

FIRST TIER TRIBUNAL
PROPERTY CHAMBER (RESIDENTIAL PROPERTY)

LANDLORD AND TENANT ACT 1985 – SECTION 20ZA
ALL LEASEHOLD PROPERTIES OF THE LONDON BOROUGH OF ISLINGTON

BETWEEN

THE MAYOR AND BURGESSES OF THE
LONDON BOROUGH OF ISLINGTON

Applicant

-and-

ALL RESIDENTIAL LONG LEASEHOLDERS
OF THE LONDON BOROUGH OF ISLINGTON

Respondents

WITNESS STATEMENT OF JAMES WILSON

I, James Wilson, will say as follows:

1. I am employed as Acting Head of Energy Services of the London Borough of Islington. I have been employed in my current role for 10 months and have previously worked as Energy, Sustainability and Consulting Manager for seven years.
2. My primary role is to oversee the work of the Energy Services team. This includes the purchasing of gas and electricity for the council, schools, Landlord's portfolio and some external clients. This involves liaising with Strategic Procurement and Legal Services to ensure that all statutory, legal and financial regulations for purchasing within the Public Sector are met.
3. I make this statement from information within my own knowledge except where it appears otherwise. Insofar as the facts deposed of are within my own knowledge, they are true and insofar as they are not within my knowledge and belief, they are derived from the sources identified herein.


4. I make this statement in support of the Council/Landlord's application for dispensation under section 20ZA of the Landlord and Tenant Act 1985 in respect of Qualifying Long Term Agreements ("QLTAs") to be entered into by it for the supply of gas and electricity.
5. In January 2019 Islington Council's Executive Committee agreed to tender for a four year contract to procure supplies for gas and electricity for the period April 2020 to March 2024. I attach a copy of the Executive Report (pages 6 to 16) and Decision (pages 17 to 18) of the attached Exhibit JW-1.
6. The Invitation to Tender documentation was issued on 16 July 2019, with a closing date of 14 August 2019. The evaluation was undertaken on price alone, as the suppliers had to confirm their technical competence via the tender documents submitted.
7. The final end delivered price for gas and electricity can be split into three parts:
 - i) Commodity Charge – the actual cost of getting the gas from the beach and generating the power.
 - ii) Fixed Pass Through Costs – charges made to all suppliers by the companies that own/manage the distribution grid/pipes/meters. These are "passed through" to the end user by suppliers and are non-negotiable.
 - iii) Fixed Costs – Non Pass Through Costs – the profit margins of the supply companies, which are negotiable.
8. Suppliers were instructed to provide prices for the fixed costs elements that make up the final end delivered price, with the lowest being awarded the contracts. Suppliers were instructed to provide prices for elements (b) and (c) from year 2020/21 and (c) for the remaining three years. This was due to the pass-through costs for future years having not yet been set by Central Government. At the time, the costs of elements (b) and (c) made up around 60% of the end electricity cost and 40% of the end gas cost. The remainder was made up of the commodity price.
9. The winning bidder was Scottish and Southern Energy (SSE). In December 2019 the Corporate Director of Environment approved the award of its electricity and gas contracts for the 2020-2024 period to SSE. I attach a copy of the Decision Report marked as Exhibit JW-1, pages 19 to 28.
10. The commodity element of the gas and electricity was to be purchased flexibly after the contracts were awarded, taking into account market conditions and the Council's requirements of when the supplies are needed or when the market is low. This was done by requesting trades for defined volumes and periods through SSE.
11. For 2020/21 and 2021/22, the supplies for both financial years were purchased in full prior to the start of each year by making trades for the full volumes. However,

significant volatility and price rises in the energy market from September 2021 onwards meant that the usual strategy of purchasing when the market was low could not be implemented.

12. The Council therefore opted to purchase for shorter periods with the expectation that prices would eventually settle. However, the ongoing war in Ukraine and Russia unilaterally halting the flow of gas through the Nordstream pipeline led to increased volatility and further price rises. This left the Council's energy portfolio exposed to a high level of risk in terms of costs for 2023/24 onwards.
13. In order to mitigate its exposure to the market for 2023/24 onwards, the Council approached Public Buying Organisations (PBO) to enquire whether they had secured supplies for 2023/24 in advance, at lower than current market rates, and whether they had sufficient spare capacity for the Council to join. One PBO confirmed that this was the case. The rates they had purchased at were significantly below the market rate, offering a large potential saving for 2023/24. Based on market prices on 17 October 2022, it is estimated that the commodity prices that the council would secure through the PBO for 2023/24 are around 30-35% lower than market rates.
14. The PBO is a compliant route to market for the Council as its two relevant Framework Agreements (for electricity and gas) were formally tendered via OJEU and winning bidders appointed accordingly (Regulation 33). This route to market is also compliant with the council's Procurement Regulations and in particular Procurement Regulation 3.1.
15. The Council also discussed the possibility of an early termination of its supply agreements with SSE, who agreed to do so on the basis that the Council would pay a termination fee. The fee is negligible in terms of the potential saving that could be achieved by switching to the PBO, and will be paid by the Council and not passed onto tenants and leaseholders.
16. In September 2022 Islington Council's Executive Committee agreed to enter into new energy supply contracts with a PBO and to terminate the existing contracts with SSE. I attach a copy of the Executive Report (pages 30 to 48) and Decision (pages 49 to 51) marked as Exhibit JW-2.
17. The report was taken to the Executive Committee under the council's urgency provisions due to the tight timelines. The PBO required the council to contract with them six months before the start date of the supply contracts. As the supply contracts were due to start on 1 April 2023, this meant signing the contracts with the PBO by 30 September 2022. The contracts were duly signed on 29 September 2022.

18. The speed at which the matter needed to be progressed meant there was no time to carry out a leasehold consultation. However, the primary aim of the matter was to mitigate energy costs to the Council and Leaseholders for 2023/24, meaning Leaseholders should not suffer financial detriment due to the lack of consultation.

I believe that the facts stated in this witness statement are true. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

Signed: 

JAMES WILSON

Dated: 28 October 2022

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Respondents

EXHIBIT JW- 1
TO WITNESS STATEMENT OF JAMES WILSON

Signed:



Dated: 28 October 2022

Report of: Executive Member for Finance, Performance & Community Safety

Meeting of:	Date:	Ward(s):
Executive	17/1/2019	All

Delete as appropriate		Non-exempt
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SUBJECT: Procurement Strategy for Gas and Electricity supply 2020 – 2024

1. Synopsis

- 1.1 This report seeks pre-tender approval for the procurement strategy in respect of Gas and Electricity supply 2020-2024 – Contract 1819-0150, in accordance with Rule 2.7 of the Council’s Procurement Rules.
- 1.2 The Council needs to procure supplies of Natural Gas and Electricity for its own and external property portfolios. Such sites include, but are not limited to, housing, public buildings, libraries, parks, schools and leisure centres.

2. Recommendations

- 2.1 To approve the procurement strategy for Gas and Electricity supply 2020-2024 – Contract 1819-0150 as outlined in this report.
- 2.2 To delegate authority to award the contract to the Corporate Director of Environment and Regeneration in consultation with the Executive Member for Finance, Performance and Community Safety.

3. Background

3.1 Nature of the service

The Council requires gas and electricity for heating, hot water, lighting and power to its own portfolio of sites (Housing, Offices, Libraries, Parks, etc.) as well as for external clients such as Schools, Academies and Leisure Centres.

The current gas contract with Corona Energy and electricity contracts with Scottish & Southern Energy expire on 31st March 2020. In conjunction with Strategic Procurement a project plan has been devised which envisages awarding contracts in the Autumn/Summer of 2019, in order to allow forward purchasing of the gas and electricity commodity elements to take place.

The current purchasing strategy is based on flexible, aggregated (with external clients), risk-managed procurement, purchasing tranches of gas and power on dips in the market. All gas and electricity needs to be purchased in advance of use in order to prevent gas and electricity suppliers imposing punitive default prices. A flexible strategy of buying over a four-year period, with some purchases made near to delivery and some further away, helps to mitigate any sharp increases in market prices.

3.2 Estimated Value

The Council currently buys gas and electricity for its own portfolio, which are directly paid for, and for other sites such as schools, academies and leisure centres who pay their own invoices from within our contract. The costs for electricity and gas for the Council’s own portfolio are funded from the Housing Revenue Account (HRA) and the remainder from the General Fund (GF).

In order to reduce consumption, usage is monitored to identify wastage. Central Government have instructed electricity suppliers to install Smart Metering onto all supplies to improve the accuracy of billing and to allow analysis of consumption data. The table below show the split in terms of consumption and cost over the 12-month period, April 2017 to March 2018:

Lots	Gas Volume kWh	Electricity Volume kWh
Direct Pay (Council)	95,104,300	28,538,000
Indirect Pay (Non-Council)	31,034,600	16,186,000
Total	126,138,900	44,724,000

The annual spend for 2017/18 for these supplies was:

Lots	Annual Gas Cost (£)	Annual Electricity Cost (£)
Direct Pay (Council)	2,273,000	3,125,900
Indirect Pay (Non-Council)	844,000	1,838,000
Total	3,117,000	4,963,900

It is estimated that the total value for gas and electricity for the four-year agreement will be in the region of £32m - £40m (allowing for market fluctuation). This estimate includes the sites mentioned above that are not owned by the Council and are not be paid for by the Council.

Central Government and the Department of Business, Energy and Industrial Strategy (BEIS), along with other organisations procuring in the energy sector recognise and have highlighted the benefits of a flexible purchasing strategy that provides mitigation against the potentially extreme volatility of energy prices.

Price benchmarking has historically proven very difficult due to commercial confidentiality. Price benchmarking against Central Government quarterly statistics for industrial and commercial contracts and direct comparison in gas and electricity prices with another Council which uses a Public Buying Organisation (PBO) has demonstrated that prices obtained via Islington’s current procurement strategy are at least comparable and in some cases lower, although this cannot be a direct comparison due to timings to the markets and volume purchased.

