

Item No.	Classification: Open	Date: 7 November 2023	Meeting Name: Strategic Director of Children and Adult Services on behalf of the Strategic Director of Housing
Report title:		Gateway 3 – Variation Decision Communal Ventilation Replacement	
Ward(s) or groups affected:		All	
From:		Director of Asset Management	

RECOMMENDATION

1. That the Strategic Director of Children and Adult Services on behalf of the Strategic Director of Housing approves the variation of the communal ventilation replacement contract to Ductclean UK Ltd t/a DCUK FM to extend the term of the contract for a period of one year from 1 November 2023 to 31 October 2024 (as further detailed in paragraph 9) at an estimated additional cost of £638k making a total revised estimated contract value of £3.573m.

BACKGROUND INFORMATION

2. A Gateway (GW) 2 report was approved on 12 September 2016 to award the communal ventilation replacement contract to DCUK FM for a period of five years commencing on 1 November 2016 at an estimated annual sum of £385k with the option to extend for a further three years (in increments at the council's discretion) making a total estimated contract value of £3.080m.
3. By way of a GW3 report dated 12 May 2021 the contract was extended until 31 October 2023 exercising two years out of the available three year option to extend leaving a further one year period to extend. This two year extension was required to ensure service continuity.
4. The scope of the contract encompasses the following work streams:
 - replacement of communal ventilation plant;
 - refurbishment of ductwork and grills to improve fire safety; and
 - 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.
5. The actual expenditure to date against the original GW2 approval is shown below in tables to illustrate the financial year expenditures.
6. Contract spend in financial years:

DCUK FM – Communal Ventilation Replacement Contract					
Financial Period		Original Gateway Approval	Total Expenditure	Revenue Spend	Capital Spend
01/11/2016	31/03/2017	£160k	£352k	£125k	£227k
01/04/2017	31/03/2018	£385k	£352k	£43k	£309k
01/04/2018	31/03/2019	£385k	£365k	£70k	£295k
01/04/2019	31/03/2020	£385k	£92k	£57k	£35k
01/04/2020	31/03/2021	£385k	£385k	£127k	£258k
01/04/2021	31/03/2022	£385k	£410k	£69k	£341
01/04/2022	31/03/2023	£385k	£702k	£91k	£611k
01/04/2023	31/07/2023	£160k	£247k	£247k	£0k
Totals Actual		£2.63m	£2.905m	£829k	£2.076m
Projected expenditure to 31/10/2023					
01/08/2023	31/10/2023	£30k			
Projected expenditure for Proposed Extension Period					
01/11/2023	31/10/2024	£638k			
Total of the Actual & Projected Expenditure for the period 01/11/2016 to 31/10/2023 and the Proposed Extension			£3.573m		

7. The estimated annual expenditure in the original gateway approval was based on the anticipated demand for communal ventilation replacement 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.
8. The contract currently has expenditure of around £55k per month. Taking into account previous spend on this contract (£2.935m), anticipated spend until March 2024 and a new one year extension at current expenditure plus 21% (£638k) will provide a total revised estimated contract value of £3.573m. The value of this extension as a percentage is estimated to be 40% of the initial approved contract value.
9. Subject to paragraph 3 above, this report is seeking the Strategic Director of Children and Adult Services on behalf of the Strategic Director of Housing to approve the remaining one year extension to the term of the contract to 31 October 2024 to ensure service continuity whilst a new longer-term procurement exercise is carried out.

KEY ISSUES FOR CONSIDERATION

Key Aspects of Proposed Variation

10. The nature of the proposed variation is to extend the term of the contract with DCUK FM for a further period of one year. The revised completion date will therefore be 31 October 2024.

