

Birmingham City Council

Report to Cabinet

22nd March 2022



Subject: STAYING INDEPENDENT AT HOME POLICY –
WIDENING THE USE OF THE DISABLED FACILITIES
GRANT

Report of: Professor Graeme Betts CBE
Director for Adult Social Care

Relevant Cabinet Member: Cllr Paulette Hamilton - Health and Social
Cllr Shabrana Hussain - Homes and Neighbourhoods
Cllr Tristan Chatfield - Finance and Resources
Cllr Sharon Thompson - Vulnerable Children and Families

Relevant O &S Chair(s): Cllr Mick Brown - Health and Social Care
Cllr Mohammed Aikhlaq - Resources
Cllr Narinder Kaur Kooner - Education and Children's Social Care

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Are specific wards affected?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No – All wards affected
If yes, name(s) of ward(s):		
Is this a key decision?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, add Forward Plan Reference: 009964/2022		
Is the decision eligible for call-in?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does the report contain confidential or exempt information?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, state which appendix is exempt, and provide exempt information paragraph number or reason if confidential: Exempt Appendix 1 – Paragraph 3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).		

1 Executive Summary

- 1.1 The report is seeking approval to adopt a new policy to provide support to citizens to remain living independently in their homes and the extensions required to ensure services are able to deliver as outlined in the policy for an interim period.

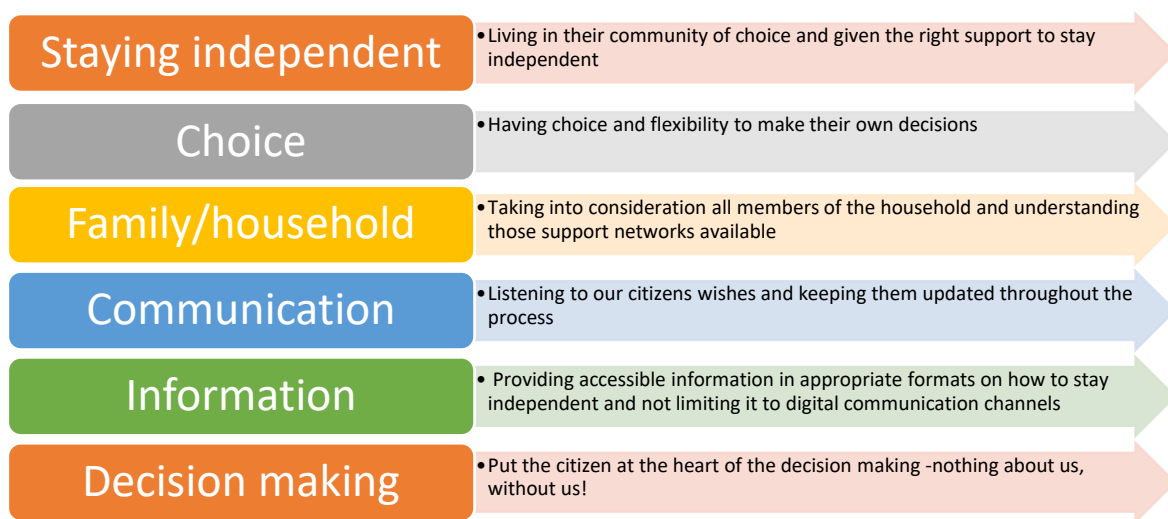
2 Recommendations

- 2.1 That Cabinet; -
 - 2.1.1 Approves the Staying Independent at Home (SIAH) Policy and the associated implementation measures.
 - 2.1.2 Notes the implementation dates of the assistance
 - 2.1.2.1. Top Up Grant implemented from the 11th April 2022.
 - 2.1.2.2. Other forms of assistance implemented by the 3rd October 2022.
 - 2.1.3 Approves a 16-month extension for current contracts for the provision of Key Safes and Major Adaptations as detailed in 7.4.6 - 7.4.9 for the maximum value of £14.362m.
 - 2.1.4 Delegates the approval of the Commissioning and Procurement Strategy to the Cabinet Members for Health and Social Care and Finance and Resources.
- 2.2 Authorises the City Solicitor (or their delegate) to conclude and enter into all legal documents to give effect to the above