In order to assess the effectiveness of trades, as well as prices being checked against quarterly government statistics and data provided by another Local Authority (in confidence), trades made are checked against current prices to assess their effectiveness. For example, below are shown the current gas and electricity prices for Winter Season 2018 against the prices secured from the Council’s preferred suppliers for the same period:

Winter 2018 (Oct 18 – Mar 19)	Gas	Electricity
Current Prices (Sept 18)	£70.35 p/p/therm	£71.70 MW
LBI Trades	£52.57 p/p/therm	£49.7 MW
Difference %	34%	44%

This shows that prices have risen considerably since the Council purchased trades covering the Winter 2018 period.

The Council receives market intelligence from multiple sources which is analysed closely before any trades are made. Commodity markets are driven by a large number of variable drivers including, but not limited to, oil, coal and carbon prices, weather conditions, international relations, trade disputes, geopolitical unrest, strikes and government regulation. However, the largest effect on prices is currently Brexit, the uncertainty of which has made markets extremely volatile and has had a direct effect on the value of Sterling, reducing it by around 15%-20%. This has made UK commodity costs higher, as we are a net importer of gas and both commodities are traded in US dollars and Euros, both of which have made considerable gains against Sterling over the past 18 months.

3.3 Timetable

Contracts need to be in place at least 3 months before (and preferably earlier) current contracts expire on 31/03/2020 to accommodate a reasonable buying window before the contract start dates to monitor prices and decide on the term of the flexible contracts.

A long lead-in period is to allow for all statutory tender and standstill periods to be observed and in order to consult leaseholders and obtain dispensation from Section 20 of the Landlord and Tenant Act 1985. The Home Ownership Team have been consulted on this and a lead officer appointed.

The timetable for putting contracts in place is as follows:

Begin Leaseholder consultation – Jan 2019
 Advert in OJEU– March 2019
 Invitation to Tender (ITT) – April 2019
 Tender Return – May 2019
 Tender Evaluation – June 2019

A procurement project plan has been produced in consultation with Strategic Procurement.

3.4 Options appraisal

There are other options available to enable energy to be purchased, mainly joining a framework run by a Public Buying Organisation (PBO). These are used by public sector organisations who do not have the in-house resources and expertise to undertake their own energy purchasing. The main PBO is Crown Commercial Services. If we wished to use them to undertake the sole activity of energy purchasing (they do not manage the contracts, this still has to be done in-house), based on our portfolio, the annual cost would be approximately £110,000.

In-house Procurement (Business As Usual)	Using a Public Buying Organisation (PBO)
<p>Positives:</p> <ul style="list-style-type: none"> • Continuity of supplier (same supplier for 4 years) • Full control over whole process • Fully flexible trading • No PBO fees • Single pathway to obtaining Leaseholder Dispensation • Bespoke award criteria • Ability to form relationships with suppliers over 4 years 	<p>Positives:</p> <ul style="list-style-type: none"> • Part of larger Portfolio with potentially marginally lower prices • Experienced Energy Brokers • Greater opportunity for selling back trades/short buying • Reduce Council officer time in making trades • Shorter lead-in time as no OJEU required
<p>Negatives:</p> <ul style="list-style-type: none"> • Greater Council officer time monitoring markets/making trades 	<p>Negatives:</p> <ul style="list-style-type: none"> • High PBO Fees (£110K PA) • No control over energy trades/budgets forecasting setting • No choice over suppliers

PBOs offer an energy buying service from an existing framework where they purchase the gas and electricity from their preferred suppliers using their purchasing strategy (this is a flexible, aggregated and risk-managed procurement). All contract management functions remain with the Council/client. The cost of using this energy purchasing service would be approximately £110,000 per year (£440,000 over the four-year duration of the contract) based on the fee structure provided by Crown Commercial Services (CCS).

By purchasing via a flexible procurement strategy we have the option to buy varying volumes of gas and electricity and different times, accessing any drops in the market that occur. This variable strategy benefits over buying fixed annual amounts on a single day, as on that single day, prices may be high. Buying on multiple occasions using market intelligence spreads the price risk.

The preferred procurement route is to undertake the necessary work in-house, awarding a four-year contract to the winning tenderer.

By adding external clients to the main contract we are purchasing larger aggregated volumes and earning fee income for providing this service. This collaboration has joint benefits for the Council in terms of fee income and for the clients in terms of potentially better prices by being part of a larger contract and mitigating the costs in undertaking separate individual procurements.

By competitively tendering on the fixed price element of the end delivered price and then purchasing the commodity (gas and power) from the winning gas/electricity supplier on the open commodities market as part of a flexible, aggregated procurement strategy, the Council should have access to the most advantageous prices available at any given time (when the markets are low) and can buy volume strategically (monthly, seasonally, annually, over several years).

3.5 Key Considerations

An effective procurement strategy to buy the supply of both Gas and Electricity will have a direct social benefit on the amount residents and leaseholders pay in their rent/leaseholder charges.

Failure to enter into appropriate contracts would lead to default rates being applied at much higher costs, which would have a detrimental effect on residents.

Any supplier appointed will need to provide an Environmental Strategy, showing what they are doing in order to be a responsible, sustainable supplier.

Within the tender, suppliers will be required to agree to the Council's Specification of Requirements which details specific terms and conditions we require to improve the management of the contract and to provide economies such as paperless billing to prevent waste, payment by direct debit to ensure security of supply/reduce finance resources required, dispute management criteria and provision of market intelligence to assist with the general purchasing strategy.

As the procurement methodology is that recommend by the Business, Energy and Industrial Strategy department, we are adhering to best practice principles.

Suppliers will be requested to provide a breakdown of the fuel mix of their offerings (from what sources electricity is being generated from) and whether any of the gas supplied is intended to come from Fracking operations.

There are no TUPE, Pensions and Staffing implications

3.6 Evaluation

The tender will be conducted in one stage, known as the Open Procedure, as the tender is 'open' to all organisations who express an interest. The Open Procedure includes minimum requirements which organisations must meet before the rest of their tender is evaluated.

The award criteria are based on 100% price. This ensures that the supplier with the lowest non-commodity and supplier margin (along with agreement to the Council’s core Specific Requirements) will be awarded the contract(s). This is to reduce the financial burden on residents/leaseholders.

The end delivered electricity and gas prices are made up of many different elements (more than 15 for electricity alone). These can be summarised as:

	Element	Average % of end delivered price
1.	The Commodity costs – the actual price of the electricity generated at the power station/gas from the gas fields	40% Electricity/65% Gas
2.	The Non-commodity costs – environmental taxes levied by Government, use of systems charges levied by National Grid for using wires/pipes and meters	59% Electricity/34% Gas
3.	The suppliers profit margin	Less than 1%

We have no direct control over the second element, non-commodity costs – these are set mainly annually by government and National Grid. The current tender process evaluates the bids made by suppliers for the non-commodity costs and the supplier profit margin elements in order to select a preferred supplier. The commodity costs are bought once contracts have been let, separately by the Council via the preferred supplier’s energy brokers. This allows for multiple, flexible trades to be made in order to make up the total annual volume required. These trades can be monthly, quarterly, seasonal, annual or even longer. Using multiple trades gives a greater chance of accessing dips in the market.

Only gas and electricity suppliers that have a supply license approved by OFGEM (The Office of Gas and Electricity Markets) will be allowed to tender, ensuring a high level of service quality.

3.7 Business Risks

Due to the extreme volatility of energy markets, the larger the forward buying window, the greater opportunity to secure the best price for the supply. Contracts will need to be approved and agreed by December 2019 to allow for a sufficient forward buying window for the commodity elements, hence the long lead-in time for this procurement.

In addition, Housing is the largest service user within the existing portfolio, therefore the risk with regards to consultation with leaseholders needs to be noted and sufficient time allocated to allow Housing Services to request/receive dispensation.

By purchasing flexibly and with options to sell back trades made, the risks of making a single annual (or multi-year) trade on a day when prices are at their highest is reduced.

By including a 20% volume tolerance in contract documentation, we can add additional sites (either our own or external) to either increase fee income or mitigate the costs of new builds.

3.8 The Employment Relations Act 1999 (Blacklist) Regulations 2010 explicitly prohibit the compilation, use, sale or supply of blacklists containing details of trade union members and their activities. Following a motion to full Council on 26 March 2013, all tenderers will be required to complete an anti-blacklisting declaration. Where an organisation is unable to declare that they have never blacklisted, they will be required to evidence that they have 'self-

cleansed'. The Council will not award a contract to organisations found guilty of blacklisting unless they have demonstrated 'self-cleansing' and taken adequate measures to remedy past actions and prevent re-occurrences.

3.9 The following relevant information is required to be specifically approved by the Executive in accordance with rule 2.8 of the Procurement Rules:

Relevant information	Information/section in report
1 Nature of the service	Procurement of gas and electricity for the period 2020-2024 See paragraph 3.1
2 Estimated value	The estimated value per year is £8-£10 Million, £32-40 Million over the 4-year period. Annual Cost to Council – £5.5-£7 Million Annual Cost to Non-Council £2.5-£3 Million The agreement is proposed to run for a period of 4 years See paragraph 3.2
3 Timetable	Begin Leaseholder consultation – Jan 2019 Advert – March 2019 Invitation to Tender (ITT) – April 2019 Tender Return – May 2019 Tender Evaluation – June 2019 Leaseholder Dispensation – Aug/Sep 2019 Contract Award Report – October 2019 Standstill Period/Award contracts – Dec 2019 See paragraph 3.3
4 Options appraisal for tender procedure including consideration of collaboration opportunities	In-house managed procurement, 4-year contract using Open Procedure. See paragraph 3.4
5 Consideration of: Social benefit clauses; London Living Wage; Best value; TUPE, pensions and other staffing implications	Reduced financial burden to residents LLW not applicable for a supplies contract Flexible Procurement for Best Value No TUPE, pensions and other staffing implications See paragraph 3.5
6 Award criteria	The award criteria are based 100% on price (Non-commodity cost) See paragraph 3.6

7 Any business risks associated with entering the contract	Late contract award/Leaseholder Dispensation See paragraph 3.7
8 Any other relevant financial, legal or other considerations.	None.

