



## EXECUTIVE

### 14<sup>th</sup> September 2023

<b>Report Title</b>	<b>Energy Procurement Contract</b>
<b>Report Author</b>	Graeme Kane, Executive Director for Place and Economy
<b>Lead Member</b>	Cllr Matthew Binley, Executive Member for Highways, Travel and Assets

<b>Key Decision</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>Is the decision eligible for call-in by Scrutiny?</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>Are there public sector equality duty implications?</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>Does the report contain confidential or exempt information (whether in appendices or not)?</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>Applicable paragraph number/s for exemption from publication under Schedule 12A Local Government Act 1972</b>	

#### List of Appendices

None

#### **1. Purpose of Report**

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- 1.1. This report seeks approval to secure a new energy broker contract for North Northamptonshire Council with a view to aligning the energy supply across the whole council estate with one provider from 1<sup>st</sup> October 2024.
- 1.2. The report recommends a preferred way forward and seeks permission to procure the new contract through to completion.

#### **2. Executive Summary**

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- 2.1. The Council has inherited varying contractual arrangements to energy supply from the predecessor councils. These contractual arrangements expire at the end of September 2024, which provides an opportunity to harmonise the procurement of energy supply with effect from 1<sup>st</sup> October 2024 up to 30<sup>th</sup> September 2028.

- 2.2. Harmonisation of the contracts supports the Council obtaining value for money and delivery of the Council's Carbon Management Plan, and target to be carbon neutral by 2030.
- 2.3. To advise the Executive of the role of Public Buying Organisations "PBO's" and how their use supports the public sector to achieve energy cost reductions in the deregulated gas, electricity and water markets.

### **3. Recommendations**

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3.1. It is recommended that the Executive: -

- a) Notes the requirement to progress the procurement of a new energy contract to take effect from 1<sup>st</sup> October 2024
- b) Approve the procurement of Energy Supplies via a Public Buying Organisation, noting the proposed use of a Flexible Purchase in Advance (PIA) option, subject to the rates received.
- c) Approve the purchase of a Fully Managed Service (FMS) including a bureau service.
- d) Delegates authority to the Executive Member for Highways, Travel & Assets, in consultation with the Assistant Director Assets & Environment to procure and award the contract following conclusion of the Council procurement process.

3.2. Reason for Recommendations:-

- To accord with the Council's procurement requirements.
- To support the Council's carbon management plan, and target to be carbon neutral by 2030.
- The recommended approach allows the Council to be supported by energy expertise and corporate landlord monitoring.
- The recommended approach supports budget forecasting by mitigating the risks of having supplies out of contract.

3.3. Alternative Options Considered:

- The Council currently does not have the expertise or resources available to undertake an individual procurement for energy supply, as the sovereign councils, like most Local Authorities, utilised public buying organisations.
- Do Nothing – this is not an option as it would not comply with procurement legislation or the Council's procurement policy. Additional

costs would arise as any supplies not part of an agreed contract would be liable for 'out of contract' penalty rates. Moreover, there will be high uncertainty around utility costs as their prices are directly affected by market volatility.