Reasons for Variation

11. This variation will ensure and enable the council to maintain continuity of the communal ventilation replacement contract pending completion of its new procurement exercise in October 2024.
12. The reason for the extension is that as a social landlord, it is essential that the council meets its obligations to ensure it has the capability to deliver communal ventilation repair works across the borough; to manage its housing stock; to ensure residents and other user's health and safety; and to reduce financial and reputational risks.
13. DCUK FM 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 paragraphs 24 and 25 below, and continue to provide a value for money service with rates consistent with the market.
14. A variation to the current contract has been provisionally discussed with DCUK FM and will form part of their contract, which will be executed through a deed of variation.
15. The current contract has an end date of 31 October 2023 unless the extension provision is implemented. Once implementable, the contract will continue from its current end date until 31 October 2024. Timetable for new procurement is as follows:
 - GW1 – November 2023
 - Notice of Intention (NOI) – November to January 2024
 - Issue Invitation to Tender (ITT) – 9 February 2024
 - Tender return – 12 March 2024
 - Tender Evaluation – 12 March 2024 to 31 April 2024
 - Notice of Proposal (NOP) – May 2024 to July 2024
 - Council approval decision – August 2024
 - Contract Award – August 2024
 - Mobilisation/TUPE – August 2024 to October 2024
 - Contract Start – 1 November 2024

Future Proposals for this Service

16. For the new procurement process, the ITT is anticipated to be published on 16 January 2024 with a Tender return deadline of 20 February 2024. The ITT submissions when received will be evaluated giving with an anticipated start date of 1 November 2024 for the new Communal Ventilation contract to be in place. An extension to 31 October 2024 is being sought to ensure continuity in providing communal ventilation works across the borough to the existing contract whilst the procurement exercise is undertaken.

Alternative Options Considered

17. At this stage of the contract three options were considered but rejected for the following reasons:

- a. Do nothing – not viable for the reasons set out in paragraphs 11 and 12 above.
- b. Bring the work back in-house – not viable as the council lacks the resources (qualified and experienced personnel and equipment) to be able to deliver the work.
- c. Tender a new contract – this is currently underway as mentioned in paragraph 16.

18. As a procurement exercise is anticipated to be undertaken in January 2024 to procure one new contract and this new contract will be in place by 1 November 2024, extending the existing contract to 31 October 2024 is proposed to ensure continuity in providing communal ventilation replacements works across the borough.

Identified risks for the Variation

19. 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 FM become insolvent leaving works incomplete.	Low	Please see financial check in paragraph 47 below. DCUK FM is paid on the basis of a monthly valuation dependent on the quantity of work claimed. Should they become insolvent, they would only be paid for the work they complete. The monthly claims and payments help mitigate the risks involved of company failure. DCUK FM continue to be regularly monitored. DCUK FM do not have an immediate or ultimate parent company therefore there is no executed Parent Company Guarantee in place.
R2	DCUK FM is unable to fulfil the requirements of the contract e.g. poor performance, leading to the need to terminate the contract.	Low	If DCUK FM fails, then the council would procure alternative work provision on an interim basis whilst it procures a longer term contract.

			The Alcumus SafeContractor approved list of contractors would be used to distribute the works required. Alternatively, an external framework may be accessed.
R3	Risk of disruption to supply chain following UK's departure from the European Union (EU).	Low	Contract Managers and Quantity Surveyors liaise with DCUK FM regarding their supply chain in respect of tariffs, administration costs and budgetary impacts. Contract Managers also liaise with DCUK FM to ensure that measures are taken to ensure continuous component supply where they are obtained from the EU.
R4	Inflation	Medium	The contract terms includes Building Material Indices and individual exceptional cases will be reviewed on their own merit.
R5	Possible risk of procurement challenge	Low	Given this is a short term interim extension whilst a new procurement exercise is undertaken where interested parties can bid coupled with the need for the council to ensure and maintain continuity of the communal ventilation replacement contract, as a social landlord, the risk of procurement challenge is low.

Policy framework implications

20. 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

21. 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.

22. The contract will continue to be monitored and managed by the asset management engineering contract manager with dedicated officers who carry out daily joint inspections to ensure quality and compliance with the contracts and specifications.
23. The contract manager continues 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.
24. The contract is subject to KPIs based on the time to complete work orders.
25. The table below shows the KPIs set for the contract:

KPI's		Minimum Target %	Council's Aspiration Objective %	DCUK FM's Actuals %
1.	Percentage of Orders for which an appointment can be made and is kept by the Contractor.	90%	95%	98%
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%	100%

26. Council officers will continue to monitor DCUK FM for any change in trading status via alerts from Companies House and industry information. Insurance certificates will continue to be provided to the council upon renewal and checked for compliance.
27. During the proposed extension period, the contract management will continue to ensure work orders are completed to the existing high quality and within stipulated timeframes.
28. Officers will also continue to produce an annual performance report for Housing's Departmental Contracts Review Board in line with the council's Contracts Standing Orders (CSOs).