4. Implications

4.1 Financial implications:

This report seeks approval for the Procurement Strategy for the supply of electricity and gas for a four-year period between 2020-24. It is estimated that the energy cost during this period will be between £32-£40 million and will be met from existing council budgets and contributions from external clients.

The report recommends procurement option A which continues the current arrangements of using an in-house procurement strategy over the use of a Public Buying Organisation (PBO). Based upon past performance and some limited comparative data option A has a greater financial benefit for the council, however this is no indication of best market performance nor future comparative performance of the two procurement strategies.

4.2 Legal Implications:

The Council has power to procure the supply of natural gas and electricity under section 111 of the Local Government Act 1972 which enables the council to carry out any activity that is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions. The council also has power to purchase these supplies on behalf of third parties under the general power of competence set out in section 1 of the Localism Act 2011. The Council may enter into contracts for such services under section 1 of the Local Government (Contracts) Act 1997.

In relation to the powers for charging third parties in return for purchasing gas and electricity on their behalf the council may rely on:

- A) Local Authorities (Goods and Services) Act 1970 (LAGS) if the third parties are public bodies for purposes of that act; or
- B) The charging power set out in section 93 of the Local Government Act 2003, if the third parties are not public bodies for purposes of LAGS provided that the charge levied is based on cost recovery; or
- C) The trading power set out in section 95 of the Local Government Act 2003 or section 4 of the Localism Act 2011, if the third parties are not public bodies for purposes of LAGS and the charge levied is based on making a profit for the council. In this case the trading activity would need to be conducted through the trading company established by the council, Islington Limited (trading as iCo), in order to comply with these trading powers.

The Executive may delegate authority to award the contract to the Corporate Director of Environment and Regeneration under the Council's Procurement Rule 16.2.

The proposed contract is a contract for supply. The threshold in relation to supply contracts for application of the Public Contracts Regulations 2015 (the Regulations) is currently £181,302. Contracts above this threshold must be procured with advertisement in the Official Journal of the European Union and with full compliance of the Regulations. The Council's Procurement Rules also require contracts over the value of £181,302 to be subject to competitive tender. In compliance with the requirements of the Regulations and the council's Procurement Rules the proposed procurement strategy is to advertise a call for competition in OJEU and carry out the procurement using a competitive tender process. On completion of the procurement the contract may be awarded to the highest scoring tenderers subject to the tenders providing value for money for the council.

The contract is for a period in excess of 12 months and therefore will be qualifying long term agreements under section 20 of the Landlord and Tenant Act 1985. Accordingly, the council will need to comply with the leaseholder consultation requirements applicable to long term qualifying agreements set out in the Service Charges (Consultation Requirements) (England) Regulations 2003 (as amended).

4.3 Environmental Implications

Electricity and gas purchasing has a significant environmental impact; for electricity the main impact is during the generation stage and around half of the electricity in the UK is currently produced using coal or gas, although this is reducing steadily as more renewables start supplying the national grid (carbon emissions from electricity production in the UK are down 65% since 1990 despite an 11% increase in use). For gas, the main impact is at the usage (burning) stage, contributing directly to carbon emissions. There are also significant impacts related to the extraction of fossil fuels prior to the production/supply of electricity and natural gas.

As noted above, suppliers will be requested to provide a breakdown of the fuel mix of their offerings (from what sources electricity is being generated from) and whether any of the gas supplied is intended to come from Fracking operations. They will also need to provide an Environmental Strategy, showing what they are doing in order to be a responsible, sustainable supplier.

4.4 Resident Impact Assessment:

The Council must, in the exercise of its functions, have due regard to the need to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity, and foster good relations, between those who share a relevant protected characteristic and those who do not share it (section 149 Equality Act 2010). The Council has a duty to have due regard to the need to remove or minimise disadvantages, take steps to meet needs, in particular steps to take account of disabled persons' disabilities, and encourage people to participate in public life. The Council must have due regard to the need to tackle prejudice and promote understanding.

A Resident Impact Assessment was completed on 31st October 2018 and the summary is included below. The complete Resident Impact Assessment is at appendix 1.

- The Procurement Strategy for Gas and Electricity supply (2020-2024) is not likely to be discriminatory in any way for people with any of the protected characteristics.
- The Procurement Strategy for Gas and Electricity supply (2020-2024) is not likely to have a negative impact on equality of opportunity for people with protected characteristics.

There is a potential positive impact for Council leaseholders with the following protected characteristics: age, disability, pregnancy & maternity. This is because leaseholders pay for the amount of heat that they use and that the elderly and very young, pregnant and new mothers and disabled residents are likely to spend more time in the home, therefore require more heating. The Procurement Strategy seeks to obtain the lowest cost gas and will therefore provide a greater saving for those spending more time in the home.

- The proposal is not likely to have a negative impact on good relations between communities with protected characteristics and the rest of the population in Islington. The proposals do not provide any opportunities for fostering good relations.

By looking to purchase gas at the lowest price, heat can be provided to Council leaseholders at a lower cost. This will leave leaseholders more money for other purposes, alleviating poverty for lower income households. Alternatively, low income leaseholders may choose to use cost savings to heat their homes to a higher level reducing the negative impacts of fuel poverty on physical and mental health which affect lower income households disproportionately.

5. Reason for recommendations

5.1 The current contracts for the supply of both Gas and Electricity expire on 31/03/2020. In order to purchase utilities after this date a procurement strategy is required to be in place prior to this date.


By adopting the current existing method of procurement, based on an aggregated, flexible, risk managed strategy, we will have continuity of service and security of future supply without incurring additional costs of using a Public Buying Organisation.

This proposed procurement strategy recommended allows for opportunities in the market to be realised, whilst giving a level of budget certainty and the ability to sell back any trades made.

By entering into contracts for the supply of Gas and Electricity for a four-year contract period, we will be able to maximise the benefits of a flexible procurement strategy and reduce the administrative costs of multiple tenders within a framework agreement.

Appendices

- Appendix 1 - Resident Impact Assessment

Signed by:		8 January 2019
	Executive Member for Finance, Performance & Community Safety	Date

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DECISIONS OF EXECUTIVE - THURSDAY, 17 JANUARY 2019

AGENDA ITEM	SUBJECT	DECISION	ACTION
3	MINUTES OF PREVIOUS MEETING	Noted.	-
4	APPOINTMENTS TO BE MADE BY THE EXECUTIVE	AGREED RECOMMENDATIONS Reason for decision – as specified in the report. Other options considered - none. Conflicts of interest/dispensations granted – none	CDR
5	IMPROVING AIR QUALITY - DIESEL SURCHARGE CHANGES	AGREED RECOMMENDATIONS Reason for decision – as specified in the report. Other options considered - none. Conflicts of interest/dispensations granted – none	CDER
6	FINANCIAL POSITION AS AT 30 NOVEMBER 2018	AGREED RECOMMENDATIONS Reason for decision – as specified in the report. Other options considered - none. Conflicts of interest/dispensations granted – none	CDR
7	BUDGET PROPOSALS 2019-20	AGREED RECOMMENDATIONS Reason for decision – as specified in the report. Other options considered - none. Conflicts of interest/dispensations granted – none	CDR
8	PROCUREMENT STRATEGY FOR SUPPLY OF NATURAL GAS AND ELECTRICITY	AGREED RECOMMENDATIONS Reason for decision – as specified in the report. Other options considered - none. Conflicts of interest/dispensations granted – none	CDER

AGENDA ITEM	SUBJECT	DECISION	ACTION
9	THE COUNCIL'S USE OF SURVEILLANCE UNDER THE REGULATION OF INVESTIGATORY POWERS ACT 2000	AGREED RECOMMENDATIONS Reason for decision – as specified in the report. Other options considered - none. Conflicts of interest/dispensations granted – none	CDR
10	CONFIRMATION OF THE OFFICE TO RESIDENTIAL ARTICLE 4 DIRECTION FOR THE CENTRAL ACTIVITIES ZONE	AGREED RECOMMENDATIONS Reason for decision – as specified in the report. Other options considered - none. Conflicts of interest/dispensations granted – none	CDER
11	OFFICER DECISION SUMMARY JANUARY 2019 *	AGREED RECOMMENDATIONS Reason for decision – as specified in the report. Other options considered - none. Conflicts of interest/dispensations granted – none	-

NB – Any decision not subject to call-in, in accordance with para 67.1 of the Constitution, is indicated with an asterisk (*)



Key Decision of the Corporate Director of Environment and Regeneration

Officer Key Decision	Date: 12.12.19	Ward(s): All
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Delete as appropriate		Non-exempt
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THE APPENDIX TO THIS REPORT IS NOT FOR PUBLICATION

SUBJECT: Contract Award for 1819-0105 Gas and Electricity supply 2020-2024

1. Synopsis

- 1.1 This report seeks approval to award contracts in respect of 1819-0151 Gas and Electricity supply – 2020-2024 in accordance with Rule 2.7 of the Council’s Procurement Rules.
- 1.2 The Council’s current gas and electricity contracts expire on 31/3/2020. The Council needs to procure supplies of Gas and Electricity for its own and external property portfolios. Such sites include, but are not limited to, housing, public buildings, libraries, parks, schools and leisure centres.
- 1.3 Pre-tender approval for the procurement strategy was agreed by the Executive Committee in January 2019 and a full OJEU compliant tender has been undertaken in order to award gas and electricity contract to replace those expiring.
- 1.4 Delegated authority to award the contracts to the Corporate Director of Environment and Regeneration in consultation with the with the Executive Member for Finance, Performance and Community Safety was agreed by Executive committee in January 2019.

2. Recommendations

- 2.1 To agree the award of 48 month contracts for the period 1st April 2020 to 31st March 2024 to the following energy suppliers:

Gas – Scottish & Southern Energy

2.2 **Date the decision is to be taken: 11.12.19**

3. Background

3.1 Nature of the service

The procurement strategy for the purchase of gas and electricity is based on flexible, aggregated purchasing of the commodity element of both gas and electricity, allied to the tendering of the supplier's profit margin. The final element that makes up the whole delivered price are "pass-through" costs for environmental taxes and the use of the electricity and gas grids. These charges are set by Central Government and other regulatory bodies, charged to energy suppliers and passed on by them to the end user.

