

CABINET Supplementary Agenda

Date Monday 17th November 2025

Time 6.00 pm

Venue JR Clynes Building Second Floor room 2

Notes 1. DECLARATIONS OF INTEREST- If a Member requires advice on any item involving a possible declaration of interest which could affect his/her ability to speak and/or vote he/she is advised to contact Alex Bougatef or Constitutional Services at least 24 hours in advance of the meeting.

2. Further information relating to this meeting are available from Constitutional Services - email constitutional.services@oldham.gov.uk

MEMBERSHIP OF THE CABINET

Councillors M Ali, Brownridge, Dean, Goodwin, F Hussain, Jabbar, Mushtaq, Shah (Chair) and Taylor

Item No

- 12 Request for a Direct Award of the Domestic Property Disability Adaption Framework for the Provision of Level Access Showers and Shower over Baths (Pages 3 - 22)

Report of the Director of Adult Social Services

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Report to CABINET

Request for a Direct Award of the Domestic Property Disability Adaptions Framework for the Provision of Level Access Showers and Shower over Baths

Portfolio Holder: Cllr Barbara Brownridge, Lead Member for Health and Social Care

Officer Contact: Jayne Ratcliffe, Director of Adults Social Services

Report Author: Ayshia Akhtar, Commissioning Manager, ASC Commissioning and Market Management

Email: Ayshia.akhtar@oldham.gov.uk

17th November 2025

Reason for Decision

The Domestic Property Disability Adaptations (DPDA) Framework, which provides essential works such as Level Access Showers and Shower over Baths through the Disabled Facilities Grant (DFG), has exceeded its approved contract value and cannot be extended within the limits set by the Council's Contract Procedure Rules. It is therefore proposed to end the framework following its current one-year extension, seek an exemption to regularise spend via a direct award, and secure continuity of service beyond November 2025.

Executive Summary

The Council has a multi contractor Framework Agreement in place for Domestic Property Disability Adaptations (DPDA), which commenced on 1 December 2022 for an initial term of 2 years with the option to extend twice, each for an additional term of no more than 1 year. Under the Framework Agreement, the Council places orders for the provision of Level Access Showers and Shower over Baths, as and when required. The Framework Agreements were put in place to enable the Council to meet its duty to award a Disabled Facility Grant (DFG) to those who are eligible and to ensure

the works funded by a DFG are completed to a high standard and in a timely manner.

The initial 2 year term of the Framework Agreement, which the Council has entered into with each of the 4 appointed contractors, expired on 30th November 2024. An extension was granted for 1 year and is due to expire on 30th November 2025, as outline in Appendix A. The Framework Agreement provides that 28 days' written notice is required to be served on the Contractor in order to extend the initial term.

It is proposed that the second available extension period is not utilised, as the contract spend has already exceeded the permitted threshold. Instead, it is intended that a direct award if approved for 12 months to ensure continuity of service beyond 30th November 2025.

The cost of the extended term is not within the capped total life of contract costs set at £2,260,000, as approved in the original Cabinet report for the procurement of DPDA works requirements and as provided for in the advertised opportunity. The spend to date is £3,089,518.45, which exceeds both the original approval and the maximum permitted modification under the Council's Contract Procedure Rules (CPRs).

Under the CPRs, a modification of up to 15% (in this case, £339,000) would have been permissible, resulting in a total of £2,599,000. As the actual spend has already exceeded this figure, an exemption to the CPRs is required. This report therefore seeks approval to end the Framework Agreements and to formally request an exemption for a direct award in order to regularise the position and enable continued delivery of this essential service.

The DFG budget for this year is £3,044,703.82. The spend to date from the DFG budget is £1,034,003.19 which leaves an outstanding budget of £2,010,700.63. Projected spend to the end of the framework will also need to be calculated to ensure it remains within the wider thresholds.

The new arrangement will allow continuity of essential provision providing Officers time to continue monitoring the success of the current framework and consider procurement options for future contractual arrangements. Consideration will be given and built into the procurement pipeline in terms of future contracting, including consideration of joint approaches with neighboring authorities.

