

Report to:	EXECUTIVE CABINET
Date:	28 September 2022
Executive Member:	Councillor John Taylor – Executive Member (Adult Social Care, Homelessness & Inclusivity)
Reporting Officer:	Stephanie Butterworth – Director of Adult Services Tracey Harrison – Assistant Director – Adult Social Care
Subject:	VARIATION TO CONTRACT TO INCREASE RATES - FRAMEWORK OF CONTRACTORS TO PROVIDE ADAPTATIONS FOR DISABLED PEOPLE
Report Summary:	<p>The revised rates for works within the contract were varied in August 2021 after the effect of the Covid-19 pandemic, Brexit and global shipping costs. Over the past 12 months the cost of materials in the building industry has continued to rise due to a sharp increase in energy costs and a continuing rise in imported materials and components required in many of the adaptations carried out for residents. The potential to lose contractors who can deliver adaptations is great and the available options will increase pressure on existing staff and extend delivery times. Contractors are once again struggling to make a reasonable profit and pay reasonable wages to their staff.</p> <p>If the rates paid to contractors are not increased, it will affect the Council's ability to deliver adaptations to our residents in a timely manner resulting in their care and support needs going unmet. The likelihood is that these people will continue to require support from the Council.</p>
Recommendations:	That Executive Cabinet agree that approval is given under Procurement Standing Orders 9.3.1 to agree a 10% increase on the rates contained within the framework contract.
Corporate Plan:	<p>The current Framework contract delivers adaptations across a wide spectrum of the population will allow the Council to show it is taking positive and clear actions within a number of themes in the Corporate Plan:</p> <ol style="list-style-type: none"> 6. Nurturing our Communities: increase access, choice and control in emotional and mental self-care and wellbeing; 7. Longer and Healthier Lives: increasing physical and mental health life expectancy, improve the wellbeing of our population; 8. Independence and activity in older age and dignity and choice: increasing the number of people helped to live at home, reduce hospital admissions due to falls, increase levels of self-care and social prescribing; prevention support outside the care system.
Policy Implications:	Improving the independence of disabled and vulnerable people within the borough ensure the Council is meeting its requirement under a number of points within the Corporate Plan. The agreement to increase the rates in the Framework will allow continued delivery of adaptations to assist in the reduction of social care involvement

in a number of areas, thereby saving funds across various areas of Adult and Children's Services.

**Financial Implications:
(Authorised by the statutory
Section 151 Officer & Chief
Finance Officer)**

The financial implications for the preferred option within this paper will add an additional cost to the framework between £90k and £150k over the next 12 months. This is dependent upon the number of schemes approved during that time.

The funds used to support this increase in rates will be within the allocation of DFG funds allocated by MHCLG and DoH and will not affect the Councils budget. Although this allocation has risen consistently over the previous five financial years it cannot be guaranteed this will continue. The contract states the Council does not have to place any orders with the winning contractors so should the allocation reduce, the number of schemes offered can be reduced also.

The Council offers a service (Housing Adaptations) to disabled and vulnerable residents of the borough to assist them in making an application for a DFG where a referral is made by an Occupational Therapist from Adult Services or Children's Services. Government regulation limits maximum individual grants to £30,000 in England including all on costs and VAT as appropriate.

The preferred option 4 agrees to a rate rise that potentially sees the Council and contractors to the end of the current contract. However in the current climate, there is a risk that cost in materials continues to rise during uncertain economic times with the legacy of COVID, leaving the EU and the energy crisis and overseas conflicts. Contractors have been consulted with and have agreed that 10% would be acceptable for a further 12 months. This will also allow the Council to provide continuity of service and continue to deliver savings against the current contract form and avoid extended delivery times and staff resources.

The preferred option also has the potential to allow the contractors to clear the current backlog due to COVID by paying them more that covers the reasonable cost increases in materials.

**Legal Implications:
(Authorised by the Borough
Solicitor)**

The project officers must ensure that they have confirmation advice from STaR procurement that the proposed increase is permitted under the terms of the contract and the necessary engagement with the providers to communicate the same.

Risk Management:

Not to increase the rates would result in contractors withdrawing from the contract leaving no choice but to abandon the contract. This would mean a return to individual quotes per scheme leading to increased delivery times. Quotes will be based on current prices so costs will still rise but it is not possible to determine by how much.

