

PROCUREMENT WAIVERS

Report of the Director and Company Secretary

1. SUMMARY

To present the Committee with information relating to the requests to waive Derby Homes Procurement Standing Orders.

2. RECOMMENDATION

To note the report.

3. MATTER FOR CONSIDERATION

- 3.1 A previous report was presented to the Resources Remuneration and Regeneration Committee updating the Committee on the requests and outcomes of procurement waivers prior to 18 November 2010.
- 3.2 This report is presented to Committee to give an update on procurement waiver requests and outcomes post 18 November 2010. It gives the current position with regards to procurement standing order waivers.
- 3.3 The current waiver register has a total of 24 requests to waive the Derby Homes Procurement Standing Orders that have been granted. Five of these waivers have now expired, one of which is awaiting a request for extension. The remaining 19 waivers are currently in force (live), shown attached at Appendix 1.
- 3.4 Twelve of the live waivers have been granted to ensure service delivery following administration of the Connaught Partnership which includes gas safety and window replacement work. Work is currently underway to recruit engineers for the in house gas servicing and repairs team. Efficiency East Midlands (EEM) procurement consortium have arrangements in place for maintenance and supply of parts for gas maintenance work. Derby Homes is currently in negotiation with EEM with a view to procuring gas maintenance services and supplies through EEM. This will provide a compliant procurement until the in house repairs team have capacity to provide gas maintenance work. It will also provide resources for gas maintenance work during periods of excessive high demand once the repairs team are in place. Although the waivers are live until 2012 a target for completion of these arrangements has been set for 1 September 2011.
- 3.5 The window replacement waiver is due to expire in July 2011, however, all work under this waiver has now been completed. Any future work will be procured in line with Derby Homes Procurement Standing Orders.

- 3.6 Three live waivers have been granted to ensure service provision is maintained following the acquisition of the Council's repairs team. These waivers allow the continued employment of sub-contractors employed by the Council prior to the acquisition. Legal advice has been taken in relation to the arrangements with the sub-contracting organisations. The advice is that formal arrangements with these organisations should be put in place as soon as practical with a view to carrying out re-procurements of these services over a defined period of time. Work has begun to formalise the arrangements and is due to be concluded by 1 October 2011. This will be followed by re-procurement for all services within 12 months and all works categories over 24 months. The waivers will remain in force until an effective re-procurement has been carried out.
- 3.7 The remaining live waivers have been granted where work is of a specialist nature and/or no reasonable alternative supplier is known to be available.

4. LEGAL AND CONFIDENTIALITY IMPLICATIONS

- 4.1 Legal advice has been obtained in relation to the service delivery required following the Connaught Partnership collapse and in relation to continued delivery of repairs team service. The waivers granted for specialist work were of a significantly low value not to present a legal issue.
- 4.2 The legal advice relating to the Connaught Partnership issue is that if Derby Homes did not grant waivers it would leave the organisation at significantly greater risk. The significant risk would be caused because Derby Homes would have no resources available to comply with its obligation under the Health and Safety at Work Act. The specific risk would be non-compliance with the Gas Safety (Installation and Use) Regulations which is part of the Health and Safety at Work Act.
- 4.3 In relation to the service delivered by the repairs team the advice received was to regularise the arrangements with the sub contractors until a move to compliant procurement arrangements can be achieved.

5. HEALTH & SAFETY IMPLICATIONS

- 5.1 Not to grant waivers for gas safety inspection and servicing work could have resulted in significant health and safety risks. It would also have resulted in Derby Homes breaching the Health and Safety at Work Act.
- 5.2 All other live waivers do not have a health and safety implication but a number do have business continuity implication.

6. RISK IMPLICATIONS

- 6.1 Waivers granted for gas safety work have a risk to the business as the value clearly exceeds the European procurement thresholds and could lead to a challenge under the rules, however legal advice suggests that any challenge is unlikely to succeed due to the nature of the health and safety implications.

- 6.2 Continuity of the repairs team sub-contractors has the potential to present a challenge under the European Procurement Rules however legal advice suggests that the approach being undertaken is the best route to mitigate the risks and move the contracts towards European compliant arrangements.
- 6.3 All other procurement waivers are of a significantly low value not to present a risk.

The areas listed below have no implications directly arising from this report:

- Consultation
- Financial and Business Plan
- Personnel
- Environmental
- Equalities Impact Assessment
- Policy Review

If Board members or others would like to discuss this report ahead of the meeting please contact the author, or Phil Davies, Chief Executive, phil.davies@derbyhomes.org – Phone: 01332 888528

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Background Information: None.

Supporting Information: None.