It is generally established that the flexible purchasing of gas and electricity is economically preferable to fixed purchasing of utilities. This gives greater opportunity to purchase supplies when market prices are lower and to purchase in smaller amounts if prices are high. In addition, any trades made can be sold back to the market and re-bought at lower rates if available.

The tender focused on the fixed cost element of the gas and electricity price, as the actual cost of the gas and electricity itself would be determined by live trading. These fixed costs covered the suppliers' profit margin as the main element for analysis. Other cost elements including transportation, supply balancing, metering and other pass through costs were also included, enabling an estimated total fixed cost for each contract to be arrived at.

Suppliers were asked to provide their profit margin elemental cost for all four years of the contracts – other selected fixed costs are determined by Central Government/National Grid and are not known and have been estimated to arrive at a total fixed cost for each contract.

All suppliers were requested to confirm that they could provide renewable electricity and gas for the Council's portfolio, if required. The decision whether to procure renewable or traditional grid electricity (which uses fossil fuels for some of its generation), would be made at the time of purchasing the commodity, once contracts have been awarded. Trades (purchases of gas and electricity) are considered by the 4-person Energy Management Risk Committee (ERMC)

Following the Council's declaration of an environmental and climate emergency on 27th June 2019, and commitment to achieving a net zero carbon Islington by 2030, the proposed contracts provide a mechanism to purchase all, none or some of the Council's supplies from renewable sources, whilst factoring in financial considerations (renewable electricity traditionally attracts a premium). Consideration can also be given to the purchase of bio-methane instead of grid gas, although these markets are far less established than renewable grid electricity and prices for bio-methane are considerably higher than those for grid gas.

3.2 Estimated Value

The estimated annual value of the contracts is £8 million and for the four-year agreement proposed for 01/04/2020 to 31/03/2024, this will amount to around £32m. The overall spend is

split approximately 67% Council and 33% external clients, meaning £21.4m Council spend and £10.6 million external client spend over the contract period. As these contracts cover Housing, Councils buildings, schools, Leisure Centres and Academies, the costs are funded from various sources including the HRA.

The spend on these contracts over the last 2 years (2016/17 and 2017/18) has been approximately £9.8 million for electricity and £ 6.0 million for gas across the entire portfolio.

The breakdown of elements which make up the end delivered price can be split into Commodity and Non-Commodity costs. The Commodity costs which make up around 45% of the electricity prices and 65% of the gas price, are extremely volatile, prices are affected by various drivers such as weather, oil, coal and carbon prices as well as government regulation, geo-political conflict, market uncertainty and global demand.

A flexible, aggregated risk-managed procurement strategy allows for dips in the market to be accessed, fixing prices well ahead of delivery, it protects budgets and provides the potential to sell back surplus gas and electricity in reaction to large market moves. These features can all assist in mitigating costs and accessing opportunities to purchase commodities when markets are favourable.

Non-Commodity costs are set by Government and National Grid and in general these are rising, particularly in the electricity market and in the sharp increase in Climate Change Levy (CCL) rates. As the majority of these are charged on a consumption basis, the main method of mitigating these is the management and reduction of energy consumption.

In order to reduce administrative costs, all billing will be electronic.

3.3 Timetable

The current gas and electricity contracts expire on 31st March 2020 and new contracts must be in place no later than 29th February 2020 to allow gas and electricity purchases to be made in good time.

Dispensation has been sought from First Tier Tribunal (Property Chamber) under Section 20ZA to allow residents and leaseholders to be charged in full. The decision is due in December 2019. This has been undertaken in conjunction with Home Ownership and Legal Services.

3.4 Options appraisal

The Executive Report of January 2019 agreed the purchasing strategy of having a 4-year contract. The use of Public Buying Organisations (PBO's) was also considered as part of this report. These are used by public sector organisations who do not have the in-house resources and expertise to undertake their own energy purchasing.

The main PBO is Crown Commercial Services (CCS). If we wished to use them to undertake the sole activity of energy purchasing (they do not manage the contracts, this still has to be done in-house), based on our portfolio, the annual cost would be approximately £110,000 PA, based on their published fee structure.

PBO's offer an energy buying service from an existing framework where they purchase the gas and electricity from their preferred suppliers using their purchasing strategy - this, as with the strategy used by Islington Council is a flexible, aggregated and risk-managed procurement.

By adding external clients to the main contract we are purchasing larger aggregated volumes of both gas and electricity. This collaboration has joint benefits for the Council in terms of fee income and for the clients in terms of potentially better prices through being part of a larger contract and mitigating the costs in undertaking separate individual procurements.

An Open procedure tender was agreed upon, which allowed full exposure to the energy supply community.

3.5 Key Considerations – References to social value and impact on staff

An effective strategy to procure the supply of both Gas, and 100KW and Sub 100KW Electricity will have a direct social benefit on the amount residents and leaseholders pay in their rent/leaseholder charges.

A requirement for the payment of LLW will not be appropriate for these contracts since they are contracts for supplies that are subject to the Public Contracts Regulations 2015 and will be established with advertisement in the Official Journal of the European Union.

By competitively tendering on the fixed price element of the end delivered price and then purchasing the commodity (gas and power) from the winning gas/electricity supplier on the open commodities market as part of a flexible, aggregated procurement strategy, the Council should have access to the most advantageous prices available at any given time and can buy volume strategically (monthly, seasonally, annually over several separate years).

There are no TUPE, Pensions and Staffing implications

3.6 Evaluation

The tender was conducted in one stage, known as the Open Procedure, as the tender is 'open' to all organisations who express an interest. The Open Procedure included minimum requirements which organisations must meet before the rest of their tender is evaluated.

There were 25 expressions of interest received, which resulted in 4 tender returns:

1. Corona Energy – Gas only
2. Haven Power – Electricity only
3. Scottish & Southern Energy – Gas and Electricity
4. Total Gas and Power – Gas and Electricity

From the tenders submitted, all 4 passed the statutory compliance checks. In addition, all 4 passed suitability checks based on technical/industry-specific questions related to the supply of gas and electricity.

The evaluation criteria were based 100% on price.

The tenders were based on certain fixed cost elements such as the supplier's management fee, balancing charges and pass-through environmental and use of system charges and do not include the commodity costs which will be purchased after contract are awarded.

Tender prices and suitability questions were evaluated by a 3-person panel consisting of the following Council officers:

- Energy Management Officer
- Energy Operations Manager
- Energy Sustainability & Consulting Manager

Tender Results

Gas – three suppliers passed compliance and suitability checks. Most economically advantageous tender was received by Scottish and Southern Energy.

Price details are set out in the attached Exempt Appendix.

HH 100KW Electricity - three suppliers passed compliance and suitability checks. Most economically advantageous tender was received by Scottish and Southern Energy.

Price details are set out in the attached Exempt Appendix.

NHH Sub 100KW Electricity - three suppliers passed compliance and suitability checks. Most economically advantageous tender was received by Scottish and Southern Energy.

Price details are set out in the attached Exempt Appendix.

3.7 Business Risks

1. If contracts are not awarded with sufficient time before the expiry of existing contracts for registration of sites and purchase of gas and electricity, current suppliers will impose default "out-of-contract rates" on those supplies. These punitive rates would apply until such time as new gas/electricity contracts have been put in place.
2. Exposure to utility market volatility could lead to higher prices having to be accepted. This will be mitigated by use of trigger values being set and acted upon. These triggers will activate the purchasing strategy in order to protect budgets. Triggers will also be lowered if the market should fall. In addition, any trades made (surplus amounts of gas or electricity) can be sold back to the preferred supplier at market rates – this would only be done if there were a marked drop in the market and that this was maintained.
3. Failure to obtain Dispensation from the First Tier Tribunal (Property Chamber) under Section 20ZA in December 2019, would reduce the amount the Council can charge Leaseholders to £100 per year for gas and £100 per year for electricity.

- 3.8 The Employment Relations Act 1999 (Blacklist) Regulations 2010 explicitly prohibit the compilation, use, sale or supply of blacklists containing details of trade union members and their activities. Following a motion to full Council on 26 March 2013, all tenderers will be required to complete an anti-blacklisting declaration. Where an organisation is unable to declare that they have never blacklisted, they will be required to evidence that they have 'self-cleansed'. The Council will not award a contract to organisations found guilty of blacklisting unless they have demonstrated 'self-cleansing' and taken adequate measures to remedy past actions and prevent re-occurrences.
- 3.9 The following relevant information is required to be specifically approved by the Executive in accordance with rule 2.8 of the Procurement Rules:

Relevant information	Information/section in report
1 Nature of the service	Purchase of gas and electricity. See paragraph 3.1
2 Estimated value	The estimated value per year is £8,080,000. The agreement is proposed to run for a period of 48 months. See paragraph 3.2
3 Timetable	Exec Approval of procurement strategy – Jan 2019 Out to Tender – August 2019 Tender Evaluation – Oct 2019 Leaseholder Dispensation – Dec 19 Contract Mobilisation – Jan 2020 Contract Start – April 2020 See paragraph 3.3
4 Options appraisal for tender procedure including consideration of collaboration opportunities	Four-year contract option adopted See paragraph 3.4
5 Consideration of: Social benefit clauses; London Living Wage; Best value; TUPE, pensions and other staffing implications	Obtaining lowest possible prices through energy purchasing strategy representing best value. No LLW, TUPE, pensions or other staffing implications. See paragraph 3.5
6 Award criteria	Award criteria 100% price. See paragraph 3.6
7 Any business risks associated with entering the contract	Award of contracts with sufficient time prior to expiry of existing. Failure to obtain Leaseholder Dispensation See paragraph 3.7
8 Any other relevant financial, legal or other considerations.	None.

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4. Implications

4.1 Financial implications:

The estimated annual cost of the contract is £8 million PA, equating to £32 million over the 4 year period. The direct cost to the Council (excluding external clients such as schools and Leisure Centres who pay their own bills) is estimated to be £5.36 million per year, £21.44 million over the 4 year contract. The award criteria is 100% price, but the suppliers can provide renewable electricity and gas at a premium of c. 5% which if selected as part of the Council's declaration of an environmental and climate emergency on 27th June 2019 would be passed onto residents through rent and service charges. There are a number of unknown fixed costs and variable costs that will impact on the overall cost of the contracts.