The report also seeks approval to increase the framework prices by 5% from April 2025 to November 2025. And to ensure the uplift in the direct award for December 2025 to November 2026.

Recommendations

Option 4 is the preferred option;

To end the current Framework Agreements on 30th November 2025 and request an exemption from the CPRs in order to approve a direct award to the current four providers under a one-year Framework Agreement, running from 1st December 2025 to 30th November 2026.

In addition, to approve a 5% uplift to the current contract rates backdated from 1st April 2025 to November 2025 and for the extended 12 months contract value

Under this option, the current agreements would end on 30th November 2025. We would seek an exemption to the CPRs, as the spend to date plus the projected spend to 30th November 2025 will exceed the permitted modification threshold.

The proposal is to make a direct award to the current four framework providers on a one-year term (to 30th November 2026) to ensure continuity of service, in line with the original arrangement. This approach would provide sufficient time to undertake a new procurement exercise

In addition, a 5% uplift to contract prices would be applied from April 2025, reflecting rising costs. This would support providers to remain financially sustainable, encourage their continued engagement, and help secure their participation in both the current and future procurement exercises.

Request for a Direct Award of the Domestic Property Disability Adaptions Framework for the Provision of Level Access Showers and Shower over Baths

1 Background

- 1.1 The Domestic Property Disability Adaptions Framework Agreement allows the Council to place orders for the provision of level access showers and shower over baths, as and when required and at a competitive price. This, in turn, assists the Council in meeting its statutory obligations linked to the assessment and award of DFGs.
- 1.2 The Framework Agreements make provision for orders to be offered to the appointed contractors using a rotation system; contractors have the opportunity to accept or decline orders based upon their capacity at the time.
- 1.3 The Framework Agreements commenced on 1st December 2022 and the expiry date of the initial term was 30th November 2024. The Framework Agreements include an option for the Council to extend the initial term for 2 further periods of 12 months (2+1+1) subject to the Council serving no less than 28 days' written notice.
- 1.4 The capped total life of the contract costs is set at £2,260,000.
- 1.5 There are 4 contractors appointed to the framework arrangement:
 - Moffat and Riley Heating Services
 - Wright Build Ltd.
 - Structec Building And Maintenance Contractors
 - UPS Building And Maintenance
- 1.6 Our vision for Adult Social Care in Oldham is to support individuals to live independently, healthy, safe and well. The service allows for that to happen and works to our target operating model in terms of prevention of moving into a residential setting.

2 Current Position

- 2.1 The Domestic Property Disabled Adaptions Framework primarily provides adaptations to homes, such as level-access showers and shower-over-bath facilities, for eligible residents of the borough. This service is crucial in enhancing the quality of life, health, and wellbeing of service users by supporting personal care and hygiene, while also reducing or managing environmental risks within their homes.
- 2.2 The framework comprises four contracted providers. Following the contract extension in November 2024, several providers have contacted the commissioning team requesting an increase in contract rates due to rising living costs and other material expenses, which are impacting the effective delivery of the bathing services.
- 2.3 The proposal is to extend the contract for 12 months with a 5% uplift applied, and to apply the 5% to the current contract prices, backdated to April 2025. This increase is intended to support providers in continuing to deliver efficient and effective equipment and adaptation services across the borough.

- 2.4 There is no defined contractual provision to increase the prices during the midterm of contract, However, the contract refers to the discretionary annual review which has not been exercised yet. The costs of equipment in the industry have increased and various authorities across GM, including Tameside with whom we have several shared Equipment and Adaption contracts with, have offered an increase of 5% during the of contract for their bathing contract. This increase would help the providers to tackle the rising costs of National Insurance contributions, living costs and general rises in material costs. It may also help service providers to retain an interest in the future tendering exercise for the adaptation services which is to be conducted in late period of 2026. It is to be noted that there have been no considerations to increases prices in previous years in line with the annual discretionary review.
- 2.5 Following this contract extension, the commissioning plan is to undertake a new tendering exercise to ensure the continued and effective delivery of bathing services for residents of the borough. It is anticipated that this procurement will take place during the summer of 2026, with providers appointed to the framework and ready to commence service delivery from 1 December 2026.
- 2.6 Table 1 and Table 2 and Table 3 shows the number of completed Level Access Showers (LAS) and Shower Over Baths (SOB) from 2023 – 2024, 2024 – 2025 and 2025 to date along with the total costings.