Community, equalities (including socio-economic) and health impacts

Community impact statement

29. The contract is of low impact to tenants, homeowners and other stakeholders as these works will be done both internally and externally.
30. DCUK FM have confirmed that it is able to meet requirement of the Fairer Future Procurement Framework and this will be reported as part of the ongoing annual performance review.
31. This report is seeking approval for a one year extension and there may be insufficient time available for DCUK FM to provide employment and apprenticeship opportunities to the local community.

Equalities (including socio-economic) impact statement

32. Asset management's Equality Impact Assessment (EqIA) deemed the potential impact of communal ventilation works on people with protected characteristics to be neutral and there has been no change.
33. The works are selected based on the condition of the assets to ensure that they are maintained and provide good homes and a safe environment to residents.

Health impact statement

34. Maintaining and repairing communal ventilation goods is an essential requirement for the health of residents by providing them a warm, dry and safe environment in which to thrive.

Climate change implications

35. Where necessary ventilation works will include improved insulation to assets to reduce heat wastage.

Social Value considerations

36. 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 (as outlined in the GW1 report) are set out in the following paragraphs in relation to the tender responses, evaluation and commitments to be delivered under the proposed contract.
37. DCUK FM currently employs one mechanical ventilation apprentice and provides their staff with career development opportunities.

Economic considerations

38. The full cost to the council and the life span of the contract is set out in paragraph 6 of this report.

Social considerations

39. DCUK FM has confirmed that all relevant staff continues to be paid in excess of the minimum London Living Wage hourly rate and comply with council policies relating to GDPR, Blacklisting, Modern Slavery, Health and Safety and Equalities.

Environmental/Sustainability considerations

40. Communal ventilation fans are low energy type and help to reduce the council's carbon emissions.

41. 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.

42. The contract contains requirements to carry out disposals in accordance with the Waste Electrical and Electronic Equipment Directive (WEEE Directive).

Financial Implications

43. The contract value including and excluding VAT is:

	Cost excluding VAT	Cost inclusive of VAT
Original total cost	£1.956m	£2.347m
Total value of any previous variations	£0.979m	£1.174m
Value of proposed variation	£0.638m	£0.766m
Revised total cost	£3.573m	£4.288m

44. This variation requested would be met by the existing budgets.

45. The pricing would continue to use the existing structure and remain unchanged.

46. The level of activity is anticipated to be maintained at previous levels.

47. Financial checks were carried out for the contractor on 30 August 2023 which met acceptable levels for their credit score and risk banding.

48. The asset management procurement team (AMPT) contracts compliance officer monitors changes to the financial status via alerts from BvD FAME and Companies House. No significant alerts noted for DCUK FM.

Legal Implications

49. Please see supplementary advice from the Assistant Chief Executive – Governance and Assurance.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director of Finance (H&M 23/054)

50. The Strategic Director of Finance notes the contents of this report including the financial implications section. This report is approving the contract extension but the resulting delivery of the works must be contained within available resources.

Head of Procurement

51. This report seeks approval from the Strategic Director of Children and Adult Services on behalf of the Strategic Director of Housing to vary the communal ventilation replacement contract to Ductclean UK Ltd t/a DCUK FM by a period of one year from 1 November 2023 to 31 October 2024 at an estimated additional cost of £638k making a total estimated contract value of £3.573m.

52. The Strategic Director of Children and Adult Services on behalf of the Strategic Director of Housing notes the reasons for the variation is detailed in paragraphs 11 to 15, the risks are detailed in paragraph 16, management and monitoring of the contract are detailed in paragraphs 21 to 28, the impact on qualities, health and climate change is detailed in paragraphs 32 to 35, social value commitments are detailed in paragraph 37, confirmation of the payment of London Living Wage is detailed in paragraph 39 .