Ignore requests for the suggested 10% increase and offer a lesser increase. This is problematical because as inflation and material costs continue to rise economic circumstances will quickly erode this increase. This would again lead to contractors withdrawing and leave no choice but to abandon the contract. This is a difficult situation for contractors delivering adaptations to be in and our disabled residents will be the ultimate losers.

A return to individual quotes per scheme would increase delivery times. Quotes would be based on current prices so costs will still rise but it is not possible to determine by how much.

Further consequences of not providing a rate rise would, aside from the above, result in more people calling upon additional Council Services from Adults and Children's Services until their needs can be met.

Background Information:

The background papers relating to this report can be inspected by contacting Jim Davies, Housing Adaptations Manager



Telephone: 0161 342 3308



e-mail: jim.davies@tameside.gov.uk

1. BACKGROUND

- 1.1 Legislation in the form of the Housing Grants, Construction and Regeneration Act 1996 (plus subsequent amendments) places a statutory duty on local housing authorities to deliver adaptations within their boundaries. The authority has a duty to receive and approve eligible applications where the Council considers the adaptation to be “necessary and appropriate” to meet the assessed needs of the disabled person, and “reasonable and practicable” in relation to the age and condition of the property to be adapted.
- 1.2 Funding for Disabled Facilities Grant (DFG) has been included within the Better Care Fund (BCF) since 2015-16. It operates under Section 75 of the National Health Service Act 2006 (pooled budget arrangements between -NHS GM ICB and the local council). Provision of this annual capital funding is from Department of Levelling Up, Housing and Communities (DLUHC) and Department of Health and Social Care (DHSC). However, the provision of DFG for those who qualify for the service remains a statutory duty upon the local housing authority.
- 1.3 The Council offers a service (Housing Adaptations) to disabled and vulnerable residents of the borough to assist them in making an application for a DFG following a referral from an Occupational Therapist from Adult Services or Children’s Services. Government regulation currently limits maximum individual grants to £30,000 in England including all on costs and VAT as appropriate. Many adaptations are however subject to VAT relief.
- 1.4 The delivery of adaptations to residents of Tameside meets a number of initiatives within the Corporate Plan:
 - (6) Nurturing our Communities: increase access, choice and control in emotional and mental self-care and wellbeing.
 - (7) Longer and Healthier Lives: increasing physical and mental health life expectancy, improve the wellbeing of our population.
 - (8) Independence and activity in older age and dignity and choice: increasing the number of people helped to live at home, reduce hospital admissions due to falls, increase levels of self-care and social prescribing; prevention support outside the care system.
- 1.5 In December 2017, a procurement exercise was carried out to deliver adaptations via a framework of contractors. The new contract would remove the need to obtain 3 quotes for individual schemes which was a time consuming exercise for both the Housing Adaptations team and the contractors. Four types of bathrooms, (one wet floor, and one wet room both with a different floor construction option) were included as fixed price schemes. These fixed prices enabled a quicker and more efficient way to agree schemes and prices with the contractors. The contractors know what they will receive for each basic scheme. This part of the contract includes rates for unforeseen variations and items not part of the fixed price scheme. These schemes are subject to the mandatory or discretionary grant process.
- 1.6 The procurement exercise also included for works of less than £1000. These works, referred to as Minor Works, are also a mandatory obligation upon the local authority and must be provided free at the point of delivery to those with an assessed need. There is no application form required and such works include external handrails, half steps, visual impairment items, door widening, door release mechanisms, etc.
- 1.7 The contract allows for a review of the rates submitted but does not include a percentage or method how this should be determined. The contract relies on the contractors giving 3 months’ notice of their request for a rate rise. A rate rise was envisaged in 2020 but the onset of the Covid-19 pandemic in late March 2020 resulted in contractors placing staff on furlough and work in properties was brought to a halt for a while due to the risks associated with Covid-19.
- 1.8 During the Covid-19 pandemic material costs increased more than the rate of inflation which does not generally include for building related works. Contractors at that time cited two increases in materials and certain specific items in the previous 18 months. Many items were specific to

the adaptations arena such as specialist toilets; non-slip wet flooring, shower units with adaptation packs. Other items subject to price rises include general building materials such as cement, plaster, timber, tiles, etc.