#### **4. Report Background**

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- 4.1. The Council is currently using two Public Buying Organisations (PBO's), the LASER and Eastern Shires Purchasing Organisation (ESPO) frameworks for procuring electricity and gas for the period 2020-24. These reflect the historical arrangements in place in the former Councils operating in Northamptonshire prior to the establishment of NNC in April 2021. In 2007 the former Northamptonshire County Council (NCC) adopted the fully managed Energy Procurement Service provided by Kent County Council through their LASER Energy Buying Group. The predecessor Councils, except for Kettering, were also contracted with LASER but had slightly different contractual arrangements. Kettering are contracted with ESPO for both gas and electricity supply until 2024.
- 4.2. Both LASER and ESPO are well established PBO's with the purpose of helping the public sector achieve energy cost reductions in the deregulated gas, electricity and water markets.
- 4.3. Following Local Government Reorganisation in Northamptonshire, NCC Council novated the LASER utilities contract for the former NCC sites to NNC and merged this with the remaining LASER utility contracts for the former Corby, East Northamptonshire and Wellingborough councils. Kettering remaining contractually tied in with ESPO.
- 4.4. To support with the Carbon Management Plan and budget monitoring , NNC varied the current contract with LASER to include a Fully Managed Service (FMS) which provides an energy monitoring service, as well as additional accounting support.
- 4.5. Purchasing through a PBO such as LASER or ESPO is permitted under regulation 55 of the Utilities Contract Regulations 2006 operating as a central purchasing body as defined in the regulations. This ensures that the process fully complies with procurement.
- 4.6. All PBO's have flexible procurement models which aggregate the energy volumes of customers, monitor the market prices and purchasing the energy requirements in multiple blocks over a period prior to the point of use.
- 4.7. To spread the market price risk and to avoid buying during periods of peak market pricing, The Office of Government Commerce's Pan Government Energy Project recommends that it is best practice for public sector organisations to buy energy through Central Purchasing Body frameworks such as PBO's as this provides the best solution to cost reduction in complex and volatile markets. Gas and electricity have been extremely volatile with uplifts in some supplies reported by LASER as high as 1200% at one stage last year,

although these levels did not impact Council accounts due to the existing contracts in place. The recommendation is to use an approved PBO, with the focus on managed aggregated contracts.

- 4.8. Flexible procurement contracts are aimed at smoothing future price fluctuations and spreading the risk by pooling the Council's energy requirements. The current contracts have protected the Council during the energy crisis, demonstrated by securing prices below the Government's threshold for receiving financial support.
- 4.9. This flexibility in approach is also important in supporting the Council with securing and implementing its Carbon Management Plan by identifying opportunities to enhance sustainable energy supply and energy management of its estate.

## **5. Issues and Choices**

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- 5.1. The Council currently uses PBOs to procure and monitor energy. The proposal is to continue to use a PBO as a delivery model as a PBO can procure better rates, invest in and retain the resources to provide energy monitoring and advice, and have a proactive, knowledgeable resource to monitor accounts and challenge utility providers on the Council's behalf. There are no resources in-house to undertake the work currently completed by the PBO.
- 5.2. The proposed way forward is to procure and award a new four-year contract. A project team has been established, including legal and procurement experts, to support the service with the procurement and ensure that it is completed following due process.
- 5.3. The PBO offers flexible framework procurement opportunities, and customers can choose which option best suits their requirements. The flexible framework opportunities are explained below:
- 5.4. The Council could procure its own energy supply directly from suppliers but does not have the resources or expertise to do this. It would require significant investment in resources for both staff and systems; the current teams within the Council do not have the time or budget to put this in place and the prices received would potentially be materially higher than using a large buying organisation.
- 5.5. **Flexible Purchase in Advance (PIA)**
- 5.6. With this option, the PBO aggregates the energy volumes of all customers who utilise the PIA basket option. All volume is purchased in multiple trades in advance of each 12-month supply period. The sum of all trades is used to calculate the aggregate wholesale basket price, which is applied to all customers in the basket. All non-energy costs (such as network charges and environmental levies) are then added to arrive at the delivered price to apply on invoicing for the following 12-month supply period. This price is firm for the 12-month period.

### 5.7. **Flexible Purchase within Period (PWP)**

5.8. In this option the PBO aggregates the energy volumes of all customers who utilise the PWP basket option. Ordinarily, a proportion of the required energy volume is progressively purchased prior to each six-month supply period and the remainder is purchased within the supply period.

5.9. A reference price will be set to apply on invoices for each six-month supply period. The reference price is based on the cost of all energy purchased prior to the supply period (the 'closed volume') and forecast of costs to purchase the remaining energy within the supply period (the 'open volume'). At the end of each six-month supply period, once all energy requirements have been purchased, reconciliation takes place between the reference price applied to invoices and the final (achieved) purchase price. This then leads either to a credit or an additional invoice, a credit being more likely when the markets are less volatile. The former Corby Borough Council had the PWP arrangement in place and their prices were higher than for the PIA arrangement.