4.2 Legal Implications:

The Council has power to procure the supply of natural gas and electricity under section 111 of the Local Government Act 1972 which enables the council to carry out any activity that is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions. The council also has power to purchase these supplies on behalf of third parties under the general power of competence set out in section 1 of the Localism Act 2011. The Council may enter into contracts for such services under section 1 of the Local Government (Contracts) Act 1997. The Executive, in January 2019, delegated authority to award the contracts to the Corporate Director of Environment and Regeneration in consultation with the Executive Member for Finance, Performance and Community Safety.

The contract is a contract for supply. The threshold in relation to supply contracts for application of the Public Contracts Regulations 2015 (the Regulations) is currently £181,302. Contracts above this threshold must be procured with advertisement in the Official Journal of the European Union (OJEU) and with full compliance of the Regulations. The council's Procurement Rules also require contracts over the value of £181,302 to be subject to competitive tender. In compliance with the requirements of the Regulations and the council's Procurement Rules a competitive tendering procedure with advertisement in OJEU has been used.

Bids were subject to evaluation in accordance with the tender evaluation model and Scottish & Southern Energy were found to have submitted the most economically advantageous tenders for all three supplies and may therefore be awarded the contracts as proposed in the report.

In deciding whether to award the contracts to the recommended supplier the Corporate Director should be satisfied as to the competence of the supplier to provide the supplies and that the tender prices represent value for money for the Council. In considering the recommendations in this report the Corporate Director must take into account the information contained in the exempt appendix to the report.

The contract is for a period in excess of 12 months and therefore will be qualifying long term agreements under section 20 of the Landlord and Tenant Act 1985. Accordingly the council will need to comply with the leaseholder consultation requirements applicable to long term

qualifying agreements set out in the Service Charges (Consultation Requirements) (England) Regulations 2003 (as amended).

In relation to the powers for charging third parties in return for purchasing gas and electricity on their behalf the council may rely on:

- A) Local Authorities (Goods and Services) Act 1970 (LAGS) if the third parties are public bodies for purposes of that act; or
- B) The charging power set out in section 93 of the Local Government Act 2003, if the third parties are not public bodies for purposes of LAGS provided that the charge levied is based on cost recovery; or
- C) The trading power set out in section 95 of the Local Government Act 2003 or section 4 of the Localism Act 2011, if the third parties are not public bodies for purposes of LAGS and the charge levied is based on making a profit for the council. In this case the trading activity would need to be conducted through the trading company established by the council, Islington Limited (trading as iCo), in order to comply with these trading powers.

4.3 Environmental Implications and contribution to achieving a net zero carbon Islington by 2030:

The purchase (and subsequent use) of electricity and gas is the council's most significant environmental impact and source of carbon emissions. In 2018/19, the emissions related to our electricity use in council buildings (excluding housing and leisure) were around 2,700 tonnes, whilst gas-related emissions were around 2,300 tonnes.

The electricity contract does not specify the type of electricity to be supplied (either from renewable sources or direct from the grid, with a mixture of gas, nuclear, coal and renewables). This will be decided at the time when actual purchases are made, once contracts are in place. However, suppliers were required in their tender submissions to confirm that they are able to provide the council with renewable electricity if requested, although this will likely come at a higher unit price than non-renewable electricity.

The vast majority of the gas supplied from the national grid is standard natural gas, with a tiny proportion of biomethane. There is not sufficient biogas production in the UK for it to be feasible to secure a renewable gas tariff. The only realistic way this can be mitigated is to reduce or eliminate gas consumption by making our buildings more energy efficient or replacing gas heating and hot water systems with electric alternatives such as heat pumps.

4.4 Resident Impact Assessment:

The council must, in the exercise of its functions, have due regard to the need to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity, and foster good relations, between those who share a relevant protected characteristic and those who do not share it (section 149 Equality Act 2010). The council has a duty to have due regard to the need to remove or minimise disadvantages, take steps to meet needs, in particular steps to take account of disabled persons' disabilities, and encourage people to participate in public life. The council must have due regard to the need to tackle prejudice and promote understanding.

A Resident Impact Assessment was completed on 31/10/18 and the summary is included below. The complete Resident Impact Assessment is appended.

Equality Impacts

- The Procurement Strategy for Gas and Electricity supply (2020-2024) is not likely to be discriminatory in any way for people with any of the protected characteristics.
- The Procurement Strategy for Gas and Electricity supply (2020-2024) is not likely to have a negative impact on equality of opportunity for people with protected characteristics.
- There is a potential positive impact for council leaseholders with the following protected characteristics: age, disability, pregnancy & maternity. This is because leaseholders pay for the amount of heat that they use and that the elderly and very young, pregnant and new mothers and disabled residents are likely to spend more time in the home, therefore require more heating. The Procurement Strategy seeks to obtain the lowest cost gas and will therefore provide a greater saving for those spending more time in the home.
- The proposal is not likely to have a negative impact on good relations between communities with protected characteristics and the rest of the population in Islington. The proposals do not provide any opportunities for fostering good relations.
- By looking to purchase gas at the lowest price, heat can be provided to council leaseholders at a lower cost. This will leave leaseholders more money for other purposes, alleviating fuel poverty for lower income households. Alternatively, low income leaseholders may choose to use cost savings to heat their homes to a higher level reducing the negative impacts of fuel poverty on physical and mental health which affect lower income households disproportionately.

Safeguarding risks and Human Rights breaches

There are no safeguarding risks for children and vulnerable adults or potential human rights breaches resulting from the proposal.

5. Reason for recommendations

- 5.1 Replacement of expiring gas and electricity contracts to suppliers offering the most economically advantageous non-commodity prices following a full open tender exercise.

Record of the decision:

I have today decided to take the decision set out in section 2 of this report for the reasons set out above.

Signed by:



12.12.19

Corporate Director, Environment &
Regeneration

Date

Appendices

- Exempt Appendix 1 – Tender prices/costs
- Appendix 2 – Resident Impact Assessment

Background papers: None

Final report clearance:

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FIRST TIER TRIBUNAL
PROPERTY CHAMBER (RESIDENTIAL PROPERTY)

LANDLORD AND TENANT ACT 1985 – SECTION 20ZA
ALL LEASEHOLD PROPERTIES OF THE LONDON BOROUGH OF ISLINGTON

BETWEEN

THE MAYOR AND BURGESSES OF THE
LONDON BOROUGH OF ISLINGTON

Applicant

-and-

ALL RESIDENTIAL LONG LEASEHOLDERS
OF THE LONDON BOROUGH OF ISLINGTON

Respondents

EXHIBIT JW- 2
TO WITNESS STATEMENT OF JAMES WILSON

Signed:



Dated: 28 October 2022

Environment Department
Town Hall, Upper Street

Report of: Cllr Rowena Champion, Executive Member for Environment, Air Quality and Transport

Meeting of: Executive

Date: 9 June 2022

Ward(s): All

The appendix to this report is exempt and not for publication

Subject: Revised procurement spend for the council's 2020-2024 energy supply contract

1. Synopsis

- 1.1. The council's energy supply contracts for the period 2020-2024 were awarded in December 2019, with an estimated total value of £32m over four years. This covers energy supplied to council buildings, landlord supplies in Housing properties, GLL leisure centres and most of the borough's primary schools.
- 1.2. Due to the large increase in energy prices during late 2021 and early 2022, exacerbated by the Russian invasion of Ukraine, it is likely that the £32m threshold will be exceeded before the end of the 2022/23 financial year and therefore a contract modification notice under the Public Contracts Regulations (PCR) 2015 (Regulation 72) Part G Annex 5 will need to be published.

2. Recommendations

- 2.1. To note the increase in energy costs to the council and other organisations the council purchases on behalf of.
- 2.2. To approve the publication of a contract modification notice regarding the increase in value of the energy supply contracts.
- 2.3. To note the budget mitigation measures set out in section 8 for dealing with the cost increase.

- 2.4. To note the proposal to review heating and electricity charges for tenants and leaseholders in section 8.2.
- 2.5. To note the risks related to the energy price increases and demand reduction measures set out in section 9 for mitigating the cost increases.
- 2.6. To support officers to commence commercial discussions and explore options for the existing contract as set out in exempt appendix 1.

3. Background

- 3.1. While the domestic energy market has price caps, the industrial and commercial market in which the council buys its energy does not. Energy is traded on a futures market basis and prices are constantly changing, based on global supply/demand positions and a plethora of other market drivers. As there are no price caps, the council's only method of alleviating higher prices is through the timing of its purchasing and the periods it purchases for. Details of how this works are covered in section 4 below.
- 3.2. A cold winter in Europe in 2020/21 put pressure on supplies leading to stored gas levels being much lower than normal. There has been increased demand from Asia for liquefied natural gas (LNG), which has pushed up wholesale gas prices across the world. In addition, as a net importer of gas, the UK will be reliant on supplies from Norway/Europe and LNG cargoes, all of which will be charged at market rates.
- 3.3. As a result of these factors, energy prices started to increase significantly in September 2021. Although this was followed by a reduction, prices did not fall back to previous levels. During winter 2021, power and gas supplies remained tight and extremely volatile, with another spike in prices happening in December, when prices hit a record high. This was followed by another drop, although again, not to pre-September levels. The Russian invasion of Ukraine in February 2022 resulted in a larger spike and higher level of uncertainty.