- 1.9 A report submitted to the Council during the summer of 2021 to consider the approval of the previous rate rise. In August 2021, the report was approved and the rate rise applied. It was noted in that report it was not clear if this rise would be enough to see through to the end of the contract. With the need to request an extension in for approval a further rate rise is now required.
- 1.10 Since August 2021, a number of issues outside the control of the Council and contractors has seen costs rise much quicker than during the pandemic. The cost of fuel for vehicles has risen by over 40%. Energy costs are rising at their fastest rate ever, over 50% and are expected to rise further during late 2022 and early 2023. There is still an issue obtaining micro-chips used in specialist toilets, showers, pumps, etc. The availability of materials continues to be an issue in some areas and costs are rising at an unprecedented rate. Production of items made from materials such as timber, plastics, copper, aluminium, cement based products, etc. are affected by energy cost rises as well as the availability of the raw materials. Tariffs on imports, as well as the global effects of the war in Ukraine also affect these same materials.
- 1.11 Contractors have cited and provided information from builder's merchants and other suppliers where increases are on a monthly basis. One particular supplier has advised the following rise in costs in the second quarter: ceramic tiles up by 20%, Shower units up by 5%, delivery charges increased or minimum order increased to obtain free delivery, other items increased by 8.5%. In January 2022 the cost of bricks increased by 10%, timber by 3%, internal doors by 2.5%, plaster by 4%, bathroom fittings by 3.5% - 8%, specialist toilet by 5.5%-17%. In February 2022, further increases were levied: tile adhesives up by 8%, plumbing products in general between 5% and 12%. Further price rises were introduced in March 2022 for timber products including internal doors with another 8% price increase, including steady incremental increase across the range of supplies.
- 1.12 It is difficult to apply general inflationary rates to such specific works as adaptations. The indices used for building related works tends to fall into two distinct categories: new-build and building repair and maintenance but adaptations tends to fit into neither listing. There are a number of indices covering these areas RPIX (not including mortgages), COP (Construction Output Price) Index and BCIS (Building Construction Index Service). Building Repair and Maintenance is the better fit, although not perfect, for adaptations because it does not include the specifics. The reality of the situation is that we are seeing increases on a monthly basis.

2. PROCUREMENT STANDING ORDER SEEKING TO WAIVE / AUTHORISATION TO PROCEED:

- 2.1 Procurement Standing Order 9 covers Exemptions and Modifications to contracts
- 2.2 Procurement Standing Order 9.3 refers to Modifications to a Contract or Framework Agreement.
- 2.3 Procurement Standing Order 9.3.1 relied upon. PSO 9.3.1 states that "*Contracts and Framework Agreements may be modified during their term without a new procurement procedure in accordance with this Rule 9.3 in any of the following cases:*
 - a) *Where the Modifications, irrespective of their monetary value, have been provided for in the initial procurement documents in clear, precise and unequivocal review clauses, which may include price revision clauses or options, provide that such clauses*
 - i.) *State the scope and nature of possible modifications or options as well as the conditions under which they may be used, and*
 - ii.) *Do not provide for modifications or options that would alter the overall nature of the*

Contract or Framework agreement;

- 2.4 The agreement to a rise in the submitted rates will not affect any other part of the contract or the way in which it is delivered. Should this EDN be approved a Modification Form for STAR is ready for submission.
- 2.5 STAR Procurement has been consulted regarding this process and has commented by email that Section 9.3.1 is the correct Procurement Standing Order to use in this instance. The new procurement process currently underway will result in a new contact early 2023.

3. VALUE OF CONTRACT

- 3.1 In 2018, the value of the initial contract had an estimate of £1.5M per year based upon expenditure from the previous 2 years.
- 3.2 Previous changes to the Council's RRO Policy in 2018 removed some of the barriers to making applications for assistance thereby increasing the number of approved adaptations where there is no requirement for a means test. Simplified paperwork means more applications succeed and delivery in certain cases is quicker. This in turn means contractors are in need of more products and materials.
- 3.3 The amounts quoted here comprise numerous individual purchases. Part of this contract has fallen during the Covid-19 pandemic and this has had an effect on the number of adaptations completed and therefore expenditure. The value of spend in the first 2 full financial years of the contract is as follows:

2019/20 (Full financial year)

Total expenditure on adaptations within the framework was **£1,555,285**

2020/21 (Full financial year during pandemic)

Total expenditure on adaptations within the framework was **£913,468**

2021/22 (Full financial year during continuing pandemic)

Total expenditure on adaptations within the framework was **£1,642,000**

- 3.4 The rates within the Framework contract should be increased by 10% to cover increases in material costs over the previous 12 months and to try to pre-empt potential increases to the end of the extended contract.
- 3.5 Depending upon the number of schemes approved and completed over the next 12 months the additional cost to the framework will be between approximately £100,000 and £150,000. This is only an estimate and the actual figure will depend upon the number and type of referrals processed. This is in line with projected levels of approval up to the new framework contract award.

