

What are the alternative option(s) to be considered? Please give the reason(s) for recommendation(s):

- A) Allow the Framework Agreement to expire and cease provision.

This is not the preferred option as the legislative framework governing Disabled Facilities Grants (DFGs) places a statutory duty on the council to approve an 'eligible application'. The provision to undertake the duty must therefore be available to those who qualify.

- B) To approve a six-month extension to the Framework Agreement for the provision of adaptations for construction related works to domestic properties where residents have disabilities, and approval for Delegated Authority for the Cabinet Member for Health and Social Care to approve the tender procedure (in accordance with Contract Procedure Rules) and award the new Framework Agreement to the successful contractors.

This is the preferred option as this ensures that the council can meet its statutory duty to approve an eligible DFG application and provide adaptations to those residents who need them to remain living as independently as possible in their own homes and communities. This also enables the council to have sufficient time to re-tender the provision to a high standard whilst meeting procurement legislation.

Recommendation(s):

Option B: To approve a six-month extension to the Framework Agreement for the provision of adaptations for construction related works to domestic properties where residents have disabilities, and approval for Delegated Authority for the Cabinet Member for Health and Social Care to approve the tender procedure (in accordance with Contract Procedure Rules) and award the new Framework Agreement to the successful contractors.

Implications:

*What are the **financial** implications?*

The commissioning team are seeking approval to extend the contract for the provision of level access showers and showers over baths for a 6-month period covering 1st June 2022 until 30th November 2022.

The contract is costed to the Disabled Facilities Grant (DFG) capital fund, which is part of the Better Care Fund, a pooled budget with the CCG.

The costs of the contract for the 4 remaining suppliers operating in the market is shown in table 1 below. The table also shows the total DFG spend per year with forecast expenditure of £0.535m reported in the month 9 monitor for the current year. Projected spend is within budget and whilst the service is somewhat demand-led, expenditure is consistent with previous years activity. The 2022/23 DFG allocation has yet to be notified but it is anticipated that following the publication of the adult social care reform white paper additional funding will be made available.

There are no adverse effects to the overall budget expected in 2022/23.

Table 1

	2020/21	2021/22 (up until 31/12/21)	2021/22 Forecast Outturn
	£m	£m	£m
Cost of Contract	£0.559	£0.399	£0.535
Total DFG Budget	£2.300	£2.010	£2.010

(Andy Pearson, Accountant)

What are the **procurement** implications?

It is not feasible to conduct a diligent and informed procurement process to replace the current Framework Agreements (previous procurement reference DN311186) before their expiry (31st May 2022).

The variation and extension of time will enable the delivery team to ensure the most appropriate and effective procurement and commercial strategy is devised and delivered: Provision is made for local and SME market engagement, to stimulate competition and generate sufficient market interest in the opportunity so as to deliver a value for money framework, sustainable and fit for purpose for its duration. Bespoke specification, tender and contract documents will need to be developed in consultation with stakeholders and Legal Services, before a robust procurement process is carried out in full compliance with the Council's Contract Procedural Rules and the Public Contract Regulations 2015 (as applicable). Based on the nature and value of the requirements (estimated to be in the region of £2.25m excl VAT for four years *based on historical spend data*), this will be a below-threshold 'works'

tender advertised on Contracts Finder and The Chest. Figures provided estimate the value of the six month extension to be less than 50% of the original contract value; noted below in Legal commentary as a modification rule. (Emma Tweedie, Commercial Procurement).

*What are the **legal** implications?*

Rule 17.1(c) of the Contract Procedure Rules allows for a contract to be modified where all of the following conditions are fulfilled:

(i) the need for the Modification has been brought about by circumstances which a diligent contracting authority could not have foreseen;

(ii) the Modification does not alter the overall nature of the Contract;

(iii) any increase in price does not exceed 50% of the original contract value.

The unforeseeable circumstances brought about by Covid-19 are as detailed in this report. The impact of Covid-19 has been vast and far reaching and it has delayed a number of tender procedures. The Council is able to approve a modification which is reasonable in the circumstances and extend the term of the contract for no longer than is absolutely necessary. A 6 month extension would allow sufficient time for a new tender exercise to be developed and completed and new contracts to be put in place.

Regarding the proposal to delegate authority for new Framework Agreements to be awarded; the tender procedure for the upcoming procurement will be led by the Corporate Procurement Unit and will be conducted in accordance with Contract Procedure Rules, in consultation with Finance, Legal Services and all relevant stakeholders. The form of contract will be drafted by Legal Services and issued with the tender documents (Sarah Orrell, Commercial and Procurement Solicitor).

*What are the **Human Resources** implications?*

N/A

***Equality and Diversity Impact Assessment** attached or not required because (please give reason)*

No: an EIA has not been completed as the proposal enables continuity of statutory provision of adaptations to improve the independence, health, and wellbeing of people with disabilities, and to enable them to remain living for as long as possible in their own homes. The provision is available to disabled children and adults with an assessed / eligible need.