2023 – 2024				
Contractors	Level Access shower	Shower Over Bath	Bathrm Alts	Costs
Moffat & Riley	52	2	1	£322,654.94
Structec	37	6	12	£315,870.77
UPS	34	8	0	£232,086.21
Wright Build	49	5	3	£351,793.85
Total	172	21	16	£1,222,405.77

Table 1

2024 - 2025				
Contractors	Level Access shower	Shower Over Bath	Bathrm Alts	Costs
Moffat & Riley	34	2	1	£219,755.84
Structec	12	2	2	£105,505.85
UPS	33	4	1	£214,780.60
Wright Build	29	5	1	£201,999.26
Total	108	13	5	£742,041.55

Table 2

2025 to date				
Contractors	Level Access shower	Shower Over Bath	Bathrm Alts	Costs
Moffat & Riley	51	3	1	£309,329.46
Structec	38	2	2	£305,924.75
UPS	35	0	1	£214,780.60
Wright Build	48	5	3	£295,036.32
Total	172	10	7	£1,125,071.13

Table 3

- 2.7 Figures were low in 2024 and 2025 because work was delayed in an effort to manage the budget, as the service was experiencing significant overspending.
- 2.8 Based on historical contract costs and 2025 to-date figures, we estimate total spend for the second extension period (December 2025 – November 2026) to be approximately £1.65 million. This estimate assumes similar levels of activity and contract pricing as observed in the current year.
- 2.9 The table below shows the total projected spend, representing the estimated full-life cost of the contract. This includes actual expenditure to date, anticipated spend for the remainder of 2025, and projected expenditure for the 2025/26 financial year.

Description	Amount (£)
Spend to date	3,089,518.45
Projected spend (Sept–Nov 2025)	375,023.71
Projected spend (2025/26)	1,650,000
Total projected contract spend	5,114,000

Table 4

- 2.10 In line with PA23 regulations the threshold for Works contracts is £4,477,174 excl VAT. If the total spend during the lifetime of the framework is likely to exceed this figure the council will be governed by the PA23 procurement regulations under which a modification up to 15% for Works is permitted.
- 2.11 Following emails from all the contracted service providers from March 2025, the Commissioning team have undertaken benchmarking exercises with the other GM authorities to understand the changes all across the area. Tameside and Rochdale have aligned with their adult social care annual uplifts.
- 2.12 It is proposed that, in line with the inflationary pressures and cost of living crisis, a 5% uplift should be considered. Although the current contractual Terms and Conditions does support discretionary price reviews, we need to understand the implications of this request to the service and to the overall budget.
- 2.13 To understand the impact, following data sets are being displayed to showcase amount of adaptations delivered and the potential cost increases.

Current unit costs vs. projected costs with the 5% increase		
1	Current base price for Level Access Shower = £5,000.00	Base price with 5% increase = £5,250.00
2	Current base price for Shower Over Bath = £1,716.00	Base price with 5% increase = £1,801.80

Table 5: Cost Analysis

- 2.14 The table below summarises the financial position for Disabled Facilities Grant (DFG) provision as of April 2025, including total budget, spend to date, remaining budget, and the impact of a proposed 5% uplift to base prices.

Description	Amount (£)
Total Budget for DFG Provision	3,044,703.82
Spend to Date	1,034,003.19
Remaining Budget	2,010,700.63
Projected additional cost from 5% uplift	56,253.56

3 Options/Alternatives

3.1 Option 1: Do nothing and allow the Framework Agreements to come to an end on 30 November 2025.

This option would involve taking no further action, allowing the current Framework Agreements to expire without extension or retendering. This would result in the cessation of the existing contractual arrangements for the provision of level access showers and shower-over-bath adaptations after 30th November 2025.