4. GROUNDS UPON WHICH WAIVER / AUTHORISATION TO PROCEED SOUGHT

- 4.1 It is to the Council's advantage that a rate rise for the contractors is agreed. The contract documents contain a clause allowing the rates contained in the contract to be varied although it does not state at what level the rate should be.
- 4.2 The Covid-19 pandemic has had a serious and detrimental effect on the delivery of adaptations. The costs being passed down to builders is exceeding their ability to deliver the works contained within the contract with the previous increase on the rates and make an operating profit. Global economic issues continue to affect delivery of materials and electronic parts and

the rises in energy and fuel is adding to this problem.

- 4.3 Information received from contractors regarding the general increases in material supply costs since the beginning of 2022 indicates:
- 8.5% increase from supplier AKW July 2022.
 - 5% increase in 2022 from Mira showers.
 - 20% increase on ceramic tiling from suppliers
 - 2.5% increase in Jan 2022 for internal doors and a further 8% in March 2022
 - Additional increases for Closomat toilets expected later this year. (specialist toilet).
 - 5.5% further increase in 2022 for Geberit (specialist toilets).
 - 4.5% further increase in 2022 from Regal Care (shower room products).
 - 5% increase expected later in 2022 from Polyfloor and Altro Floor.
 - Up to 7.5% increase for sanitary ware
 - 10% increase for bricks
 - 4% increase in plaster products from Benchmark
 - 8% increase in wallboards from Benchmark
 - 5-12% increase in 2022 for general plumbing supplies from Watermark.
 - 20% to 40% increase on lighting products and associated items

Specialist toilets are not standard items in all adaptations; they are by request from the Occupational Therapist. The percentage increases above are on the material only and do not include the contractors on costs for items such as fuel/ transport, wages, insurances, etc.

- 4.4 Workers in this area are not traditionally highly paid and many are paid by the hour, nonetheless contractors have been able to retain staff during the life of this framework contract. However, the recent issues affecting the country and economy are making it more difficult for them to retain staff. One contractor cited an employee who was prepared to leave for a small increase in his hourly rate. Contractors are citing an increase in labour rates between 8% and 12% to retain staff to deliver the level and quality required to provide adaptations.
- 4.5 The current Framework provides a quick method of pricing and delivering adaptations saving time on staff resources by not requiring the Service to obtain 3 quotes on each scheme. The time and resources required to procure 3 quotes for each and every individual scheme would put increased pressure on the team to do this for each scheme produced.
- 4.6 The rate rise would give the contractors a reasonable uplift in costs but these new costs would not have the same effect on the budget as the alternative mini competition (3 quotes for each scheme). If opened up to mini competition it is likely scheme costs will increase as contractors pass on material and other cost rises immediately they happen. This alternative could quickly see prices exceed the suggested rate rise.
- 4.7 Contractors have again expressed their concerns about their ability to continue with the current contractual arrangements due to the continuing rise in costs. They would have to reconsider their positions in the Framework.
- 4.8 Contractors in the framework have been consulted on this process and despite the previous increase in rates; some are again struggling to deliver schemes for the amounts offered due to the rapid and continued rise in the cost of materials. A further rise of 10% across all the rates may be considered excessive when taking into account the previous rise, however, this is considered a fair amount based upon the materials used in these schemes and the current economic situation and will allow retention of both staff and contractors.
- 4.9 Despite the rate rise approved in August 2021, one contractor could not recover from the knock on effects of the pandemic and took the decision to stop delivering adaptations in December 2021. This has left the Service struggling to find a suitable replacement in the interim.

5. REASONS WHY USUAL REQUIRMENTS OF PROCUREMENT STANDING ORDERS NEED NOT BE COMPLIED WITH BUT BEST VALUE AND PROBITY STILL ARE ACHIEVED