Resources Waiver Register								Appendix 1	
Cat	Waiver Title	Category Manager	Authorised Employee	Waiver Approval date	Waiver Expiry Date	Supplier(s) or consultants name	Live marker	Comments	Estimated Total Value
	Max 2,000 characters	Max 20 Characters	Max 20 Characters	format is dd/mm/yyyy	format is dd/mm/yyyy	Max 30 Characters	Is the contract live? Enter 'Y' or 'N'	Max 2,000 Characters	£
Gas Related	Gas Safety Repair/Serviceing Work	Mick Archer	Steve Giblenn	31/03/2011	30/03/2012	D W Haines Limited	Y	Service continuity pending training of in house Gas Engineering Team	Rates on Waiver
Gas Related	Gas Safety Repair/Serviceing Work	Mick Archer	Steve Giblenn	31/03/2011	30/03/2012	Environmental Plumbing and Heating Limited	Y	Service continuity pending training of in house Gas Engineering Team	Rates on Waiver
Gas Related	Gas Safety Repair Work	Mick Archer	Steve Giblenn	31/03/2011	30/03/2012	Leon Iheanacho Limited	Y	Service continuity pending training of in house Gas Engineering Team	Rates on Waiver
Gas Related	Gas Safety Repair Work	Mick Archer	Steve Giblenn	31/03/2011	30/03/2012	Matthew Pollard Limited	Y	Service continuity pending training of in house Gas Engineering Team	Rates on Waiver
Gas Related	Gas Safety Repair Work	Mick Archer	Steve Giblenn	31/03/2011	30/03/2012	A T Gas and Heating Limited	Y	Service continuity pending training of in house Gas Engineering Team	Rates on Waiver
Gas Related	Gas Servicing Work	Mick Archer	Steve Giblenn	06/04/2011	05/04/2012	A T Gas and Heating Limited	Y	Service continuity pending training of in house Gas Engineering Team	Rates on Waiver
Gas Related	Gas Safety Repair/Serviceing Work	Mick Archer	Steve Giblenn	31/03/2011	30/03/2012	J Tomlinson Limited	Y	Service continuity pending training of in house Gas Engineering Team	Rates on Waiver
Gas Related	Gas Safety Repair/Serviceing Work	Mick Archer	Steve Giblenn	31/03/2011	30/03/2012	ACH Derby Limited	Y	Service continuity pending training of in house Gas Engineering Team	Rates on Waiver
Gas Related	Gas Safety Repair/Serviceing Work	Mick Archer	Steve Giblenn	31/03/2011	30/03/2012	Vinshire Plumbing and Heating Limited	Y	Service continuity pending training of in house Gas Engineering Team	Rates on Waiver
Gas Related	Gas Void Repair Work	Mick Archer	Steve Giblenn	06/04/2011	05/04/2012	D G Contracting Gas Services	Y	Service continuity pending training of in house Gas Engineering Team	Rates on Waiver
Gas Related	Continued service delivery of Gas Safety Work (Supply of goods)	Mick Archer	Steve Giblenn	17/05/2011	16/01/2012	Plumbing Trade Supplies (PTS)	Y	Required to ensure the continued service delivery of gas safety work in occupied properties which is a legal obligation	unknown
Window Replacement	Supply and Installation of UPVC Windows in Osmaston	Matt Hands	Andy Higginbottom	23/12/2010	01/07/2011	Yorkshire Windows	Y	Supplying and installing windows directly following 'Connaught' going into administration.	£200,000
Repairs Continuity	Supply of Agency Labour	Mick Archer	Jeff Wells	22/02/2011	21/11/2011	Comensura Limited	Y	Required to provide agency support staff until procurement can be undertaken in line with the new procurement standing orders without disrupting service delivery	Unknown
Repairs Continuity	Continued use of Contractors, Sub-Contractors and Suppliers	Tony Billingham	Jeff Wells	05/05/2011	04/05/2013	Current Contractors/Sub-Contractors & Suppliers inherited from Environmental Services Dept. Upon merger (June 2010)	Y	Required in order to give DH the time to regularise the contractual arrangements and to procure, as and when necessary.	No further costs
Repairs Continuity	Servicing, Maintenance & Safety of Fire Fighting Equipment	Terry Willis	Richard Holman	25/05/2011	30/09/2011	Chubb Fire Ltd (Nottingham)	Y	Required to meet legal obligation to DCC in order to provide service continued service delivery in servicing, maintaining & safety of fire fighting equipment.	Recovered from DCC via 'Open Book' process
Other	Benchmarking Service for the Housing Sector of Derby Homes	Maureen Davis	Julie Eyre	05/05/2011	04/05/2016	Housemark	Y	Housemark is the only organisation that provides a benchmarking service for the Housing sector. Without this DH would be unable to benchmark performance indicators, unit costs or access best practise information from others in the sector.	£9,000
Other	Structural remedial measure to 20 Birdcage Walk	Tony Billingham	John Kendrick	05/05/2011	04/08/2011	Deeray Contractors Ltd	Y	Required in order to carry out correction of settlement to floor slab at this address. This will enable the property to be allocated to a new tenant ASAP and avoid lost revenue.	£3,075
Other	Structural remedial measure to 8-11 Arthur Hind Close	Tony Billingham	John Kendrick	05/05/2011	04/08/2011	Morcon Foundations Ltd (£3,400) & Deeray Contractors Ltd (£2,394.60)	Y	Required in order to carry out remedial work to correct settlement of floor slab at these addresses. This will enable the 4 properties to be allocated to new tenants ASAP and avoid lost revenue.	£5,794.60
Other	Supply & Fix of Railings to Flats & FOGs at Elton Road	Matt Hands	John Kendrick	26/05/2011	25/08/2011	Langley Gates	Y	Required to accept single quote for supply & fix of railings at Elton Road newbuild flats & FOGs to avoid further vandalism & prior to Board visit on 09/06/11	£1,725.00

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