture from within a property and having arrangements in place for extraction and maintenance.
16. Condensation is still one of the biggest issues with legal disrepair cases affecting the council's housing stock.
17. DCUK is demonstrating good levels of performance in terms of quality of work evidenced on their work orders and against the contract key performance indicators (KPIs) set, as detailed in paragraph 26 below, and continue to provide a value for money service.

Future Proposals for this Service

18. There is the option to extend the contract for a further one year. If the contract continues to meet the council's service requirements and continues to provide value for money, a Gateway 3 report will be presented for approval in March 2023 for this one year extension.
19. Asset management will carry out a review of the service in January 2022 to determine whether the existing contract arrangements continue to provide value for money and meet the KPIs to extend the contract for 1 year or carry out a new procurement exercise.

Alternative Options Considered

20. The following alternative options to this extension was considered:
 - a. Do nothing – this option is not available as the council is obliged to meet its obligations as a social landlord as set out in paragraphs 14 and 15 above.
 - b. Bring the service back in-house – the council currently does not have the resources and facilities required to undertake this work.
 - c. Procure a new contract – as DCUK are performing well and the contract currently provides value for money, there is no identifiable benefits to re-procuring the contract now. Due to the continuing Covid-19 crisis, there are significant constraints on staff and companies to be able to carry out and participate in an effective procurement exercise.
 - d. Joint procurement with neighbouring borough - the neighbouring boroughs have mechanical contracts which include ventilation and are not accessible to the council.
 - e. Utilise two years of the three year extension provision – this is a viable option and the recommended option for this report.

Identified risks for the Variation

21. The table below identifies the specific risks associated with these contracts, the likelihood of occurrence and the controls in place to mitigate the risks.

R/N	Risk	Likelihood	Risk Control
R1	DCUK is unable to fulfil the requirements of the contract e.g. poor performance, leading to the need to terminate the contract.	Low	If DCUK fails, then the council would procure alternative service provision on an interim basis whilst it re-procures a longer term contract. The council's Approved list of contractors and/or external framework will be used.
R2	DCUK cease trading, goes into administration/liquidation	Low	The financial stability of DCUK will continue to be monitored throughout the extension period through the contract management process. A financial credit check was carried out on DCUK on 17 February 2021. The council's credit score threshold is 41. DCUK scored a 92 BvD Fame score and the likelihood of failure was rated at 0.9%. DCUK is paid on the basis of a monthly valuation dependent on the quantity of work claimed. If DCUK should cease trading, they would only be paid for the work they complete. These monthly claims and payments help mitigate the risks involved of company failure.
R3	Covid-19 pandemic risks	Low	DCUK and the council developed an effective working procedure to ensure that DCUK is able to operate safely on site, in their operational functions and comply

			with social distancing measures. The detail is set out in paragraphs 22 and 23. DCUK is monitored for any change in trading status via alerts from Companies House and industry information.
R4	Brexit implications	Low	This contract provides a service that does not involve the use of materials, plan or components sourced from within the European Union.

Covid-19 Implications

22. In March 2020, in response to the Covid-19 crisis, asset management carried out a financial check on DCUK to identify any potential risks. The contract manager contacted DCUK to ensure that appropriate action was being taken to ensure the health and safety and welfare of employees, client and members of the public.
23. The work being carried out currently on this contract excludes contact with residents and the general public. There is sufficient space for operatives to work on a property / block whilst maintaining social distancing. DCUK's staff has been working safely with these conditions since the Covid-19 pandemic began and is experienced in using necessary PPE and practicing safe distancing on site.

Policy implications

24. The extension to this contract will assist the council to continue to contribute to the council's Fairer Future Promise of quality affordable homes, improving housing standards and revitalising neighbourhoods.