*What are the **property** implications?*

None: the provision is installed in recipients own domestic properties.

Risks:

There are no risks identified from pursuing the preferred option.

Has the relevant Legal Officer confirmed that the recommendations within this report are lawful and comply with the Council's Constitution/CCG's Standing Orders? Yes

Has the relevant Finance Officer confirmed that any expenditure referred to within this report is consistent with the S.75 budget? Yes

Are any of the recommendations within this report contrary to the Policy Framework of the Council/CCG? No

Reason(s) for exemption from publication: N/A

Reason why this is a Key Decision (1) to result in the local authority incurring expenditure or the making of savings which are, significant (over £250k) having regard to the local authority's budget for the service or function to which the decision relates;

The Key Decision made as a result of this report will be published within **48 hours** and cannot be actioned until **five working days** have elapsed from the publication date of the decision, i.e. **before 1st March 2022**, unless exempt from call-in.

This item has been included on the Forward Plan under reference: CPB-01-21.

There are no background papers for this report

Report Author Sign-off:	
F Khanom and LV Megram	Date: 7th January 2022

Please list any appendices: -

Appendix number or letter	Description
N/A	N/A

1. Background:

- 1.1 To seek approval to award a six-month extension to a Framework Agreement which is due to expire on the 31st May 2022 with no further option to extend, therefore an exemption the councils contract procedure rules would be required. The framework is for the provision of adaptations to domestic properties where residents have disabilities and require an adaptation to their home to enable them to remain living as independently as possible in their communities.
- 1.2 The suppliers in the framework provide adaptations under Disabled Facilities Grant (DFG) arrangements. A DFG helps towards the cost of adapting a person's home to enable the occupant to continue to live as independently as possible, for as long as possible, in their community and can reduce the requirement for Health and Social Care support. The adaptations delivered via the Framework Agreement are installing level access showers and showers over baths, which are the most common types of adaptations required. Separate arrangements are in place for other areas of adaptation activity such as provision of stairlifts, ceiling track hoists etc and for complex/large extensions to properties.
- 1.3 The legislative framework governing DFGs places a statutory duty on the council to approve an eligible application within six months. An application cannot be refused because of insufficient funds, provided that the adaptation is deemed:
 - 'necessary and appropriate' to meet the disabled applicant's needs
 - 'reasonable and practicable' in relation to the individual propertyAn assessment by an Occupational Therapist is usually undertaken to establish if the works are 'necessary and appropriate' and by a surveyor / technical officer to establish if the work can 'reasonably and practicably' be done to a particular property. The maximum grant is currently £30,000 (inclusive of VAT and fees).
- 1.4 DFG funding was traditionally received by councils as a capital grant from Government, but since 2015/16 the allocation was included in the Better Care Fund (BCF). The BCF operates under section 75 pooled budget arrangements between Clinical Commissioning Groups (CCGs) and Councils and is expected to facilitate better integrated care and joint strategic planning of investment. However, the statutory duty on local housing authorities to provide DFGs to those who qualify remains, therefore each area must allocate funds from the pooled budget to their respective housing authorities to enable them to continue to meet these duties. In 2018/19 the DFG grant allocation to Oldham was £1,913,889. This rose to £2,065,201 in 2019/20 and 2020/21 with a further increase to £2,342,287 in 2021/22.

2 Current Position

- 2.1 Cabinet awarded the current Framework Agreement on 25th June 2018, to six suppliers. This has now reduced to 4 suppliers who are allocated work on a rotation basis, with prices defined via a fixed pricing schedule issued in the tender documents. The provision is primarily demand-led so levels of activity/spend varies, and Covid-19 has impacted on delivery of all types of installations/adaptations - making predicting demand and spend more difficult. The impact of Covid on supplies and costs led to the council approving an uplift to the fixed pricing schedule in December 2021 to stabilize the supply of this essential provision; this was replicated in most other Greater Manchester authorities who were experiencing similar challenges. The average number of level access showers currently ordered per month is five and spend under these arrangements is expected to be circa £600,000 in 2021/22.
- 2.2 A project team has been formed to guide the retendering of the provision with representation from Commissioning, Procurement, Legal, and the Equipment and Adaptations team from Miocare. Consultation and benchmarking with neighbouring local authorities has taken

place and the project team are considering extensive market engagement options due to the accelerated changes in the market as result of Covid.

3. Conclusions and recommendations:

- 3.1 The Commissioning Partnership Board is asked to approve the six-month extension to the Framework Agreement and approval for Delegated Authority for the Cabinet Member for Health and Social Care to award the new Framework Agreement as this enables:
- Cost avoidance in the wider health and social care system - by ensuring continuity of provision that supports people with disabilities to better manage their conditions and remain living as independently as possible in their own homes, helping to avoid the need for increased care packages or residential care
 - A reasonable timeframe to consider the tender / procurement options fully which is essential due to the accelerated changes in the market because of Covid. This is likely to result in better value for money whilst delivering an improved service for residents
 - Avoidance of delays through the approval of delegated authority to award a new Framework agreement following the procurement process