This approach would leave the Council without a formal mechanism to deliver essential adaptation works, which are a key component in fulfilling its statutory duties under the Disabled Facilities Grant legislation. It would significantly hinder the Council's ability to process and deliver adaptations in a timely and consistent manner, potentially breaching statutory timeframes and leaving vulnerable residents without necessary support.

Additionally, operating without an agreed framework would increase the risk of non-compliance with procurement regulations and create uncertainty for both service users and contractors, as well as remove oversight of the providers delivering these services.

This option is not recommended due to the legal, operational, and reputational risks it presents to the Council.

3.2 Option 2: To extend each Framework Agreement for 12 months, subject to contractor

agreement, and seek an exemption to the CPRs.

This option would extend the Framework Agreements in accordance with clause 2.2 of the applicable terms and conditions, before the end of the first extension term (30th November 2025), for a period of 12 months, provided the appointed contractors agree within the 28 days' written notice.

As the spend to date (£3,089,518.45) already exceeds the original approval (£2,260,000) plus the maximum permitted modification under the CPRs (£339,000), an exemption is required in order to regularise the contract position.

This option takes us above the works threshold and therefore a modification of the proposed values is not permitted.

This option also does not address the issue of inflationary pressures or provider sustainability, as no uplift would be applied.

This option is not recommended due to the legal, operational, and reputational risks it presents to the Council.

3.3 Option 3: To extend each Framework Agreement for 7 months, seek an exemption to the CPRs, and approve a 5% uplift from April 2025.

This option would extend the Framework Agreements as per clause 2.2, subject to contractor agreement within the 28 days' written notice. It would also seek an exemption to the CPRs given that spend to date has exceeded the permitted modification limit.

Additionally, it would apply a 5% uplift to contract prices from April 2025 in recognition of rising costs, supporting providers to remain financially sustainable and engaged in future procurement exercises.

If approved, the Framework Agreements would expire on 30th June 2026, with the Commissioning Team planning a new tender exercise in 2026.

This option is not recommended due to the legal, operational, and reputational risks it presents to the Council.

3.4 Option 4: To end the current Framework Agreements on 30th November 2025 and request an exemption from the CPRs in order to approve a direct award to the current four providers under a one-year Framework Agreement, running from December 2025 to November 2026.

In addition, to approve a 5% uplift to the current contract rates from April 2025 to November 2025 and for the extended period until November 26

Under this option, the current agreements would end on 30th November 2025. We would seek an exemption to the CPRs, as the spend to date plus the projected spend to 30th November 2025 will exceed the permitted modification threshold.

The proposal is to make a direct award to the current four framework providers on a one-year term (to 30th November 2026) to ensure continuity of service, in line with the original arrangement. This approach would provide sufficient time to undertake a new procurement.

In addition, a 5% uplift to contract prices would be applied from April 2025, reflecting rising costs. This would support providers to remain financially sustainable, encourage their

continued engagement, and help secure their participation in both the current and future procurement exercises.

4 **Preferred Option**

- 4.1 **Option 4 – To end the current Framework Agreements on 30th November 2025 and request an exemption from the CPRs in order to approve a direct award to the current four providers under a one-year Framework Agreement, running from December 2025 to November 2026. In addition, to approve a 5% uplift to the current contract rates from April 2025 to November 2025.**

Under this option, the current agreements would end on 30th November 2025. We would seek an exemption to the CPRs, as the spend to date plus the projected spend to 30th November 2025 will exceed the permitted modification threshold.

The proposal is to make a direct award to the current four framework providers on a one-year term (to 30th November 2026) to ensure continuity of service, in line with the original arrangement. This approach would provide sufficient time to undertake a new procurement.

In addition, a 5% uplift to contract prices would be applied from April 2025, reflecting rising costs. This would support providers to remain financially sustainable, encourage their continued engagement, and help secure their participation in both the current and future procurement exercises.

5 **Consultation**

- 5.1 Consultation will be taking place with the four contracted providers.