Contract management and monitoring

25. The contract will continue to be managed by a contract manager from asset management's engineering team with dedicated officers who carry out periodic joint inspection to ensure quality and compliance with the contract and specifications.
26. The contract manager will continue to be assisted by a quantity surveyor from the commercial team to ensure financial integrity, compliance and performance management in regards to measuring KPIs, carrying out credit checks and continuing with monthly valuations and progress meetings.
27. The contracts are subject to KPIs and the performance to date is set out below:

KPI's		Minimum Target %	Council's Aspiration Objective %	KPI's to date
1.	Percentage of Orders for which an appointment can be made and is kept by the Contractor.	90%	95%	99%
2.	Percentage of Priority Code 1, 2 and 3 Orders completed within the stipulated time periods.	95%	98%	100%
3.	Adherence to programme for PPM for communal ventilation.	95%	98%	100%
4.	Recruitment and continued appointment of an apprentice.	100%	100%	100%
5.	Providing asset registers within stipulated timescales as per the Contract Documents.	95%	100%	99%

28. Council officers will monitor DCUK for any change in trading status via alerts from Companies House and industry information. DCUK's professional certifications are accessible online and are checked periodically for current status. Insurance certificates are provided to the council upon renewal and checked for compliance.
29. The council's contract register publishes the details of all contracts over £5,000 in value to meet the obligations of the Local Government Transparency Code. The Report Author must ensure that all appropriate details of this procurement are added to the contract register via the eProcurement System.

Community Impact Statement

30. The contract is of medium impact to tenants, homeowners and other stakeholders as these works will be done both internally and externally.
31. DCUK currently employs one mechanical ventilation apprentice and provides their staff with career development opportunities.
32. DCUK have confirmed that it is able to meet requirement of the Fairer Future Procurement Strategy and this will be reported as part of the ongoing annual performance review.

Social Value considerations

33. The Public Services (Social Value) Act 2012 requires that the council considers, before commencing a procurement process, how wider social, economic and environmental benefits that may improve the well being of the local area can be secured. The social value considerations included in the tender.

Economic considerations

34. The full cost to the council and the life span of the contract is set out in paragraph 4 of this report.

Social considerations

35. DCUK has confirmed that all relevant staff continues to be paid in excess of the minimum London Living Wage hourly rate. DCUK has its own equality policies and is fully aware of and compliant with the council's policies and standards.
36. This contract required DCUK to employ one apprentice for the initial five year term and two weeks slots for one student per annum. An apprentice has been recruited as detailed in paragraph 31 and two week work experience slots have been achieved with the exception of 2020 due to Covid restrictions. DCUK has previously provided training and ventilation CPD events for council officers. For this contract extension period DCUK has confirmed that it will recruit an office apprentice and continue providing work experience slots and has also offered CPD events to council officers covering smoke and fire spread within buildings.

Environmental/Sustainability considerations

37. Since November 2016 the replacement of fans have contributed to an estimated saving of 75,241 KG of CO2 emissions. Communal ventilation fans are low energy type and help to reduce the council's carbon emissions.
38. The contract encouraged the use of low emission vehicles and the minimisation of journeys needed. Where possible, works have been planned and carried out in grouped localities to reduce the number of journeys and fuel expended.

Financial Implications

39. The total estimated value of the contract including work in progress and any previous expenditure is £2.695m.
40. The total combined revenue and estimated capital spend for the 2 year variation is made up as follows:

Budget	Spend
Revenue	£150K
Capital	£620K
Total	£770K

41. This variation requested would be met by the existing budgets.
42. The pricing would continue to use the existing structure and remain unchanged.
43. The level of activity is anticipated to be maintained at previous levels.

Legal Implications

44. Please see supplementary advice from the Director of Law and Governance.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director of Finance and Governance (FIN1257)

45. The Strategic Director of Finance and Governance notes that the pricing structure and activity levels are unchanged by this decision, there are no additional budgetary implications arising from this decision.

Head of Procurement

46. This report seeks the approval for the Strategic Director of Housing and Modernisation for a variation of the communal ventilation replacement contract with Ductclean UK Ltd to extend the term of the contract for a period of two years from 1 November 2021 to 31 October 2023. The estimated additional contract cost is £770k, making a total revised estimated contract value of £2.695m.
47. The reasons for the proposed variation as set out in paragraphs 15-17. The plans for Contract Management and Monitoring are set out in paragraphs 25-29 of the report. Confirmation that London Living Wage is paid under the contract is in para. 35.

