

Brighton & Hove City Council

Cabinet

Agenda Item 37

Subject: Corporate Water Supply

Date of meeting: 18 July 2024

Report of: Cabinet Member for Finance & City Regeneration

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Ward(s) affected: (All Wards);

Key Decision: Yes

Reason(s) Key: Expenditure which is, or the making of savings which are, significant having regard to the expenditure of the City Council's budget, namely above £1,000,000.

For general release

1. Purpose of the report and policy context

- 1.1 This report outlines recommendations for the corporate contract provision of water and wastewater services to Brighton & Hove City Council's operational portfolio from 26th October 2024. The Council's current supply contract covers around 380 water supply points with an annual total spend of approximately £1.08m.
- 1.2 The recommendations in this report directly support Outcome 4 of the Council Plan, 'A responsible council with well-run services', specifically supporting good governance, financial resilience, and the best management of council resources.

2. Recommendations

- 2.1 Cabinet grants delegated authority to the Corporate Director of City Services to enter into a call off contract using the YPO (Yorkshire Purchasing Organisation) Central Purchasing Body framework (Water, Wastewater and Ancillary Services – 1181) for the Council's water supply and wastewater services, for a maximum term of 48 months.

3. Context and background information

Background on Water & Wastewater markets

- 3.1 The non-domestic water market in England was deregulated in April 2017, meaning that commercial customers could now choose their own supplier for

water and wastewater retail services or, alternatively, apply for a 'self-supply' licence to administrate the retail element themselves.

- 3.2 There are currently around 20 retailers licenced to supply eligible commercial companies in England. Water and wastewater retail services are defined as billing, meter reading and account management. Retail services are currently the only negotiable cost element of water supply contracts and are estimated to be between 1% and 6% of the total contract value. The remainder of the contract value, and vast proportion of the costs, remain payable to our deemed Wholesaler at fixed rates.
- 3.3 Water Wholesalers are fixed based on geographic location and cannot be changed. The Water Wholesaler for Brighton & Hove City Council is Southern Water. The wholesaler is responsible for the physical supply and removal of wastewater, as well as maintenance and management of the water infrastructure & meters. Wholesaler responsibilities represent approximately 95% of the total contract value.

The Council's Water & Wastewater Supply Provision

- 3.4 Brighton & Hove City Council currently has a retail contract in place with Wave Utilities. This contract was procured under the Yorkshire Purchasing Organisation (YPO) framework for Water, Wastewater and Ancillary Services – 1008. This was approved at the Policy & Resources Committee on the 7th October 2021 and a contract was signed in March 2022. It is due to expire on 26th October 2024.
- 3.5 The council are currently responsible for 400 water supply points across the city, which includes services to corporate buildings, schools, and housing properties. The current annual spend is approximately £1.180m per annum, which is made up of:
- £1.087m paid to Wave Utilities under the YPO contract (4.9% of this payable for retail services, the remainder is passed on to Southern Water as the water and wastewater wholesaler)
 - £0.089m for Council residential supplies – These fall out of the scope of deregulation so cannot move away from their default Southern Water arrangement.

Current Contract Performance

- 3.6 Due to previous issues with contract performance, when the procurement exercise for the existing contract was undertaken, greater weighting was placed on quality and customer service. This meant issues that the Council had encountered with previous retailers such as poor and incorrect invoicing data and low meter reading frequency have been limited.
- 3.7 Query resolution has been much better through the current contract and as consumption data is more accurate, leaks and wastage have been picked up

much quicker. In addition, being billed on actual consumption enables better budget management and revenue forecasting for budget holders.

- 3.8 Since the contract began in March 2022, quarterly meetings have been taking place which run through performance against key performance indicators and query management. Additionally, Active Water Management (AWM) alerts are automatically sent from Wave Utilities to the Energy & Water Team if a site is found to be using more water than usual. This is sensed checked by the team then sent to the relevant site contact for investigation.
- 3.9 Through the contract, ancillary services have been accessed to enable better understanding of consumption data through the installation of Automatic Meter Reading (AMR) devices and various leak detection works. To date, 56 AMR devices have been installed on some of the highest water consuming sites within the portfolio and numerous repairs have been undertaken to eliminate water wastage.