### 5.10. **Flex Set and Reset (FSAR)**

5.11. Flexible Set and Reset allows customers to purchase a proportion of the required volume prior to delivery for each 6-month supply period. The remainder is then purchased within this period. Budget limits are agreed in advance, with commodity purchases closed out if market prices move above the pre-set limits. This option facilitates the sell back of volume if the market falls by more than the pre-set triggers. A mechanism is then in place to buy back prior to the point of use.

5.12. Reviewing the options with finance, legal and procurement, the recommended basket is the PIA option. This will mitigate the risk of a volatile market flexible purchase in advance; PIA provides the greatest level of mitigation and budget certainty.

### 5.13. **Renewable Energy**

5.14. Utility providers promote the use of Renewable Energy Guarantees of Origin (REGOs) which were established with the aim of demonstrating that electricity has been generated from renewable sources. The current contracts do not provide the Council with any renewable energy supply. There is the option of purchasing REGO's (Renewable Energy Guarantees of Origin) with both LASER and ESPO obtaining these for an additional cost in the region of 1 – 1.7p per kilowatt hour. The cost of REGO's has increased significantly since 2021 and combining this with the fact that there is no absolute guarantee that the supply is linked back to renewable sources it is proposed to not pay the additional cost for REGO's (£500k + pa) and instead explore direct investment into other energy projects which can be set off against NNC's carbon footprint.

5.15. The REGO regime has been the subject of some criticism, because on days of low wind and solar energy production, much of the electricity supplied on the green energy tariffs still comes from fossil fuel production. Two energy suppliers have stopped using REGO amid concerns of misleading customers.

The estimated cost to the Council in committing to REGOs is in the region of £500,000 based on current consumption levels. This would be a significant increased pressure on the financial budgets and with the challenge that there can be no guarantee that the supply is sourced from renewables it is not considered good value for money to invest in REGOs.

5.16. The Council has committed to becoming carbon neutral by 2030. To enable this commitment, a budget of £1m was created to support climate change initiatives. Greater gains towards achieving the Council's carbon neutral commitment can be made by investing funds into measures such as retrofitting buildings with renewable energy sources and energy efficiency projects rather than investing in REGOs. Work has already begun on evaluating the energy efficiency of significant corporate sites and work will continue to be progressed through current mechanisms as outlined in the Council's Carbon Management Plan.

5.17. **Public Buying Organisations (PBO)**

5.18. Benchmarking information from LASER and ESPO's during the current contract shows that both contracts outperformed the market year on year securing utility prices below the market average until 2023. However, due to the volatility of the market and different hedging strategies it is not suggested that this represents a single determining factor for determining the contract award.

5.19. The recommendation to purchase a Fully Managed Service (FMS) including the bureau service includes:

- Invoice validation of all accounts received. This provides a corporate landlord model review and ensures the Council are not invoiced for any charges if a supplier invoice fails PBO's internal checking system.
- Query management and resolution with utility suppliers. The PBO's Customer Relationship Management (CRM) team deal with all queries with the utility companies on behalf of the customer. This facilitates the management of the contract as there will not need to be a direct relationship with the two electricity and gas suppliers.
- Online account management – including access to billing history, consumption, meter readings upload and query progress. This corporate landlord model allows the Council to obtain information on the whole Council estate.
- Smart meters rollout programme: The PBO's CRM team will work with the Council to deliver a smart meter rollout programme. This ensures the required information for swap out will be centrally recorded, to mitigate billing risks. Smart meters will provide actual consumption data for billing purposes and result in minimal use of estimated billing and will prevent allocating resources to manually read the electricity and gas meters.

## **6. Next Steps**

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- 6.1. Implement the preferred procurement route with a suitable PBO. As part of this process the most suitable framework tariff will be evaluated, to determine the best price available to the Council, in considering available budget and risk.