4. How the council purchases energy

- 4.1. The council purchases its energy directly from the market via a contract with SSE. Prior to the current energy contract being awarded in 2020, a procurement strategy was approved by Executive in January 2019, which considered the options of continuing to buy directly (via a contract) or to purchase energy via a

Public Buying Organisation (PBO) such as Crown Commercial Service or LASER Energy.¹

- 4.2. It was decided to continue buying in-house due to a range of factors, including the flexibility this offered and the lack of control over timing of purchasing and fees that using a PBO would incur.
- 4.3. The council went on to procure an energy supply contract with SSE for the 2020–2024 period. The contract was not for supply at a specified price but allows the council to purchase through SSE via trades at the time of its choosing. The council can purchase an entire year's supply in a single trade but can also purchase for longer or shorter periods.
- 4.4. The supply contract covers the council's corporate buildings, landlord supplies in council housing (including PFI properties), GLL leisure centres, the Bunhill and Cape energy centres, and most primary schools in the borough. The schools can purchase energy via other means, but nearly all opt-in to the council's energy service level agreement (SLA), as do a small number of non-council schools.
- 4.5. Decisions on when to make trades are made by the Energy Risk Management Committee. Before January 2022 this consisted of four officers in the Energy Services team (the Head of Energy Services, Energy Operations Manager, Energy Sustainability & Consulting Manager, and the Energy Management Officer). In January 2022, the committee was expanded to add representatives from Corporate and Housing finance given the emerging increase in energy prices. An external expert has now been added to the Committee to provide additional market expertise.
- 4.6. In normal circumstances, the group meets every six weeks (or as required dependent on market intelligence) to consider trading options based on market intelligence, with the key aim being to purchase at the lowest possible price for the year ahead. Decisions are therefore always made in the best interest of the council. Trades are recommended by the committee and approved by the Corporate Director of Environment, following consultation with the Corporate Director of Resources.
- 4.7. If there are changes in prices that are advantageous to the council, decisions can be taken on the same day to secure this price. This flexibility allows the council to take advantages of sudden dips in the market. At the start of the first COVID-19 lockdown, there was a significant drop in energy prices, allowing the council to

¹ LASER Energy is part of the Commercial Services Group, a company wholly owned by Kent County Council.

purchase energy for 2020/21 at a prices 21% lower for electricity and 26% lower for gas than in 2019/20, resulting in a saving of over £2 million.

- 4.8. Due to the current price situation, the Energy Risk Management Committee has been meeting weekly, with daily reports provided to Finance on price data.
- 4.9. Governance and assurance have been strengthened by the creation of an Energy Steering Group, attended by service and corporate directors and representatives of the finance and energy teams. This group has been meeting weekly to monitor the situation.

5. Energy prices

- 5.1. The council procured 100% of both gas and electricity for 2021/22 on 4 March 2021 at the following rates:

Utility	Summer 2021	Winter 2021
Electricity	£49.50/MW	£59.1/MW
Gas	46p/therm	46p/therm

- 5.2. However, wholesale energy commodity prices saw significant rises in the second half of 2021. Prices rose steadily during June, July, and August, before a rapid increase in September, peaking when electricity reached £277/MW and gas reached 300p/therm.
- 5.3. This was followed by a fall, but only to levels of early September. Another spike in mid-December saw year-ahead prices hit an all-time high. The December spike was followed by another fall, although not to pre-December levels. Following the Russian invasion at the end of February, prices sharply increased again exceeding the December spike.
- 5.4. The council receives market intelligence from various sources everyday as well as having access to live market prices through the balancing and settlement system Elexon, while additional market information will be provided by the external expert on the Energy Management Risk Committee. The graph below shows how market prices for year-ahead gas and electricity for 2022/23 have changed through the last year, with spikes in September and December 2021, the latter producing historically high prices, and then February/March 2022 due to Ukraine situation.



- 5.5. As of 14 April, gas commodity prices for winter 2022/23 were 443% higher than the 2021/22 purchases and the electricity commodity prices are 282% higher. Once non-commodity costs are taken into account (costs that are added on top of the commodity price to cover the cost of the distribution network, green levies etc.), unit prices for winter 2022/23 are estimated to be around 250% higher for gas and 150% higher for electricity.
- 5.6. The council has already purchased electricity and gas for Q1 2022/23, with electricity at £243/MWh for the whole quarter, and gas at 259/215/231 p/therm for April/May/June. If usage remains unchanged, it is estimated that the cost for Q1 will be around £5.7m, £3.7m higher than 2021/22.
- 5.7. The [approval of the contract award to SSE](#) authorises the council to purchase gas and electricity over a four-year period up to the estimated value of £32m. It was agreed that the initial round of purchasing for 2022/23 could proceed as it still falls within the estimated limits for the year (£8m).
- 5.8. If the council had to purchase for the remainder 2022/23 at the prices as of 14 April, it would have resulted in the following cost increases, assuming no change in usage:

Area	Total		
	2021/22	2022/23	Increase
HRA	£4,352,000	£13,923,000	£9,570,000
GLL	£703,100	£1,948,000	£1,245,000
Schools	£1,538,000	£4,400,000	£2,862,000
General fund	£1,628,400	£4,244,000	£2,716,000
Total	£8,222,000	£24,615,000	£16,393,000

- 5.9. To give some context to the potential cost increases, the table below shows the council's energy costs for the last decade. The highest gas and electricity prices paid previously were in 2019/20, with a total spend of £9.3m, 12% higher than the forecast spend 2021/22. Therefore, any rise above 12% would represent a high point for council spend on energy.

Year	Total spend
2011/12	£6,753,405
2012/13	£8,096,415
2013/14	£8,403,588
2014/15	£8,029,513
2015/16	£7,373,045
2016/17	£6,331,678
2017/18	£7,602,490
2018/19	£8,096,040
2019/20	£9,324,538
2020/21	£7,252,903

- 5.10. Based on the prices as set out in 5.8, this would mean expected spend for the first three years of the contract would be around £40m, above the £32m in the original procurement award report. As a result, the council needs to issue a contract modification notice for this increased spend to remain compliant with Public Contracts Regulations 2015. This allows for a variation in spend of up to 50%.

6. Where the financial liability falls

6.1. Housing Tenants, Leaseholders and the HRA

Most of the energy price increases are rechargeable to tenants and leaseholders, with the remainder (which covers, for example lifts and community centres) met directly from the HRA.

- 6.1.1 Around 4,300 of the 33,900 council tenants and leaseholders with gas heating are on communal heating systems. Most tenants are charged a set rate (the average charge per week is £10.60) in order to even out cost differences between individual estates (the costs across all estates are pooled for this purpose) while leaseholders pay the cost of gas for their estate, and a small number of residents have heat meters and pay based on their usage. The remaining 29,600 have individual gas boilers and therefore pay their own bills (which are subject to the domestic energy bill price caps).
- 6.1.2 Around 80% of tenants pay for communal electricity supplies as part of their service charge, with the communal electricity element making up an average of £2.70 per week.

6.1.3 Leaseholders are required to meet in full any increases in the cost of gas or communal electricity. The impact of increases in costs incurred or anticipated by the council would usually be reflected in the 2022–23 estimated annual service charge bills, due to be issued in September 2022.

6.2. **Leisure Centres and GLL**

GLL as the council's leisure operator are responsible for paying for the energy that the council purchases on their behalf. However, the contract with GLL includes a 50% price risk share on price rises that exceed inflation, meaning the council could be liable for 50% of the cost increase – potentially around £0.6m for 2022/23 at current prices.

6.3. **Schools**

Utility costs for schools are paid from individual school budgets. Most primary schools opt in the council's energy purchasing arrangement, through which they are provided with energy advisory services. The council has recently carried out net zero feasibility studies on 20 schools to identify how their energy demand could be reduced, which funding secured for one school through the Public Sector Decarbonisation Scheme.

6.4. **General fund**

Energy costs are charged to the relevant service budgets and are therefore incurred across the council.

6.5. **Street Lighting**

An additional direct pressure to the general fund is the increase in costs of the street lighting PFI contract. The street lighting energy contract, which is organised by the PFI contractor, was due to be renewed at the start of May 2022. Following quotes obtained on 26 April from potential suppliers for the period May 2022 to April 2023, it was decided to purchase the energy for streetlighting through the council's SSE contract (the council's purchasing volume has a tolerance of around 20%, which the addition of streetlighting supplies comfortably fits within). The quotes were only marginally lower than current prices, and the council expects to be able to purchase subsequent periods at lower prices than present ones. At the prices available on 26 April, the annual cost would be £1.383m, £651k higher than the budget.

7. **Purchasing strategy**

7.1. The council's approach to purchasing energy has worked well for many years because the energy market was relatively stable and price increases tended to last for short periods. While PBOs would have trigger points to purchase volumes

ahead if prices went above certain points, the council would ride these out and be able to take advantage of sudden dips in prices to achieve highly competitive tariffs.

- 7.2. The current situation and purchasing approach mean that the risk is entirely with the council, with SSE purchasing gas and electricity on instruction of the council for a fixed fee per kWh (this fee was market tested as part of the procurement).
- 7.3. Given the current high prices, the purchasing strategy is to buy gas on a monthly basis and electricity on a quarterly basis (electricity cannot be purchased monthly as many sites have quarterly billing) and wait before purchasing for a longer period, in the expectation that prices will gradually fall back to lower levels. This purchasing technique was previously used in 2004 when global energy prices significantly increased due to the tsunami that affected several Asian countries.
- 7.4. An energy purchasing protocol is being developed to support officers to develop 'triggers' to determine the optimal period to purchase gas and electricity over the current financial year.
- 7.5. Consideration will also be given to a purchasing strategy for 2023/24, although the situation on long-term price changes may not become clear until the end of the Ukraine conflict.
- 7.6. Details of the options available to the council and being investigated for energy purchasing are set out in appendix 1.

8. Budget mitigation

- 8.1. Both the HRA and general fund (including streetlighting) budgeted for an increase in energy costs, while schools were advised to budget for increases. However, the budgeted amounts are significantly less than most scenarios being modelled.

8.2. **HRA**

8.2.1 Gas Costs

The unprecedented additional costs anticipated this year are expected to be over and above the 25% increase in charges that were planned for in the charges set for 2022/23, leading to an average increase in weekly charges of £2.12 for heating and hot water. Although the heating charges have been increased by 25%, they are still lower than in 2015/16 (after which prices were reduced due to low gas prices – see table below). The additional charge alongside the surplus in the heating pool was going to be used to smooth the expected increase over a two-year period.

