

<b>AWARD OF UTILITY CONTRACTS (GAS, ELECTRICITY, HALF HOURLY (HH) AND NON- HALF HOURLY (NHH)) TO SUPPLIERS UNDER THE ESPO FRAMEWORK</b>
<b>COUNCILLOR DAVID SEATON, CABINET MEMBER FOR FINANCE</b>
<b>August 2020</b>
<b>Deadline date: 31 August 2020</b>

Cabinet portfolio holder: Responsible Director:	Councillor Seaton, Cabinet Member for Finance Peter Carpenter, Acting Director of Corporate Resources
Is this a Key Decision?	YES If yes has it been included on the Forward Plan: Yes Unique Key decision Reference from Forward Plan: KEY/16MAR20/01
Is this decision eligible for call-in?	NO (waiver of call-in provision utilised)
Does this Public report have any annex that contains exempt information?	YES
Is this a project and if so has it been registered on Verto?	NO

## R E C O M M E N D A T I O N S

The Cabinet Member is recommended to approve the new contractual arrangements for the Council's supply of electricity and gas under the ESPO framework. This includes switching to a 'green' electricity tariff which is one of the Council's declared 'top 20' actions for 2020/21.

### 1. SUMMARY OF MAIN ISSUES

- 1.1 The Council have been reviewing their energy contracts and have switched supplier to Total Gas and Power (TG&P) via ESPO Frameworks (Electricity ESPO 191 B/C and Gas ESPO 192 – 19). Formal Notice was served 12 September 2019 to Crown Commercial Services (CCS), in accordance with contract terms which stipulate that notice was to be given 6 months prior to the end of the current fixed price agreement (failure to comply with this requirement would allow the agreement to roll over for a further 12 months). The incumbent suppliers under the CCS Framework were EDF Energy (Electricity) and Corona (Gas), and the termination date cited in the letter was 31 March 20. PCC engaged with ESPO during this period and upon receipt of fixed pricing on 12 March 2020. ESPO were advised of the Council's intention to award under their frameworks on 13 March 2020 and

the Council subsequently moved to the new frameworks with ESPO effective 1 April 20. This report is to confirm and finalise those arrangements and ensure fully compliant governance is in place for the new contracts

## **2. PURPOSE OF THIS REPORT**

- 2.1 This report is for the Cabinet Member for Finance to consider exercising delegated authority under paragraph 3.4.3 of Part 3 of the constitution in accordance with the terms of their portfolio at paragraph (a).
- 2.2 The attached appendix is NOT FOR PUBLICATION in accordance with paragraph 3 of Schedule 12A of Part 1 of the Local Government Act 1972 in that it contains commercially sensitive information relating to the contracts and information relating to the financial or business affairs of any particular person (including the authority holding that information). The public interest test has been applied to the information contained within the exempt annex and it is considered that the need to retain the information as exempt outweighs the public interest in disclosing it as to do so
- 2.3 With the approval of the Chairman of Growth, Environment and Resources Scrutiny Committee, special urgency procedures have been invoked to suspend the requirement to publish for a five day consideration period, and the waiver of call-in procedure has been invoked to suspend the option to call the decision in. These procedures have been invoked due to the need to notify the supplier of the Council's intention to move to a green electricity tariff on the 1 October 2020, by 31 August 2020 (as requested by the new supplier (TG&P)). If the Council were to miss this deadline, it would remain on a brown electricity tariff, and would fail to achieve the targets previously committed to.
- 2.4 The reason for the urgency now (in respect of meeting the 31 August 2020 deadline) is due to delays in receiving final contract information, and seeking clarity on points of detail following the unexpected passing of a colleague who was previously overseeing this procurement exercise.