3 Background

- 3.1 The Housing Grants, Construction and Regeneration Act 1996 (HGCRA 1996) places a mandatory duty on the Local Authority to provide grants towards the costs of works required for the provision of facilities for people living with disabilities as defined in the Equality Act 2010. These are known as Disabled Facilities Grants (DFG). Funding is allocated annually from central government via the Better Care Fund to support local authorities to discharge this duty.
- 3.2 The Regulatory Reform (Housing Assistance) (England and Wales) Order 2002 (RRO 2002), enables the Local Authority to use discretionary powers to provide other forms of housing assistance in addition to the mandatory duties to provide DFG. In order to exercise discretion and flexibility in the form of assistance offered and crucially to enable flexibility in the use of the annual DFG funding allocation, the Local Authority must publish a policy setting out the assistance available.
- 3.3 Currently, Birmingham does not have a published policy under the Regulatory Reform Order (RRO) 2002. This means that the Council is unable to make use of the discretionary powers. By having a policy in place, the Council will be able to exercise greater flexibility to support citizens to remain living independently at home. This provides benefits to both the Council – in terms of less bureaucratic processes – and to citizens – in terms of more responsive and personalised assistance.

- 3.4 The SIAH Policy sets out the assistance that the Council will provide in response to duties and powers arising from three key pieces of legislation: The Care Act 2014, The Housing Grants, Construction and Regeneration Act 1996 and the Regulatory Reform Order 2002. Bringing these together into a single policy is intended to provide a clearer framework for assistance.
- 3.5 The SIAH Policy has been developed through co-production with citizens. The project team would like to formally acknowledge the dedication and hard work of those citizens in supporting the development of the policy and providing a better understanding of how this could support citizens to stay independent at home. There were 6 key themes identified by citizens as important. These underpinned the policy development and are:



- 3.5 In respect of the exercise of discretionary powers through the RRO, the policy has been developed to meet the following objectives:
- Supporting disabled citizens to secure necessary adaptations which cost more than the maximum (£30k) allowed under the Disabled Facilities Grant. These will be known as **Top Up Grants**.
 - Securing prompt discharge from hospital of citizens who might, due to accommodation difficulties, otherwise remain in hospital longer than necessary. This will be known as **Discharge Assistance**
 - Addressing accommodation difficulties which, if not resolved, might lead to an avoidable admission to hospital, or residential care or which impact upon the ability of a citizen to live safely and independently at home. This will be known as **Independent and Safe Assistance**
- 3.6 This will enable the Council to provide support and services to citizens with a greater focus on prevention and providing assistance in a way that meets the needs of the citizen, keeping them independent at home.
- 3.7 In order to ensure that the services are able to develop and be mobilised there is a phased approach planned for the implementation of the policy that will see the Top

Up Grants implemented from the 11th April 2022 and the other forms of assistance by the 3rd October 2022.

4 Options considered and Recommended Proposal

- 4.1 Do Nothing – do not publish a policy and continue only providing the mandatory requirements. This is not recommended as this limits the support and assistance that the Council is able to provide to citizens, which could prevent them needing further intervention.
- 4.2 Limited development – only increasing the support available through the mandatory grant such as top ups. This is not recommended as this limits the assistance the Council could provide to support citizens to remain at home.
- 4.3 Implement the policy – approve the implementation of the policy, which enables the Council to widen the use of discretion to be able to provide additional support and assistance to citizens enabling them to remain living as independently as possible at home. This is the recommended proposal.

5 Consultation

- 5.1 The contents of this report were discussed at the Staying Independent at Home Programme Board on the 18th January 2022. The Board were supportive of the recommendations within this report.
- 5.2 The contents of this report were discussed at the Better Care Fund Programme Board on the 25th January 2022 and the Board were supportive of the recommendation to implement the policy.
- 5.3 The contents of this report were discussed at the Adult Social Care Management Team on the 26th January 2022 and they were supportive of the recommendations within this report.

6 Risk Management

- 6.1 The policy has been developed through a robust project management programme that includes the management and identification of risks that are tracked as part of the project delivery. There are no identified risks in the adoption of the policy, but this will continue to be monitored as the policy implementation is completed and through service delivery.

7 Compliance Issues:

7.1 How are the recommended decisions consistent with the City Council's priorities, plans and strategies?

- 7.1.1 Birmingham is an aspirational city to grow up in – through the policy implementation this will give greater choice to citizens of all ages to be able to make a more informed decision about living at home with support to ensure

home is a safe environment. This widens the options available to citizens to have greater choice when addressing their social care need.

