

# Public Document Pack



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8 August 2018

Dear Councillor

## **NOTICE OF DECISION TAKEN BETWEEN MEETINGS – (DPH01 18) TERMINATION OF PLANNED MAINTENANCE FLAT-ROOFING CONTRACT**

Please find attached details of a decision taken by Councillor Pauline Beresford, Portfolio Holder for Housing and Homelessness, to terminate the contract with Armour Contracts Ltd for planned maintenance works on the flat roofs of the Council's housing stock.

The deadline for call-in of this decision is **10.00am on Tuesday, 14 August.**

If call-in is not activated, the implementation date for this decision will be noon on 14 August.

Members of the public who require further information are asked to contact Kate Batty-Smith on 01304 872303 or by e-mail at [democraticservices@dover.gov.uk](mailto:democraticservices@dover.gov.uk).

Yours sincerely

A handwritten signature in cursive script that reads "Kate Batty-Smith". Below the signature is a short horizontal line.

Democratic Services Officer

ENCL

1 **NOTICE OF DECISION TAKEN BETWEEN MEETINGS - (DPH01 18) TERMINATION OF PLANNED MAINTENANCE FLAT-ROOFING CONTRACT**  
(Pages 2-5)

## Decision Notice

## Decision Taken Between Meetings

<b>Decision No:</b>	<b>DPH01</b>
<b>Subject:</b>	<b>TERMINATION OF PLANNED MAINTENANCE FLAT ROOFING CONTRACT</b>
<b>Notification Date:</b>	<b>8 August 2018</b>
<b>Implementation Date:</b>	<b>14 August 2018</b>
<b>Decision taken by:</b>	<b>Councillor Pauline Beresford, Portfolio Holder for Housing and Homelessness</b>
<b>Authority:</b>	<b>Paragraph 12 of Section 3C of Part 3 (Responsibility for Functions) of the Constitution</b>
<b>Decision Type:</b>	<b>Executive Non-Key Decision</b>
<b>Call-In to Apply?</b>	<b>Yes (<i>The deadline for call-in is 10.00am on 14 August 2018</i>)</b>
<b>Classification:</b>	<b>Unrestricted</b>
<b>Reason for the Decision:</b>	The contractor appointed to undertake planned maintenance work to flat roofs within the Council's housing stock has gone into administration.
<b>Decision:</b>	To terminate the Council's contract with Armour Contracts Ltd.

1. **Consideration and Alternatives (*if applicable*)**
  - 1.1 The contractor who was appointed in November 2018 to undertake planned maintenance works to flat roofs within the Council's housing stock has gone into administration.
  - 1.2 The Council has considered a request for the contract to be novated to another company within the group structure but, due to the potential financial risks associated with this, a decision has been taken to terminate the contract.
2. **Any Conflicts of Interest Declared?**
  - 2.1 None.
3. **Supporting Information (*as applicable*)**
  - 3.1 See attached report.

<b>Subject:</b>	<b>TERMINATION OF THE PLANNED MAINTENANCE FLAT ROOFING CONTRACT</b>
<b>Date:</b>	<b>8 August 2018</b>
<b>Decision to be taken by:</b>	<b>Councillor Pauline Beresford, Portfolio Holder for Housing and Homelessness</b>
<b>Report of:</b>	<b>Paul Whitfield, Head of Strategic Housing</b>
<b>Portfolio Holder:</b>	<b>Councillor Pauline Beresford, Portfolio Holder for Housing and Homelessness</b>
<b>Decision Type:</b>	<b>Executive Non-Key</b>
<b>Call-in to be Suspended:</b>	<b>No</b>
<b>Classification:</b>	<b>Unrestricted</b>
<b>Purpose of the report:</b>	To terminate the Council's contract with Armour Contracts Ltd, for the provision of planned maintenance works to flat roofs within the Council's housing stock.
<b>Recommendation:</b>	It is recommended that the Council terminates its contract with Armour Contracts Ltd

## 1. Summary

- 1.1 The Council has been advised that Armour Hart Ltd, the contractor appointed to carry out planned maintenance works to flat roofs within the Council's housing stock, has gone into administration.
- 1.2 This reports sets out the options for responding to this and recommends that the Council should invoke the contractual clause which allows the Council to terminate the contract.

## 2. Introduction and Background

- 2.1 The contract for planned maintenance works to flat roofs within the Council's housing stock was awarded to Armour Contracts Ltd in November 2018.
- 2.2 The contract is similar to contracts awarded by Thanet, Canterbury and Folkestone & Hythe councils. All of these contracts are managed by East Kent Housing (EKH).
- 2.3 On 16 July 2018 it was brought to the Council's attention that Armour Contracts Ltd had approached Thanet District Council with a request for the novation of the contract to Armour Hart Group Ltd.
- 2.4 All of the Councils were subsequently advised by East Kent Housing's Director of Property Services that Armour Contracts Ltd had gone into administration.
- 2.5 Thanet District Council advised that the financial checks carried out on Armour Hart Group Ltd were unsatisfactory and EKH sought direction from each individual council on how they wished to proceed.

- 2.6 The Council has been advised by EKH that while an order for works to Lancaster House, Dover had been raised with Armour Contracts Ltd no actual work has been undertaken and no payments have been made.
- 2.7 On 26 July, the Head of Strategic Housing wrote to FRP Advisory Ltd, the administrator, formally instructing them “that no work is to be undertaken by Armour Contracts Ltd on any Dover District Council-owned properties and they should not access any council-owned property until further notice”.
- 2.8 The contract terms have been checked by the Council’s legal team and they advise that Section 8 of the JCT contract deals with termination for default which includes termination due to insolvency of the Contractor.
- 2.9 In view of the potential financial risks associated with a novation of the contract it is recommended that this termination clause should be invoked.

### **3. Identification of Options**

- 3.1 Option 1: Novate the contract to Armour Hart Group Ltd
- 3.2 Option 2: Terminate the contract and re-procure the planned maintenance works for flat roofs

### **4. Evaluation of Options**

- 4.1 No works have been undertaken to flat roofs in Dover district and therefore no financial payments have been made. Termination of the contract should therefore be risk-free.
- 4.2 There is concern about the financial position of the company to whom it is requested that the contract is novated.
- 4.3 Termination of the contract is therefore the recommended option.

### **5. Resource Implications**

- 5.1 There is no financial risk arising from the termination of the contract. There will be a resource implication in relation to the procurement of a new contract but as the contract was only recently let to Armour Contracts Ltd the existing contract documentation will still be applicable. There will inevitably be a delay in the planned works being carried out and therefore it is quite likely that there will be an underspend on the related Housing Revenue Account budget at the end of the year. However, the underspend would be transferred to the reserve and the aim would be to catch up on the work in the following year.

### **6. Corporate Implications**

- 6.1 Comment from the Section 151 Officer: Accountancy have been consulted during the writing of this report and have no further comments to make. (BW)
- 6.2 Comment from the Solicitor to the Council: The Solicitor to the Council has been consulted in the preparation of this report and has no further comments to make.

6.3 Comment from the Equalities Officer: This report does not specifically highlight any equality implications, however in discharging their duties members are required to comply with the public sector equality duty as set out in section 149 of the Equality Act 2010 <http://www.legislation.gov.uk/ukpga/2010/15>

6.4 Other Officers (as appropriate): None received.

7. **Appendices**

None.

8. **Background Papers**

None.

Contact Officer: Paul Whitfield - Ext: 42258