- 5.1 This Council's Procurement Standing Orders have been followed in order to this increase of the rates within the contract. Section 2 above refers to PSO 9.3.1 allowing a modification to be made to an existing contract. Consultation with STAR procurement has taken place concerning this extension request. STAR was not involved in the original tender process because the tender pre-dates Tameside becoming part of STAR. A Modification Request Form will be submitted to STAR upon approval of this report.
- 5.2 There are a number of options that for consideration. It is noted that the options are generally the same as in the previous approved report due to the circumstances being almost identical.
- 5.3 **Option 1: Do nothing.** This option is not favoured at this time. The contractors within the framework have expressed their concerns over the continuing rise in material, energy and fuel costs and their difficulty meeting the requirements of the contract. The contractors in the framework could not deliver the numbers required and would make it impossible to continue with the Framework. The service would have to resort to obtaining three quotes which would likely result in increases of between £800 and £1200 for each job (we used the three quote method to test prices with a potential new contractor). This option would be resource intensive and would slow delivery of schemes.
- 5.4 **Option 2: Let the contract expire.** This is not a favoured option. The current contract has expired and a request is going through governance to extend until a new contract can be procured. If the contract is allowed to expire and no extension agreed, the result be as per Option 1 above.
- 5.5 **Option 3: Retender the service.** This is currently under preparation. The current contract has expired and approval to extend it until a new framework is procured is under consideration. The time involved in preparing the documents, running the tender, dealing with the bids and evaluation, etc. is considerable and would not address the issue at hand.
- 5.6 **Option 4: Agree a rate rise that will potentially see the Council and contractors through to the end of the life of the current extended contract.** This is the preferred option whilst the procurement process is under way. The contractors have indicated they would be willing to continue under the terms of the existing contract subject to an increase in the rates that allows them to keep pace with the effects of the current economic conditions noted in this report. The contract rates had been in force for over 2 years prior to the previous rate rise but current economic situation was not anticipated.
- 5.7 **Option 4 is the favoured option** as it allows the Council to provide continuity of service and will continue to provide savings against extended delivery times and staff resources until the new framework contract is procured. The rate rise if agreed would only see £600 to £700 added to the average cost, which is less than expected via individual procurement.
- 5.8 The funds used to support this increase in rates will be from within the allocation of DFG funds from DLUHC and DoH and will not affect the Councils budget.

6. RISKS

- 6.1 **Longer delivery times.** The main risks to not agreeing to a rate rise for the contractors are that Housing Adaptations staff will have to prepare documents for each scheme to obtain quotes from at least three contractors. Because these quotes will be in excess of £5,000 due to due to being outside the contract it will then be necessary to obtain approval from STAR for each quote. It is more difficult to predict costs when each scheme is priced using ad-hoc

purchasing using the 3-quote option. This will result in extended delivery times and more pressure on staff resources in what is already a small team, and there will be greater inconvenience for residents.

- 6.2 **Increased costs to the budget.** The current costs for adaptations are very economical and based upon a fixed price arrangement with guaranteed work for the contractors over the period of the contract extension. The continuous flow of regular work helps retain the contractors. It is difficult to obtain ad-hoc rates the same as those in a formal contract even when asking three contractors to compete. The updated rates in the Contract have very quickly become outdated due to a wide array of factors outside our control.
- 6.3 **Extended delivery times for adaptations.** If the option to go for ad-hoc purchasing was adopted it would be necessary to arrange for individual builders to visit the property to be adapted. In many cases, this would have to be an accompanied visit to discuss the scheme. This could result in officers having to attend visits with three different builders creating disturbance and inconvenience to the resident each time. There would then be a delay whilst each builder prepares their price and submits it. The current Framework was developed to avoid this situation. The quotation process may also requires the creation of a min-Project Initiation Document for STAR to approve to allow the quotes to be obtained increasing delivery times further.
- 6.4 **Contractors leaving the framework.** If a reasonable rate rise is not offered to contractors they may become selective about the work they accept from the framework, ensuring they only accept schemes that guarantee a reasonable profit. Contractors no longer have the luxury of the pandemic work-boom as cost of living increases cause homeowners to tighten their belts. However, they cannot work at a loss. If contractors cannot make enough to pay their suppliers and their staff, they may be forced to lay-off employees. The Council can offer regularity of work but we have to offer this work at a fair price in line with market prices.
- 6.5 **Additional support from Adults and Children's Services.** The need to go through an extended quotation process as noted above could place unnecessary pressure on Adult and Children's Services to provide additional support until the adaptations are provided for their clients. These services are already under increased pressure to deal with the existing level of cases built up from the pandemic and a constant flow of new requests for service. Staffing and budget issues are already under pressure and agreeing to the rate rise would help to keep this to a minimum. The longer residents have to wait for essential adaptations increases the risk of complaints to the Council and potentially to the Local Government Ombudsman (LGO). The LGO considers delays in delivery of adaptations to be a fault by the Council in many of its determinations, even when taking into account the pandemic.

7. RECOMMENDATION

- 7.1 As detailed at the front of the report.