- 8.2.2 With increases being much higher than anticipated, if charges remain unchanged there will be a significant deficit position within the heating pool by the end of the year. Modelled scenarios (based on 21 April prices) indicate a remaining mismatch between both tenant and leaseholder charges and costs for 2022/23 ranging from £0k to £15.9m for gas (heating and hot water).
- 8.2.3 It is therefore inevitable the tenant charges will need to be raised to enable the continued ringfenced approach to these costs. Increased communal gas costs for tenants are not covered by housing benefit (HB) or universal credit (UC), meaning these costs must be met in full by tenants.
- 8.2.4 There are a range of options for the timing and spreading of these additional costs, but charges will need to be increased in order to meet these higher costs. A decision will be needed as to whether to seek to recover costs mid-year, the following year or over a number of years. Spreading this over a longer period can really only be done if the market is expected to be more stable in the coming years. If a change to charges is made, during the year, a decision will need to be made by the Executive and a notification of change of charges will need to be issued to the effected tenants.
- 8.2.5 Electricity costs
These costs are charged to tenants as part of the Estate Services Service Charge, on the basis of estimated costs as part of the budget setting process. Tenants are informed of these charges at the beginning of the year, as part of the rent and service charge increase process. Current housing policy is to set these charges for the forthcoming year based on estimated costs and NOT to adjust future years' charges to reflect prior year under or overspends. As such as it stands any increase in communal electricity would fall to the HRA. 90% of tenants are charged these charges. If this approach was continued, the HRA will have to fund a considerable deficit in charges collected.
- 8.2.6 As part of the 2022/23 budget setting process, it was anticipated that communal electricity were increased by 49%, leading to an average increase in charges 47p for communal electricity.
- 8.2.7 Increased communal electricity costs in respect of tenanted households are covered by HB or UC for those households in receipt of these benefits. Around 75% of tenants living on estates benefitting from a communal electricity supply are in receipt of either HB or UC, which means that any increase in cost should be covered by HB or UC, leaving around 5,000 tenant households who will have to meet the full cost of the increase.

8.2.8 Modelled scenarios (based on 21 April prices) indicate a remaining mismatch between both tenant and leaseholder charges and costs for 2022/23 ranging from £408k to £8.8m for communal electricity.

8.2.9 There is an option to increase the charges for communal electricity part-way through the year, in recognition of the volatile market, meaning that charges are much higher than estimated, correcting the estimate in-line with the costs and increasing charges to cover part or all of the expected under-recovery. If a change to charges is made, during the year, a decision will need to be made by the Executive and a notification of change of charges will need to be issued to the affected tenants.

8.2.10 Leaseholders

Leaseholders are required to meet in full any increases in the cost of gas or communal electricity. The impact of increases in costs incurred or anticipated by the council would usually be reflected in the 2022–23 estimated annual service charge bills, due to be issued in September 2022.

8.3. **Schools**

8.3.1 Based on prices at the time, in November 2021 schools were advised by the school finance team to increase their energy budgets by 78% for gas and 68% for electricity for the forthcoming year. In current discussions they are being advised to budget in line with the 'Back to pre-Ukraine prices' scenario.

8.3.2 There have been further communications with schools during March, including at school budget setting workshops where details of the latest cost pressure projections have been shared at individual school level. Schools have been advised to budget based on the mid-case scenario, and they will be kept informed as projections are updated throughout the year.

8.3.3 Additional funding has been received from the government to support cost pressures in 2022/23 of £4.15m. This covers both maintained schools and academies in the borough - school level allocations are to be confirmed by the DfE, but we have estimated that £3.366m will be allocated to Islington's maintained schools using a methodology likely to be adopted by the DfE. While this is a significant level of funding, the allocation was made by the DfE in the autumn, when energy costs were much lower than they are now. Therefore, it is unlikely to come close to meeting the additional cost pressures that schools will now face in relation to energy, given all the other cost pressures they face. There is no sign from the DfE that they will provide further financial support to schools.

8.3.4 The increase in energy costs comes at a time when school budgets are under increasing cost pressures and balances are in decline. Therefore, increases in

energy costs will put school balances under further pressure. Further communications on energy cost pressures containing advice and guidance will be issued to schools shortly.

8.4. **General fund**

- 8.4.1 As detailed in the table in paragraph 5.8, the utility cost increase in 2022/23 could be around £2.7m, although modelled scenarios give a range of £1.05m to £5.6m. On top of this, there is also the potential 50% share of GLL costs (£245k-£1.3m) and streetlighting (£360k-£1.6m), giving a total range of £1.7m to £8.5m. GLL have not yet advised the council of how they will budget for increased costs, but this is an issue they will be facing across the country.
- 8.4.2 As part of the MTFs budget setting process, £1.5m has been allowed for increased utility costs for the general fund in 2022/23. While the MTFs growth will mitigate against the increased costs, it will not be sufficient to cover the increased cost pressures and current cost and energy usage.
- 8.4.3 Within the council's budget a contingency exists which is to manage unforeseen expenditure. For 2022/23 this is limited to £5m. The council's further sustainability mechanism would be to agree a drawdown of its reserves. In-year, the council would seek to avoid utilising these mechanisms through the reallocation of any underspending resources.
- 8.4.4 The energy price rises will also be impacts for services that commission external service delivery that uses buildings, as the service providers are likely to see an increase in their energy costs. This may result in them facing financial pressures and seeking increased costs from the relevant council departments. Adult Social Care have contracted services of approximately £88m, and it is estimated energy makes up between 2–5% of provider costs, dependent on the type of service. If the providers' energy costs increase in line with forecast increase for the council, this could result in an additional cost of approximately £4.2m, some of which providers may seek to pass on to the council.
- 8.4.5 Adult Social Care providers have yet to approach the council for increases related to energy costs as and when they do these will be dealt in a case-by-case manner with any increase being treated as a one-off increase. Existing market inflation funds will be utilised together with an element of the Market Sustainability and Fair Cost of Care Fund. Additional funding requirements will be sought as when they materialise.

9. Risks and mitigations

9.1. Risks

Cost increases will impact some areas more than others, and also have implications for the council's energy purchasing arrangements.

9.1.1 Leisure centres

9.1.2 Some leisure centres, particularly those with swimming pools, will not be able to significantly reduce their heating costs or close to customers. The leisure centres are already under financial strain due to customer levels being lower than before COVID-19.

9.1.3 Schools

The cost increases may impact how many schools continue to purchase their energy through the council service level agreement (SLA). A very large price increase may lead schools to look elsewhere in 2023/24. If a number of them discontinue with the SLA, this will reduce the council's purchasing volume (currently schools make up 18% of the electricity and 14% of the gas volume). Whilst this drop in volume can be accommodated in the current contracts, it may reduce the council's buying power and will affect the council's ability to move schools over to renewable energy. In addition, if schools opt out of the SLA and enter the market themselves, there is a risk that they could end up on contracts that lead to higher rates in future years, in addition to consultant fees.

9.1.4 Housing

There are risks associated with allowing the heating pool to fall into deficit over any period of time, which will need to be considered and managed appropriately.

9.1.5 While the introduction of heat meters is likely to reduce the energy consumption of communal systems and give residents greater control, it is also likely that this will result in some residents with the lowest incomes having the highest heating costs (those that are at home all day). This may result in vulnerable residents underheating their homes to save money and worsening health conditions that are exacerbated by the cold.

9.2. Mitigations

While the council and affiliated organisations can budget for increased costs and try to reduce potential exposure through the energy purchasing strategy, a direct way to reduce the financial exposure is to reduce energy consumption. Many council and school buildings are not run as efficiently as they could be; heating, lighting and air conditioning systems are left on unnecessarily or are made less efficient by (for example) windows being left open. This means there is the potential to make significant savings, which will offset the price increases to some extent. Some of the mitigation measures will require behaviour change from

facilities managers and staff, which, if made permanent, will reduce the council's future energy demand and costs.

9.3. There are a range of short, medium and long-term measures the council is planning:

9.3.1 Short-term measures

Site managers of council buildings and schools were contacted to inform them of the price rises and the need to tightly manage energy use from 1 April. The communications included a range of suggestions to reduce energy consumption, including avoiding using heating/cooling systems when possible (which will be weather dependent). Given the impact of the price increase on budgets, it has also been recommended that site managers consider temporarily closing or shutting off parts of some buildings, allowing them to shut off both heating and lighting in these areas. Their ability to do this will be dependent on building occupancy levels.

9.3.2 The Energy Services team ran a series of sessions to provide advice for site managers of both council buildings and schools on energy efficiency. The Energy Services team has for many years provided annual reports for larger council buildings, schools and communal heating systems, which set out energy saving proposals for site managers. The most recent reports can be used by site managers for reference. The managers of the largest energy consuming sites (which account for 80% of the council's electricity and gas use) have also been asked to set out specific plans for reducing energy consumption in their buildings.

9.3.3 The Energy Services team are liaising with the Comms team about communications with staff to encourage them to minimise energy use in buildings, and with residents of communally heated estates to encourage them to use less energy.

9.3.4 The Corporate Landlord service is looking at revising building opening times and the possibility of closing floors of some buildings at certain times in order to reduce energy consumption at those sites.

9.3.5 For estates with communal heating systems in which the heating and hot water supplies are separate, heating is operated from 15 September to 24 May. Residents can be very sensitive to changes to their service or the effects of cold snaps outside of the heating season. Therefore, the communal heating team are looking at a number of means to offer services most efficiently and seeking good practice examples used by other landlords, including;

- Closer monitoring of systems to ensure that the optimising systems are working and not overridden following repairs
- Investigating opportunities for increasing levels of sensors in building to more effectively control heating levels in buildings, reducing occurrences of over

- Investigating aligning heating provided more to the meteorological forecasts for greater efficiency
- Piloting a reducing in flow temperatures in a block to see whether this leads to complaints about cold from residents, this could be rolled out further if successful to help manage energy usage

9.3.6 Tenants and leaseholders will need to be consulted on any changes to heating hours, changes to the temperatures at which heating will go off or come on at or a reduction in the number of hours communal lighting is available. Volatility in prices would make consultation with residents more challenging, due to cost estimates for different levels of service being less certain going into the future.

9.3.7 Medium-term measures

Several council buildings have smart meters, which record energy use at half-hour intervals, with the data available to the council via its Systemslink platform. The Energy Services team currently has a project to get smart meters installed on every site (currently around 50% of gas supplies and the 50 largest electricity supplies have smart meters). Installations are carried out for free by SSE, but will need some organising for site access, and in the case of electricity meters, temporarily turning off the site's power supply while the meter is fitted. The Energy Services team are liaising with Corporate Landlord about this.