6 **Financial Implications**

- 6.1 The one-year Framework Agreement will continue to be financed by the Disabled Facilities Grant (DFG) capital budget.

Contracts from the framework will need to be let within the remaining DFG budget.

Jit Kara – Senior Accountant

7 **Legal Implications**

- 7.1 While the spend is significant all proper procurement process has been followed, and the contract is a standard approved framework that is sufficient to mitigate the risk presented by the project's specification. Option 3 and 4 are supported by legal to ensure continuity of service and ensure our contractual situation and risk is assured.

Mike Grocott - Solicitor

8. **Procurement Implications**

- 8.1 The initial term of the framework agreement commenced on 1st December 2022 and expired on 30th November 2024. The framework agreement had the option to extend by two (2) periods of twelve (12) months beyond the initial term. A Delegated decision report

was approved in November 2024 to utilise the first permitted extension taking the expiry of the framework agreements to 30th November 2025.

This is a below threshold works contract which was not awarded under PCR2015 and is therefore subject to the councils CPRs

As detailed in this report spend to date is £3,089,518.45 with projected spend of £375,023.71 for Sept–Nov 2025 and projected spend of £1.65m for 2025/26. This would give an estimated total spend of £5,114,000 for the 4-year term which would be above the Works threshold of £4,477,174 excluding VAT.

Rule 17.1 of the CPRs states that subject to Rule 17.2 a Modification of a Contract which is not subject to the Procurement Regulations may be permitted if the following limited criteria apply:

- (c) (i) the need for modification has been brought about by circumstances which a diligent contracting authority could not have foreseen; and
- ii) the modification does not alter the overall nature of the contract.

Rule 17.2 states that a Contract during its term shall be considered substantial for the purposes of Rule 17.1 where the Modification increases the contract value for Works by more than 15%.

This is therefore a substantial modification and requires an exemption in line with Rule 21 of the CPRs.

It is recommended that the current framework agreements end on 30th November 2025 and that the second extension is not utilised. This will bring the agreements to and end with a total spend of £3,464,542.16

The service must seek a further exemption to the CPRs to approve direct awards to the current 4 providers on a 12-month term. The projected spend for this 12-month term is £1.65m. Continued provision of Works is required for an additional period, and this can be justified as the new procurement will commence immediately for services from 1st December 2026. Furthermore the framework agreements will end on 30th November 2026 as per the previous award.

An exemption request can only be authorised by the Deputy Chief Executive, the Assistant Chief Executive, or a Director who does not have direct line management responsibility for the service.

Ankur Patel - Interim Category Manager

9 Equality Impact, including implications for Children and Young People

9.1 Yes

10 Key Decision

10.1 Yes

11 Key Decision Reference

11.1 HSC-15-25

12 Background Papers

12.1 None

13 **Appendices**

13.1 Appendix A - DDR Report DPDA Framework Bathing Final

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Delegated Decision Report

Decision below £250k



Subject:	Contract Extension of the Domestic Property Disability Adaptations Framework for the Provision of Level Access Showers and Shower over Baths
Decision maker: Senior Officer	Jayne Ratcliffe, Director of Adult Social Care
Decision maker: Cabinet Member	Councillor Barbara Brownridge – Cabinet Member for Health and Social Care
Decision date:	26 th November 2024
Report author:	Ayshia Akhtar – Commissioning Manager Older Age Adults
Ward (s):	All

Reason for decision

The Council has a multi contractor Framework Agreement in place for Domestic Property Disability Adaptations, which commenced on 1 December 2022 for an initial term of 2 years with the option to extend twice, each for an additional term of no more than 1 year. Under the Framework Agreement, the Council places orders for the provision of Level Access Showers and Shower over Baths, as and when required. The Framework Agreements were put in place to enable the Council to meet its duty to award a Disabled Facility Grant (DFG) to those who are eligible and to ensure the works funded by a DFG are completed to a high standard and in a timely manner.

The initial 2 year term of the Framework Agreement, which the Council has entered into with each of the 4 appointed contractors, will expire on 30 November 2024. The Framework Agreement provides that 28 days' written notice is required to be served on the Contractor in order to extend the initial term.