- 7.1.2 Birmingham is a fulfilling city to age well in – by implementing the Staying Independent at Home Policy the Council will be able to support citizens to remain living as independently as possible within their own homes.

7.2 Legal Implications

- 7.2.1 Section 14 of The Care Act 2014 states that the Council must provide minor works or equipment of a value of less than £1,000 free of charge to the citizen as detailed in The Act where these are necessary to meet a Care Act outcome.
- 7.2.2 The Housing Grants, Construction and Regeneration Act 1996 (HGCRA 1996) places a mandatory duty on the Local Authority to provide grants towards the costs of works required for the provision of facilities for people living with disabilities as defined in the Equality Act 2010.
- 7.2.3 The Regulatory Reform (Housing Assistance) (England and Wales) Order 2002 (RRO 2002), enables the Local Authority to use discretionary powers to provide other forms of housing assistance in addition to the mandatory duties to provide DFG. In order to exercise discretion and flexibility in the form of assistance offered and crucially to enable flexibility in the use of the annual DFG funding allocation, the Local Authority must publish a policy setting out the assistance available.

7.3 Financial Implications

- 7.3.1 The implementation of the policy will be funded through the Disabled Facilities Grant received into the Council, Adult Social Care base budget and also the Housing Revenue Account (council tenants).
- 7.3.2 Revenue spend will replace funds already spent on achieving care outcomes, so will not put a pressure on general fund. Capital spend will be funded from either the HRA or the annual Disabled Facilities Grant (currently £12.7m per annum, which cannot be used for other purposes other than statutory adaptations grants or discretionary spend as per a published policy) depending on the tenure of the citizen.
- 7.3.3 The cost of the proposed contract extensions detailed in 7.4.6 - 7.4.9 will cost a maximum of £14.362m for 16 months and will be funded through the annual Disabled Facilities Grant that is received by the Council. There is no additional funding required from the Council to support the extensions of the contracts.
- 7.3.4 The policy includes a prioritisation of approvals of grant requests according to need and statutory requirement. Although there is currently no expectation of applications exceeding the total grant income and existing reserves for the short to medium term, this prioritisation ensures that the introduction of discretionary assistance creates no risk of overcommitment of funds.

- 7.3.5 The Social Care White Paper – “People at the Heart of Care” - has also indicated that additional funding will be given to Local Authorities to support people to remain living independently. This policy reflects the ambitions of the white paper and will enable the Council to deploy any additional funding within an agreed policy.

7.4 Procurement Implications

- 7.4.1 Integrated Service Model – in developing the policy officers have been mindful of the need to develop new delivery arrangements to support implementation. Therefore, work has commenced on the commissioning strategy for an Integrated Service that will be able to deliver and respond to the needs of Birmingham Citizens and more suited to the capability of the market. The aim of the Integrated Service will be to bring all of the services including Key Safes, Minor Adaptations and Major Adaptations together as well as bringing in additional new areas of delivery, refocusing the provision on the areas outlined in the policy. Over the coming months market engagement will develop the future model and specification.
- 7.4.2 The indicative implementation plan for the commissioning and procurement is:

Activity	Proposed Dates
Commissioning strategy development	March – July 2022
Specification and ITT developed	July – August 2022
Procurement Strategy Report	September 2022
ITT Issued	September 2022
ITT Return	November 2022
Evaluation Period	November – December 2022
Contract Award	December 2022
Mobilisation period	January – April 2023
Contract Start	July 2023

- 7.4.3 The proposal for the procurement is via the Open tender route to market. The proposed split for price, quality and social value is based on ensuring that the quality and provision provided would be able to meet the needs of our most vulnerable citizens whilst still maintaining value for money, therefore the split of 50% Quality, 30% Price and 20% Social Value.
- 7.4.4 It is proposed that the approval of the Procurement Strategy be delegated to the Cabinet Members for Adult Social Care/Finance and Resources and the Director Adult Social Care to enable the procurement of a new integrated model to be achieved within the advised timeline above.
- 7.4.5 In order to be able to deliver assistance under the policy there will be a requirement to extend the current service arrangements to stabilise services

for the interim period while the commissioning and procurement detailed above is completed. As part of the policy development it was clear that services would need to be delivered differently in the future to meet the need, widened scope and potential additional demand. It was identified that it would not be in the best interests of the Council or providers to undertake multiple procurement processes in quick succession.