## **3. TIMESCALE**

Is this a Major Policy Item/Statutory Plan?	<b>No</b>
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## **4. DETAILS OF DECISION REQUIRED**

- 4.1 The Cabinet Member for Finance is requested to approve the new contractual arrangements for the Council's supply of electricity and gas under the ESPO framework and as detailed in the exempt annex to this report.
- 4.2 The Framework Contract References are:
- Electricity 191 B/C
  - Gas 192 - 19
- 4.3 Electricity requires an initial 6 month contract from 1 April 2020 to 30 September 2020, and a further 4 year contract from 1 October 2020 to 30 September 2024. It should be noted that although this means that the Council is signing 2 separate contracts for Electricity, this is due to an administrative requirement by ESPO in order to bring PCC in line with their respective energy basket negotiations. For the avoidance of doubt, whilst there are two contracts to be signed for Electricity, it was agreed that the contract would be for the period from 1 April 2020 until 30 September 2024.

- 4.4 For gas, the contract is for 3 years, running from 1 April 2020 to 31 March 2023.
- 4.5 From April 2020, supply has moved to Total Gas and Power except for those accounts where the incumbent supplier raised disputes which are in the process of resolution. It should be noted that these contracts in line with all corporate utility contracts do not include a break clause allowing the Council to terminate at will by serving notice.
- 4.6 The Council has followed all requirements of the Frameworks and is therefore not at risk of challenge from alternative suppliers.

### **Financial Context**

- 4.7 The estimated contract sums are predicated on estimated annual total volumes contained within the contract for which fixed prices have been secured. The amounts are as follows:
- Electricity: 01/04/20 – 30/09/24 = £9,486,650.71 (based on a best estimate of forecasted fixed costs of £2,791,223.06 for the opening contract period to 30/09/21 and then £2,231,809.21 annually thereafter). This figure is inclusive of a Green Tariff premium of 0.075p p/kWh applicable from 01/10/20 (totalling £13,477.55 per annum or £53,910.20 for the contract duration across the portfolio).
  - Gas: 01/04/20 – 31/03/23 = £1,061,411.40 (based on forecasted fixed costs of £353,803.80 annually).
  - ESPO fees included in this figure are detailed below (these are incorporated into standing charge and are not an additional cost):
    - Electricity ESPO fee £7,259.85 and Bill Validation £10,585.00 – Total £17,844.85 per annum (£80,301.79 over the contract term)
    - Gas ESPO fee £2,674 and Bill Validation £5,110 – Total £7,784 per annum (£23,352 over contract term)
- 4.8 Given the current Covid-19 operating environment for the Council, it is difficult to estimate with total certainty exactly what the Council's likely energy consumption will be going forward. There is a possibility that consumption could be lower than expected as a result. However, if the Council's consumption was to increase by 10%, it should be noted that the full financial commitment over the contract term, would be £10.4m for electricity and £1.2m for gas.
- 4.9 As part of this switching process the Council have reviewed different tariff options, and the Council will be switching to a 'green' tariff for electricity supply from the 1 October 2020. In adopting a 'green' tariff for electricity, a cost premium will be incurred of 0.075 pence per kWh for Year 1 (starting 1 October 2020). This equates to approximately £13.5k per annum compared with equivalent non-green tariffs (and is included in the totals detailed in 4.7).
- 4.10 The new supplier for gas does not currently have a carbon neutral product. While they are working on this, it is unlikely to be available this year and at this stage we have no estimation of financial impact once this is available.
- 4.11 It should also be noted that as the Council are purchasing through an ESPO framework agreement, it is expected that this will contribute to the Council's volume-based profit share at the end of each financial year as an owner of the company.

## **5. CONSULTATION**

- 5.1 Consultation between relevant Council Officers, the Acting Director of Resources, the Council's Legal service and the Procurement function within the Peterborough-Serco

Strategic Partnership has been undertaken to provide the relevant information for this report.

## **6. ANTICIPATED OUTCOMES**

- 6.1 It is anticipated that the Cabinet Member will approve the new contractual arrangements for the supply of Electricity and Gas to the Council's estate, via the ESPO framework as summarised in the pricing schedules within the Exempt annex to this report. This will provide full governance for the procurement process which ensures future energy supply to the Council's property portfolio.