It is proposed that, subject to approval and to the appointed contractors agreeing to accept less than 28 days' written notice, the first available extension period is utilised and the term is extended to 30 November 2025. The cost of the extended term is within the capped total life of contract costs set at £2,260,000, as approved in the original Cabinet report for the procurement of Domestic Property Disability Adaptation Works requirements and as provided for in the advertised opportunity.

This paper seeks approval to extend each Framework Agreement, in accordance with clause 2.2 of the applicable terms and conditions, before the end of the initial term (30th November 2024) for a period of 12 months provided the appointed contractors agree to accept less than 28 days' written notice.

It should be noted that the spend to date **against the contract** from the DFG budget is £1,803,758.88 which leaves an outstanding **contract provision** of £456,241.12. This paper will be followed up with a Cabinet report seeking approval to increase the original budget to meet any additional funding that is required due to the under allocated funding approved in the original report. Approval will also be sought to amend each Framework Agreement, in accordance with the Contract Procedure Rules, to allow for the procurement of additional works. This will be subject to advice from the Commercial Procurement Unit and Legal Services.

For the upcoming contract year, it is essential that the permitted extension is approved and that extension letters are issued to the 4 appointed contractors and returned signed before 30th November 2024 to prevent the agreements from expiring.

The extension will allow continuity of essential provision providing Officers time to continue monitoring the success of this framework and consider procurement options for future contractual arrangements. Consideration will be given and built into the procurement pipeline in terms of future contracting, including consideration of joint approaches with neighbouring authorities.

Recommendation(s)

Option 1: To extend the Domestic Property Disability Adaptations Framework Agreements in place by utilising the first available 1-year extension period provided for in clause 2.2 of the applicable terms and conditions and the main body of each Framework Agreement.

Background

The Domestic Property Disability Adaptations Framework Agreement allows the Council to place orders for the provision of level access showers and shower over baths, as and when required and at a competitive price. This, in turn, assists the Council in meeting its statutory obligations linked to the assessment and award of DFGs.

The Framework Agreements make provision for orders to be offered to the appointed contractors using a rotation system; contractors have the opportunity to accept or decline orders based upon their capacity at the time.

The Framework Agreements commenced on 1st December 2022 and the expiry date of the initial term is 30th November 2024. The Framework Agreements include an option for the Council to extend the initial term for 2 further periods of 12 months (2+1+1) subject to the Council serving no less than 28 days' written notice. Therefore, any extension of the term would need to be subject to the contractors accepting less than 28 days' written notice.

There are 4 contractors appointed to the framework arrangement:

- Moffat and Riley Heating Services
- Wright Build Ltd.
- Structec Building And Maintenance Contractors
- UPS Building And Maintenance

Table 1 and Table 2 shows the number of completed Level Access Showers (LAS) and Shower Over Baths (SOB) from 2024 to date and 2023 – 2024 along with the total costings.

Completed Level Access Showers & Shower Over Baths

2024 - To date				
Contractors	LAS	SOB	Bathrm Alts	Costs
Moffat & Riley	28	2	1	£ 180,856.96
Structec	10	1	2	£ 85,404.54
UPS	27	3	0	£ 170,515.73
Wright Build	20	3	1	£ 144,575.88
Total	85	9	4	£ 581,353.11

Table 1

2023 - 2024				
Contractors	LAS	SOB	Bathrm Alts	Costs
Moffat & Riley	52	2	1	£ 322,654.94
Structec	37	6	12	£ 315,870.77
UPS	34	8	0	£ 232,086.21
Wright Build	49	5	3	£ 351,793.85
Total	172	21	16	£ 1,222,405.77

Table 2

Our vision for Adult Social Care in Oldham is to support individuals to live independently, healthy, safe and well. The service allows for that to happen and works to our target operating model in terms of prevention of moving into a residential setting.

