

Birmingham City Council

Report to Cabinet

26 May 2020



Subject:	STATEMENT OF INTENT – ENERGY COMPANY OBLIGATION
Report of:	Rob James - Acting Director, Neighbourhoods, Dr Justin Varney - Director of Public Health
Relevant Cabinet Member:	Cllr Sharon Thompson - Homes and Neighbourhoods, Cllr John Cotton - Social Inclusion, Community Safety and Equalities Cllr Paulette Hamilton - Health and Social Care Cllr Waseem Zaffar – Transport and Environment
Relevant O &S Chair(s):	Cllr Penny Holbrook - Housing and Neighbourhoods Councillor Rob Pocock - Health and Social Care Overview & Scrutiny Committee
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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: 007673/2020		
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 type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, provide exempt information paragraph number or reason if confidential:		

1 Executive Summary

This report sets out the proposed City Council approach regarding establishing the Council's Flexible Eligibility 'Statement of Intent' (**Appendix 1**) as part of the Government's Energy Company Obligation (ECO) and how residents could qualify for discretionary help with keeping warm at home. The Council decision to approve this scheme is key to tackling fuel poverty in Birmingham and now also supports the Council effort to reduce the implications of COVID-19 in that it enables more citizens to secure the means to keep warm and stay well and safe.

2 Recommendations

- 2.1 Approves the Energy Company Obligation (ECO) Flexible Eligibility Statement of Intent (**Appendix 1**).
- 2.2 Authorises the Acting Director, Neighbourhoods to put all necessary steps in place to implement the Statement of Intent.
- 2.3 Authorises engagement with Agility Eco to support the delivery of this scheme.

3 Background

- 3.1 ECO is an obligation placed upon larger energy companies by the Government to help households reduce their energy bills and associated carbon emissions. Recent changes to ECO have obligated energy companies to achieve up to 10% of their Affordable Warmth targets in conjunction with local authorities via a new mechanism called ECO Flexible Eligibility.
- 3.2 Central Government (guidance dated April 2017) enabled Local Authorities to allow ECO to be flexible for vulnerable residents who fall outside of 'the normal' funding criteria. This is laid out in the proposed statement of intent and creates an additional layer of funding for vulnerable people, that can be helped out of fuel poverty.
- 3.3 ECO Flexible Eligibility allows local authorities to work with energy companies to identify eligible households for the installation of measures. There are two main categories of household that Government intends ECO Flexible Eligibility will benefit:
 - Fuel poor households, especially those that are not in receipt of ECO eligible benefits, and the estimated 20% of fuel poor households that are not in receipt of any benefits;
 - Low income households that are vulnerable to the effects of living in a cold home.
- 3.4 A prerequisite of the Flexible Eligibility mechanism is that local authorities produce and publish a Statement of Intent (SOI), which details how the Council will identify households as eligible, and the criteria which will be

adopted; allowing for transparency and public accountability of the scheme. The eligibility criteria for Birmingham households has been drawn based on the Government's guidance, through comparison with other Local Authorities across the West Midlands and in response to the level of need identified locally.

- 3.5 The Council will not decide which household is successful in receiving energy saving measures and will not undertake any of the work in terms of assessing suitability of applications. A decision will be made by the energy company and will depend upon:
- (i) a survey carried out by the energy suppliers' agents or contractors and installation costs calculated,
 - (ii) energy savings that can be achieved and
 - (iii) whether suppliers have achieved their targets or require further measures to meet their ECO targets.
- 3.6 The Energy company will submit its declaration of intent to the Local Authority for a formal sign off in line with the eligibility criteria prior to work being undertaken, then undertake the work and draw down the government funding for it. The work will be carried out at no cost to the local authority.
- 3.7 Following putting in place a SOI, the Council's role is to:
- sign off declarations of intent to supply energy saving measures made by energy companies
 - undertake a percentage audit of applications and
 - monitor outcomes through the KPIs set out in the Statement of intent.
- 3.8 Birmingham City Council intends to work with Agility ECO in order to fulfil its obligations under the SOI. Agility ECO is an organisation recognised as a leader in low carbon, energy efficiency and fuel poverty services. It provides funding, management and delivery of energy efficiency programmes, including those for vulnerable citizens through a strong liaison with energy providers.
- 3.9 Agility ECO draws its funding from the bigger energy companies under the ECO scheme and has contracts in place with 8 of the suppliers, including British Gas and Scottish Power, to deliver their ECO obligations.
- 3.10 The statement of intent (flexible ECO) allows Local Authorities to enable '*additional support*' for our vulnerable residents. We have selected Agility ECO, as the Council has a history of working with LEAP and Agility through the previous affordable warmth programme. We are not aware of any other organisation that offers the level of project delivery support, managing obligations under ECO for Local Authorities and the level of policy knowledge in this area. Agility undertake work for OFGEM and other Local Authorities.