## **7. Implications (including financial implications)**

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### **7.1. Resources, Financial and Transformation**

- 7.1.1. The contract value over a 4-year period will be circa £33m based on current budget information. The contract period of 4 years will provide a forward procurement window to track the market and purchase supply at optimal times. This timeframe also enables the Council to progress its Carbon Management Plan 2022 sufficiently to inform future procurements whilst having the benefit of the availability of additional energy management services and volume tolerance flexibility.
- 7.1.2. Energy prices are affected by two main external factors, government policy and market forces. Due to market volatility, it is difficult to forecast energy prices and the frameworks are only just starting to purchase for customers who have committed to the 2024 to 2028 framework.
- 7.1.3. The proposed way forward supports the Council with budget forecasting as the PBO will benefit from beneficial rates due to its larger purchasing power. This will reduce risks of unforeseen costs and support the Council's budget setting process and delivery of their Medium-Term Financial Plan.

### **7.2. Legal and Governance**

- 7.2.1. The contract will be procured and awarded in accordance with all legal requirements, including relevant legislation and the Council's Contract Procedure Rules.
- 7.2.2. A member of the Council's in-house Legal team will sit as a representative on procurement project teams and will be advisor throughout the process and up to execution of any resulting contract.
- 7.2.3. All reports relating to a procurement which require legal review and/or comment to be provided to the Legal officer with conduct of the matter to which the report relates.

### **7.3. Relevant Policies and Plans**

- 7.3.1. The proposed way forward will support the Council to achieve its Carbon Neutral 2030 aim, by providing accurate energy information to assist with decision making.

7.3.2. It also supports the Corporate Plan commitment of a green, sustainable environment and modern public services, working towards reducing energy consumption across the Council's estate.

#### **7.4. Risk**

7.4.1. Market volatility remains an ongoing risk in respect of budget provision. This is mitigated as far as possible by the chosen pricing mechanism to ensure a level of budget certainty and the whole organisation budget manager monitoring of energy spend to forecast into the Medium-Term Financial Plan.

7.4.2. A further risk associated with the proposal is that there is a reduction in contracted volumes from changes to the portfolio, and as renewable energy and energy efficiency schemes come online. This risk would be mitigated by the contract allowing flexibility in volumes with notice of any change being provided to the buying organisation.

#### **7.5. Consultation**

7.5.1 There is no external consultation required as part of this decision.

#### **7.6. Consideration by Executive Advisory Panel**

7.6.1. This item was considered by the Executive Advisory Panel Sustainable Communities on 9<sup>th</sup> August 2023, whose members made the following observations:

- Surprise that green energy was more expensive.
- Confirmed that REGOs were not popular because of the inability of utility firms to guarantee energy from renewable sources.
- Interested to learn of progress and the part energy monitoring has on the decarbonisation of the estate.
- Stressed the importance of the role NNC has in influencing what businesses do in North Northamptonshire through our own actions.
- A desire for NNC to explore all options for decarbonisation and reducing its reliance on energy derived from fossil fuels.

#### **7.7. Consideration by Scrutiny**

7.7.1. This item is eligible to be reviewed by the Place and Environment Scrutiny Committee as part of their work plan.



## **7.8. Equality Implications**

7.8.1. An equality impact assessment is to be undertaken as part of the procurement process. There are no equality implications for the recommended procurement route, but an equality impact assessment is required as part of the procurement process.

## **7.9. Climate and Environment Impact**

7.9.1 The managed service will provide energy monitoring data, monitoring energy is a requirement of the carbon plan, and will facilitate decision making in connection with carbon reduction capital investments and surplus assets.

7.9.2 Purchasing energy contracts containing REGOs has been considered but has been disregarded for the reasons set out in this report, namely that they do not guarantee the supply of renewable energy. It is considered better value for money and more effective to reduce the Council's carbon footprint through energy efficiency and renewable energy measures. The Council has previously agreed a budget of £1m for the development and implementation of the Council's Carbon Management Plan which seeks to achieve carbon neutrality across the Council's estate by 2030.

## **7.10. Community Impact**

7.10.1. The Public Services (Social Value) Act (2013) transformed the way public bodies buy services and the 2021 National Procurement Policy Statement identify social value as being a key Government priority. Councils are required to consider how the services they procure might improve the social and environmental wellbeing of their local area. This has been included as a requirement of the Frameworks e.g., the PBO requirement to securing funding from the supplier for social value projects.

## **7.11. Crime and Disorder Impact**

7.11.1. None directly arising.

## **8. Background Papers**

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8.1. There are no background papers.