Director of Law and Governance

48. This report seeks the Strategic Director of Housing and Modernisation's approval to extend the communal ventilation replacement contract which is being performed by Ductclean UK Ltd. This report sets out the extent of the extension and the reasons why an extension of two years is necessary. As the value of this variation is less than £1m, the decision to approve this extension is reserved to the relevant chief officer (or under his delegated authority).
49. The nature of this variation is such that it is subject to the tendering requirements of the Public Contracts Regulations 2015 (PCR 2015) (as amended by Public Procurement (Amendment etc.) (EU Exit) Regulations 2020). Regulation 72(1)(a) allows the council to vary the current contract as this option was provided for in the initial procurement documents and does not alter the overall nature of the contract. Paragraphs 18 and 19 of this report confirm that a review of the service will be carried out in January 2022 and a Gateway 3 report will be prepared and presented in March 2023 if required.
50. CSO 2.3 requires that a variation decision may only be made if the expenditure involved has been approved. Paragraphs 39 to 43 of this report confirm the financial implications of this variation.

Director of Exchequer (for housing contracts only)

51. The communal ventilation contract is a qualifying long term agreement under the terms of the Commonhold and Leasehold reform Act 2002, and is subject to S20 consultation under schedule 1 of the regulations.
52. S20 Notice of Proposal was served on all leaseholders in the borough on 17 June 2016. The Notice advised that the term of the contract was for five years with an option to extend for a further three years. The proposed extension is within that term and no further statutory consultation is required with leaseholders where that option is taken.

PART A – TO BE COMPLETED FOR ALL DELEGATED DECISIONS

Under the powers delegated to me in accordance with the council's Contract Standing Orders, I authorise action in accordance with the recommendation(s) contained in the above report(and as otherwise recorded in Part B below).



Signature Date..... 12 May 2021
Michael Scorer, Strategic Director of Housing and Modernisation

PART B – TO BE COMPLETED BY THE DECISION TAKER FOR:

- 1) All key decisions taken by officers
- 2) Any non-key decisions that are sufficiently important and/or sensitive that a reasonable member of the public would reasonably expect it to be publicly available (see 'FOR DELEGATED DECISIONS' section of the guidance).

1. DECISION(S)
As set out in the recommendations of the report.
2. REASONS FOR DECISION
As set out in the report.
3. ALTERNATIVE OPTIONS CONSIDERED AND REJECTED BY THE OFFICER WHEN MAKING THE DECISION

4. ANY CONFLICT OF INTEREST DECLARED BY ANY CABINET MEMBER WHO IS CONSULTED BY THE OFFICER WHICH RELATES TO THIS DECISION *

None

* Contract standing order 6.6.1 states that for contract Variations with an Estimated Contract Value of £100,000 or more, the lead contract officer (LCO) must consult with the relevant cabinet member before the decision is implemented.

5. NOTE OF ANY DISPENSATION GRANTED BY THE MONITORING OFFICER, IN RESPECT OF ANY DECLARED CONFLICT OF INTEREST

If a decision taker or cabinet member is unsure as to whether there is a conflict of interest they should contact the legal governance team for advice.

None

6. DECLARATION ON CONFLICTS OF INTERESTS

I declare that I was informed of no conflicts of interests.*

or

~~I declare that I was informed of the conflicts of interests set out in Part B4.*~~

(* - Please delete as appropriate)

BACKGROUND PAPERS

Background Papers	Held At	Contact
Gateway 2 report - Communal Ventilation and replacement contract	Housing and Modernisation, Asset Management	Gavin Duncumb Ext 50685
Link: G:\Asset Management\Engineering & Compliance\Engineering Procurement\2016 Communal Ventilation Replacement\Gateways\GW2		

APPENDICES

No	Title
None	None

AUDIT TRAIL

Lead Officer	Dave Hodgson, Director of Asset Management		
Report Author	Stephen Rose, Quantity Surveyor		
Version	Final		
Dated	04 May 2021		
Key Decision?	Yes		
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER			
Officer Title	Comments Sought	Comments included	
Strategic Director of Finance and Governance	Yes	Yes	
Head of Procurement	Yes	Yes	
Director of Law and Governance	Yes	Yes	
Director of Exchequer (for housing contracts only)	Yes	Yes	
Cabinet Member	n/a	n/a	
Date final report sent to Constitutional Team		12 May 2021	