Option(s) to be considered *(please give the reason(s) for recommendation(s))*

Option 1: To extend the term of each Domestic Property Disability Adaptations Framework Agreement by 1 year, as permitted by the terms and conditions of each Framework Agreement, to allow the continued provision of level access showers and shower over baths. This option would be subject to the contractors agreeing to accept less than 28 days' written notice from the Council and to the spend being limited to the remaining value of the advertised contract value.

This will allow the continued provision of level access showers and shower over baths. The quality of the workmanship from the existing four contractors on the framework has been satisfactory and a good working relationship has been developed between the Equipment and Adaptations Team and the contractors.

There is insufficient time to re-tender the opportunity prior to the expiry of the initial term but, in any event, to do so at this stage would be very disruptive to the continuity of work. It is particularly important to have continuity of this work to enable the Council to meet its statutory duty to assess and award DFG applications in line with legal timeframes. The Framework Agreements, which the Council has put in place, allow for the works required to meet each applicant's relevant needs are carried out and completed to a high standard and in a timely manner.

If approved, the Framework Agreements would expire on 30th November 2025, unless further extended by an additional year.

This is the preferred option, as this enables continuity of service provision and compliance with the Council's statutory duty to provide a DFG to those who qualify.

Call-off arrangements would continue up to the original advertised value of the opportunity, which is £2,260,000. It is inevitable that the spend over the extension period will exceed the remaining budget of £456,241.12 and, therefore, a Cabinet report will be submitted in due course seeking approval to increase the budget assigned and to modify the Framework Agreements in line with the Contract Procedure Rules, subject to advice from the Commercial Procurement Unit and Legal Services.

Option 2: To allow the Framework Agreements to come to an end on 30 November 2024 and to identify an alternative framework agreement led by another Local Authority, but this would take time to consider and identify a solution which ensures that the costs and operation of the alternative arrangement would not have a detrimental effect on the Council's financial budget and delivery of the service.

Option 3: To allow the Framework Agreements to come to an end on 30 November 2024 and re-tender the contract. This option is not recommended as the Local Authority has a statutory duty to authorise eligible applications within a legal timeframe of 6 months and re-tendering works at this stage could result in these timeframes not being met and in less competitive pricing.

Consultation (*include any conflict of interest declared by relevant Cabinet Member consulted*)

Consultation at this stage is not deemed necessary.

Risks

There are significant risks to the Council should we not extend the Framework Agreements as alternative options could increase the cost of providing bathing adaptations significantly and with a very limited budget this would not be favourable. There would also be a reputational risk to the Council due to judicial reviews should legal timeframes not be met due to delays caused by retendering of works to alternative providers.

There is also a risk of the providers not agreeing to extend given the notice period required, communications will take place with the providers in regard to this.

Spend to date is £1,803,758.88 and the awarded value of the original contract was £2.26M. This leaves an outstanding budget of £456,241.12 which is unlikely to cover the initial 12-month extension period. Consideration of additional budget allocation should be given now to ensure no disruption in continued service provision.

Implications

Financial	<p><u>Capital Implications</u></p> <p>The extension of the contract will continue to be financed by the Disabled Facilities Grant (DFG) capital budget.</p> <p>Contracts from the framework will need to be let with the remaining DFG budget in mind and to the maximum contract value of £2.26m. (Jit Kara – Senior Accountant)</p>
Legal	<p>As detailed in the comments from within the Commercial Procurement Unit, the initial term, which expires on 30 November 2024, can be varied to extend it by 2 additional periods of 1 year. This is subject to 28 days' written notice being served on each contractor. Therefore, whilst the term can be extended, consent from the contractors to serve less than 28 days' written notice will be needed.</p> <p>Further, the report author details that there is some, but not sufficient, budget left (of the advertised contract value) to meet the anticipated requirements over the entirety of the proposed 1 year extension. This does not mean the initial term cannot be extended, it simply means the extent to which the Council can place orders for works will be limited to the remaining budget, unless the Framework Agreements are varied to increase the value. This will be dealt with under a separate report.</p> <p>Clause 2 of the terms and conditions applicable to the Framework Agreements explicitly refers to each extension of the term as a variation. Therefore, in order to justify the extensions, we need to look to rule 17 of the Contract Procedure Rules (CPRs) which deals with modifications.</p> <p>Rule 17.1(a) allows for modification that are provided for in the</p>