9.3.8 Site managers will be given access to data for their buildings so that they can monitor their buildings and identify if heating systems or other equipment is being left on at times when the building is not in use. The software also allows for alerts to be set for unusual usage patterns, which will further assist in driving down wasteful energy use.

9.3.9 The borough's streetlighting will continue to be upgraded to LED, with a further £258k budgeted for the next two years.

9.3.10 The council will look for all possible grant funding opportunities to further improve the energy efficiency of the housing stock.

9.3.11 Long-term measures

The council is planning a set of feasibility studies for all corporate buildings with a gas supply to identify how to decarbonise the buildings. These studies will look at all types of potential energy efficiency measures. Once these are completed, they will form the basis of applications to the Public Sector Decarbonisation Scheme for funding to install the measures proposed. The council has already set aside £5.6m of capital funding over the next three years to match fund these works and there has already been a successful bid for works at the WRC and Calshot Community Centre, which will include installing new/additional solar panels. There are also

some other capital works already planned, with solar PV arrays to be installed at four other sites.

- 9.3.12 Feasibility studies have recently been completed for 20 primary schools, which will also form the basis of future PSDS bids. The council has budgeted £4m for these works over the next three years. One successful bid has already been made to the PSDS for New River College.
- 9.3.13 Currently most communally heated properties are unmetered, which does not incentivise energy efficiency. However, individual metering is being rolled out from 2022/23 across some communal blocks, where this is now required under regulation. This is likely to lead to residents being more conscious of energy use, as residents with heat meters will be billed based on heat consumption, rather than paying the flat-rate charge and a possible reduction in gas usage within the communal systems in question.

10. Implications

10.1. Financial Implications

- 10.1.1 The purchase of energy for the 2022/23 financial year will have significant financial implications for the council's general fund, housing revenue account, schools and partners. A range of scenarios have been modelled based upon energy market reactions to the future global situation and different strategies for short or longer purchasing periods, which give a range of total energy prices increase in 2022/23 of between £5.9m to £34.9m compared to the 2021/22 price of £8.2m.
- 10.1.2 The modelled range of energy cost increase for schools is between £1.047m (best case) to £6.049m (worst case) with a mid-case scenario increase of £2.316m. The latest forecast is for school balances to reduce to £5.976m at the end of the 2021/22 financial year, with 14 schools in deficit. A further 13 schools are forecast to have a surplus of less than 5% of their individual school budgets and are therefore particularly vulnerable to increases in costs. It is anticipated that school balances will reduce further in 2022/23 to £3.160m because of energy and other cost pressures. Schools are due to submit ratified budgets for 2022/23 at the end of May where the impact will be better understood. The Council continues to provide support to schools in assessing and managing their cost pressures.
- 10.1.3 There is a forecast pressure on the General Fund of rising and volatile energy prices. This will be managed through in-year efficiencies, management actions and potential use of the council's contingency balance and/or reserves. This will be monitored regularly as part of the in-year monthly monitoring and reporting process. Any ongoing financial implications will be picked up as part of the

council's medium-term budget process.

10.2. Legal Implications

a) By a formal Contract Award decision taken by the Corporate Director for Environment on 12th December 2019 the following three (3) energy contracts were awarded by the council (48-month contracts for the period 1st April 2020 to 31st March 2024):

- Gas – Scottish & Southern Energy
- HH 100KW Electricity – Scottish & Southern Energy
- NHH Sub 100KW Electricity – Scottish & Southern Energy

b) Both the Contract Award Report and the Contract Notice (call for competition) published in the Official Journal of the European Union (OJEU) refer to an estimated total contract value for the three contracts of £32m over the said four-year period (ie 4 years x £8m per annum).

c) This Report identifies certain circumstances which have given rise to unforeseeable energy prices increases and the estimated total contract value over the four-year period has therefore increased from £32m and possibly up to £48m.

d) Regulation 72 (1)(c) of the Public Contracts Regulations 2015 provides as follows:

72.—(1) Contracts and framework agreements may be modified without a new procurement procedure in accordance with this Part in any of the following cases:—

(c) where all of the following conditions are fulfilled:—

(i) the need for 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 value of the original contract or framework agreement.

e) The increase in the estimated total contract value above £32m and possibly up to £48m is lawful under Regulation 72(1)(c) and will require publication of a Contract Modification Notice on the *Find A Tender* website.

f) Paragraph 16 of the council's Procurement Rules provides:

16.1 The Executive shall:

16.1.1 approve the award or variation of contracts where the value of the contract or variation (to the Council) is estimated to exceed officers delegated authority (in the case of Revenue Spend or Capital Spend)

and

16.2 The Executive may delegate its responsibilities under this Rule 16 to Corporate Directors or the Chief Finance Officer.

- g) Accordingly, the decision to vary these three contracts in relation to the increase in total estimated contract value is a decision for (or as delegated by) the Executive.

10.3. Environmental Implications and contribution to achieving a net zero carbon Islington by 2030

10.3.1 The council switched corporate buildings to a renewable electricity tariff at the start of April 2021 and will switch the GLL Leisure Centres to a renewable tariff from April 2022. The cost increase of doing this was negligible.

10.3.2 The mitigation measures to reduce energy usage identified in this report will have a positive environmental impact, as they will result in reduced carbon emissions. Some of the changes may become permanent, leading to a long-term reductions. However, there is also a risk that in some areas, the increased costs could reduce the funds available to carry out works that will reduce energy consumption.

10.4. Equalities Impact Assessment

10.4.1 The council must, in the exercise of its functions, have due regard to the need to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity, and foster good relations, between those who share a relevant protected characteristic and those who do not share it (section 149 Equality Act 2010). The council has a duty to have due regard to the need to remove or minimise disadvantages, take steps to meet needs, in particular steps to take account of disabled persons' disabilities, and encourage people to participate in public life. The council must have due regard to the need to tackle prejudice and promote understanding.

10.4.2 An Equalities Impact Assessment is not required in relation to this report, because there are currently no changes to policies, procedures or financial decisions that will directly affect residents. If the HRA proposes to change charging arrangements mid-year, these proposals will go through the resident impact assessment process and be subject to consultation.

11. Conclusion and reasons for recommendations

- 11.1. The council will have increased energy costs this year due to the significantly increased market prices for electricity and gas.
- 11.2. In order to remain compliant with procurement regulations, a contract modification notice needs to be published regarding the increase in value of the energy supply contracts.
- 11.3. Budget mitigation measures were put in place in expectation of increased costs, with additional measures being developed for dealing with the cost increase.
- 11.4. Demand reduction measures are also being implemented to reduce energy consumption and mitigate the cost increases.
- 11.5. Heating and electricity charges for tenants and leaseholders need to be reviewed in order to ensure the HRA can pay the increased energy costs.
- 11.6. The price increases are a particular risk for several areas, as set out in section 9.
- 11.7. The council has some future energy procurement options available to it that may mitigate costs in future.

Appendices:

- Appendix 1 (Procurement Options): Exempt

Final report clearance:

Signed by:



Executive Member for Environment, Air Quality and Transport

Date: 23.5.22

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DECISIONS OF EXECUTIVE - THURSDAY, 1 SEPTEMBER 2022

AGENDA ITEM	SUBJECT	DECISION	ACTION
3	MINUTES OF PREVIOUS MEETING	AGREED.	
4	MONTHLY BUDGET MONITOR, INCLUDING FUNDING ALLOCATIONS AND ADJUSTMENTS TO THE CAPITAL PROGRAMME	<p>AGREED RECOMMENDATIONS</p> <p>Reasons for the decision – to ensure the financial resilience of the Council Other options considered – none Conflicts of interest / dispensations granted – none</p> <p>Link to the report</p>	CDR
5	PROCUREMENT STRATEGY FOR PARKING DEBT RECOVERY SERVICES (CONCESSIONS CONTRACT)	<p>AGREED RECOMMENDATIONS</p> <p>Reasons for the decision – to provide a parking debt recovery service Other options considered – other options included a non-framework approach and in-sourcing Conflicts of interest / dispensations granted – none</p> <p>Link to the report</p>	CDE
6	SPECIAL EDUCATIONAL NEEDS AND DISABILITIES (SEND) TRANSITIONS - REVIEW OF THE CHILDREN'S SERVICES SCRUTINY COMMITTEE	<p>AGREED RECOMMENDATIONS</p> <p>Reasons for the decision – to receive the report of the Children's Services Scrutiny Committee Other options considered – none Conflicts of interest / dispensations granted – none</p> <p>Link to the report</p>	CDCS

AGENDA ITEM	SUBJECT	DECISION	ACTION
7	PROCUREMENT STRATEGY FOR RESIDENTIAL CARE SERVICE FOR OLDER MEN WITH ALCOHOL MISUSE AND MENTAL HEALTH CARE NEEDS	<p>AGREED RECOMMENDATIONS</p> <p>Reasons for the decision – to maintain mental health residential care bed capacity, with alcohol misuse specialism in borough when the current contract comes to an end and deliver better value for money Other options considered – other options included the use of spot contracts, in-house delivery, and collaboration with other boroughs Conflicts of interest / dispensations granted – none</p> <p>Link to the report</p>	DASC
8	MONITORING REPORT - SEPTEMBER 2022	<p>AGREED RECOMMENDATIONS</p> <p>Reasons for the decision – to note the urgent decision taken by officers Other options considered – none Conflicts of interest / dispensations granted – none</p> <p>Link to the report</p>	HoDS&G
9	ENERGY PURCHASING	<p>AGREED RECOMMENDATIONS</p> <p>Reasons for the decision – to achieve a large cost avoidance compared to current market prices. Other options considered – as detailed in the report, two options are available Conflicts of interest / dispensations granted – none</p> <p>Link to the report</p>	CDE

AGENDA ITEM	SUBJECT	DECISION	ACTION
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NB – Any decision not subject to call-in, in accordance with para 67.1 of the Constitution, is indicated with an asterisk (*)