7.4.6 The services that require an extension are:

Key Safes

This service is currently provided by Black Country Housing Group with a contract value of £600k, the original contract was for a 2 plus 2 which expired on the 31st March 2020, a procurement process was followed but this was unsuccessful in securing an award due lack of quality responses from the market. Therefore, as there is a statutory duty under Section 2 of the Care Act to provide this service, the contract was extended until 4th December 2021. The provider has continued delivering the service since this date at risk, therefore this additional proposed extension would formalise the contract. The proposal is to extend the current service until the 30th June 2023 (16 months) with a maximum value of £250k. There are no performance issues with this provider.

Major Adaptations

This service is currently broken down into 2 lots as detailed below:

7.4.7 Lot 1 (lifting equipment) extension would be for a maximum value of £2.8m with Able Access UK Ltd and Dolphin Lifts Midlands Ltd, the original contract awarded was for a 3 plus 1 which have already been utilised this expired on 31st August 2021. The providers have continued to deliver the service at risk, therefore this would be an additional extension to formalise the contract. There are no performance issues with the current providers.

7.4.8 Lot 2 (bathrooms and kitchens) extension would be for a maximum value of £11.312m, the original contract awarded was for a 3 plus 1 which is due to expire on the 31st April 2022, therefore this would be an additional extension, there are no performance issues with the current providers. The extensions would be with; -

- 3MS Gold Services Ltd
- Able Access UK Ltd
- Bickford Construction
- Eden Adaptations
- Fortem Solutions Ltd
- Goodwells Ltd
- Hardyman Group Ltd

- John Gillespie Contractors Ltd
- Laker BMS Ltd
- S Kitaure Construction
- Wates Construction Ltd

- 7.4.9 The original combined contract value for these Lot 1 and Lot 2 services for four years was £17.6m. This was a reflection of the amount of DFG grant allocated to the Council from government in 2017/18. This grant allocation has increased substantially over the years to a position where grant allocation for 2021/22 is £12.7m. Demand has steadily increased for these services and while the long-term effects of Covid and its impact on demand is yet to be determined, it is likely that demand for this enabling service will continue to increase.
- 7.4.10 In light of the details outlined in 7.4.6 – 7.4.8 the Council seeks to amend the contracts in accordance with the Public Contract Regulations (PCR 2015). Clause 72 of the Public Contract Regulations (72.1.bii) permits contract modifications *“for additional works, services or supplies by the original contractor that have become necessary and were not included in the initial procurement, where a change of contractor—*
(ii) would cause significant inconvenience or substantial duplication of costs for the contracting authority, provided that any increase in price does not exceed 50% of the value of the original contract;”
- 7.4.11 Due to the increase in grant funding, the value of the extension is in excess of 50% of the contract value, and therefore there could be a risk of challenge from other providers, however the value of the extension is required to ensure that the Council is able to spend its annual grant allocation.
- 7.4.12 Given that this arrangement is time-limited and that the recommendations of this report will commence a commissioning and procurement process, the risk of challenge from other potential providers is considered to be minimal and outweighed by the risk of not having a continuation of service in place.
- 7.4.13 In order to further mitigate the risk, a Voluntary Ex Ante Transparency (VEAT) notice will be published notifying the market of our intention to extend these contracts.
- 7.4.14 The value of the extension for Key Safes is contained within the 50% allowance.
- 7.4.15 The contract for Minor works which is the delivery of works less than £1,000 is currently out for procurement and due to be completed shortly.
- 7.4.16 The Contracts will be managed by the Multi-Disciplinary Team Manager within the Adult Social Care Directorate, supported by the Commissioning Manager as required.

7.5 Human Resources Implications

7.5.1 None

7.6 Public Sector Equality Duty

7.6.1 Through the adoption of the Staying Independent at Home Policy the support and assistance available to citizens will be widened. Citizens who are eligible for assistance as detailed within the policy will be able to seek assistance and support from the Council.

7.6.2 See **Appendix 3** Equality Impact Assessment (EQUA849)

7.6.3 The requirements of Standing Order No. 9 in respect of the Council's Equal Opportunities Policy are incorporated in the Contract for those services proposed to be extended.

7.6.4 The requirements of the Equality Act 2010 are specifically included in the Contract to comply with, the Act.

8 Appendices

8.1 **Appendix 1** - Exempt Information

8.2 **Appendix 2** - Staying Independent at Home Policy

8.3 **Appendix 3** - Equality Impact Assessment (EQUA849)