	<p>original contract, subject to the relevant clauses: <i>(i) list the scope and nature of possible Modifications as well as the conditions under which they may be used, and (ii) do not provide for Modifications that would alter the overall nature of the Contract or the Call-Off Contract.</i></p> <p>In this matter, the available extensions to the term are explicitly dealt with and do not affect the overall nature of the Framework Agreements.</p> <p>Rule 17 will be considered in more detail regarding the additional framework value within the Cabinet report referenced by the report author.</p> <p>Sarah Orrell – Commercial & Procurement Solicitor</p>
Equality impact including implications for Children and Young People	No negative implications to Equality from the proposed option.
Other Procurement:	<p>The framework agreement commenced on 1st December 2022 and is due to expire on 30th November 2024 with the option to extend by two (2) periods of twelve (12) months beyond the initial term. The council may vary the expiry date by giving the contractors not less than twenty eight (28) days' notice prior to the expiry of the initial term.</p> <p>As there are less than twenty-eight days until the expiry of the initial term, it is recommended that as long as both parties agree to the extension and letters are issued and signed before 30th November 2024 the council can use still use the permitted extension option. If this is not done before 30th November 2024 the contract will expire and the extension option cannot be used.</p> <p>Furthermore, as detailed in this report the spend to date is £1,803,758.88 and the awarded value of the original contract was £2.26M. This leaves an outstanding budget of £456,241.12 which is unlikely to cover the initial 12-month extension period. A modification of the contract therefore needs to be considered.</p> <p>This is a below threshold works contract which was not awarded under PCR2015 and is therefore subject to the councils CPRs. Rule 17.1 states Subject to Rule 17.2 a Modification of a Contract which is not subject to the Procurement Regulations may be permitted if the following limited criteria apply:</p> <p>(c) (i)the need for modification has been brought about by circumstances which a diligent contracting authority could not have foreseen; and (ii)the modification does not alter the overall nature of the contract.</p>


	<p>The commissioner should be satisfied that the above conditions apply and should seek approval for any additional funding that will be required to cover the extension periods.</p> <p>Rule 17.2 states that a Contract during its term shall be considered substantial for the purposes of Rule 17.1 where the Modification increases the contract value for Works by more than 15%.</p> <p>In line with the councils CPRs this contract could therefore be modified by a maximum of £339,000. Adding this to the outstanding budget of £456,241.12 would give a remaining budget of £795,241.12</p> <p>If the service want to consider both 12 month extensions and the total additional spend is likely to be greater than £795,241.12 for this period they will need to complete an exemption report seeking an exemption to the CPRs as long as the total contract value remains below the Works threshold of £5,372,609 including VAT.</p> <p>It is recommended that the first 12 month extension period is enacted whilst the service seeks approval for additional funding to prevent the contract expiring. As this is a framework agreement no works are guaranteed to the providers, so if the additional funding cannot be approved call-offs would cease once the budget envelope is used.</p> <p>Ankur Patel Interim Category Manager Commercial Procurement Unit</p>
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Has the relevant Legal Officer confirmed that the recommendations within this report are lawful and comply with the Council's Constitution?	Yes
Has the relevant Finance Officer confirmed that any expenditure referred to within this report is consistent with the Council's budget?	Yes
Are any of the recommendations within this report contrary to the Policy Framework of the Council?	No

Background Papers under Section 100D of the Local Government Act 1972: there are none.

Report author sign-off	Ayshia Akhtar
Role	Commissioning Manager Older Age Adults
Date of sign-off	21 st November 2024

Approval	
Officer approval sign-off	Jayne Ratcliffe 
Role	Director of Adult Social Care (DASS)
Date of sign-off	13 th December 2024

Approval	
Member(s) approval sign-off	Cllr Barbara Brownridge 
Role	Lead Member for Adults Health and Social Care
Date of sign-off	16.12.24