### Legal Implications

- 6.2 As the contracts for both the Gas and Electricity supply were awarded in March and supply began on 1 April 2020, the Council are already legally bound by contracts both with ESPO (for procurement and account management services) and also with Total Gas and Power (in respect of the supply of the energy in both cases) for a term of 4 further years (in the case of Electricity) and 3 further years in the case of Gas. The approval sought is therefore a retrospective approval dating back to the commencement of these contracts on 1 April 2020. However, as certain financial terms still require sign off (see Exempt Annex), it has not been possible to sign off final governance or contracts with final figures. Relevant officers are aware of the need to establish certainty in relation to and sign contracts enshrining these terms as soon as possible.

## **7. REASONS FOR RECOMMENDATIONS & ANY RELEVANT BACKGROUND INFORMATION**

- 7.1 Significant time had been spent by the Procurement team liaising with EDF and Corona prior to the end of March 2020, to obtain the necessary data to provide to ESPO due to there not being a centralised area that recorded data within PCC. It took until early March to provide ESPO with the correct information and they provided their pricing offer which was received on 12 March. PCC notified ESPO of the intention to move to their framework from 1 April 2020.
- 7.2 Some work has been done within Place and Economy to ascertain whether the data that pricing has been based on is accurate in order to ensure the Master Contract Schedules of the ESPO agreements which contain the financial terms agreed by ESPO with the supplier (Total Gas and Power) on behalf of the council are correct. Due to exceptional circumstances following the procurement and detailed briefly in the Exempt Annex, this process is still ongoing, which is why the figures for which pre-approval is sought above are estimated and expressed as a maximum figure. Notwithstanding this, the contracts are already running, and are currently running on the basis of the figures in the Master Contract Schedules (particularly Appendix A to Gas Contract and Schedule 2 to Electricity Contract as included in the Exempt Annex) which ESPO deemed provided. Procurement officers are continuing to liaise with ESPO to finalize the correct figures.
- 7.2 In a motion passed at Full Council on the 24 July 2019 the council committed to: Achieve 100% clean energy across the Council's full range of functions by 2030 (<https://democracy.peterborough.gov.uk/documents/g4347/Decisions%2024th-Jul-2019%2018.00%20Council.pdf?T=2>).
- 7.2 In addition, in the Council-CMAP adopted at Full Council on the 4 March 2020, the Council committed to: Reviewing its entire electricity and gas contracts, and, where practical to do so, will seek to amend to 100% renewable electricity tariffs and 100% carbon off-set gas tariffs as soon as possible

## **8. ALTERNATIVE OPTIONS CONSIDERED**

- 8.1 The alternative option is to remain on the existing framework which was with Crown Commercial Services (CCS) (the ESPO bid was assessed against indicative costings supplied by CCS). As they were unable to quote us fixed prices this was difficult to evaluate in full. It should also be noted that the reason for serving notice on CCS was not due to pricing but was as a result of their failure in terms of performance of the contract, with CCS being slow to respond to requests for information. The option of remaining with incumbent supplier was therefore discounted for the reason that they were not delivering best value for money in terms of overall service,
- 8.2 The option of running a fully independent procurement process for PCC Electricity/Gas in accordance with The Utilities Contract Regulation 2016 was not pursued due to time constraints. The timescale for completion of this process would have been 12-18 months. Furthermore a Framework will provide better value for money due to the economies of scale realised by being part of a basket for energy.

## **9. IMPLICATIONS**

- 9.1 Financial and legal implications have been included within this report.
- 9.2 There are no equalities implications arising from the recommendation.

### **Carbon Impact Assessment**

- 9.4 A Carbon Impact Assessment of this decision has been carried out and the switching of the Council's electricity supply to a renewable tariff will have significant positive benefits, further creating national demand for this form of supply, which in turn will stimulate further national investment in renewables. However, whilst some suppliers are able to directly provide a gas carbon offset tariff, the gas part of this contract presently has no directly available carbon offset capability. As such, if this supplier is agreed and in order to meet Full Council commitments, it will be necessary to explore separately whether gas usage can be offset through alternative mechanisms, rather than directly through this supplier.

## **10. DECLARATIONS / CONFLICTS OF INTEREST & DISPENSATIONS GRANTED**

None

## **11. BACKGROUND DOCUMENTS**

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985) and The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

None

## **12. APPENDICES**

Exempt Annex – detailed pricing schedule