Assistant Chief Executive – Governance and Assurance

53. This report seeks the approval of the Strategic Director of Children and Adult Services on behalf of the Strategic Director of Housing to extend the communal ventilation replacement contract which is being performed by Ductclean UK Limited trading as DCUK FM, for a period of one year from 1 November 2023 to 31 October 2024 at an estimated additional cost of £638k making a total revised estimated contract value of £3.573m.

54. This report sets out the extent of the extension and the reasons why an extension of one year is necessary.

55. As the value of this variation is less than £1m, the decision to approve this extension is reserved to the chief officer or under his delegated authority.

56. The procurement of this contract was not subject to the full tendering requirements of the Public Contract Regulations 2015 (PCR15) due to its value, and the extension values also fall below the PCR15 threshold.

57. The contract is being extended for one year pending completion of a re-procurement exercise as outlined in paragraphs 11 and 16 of this report, and accordingly the risk of challenge to this extension is considered low.

58. CSO2.3 requires that no steps be taken to vary a contract unless the expenditure involved has been included in approved estimates, or is otherwise approved by the council. Paragraphs 43 to 46 confirms the financial implications of this extension.

Director of Exchequer (for housing contracts only)

59. 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.

60. 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 earlier extension of two years was within that option, and the further extension of one year is also within that allowance. No further statutory consultation is required with leaseholders where this is the case.

PART A – TO BE COMPLETED FOR ALL DELEGATED DECISIONS

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

Signature  Date: 30/11/2023

Designation Interim Strategic Director of Housing

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

None

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)

Signature  Date: 30/11/2023

Designation Interim Strategic Director of Housing

7. CONSIDERATION GIVEN TO WHETHER, AS A NON-KEY DECISION, THIS SHOULD BE FORWARDED TO THE CONSTITUTIONAL TEAM FOR PUBLICATION IN ACCORDANCE WITH REGULATION 13(4)*

The decision taker should consider whether although a non-key decision, the decision is sufficiently important and/or sensitive that a reasonable member of the public would reasonably expect it to be publicly available. Where there is any doubt, having considered the importance and/or sensitivity of a decision, it should be deemed that Regulation 13(4) would apply.

I consider that the decision be made available for publication under Regulation 13(4).*

or

~~**I do not consider that the decision be made available for publication under Regulation 13(4).***~~

(* - Please delete as appropriate)

Signature  Date: 30/11/2023

Designation Interim Strategic Director of Housing

* Under the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, the council is required to put in place a scheme for recording and publishing some officer executive decisions. This process is sometimes referred to as "Regulation 13(4)".

BACKGROUND PAPERS

Background Papers	Held At	Contact
Gateway 2 report - Communal Ventilation and replacement contract	Housing, Asset Management	Gavin Duncumb Ext 50685
Link: \\bsth-hou-ns1\housing_shared\Asset Management\00 Executed Contract Docs & GW Approvals\Communal Ventilation Replace\2016 Contract\Gateway Approvals		
Gateway 3 report - Communal Ventilation and Replacement Variation	Housing, Asset Management	Gavin Duncumb Ext 50685
Link: \\bsth-hou-ns1\housing_shared\Asset Management\00 Executed Contract Docs & GW Approvals\Communal Ventilation Replace\2016 Contract\Gateway Approvals		

APPENDICES

No	Title
none	none

AUDIT TRAIL

Lead Officer	David Hodgson, Director of Asset Management	
Report Author	Christopher Gregory, AMPT Procurement Manager	
Version	Final	
Dated	7 November 2023	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments included
Strategic Director of Finance	Yes	Yes
Head of Procurement	Yes	Yes
Assistant Chief Executive – Governance and Assurance	Yes	Yes
Director of Exchequer (for housing contracts only)	Yes	Yes
Cabinet Member	Yes	Yes
Contract Review Boards		
Departmental Contract Review Board	Yes	Yes
Corporate Contract Review Board	No	No
Cabinet Member	Yes	Yes
Date final report sent to Constitutional/Community Councils/Scrutiny Team	22 November 2023	