- 3.11 Agility ECO will administrate the scheme on behalf of BCC and assess Birmingham's ECO declarations at no cost to the Council. Agility ECO cannot sign the declarations off, but they can check them on the Council's behalf, if the Council intends to take up this expert offer, as they would do as part of their usual provision. They would also undertake an audit trail of all declarations submitted and approved by the Council and monitor outcomes through KPIs.
- 3.12 Agility Eco do not have exclusivity with BCC and any resident of Birmingham can access ECO funding through a delivery agent who installs a measure, such as loft insulation on behalf of an energy supplier. If the SOI application is for a measure under the Agility ECO's contract with a supplier, Agility ECO will absorb the cost as part of their provision under the contract. Otherwise, an administration fee of £30.00 will be levied. BCC would not be charged, or process any finance, as they do not hold the funds.
- 3.13 Based on experience in other Local Authority areas, it is unlikely for the number of SOI applications to exceed 333 in one year, therefore the indirect costs to energy companies with whom Agility ECO do not have contractual arrangements to deliver the scheme is unlikely to exceed £10,000 per annum.
- 3.14 The current ECO scheme runs until March 2022. Once the Cabinet's approval is received (which we are keen to obtain in order to implement the scheme before winter), we will work with Corporate Procurement and Legal Services to put in place a Memorandum of Understanding, which may mean using Agility in the first instance and then subsequently review.
- 3.15 The Memorandum of Understanding that will be drawn with Agility ECO will specify their responsibilities and cooperation with BCC, which includes information sharing under GDPR provisions.

4 Options considered and Recommended Proposal

- 4.1 Do Nothing - If the Council does not approve the ECO Flexible Eligibility Statement of Intent, this means Birmingham citizens cannot access ECO flexible funding for energy improvements for their homes.
- 4.2 Approve ECO Flexible Eligibility Statement of Intent - If approved the Statement of Intent will be accessible to all citizens who meet the eligibility criteria.

5 Consultation

- 5.1 Public Health Officers, the Financial Inclusion Partnership and the Health and Wellbeing Board have been consulted on this proposal and endorse it.
- 5.2 Energy companies are aware of the scheme, as they provide their energy saving services under this Government's scheme in other parts of the country and across the West Midlands. They have been consulted by the Government prior to the introduction of the scheme and remain engaged, as the scheme

evolves. Agility ECO are engaged with the energy companies operating in Birmingham.

6 Risk Management

6.1 No significant risks have been identified for the Council.

The following medium to low risks and mitigation have been identified.

Risk Analysis			
Identified Risk	Likelihood	Impact	Actions to Manage Risk
BCC is the only Local Authority in the West Midlands that does not operate ECO flex scheme	Medium (this is currently the case)	High - the most vulnerable fuel poor households do not receive the support they are eligible for	Approve and implement the Statement of Intent and ECO Flexible scheme in Birmingham
Once approved and implemented the take up of the scheme is low and having little impact	Low	Medium – many of fuel poverty households remain in fuel poverty	The risk can be minimised through effective promotional activity through BCC communication channels and supported by Agility ECO and energy companies
Agility ECO does not wish to continue their service free of charge	Low	Medium – BCC would need to put a service in place to assess energy company declarations	The risk would be managed by establishing an internal process
If the SOI is not approved before summer we will not have enough time to implement the scheme before the winter	Medium	High – many of fuel poverty households remain in fuel poverty; this may have	The risk can be reduced by approving the SOI in spring 2020

		an impact on recovery from Covid-19	
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7 Compliance Issues

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

The SOI has been designed to mirror the City Council's priorities within the Council Plan 2018-2022 (2019 update) as follows:

- 7.1.1 The ECO Flexibility scheme is a key priority under the cities Financial Inclusion Strategy
- 7.1.2 A fulfilling city to age well in = Aging well priorities. Birmingham Public Health indicator in reducing the excess emergency admissions for over 65s in winter months
- 7.1.3 A great city to live in = Healthy environment priorities by improving the wellbeing of the most disadvantaged
- 7.1.4 Birmingham housing strategy outlines the importance of tackling fuel poverty to improve health, well-being and financial inclusion.
- 7.1.5 Public Health priorities are supported by an overarching commitment to reduce health inequalities (a duty of the Local Council under the Health and Social Care Act 2012). Additionally, this scheme will support Birmingham City Council in the fight against COVID19 to maintain better health & wellbeing of our citizens in warm homes.
- 7.1.6 Birmingham Home Energy Conservation Act (HECA) is responsible for reporting on Birmingham City Council progress in improving energy efficiency and tackling fuel poverty
- 7.1.7 Climate Change agenda by reducing energy consumption and fuel emissions.

7.2 Legal Implications

- 7.2.1 The key requirements on flexible eligibility are set out in The Electricity and Gas (Energy Company Obligation) Order 2018 and The Electricity and Gas (Energy Company Obligation) (Amendment) Order 2019. It establishes the Energy Company Obligation scheme for the period to 31st March 2022 for the promotion of measures for reducing the cost to individuals of heating their homes. The current Government guidance

for local authorities produced by the department for Business, Energy and Industrial Strategy is. The Energy Company Obligation: ECO3, 2018-22 Flexible Eligibility Guidance, dated February 2019.

- 7.2.2 Implementation of the Council's Flexible Eligibility 'Statement of Intent' scheme to support fuel poor and low-income households that are vulnerable to the effects of living in a cold home is made pursuant to the general power of competence under Section 1 of the Localism Act 2011.

7.3 Financial Implications

- 7.3.1 There are no direct financial implications for the City Council to deliver its obligations under this scheme. The proposal will enable energy providers to meet their obligation to reduce carbon emissions and tackle fuel poverty as required by Central Government directives, using these additional criteria, for the vulnerable residents of Birmingham.
- 7.3.2 Agility ECO, who will administrate the scheme on behalf of BCC as part of its business as usual provision, draws its funds from the bigger energy companies under the ECO scheme and has contracts in place with 8 of the suppliers. If the SOI application is for a measure not under the Agility ECO's contract with a supplier, an administration fee of £30.00 will be levied by Agility ECO. Based on experience across other Local Authorities who are part of the scheme, it is highly unlikely for more than 333 SOI applications to be made within one year, therefore the indirect cost to suppliers is unlikely to exceed £10,000.
- 7.3.3 There is an insignificant human resource (up to 0.2fte) implication to monitor and sign off the shortlisted applications, this will be met from within existing resources in the Neighbourhoods Directorate.
- 7.3.4 The Council may also undertake additional marketing activity to support Agility ECO and the energy companies to promote the scheme, which could be absorbed through the communications services already being provided to and resourced by Housing/ Neighbourhoods and Public Health.

7.4 Procurement Implications (if required)

- 7.4.1 The proposed arrangements with Agility ECO lend themselves to a concession arrangement. The estimated value of the concession over a two year period is circa £20,000 based on the information provided above. This is significantly below the concession threshold pursuant to the Concession Contract Regulations 2016 and therefore, there is no requirement to undertake a full procurement exercise.
- 7.4.2 Given the need for expediency and the extensive reach in terms of relationships that Agility ECO has with the main energy providers and the

fact that the estimated value falls below the EU procurement threshold, a direct appointment is the most suitable approach in the circumstances.

- 7.4.3 Whilst the Council's relationship with Agility ECO is a partnership arrangement that does not involve exchange of funding, it will nevertheless be governed by a Memorandum of Understanding.

7.5 Human Resources Implications (if required)

- 7.5.1 A member of staff from the Neighbourhood directorate has been identified to process the authorisation of the Energy Company declarations. There is no additional cost, as this task will be absorbed within their current role.

7.6 Public Sector Equality Duty

- 7.6.1 Initial Equality Impact Assessment submitted (**Appendix 2**) - no adverse impact identified.

8 Appendices

- 8.1 **Appendix 1** – Statement of Intent
- 8.2 **Appendix 2** – Equality Impact Assessment