Recommended Route to Market

- 3.10 The preferred route to market offers public sector customers compliant access to a singly appointed supplier via direct award, and defined quality standards supported by robust and verifiable performance indicators. The new YPO framework (Water, Wastewater & Ancillary Services 1181) places even greater emphasis on quality and customer services in their tender evaluation criteria. Consideration has been given to Council Standing order 7.2 (Where multiple appropriate Framework Agreements are available, an assessment is to be carried out to identify which represents the best value for money and meets any other relevant criteria) officers conclude that this is the preferred option.
- 3.11 The main advantages of this route to market are as follows:
- Compliance with public contract regulations.
 - Can call off contract for a maximum term of 48 months.
 - Economies of scale in purchasing.
 - Active water management service delivered for free, helping to increase accuracy of data, and identify wastage and opportunities for efficiency.
 - Access to additional ancillary water efficiency measures such as efficiency audits and Automatic meter reading devices.
 - Terms and conditions identifiable from start of process.
- 3.12 YPO awarded the Water, Wastewater & Ancillary Services 1181 framework to Anglian Water Business (National) Limited trading as 'Wave Utilities' from 1st September 2023. The company was formed by two established regional wholesale companies (Anglian Water & Northumbrian Water Group), who currently work with over 300,000 commercial customers in the deregulated market.

4. Analysis and consideration of alternative options

4.1 Delivering Retail Services In-House 'Self-Supply'

Instead of appointing one of the existing retailers, water deregulation also allows for 'Eligible Customers' to apply for a 'Self-Supply' license from the industry regulator to purchase water & waste services directly from the 'Wholesaler' and to provide their own 'Retail' services.

4.1.1 Potential Advantages

- Self-supply licence holders acquire certain rights within the water market, including membership and voting rights in meetings with MOSL.

4.1.2 Potential Disadvantages

- It has been estimated that an additional resource of 3 FTE would need to be appointed to meet the regulatory requirements of a self-supply license. An additional requirement for consultancy, finance and legal input would also be needed to ensure regulatory compliance. The estimated cost of these posts including on-costs is £100,740 per annum, which would far outweigh any saving from avoiding the retail element.
- Exposure to regulatory risks due to having to meet market performance standards, failure to comply would leave the council liable for penalty charges.
- The council would be subject to the additional cost of the self-supply application and on-going annual fees to MOSL (Market Operator Services Ltd) and CMOS (Central Market Operating System) which is the market software system.

4.1.3 Main Rationale for Not Being Preferred Option

Potential exposure to regulatory penalties and additional revenue pressures due to additional staffing and consultancy requirements.

4.2 Crown Commercial Services (CCS) Framework

RM6178 Water, Wastewater and Ancillary Services is a CCS framework with 3 Lots. Organisations can purchase from this agreement either by running a mini competition or by joining an aggregated E-Auction (for Lot 1: Water & Wastewater Services only). Currently this framework expiry is 30/11/2024 and there is one opportunity to join the aggregated E-Auction for Lot 1 before the end of our existing contract by notifying CCS by 30/08/2024.

- #### 4.2.1
- CCS are in the process of replacing RM6178 with a new 4-year framework (RM6306) which has greater emphasis on water efficiency. The details of this new framework are to be released in Summer 2024. Appraisal of this new framework would have been beneficial to consider as a potential route however at the time of analysing routes to market the necessary details were not available.

4.2.2 Potential Advantages:

- Compliance with public contract regulations.
- Economies of scale
- Additional Ancillary Services available
- Terms and conditions for framework RM6178 identifiable from start of process.

4.2.3 Potential Disadvantages:

- Details of the new framework RM6306 are not available in time for analysis.
- Terms and conditions for new framework RM6306 not identifiable from start of process.

4.2.4 Main Rationale for Not Being Preferred Option

Details of the new framework RM6306 are not available in time for analysis.

4.3 Laser Energy Water Procurement Framework

LASER established a compliant Framework agreement for the supply of water, sewage and additional services in 2022. The framework expires on 28/02/2026. The award of contracts for the supply of water and additional services is through mini competition or direct award.

4.3.1 Potential Advantages

- Contract Standing Order compliance
- Economies of Scale
- Additional ancillary services available

4.3.2 Potential Disadvantages

- Requires 15-week process to put together mini competition.
- Direct award may be based on the highest scoring supplier at framework tender stage overall or in individual areas, of price, quality of service, added value, social value or continuity of supply of existing services.

4.3.3 Main Rationale for Not Being Preferred Option

Likely to be a longer procurement process than the preferred option and small risk of re-appointing historic suppliers.

4.4 North East Purchasing Organisation (NEPO)

NEPO311 Water Retail Services is a sole-supplier framework agreement for the provision of water, wastewater and ancillary services. This follows a Direct award process to Wave Utilities, the framework end date is 31/03/2025, however authorities can call off to up to 4 years on the existing framework. NEPO are currently in the process of re-procuring the water framework which will place greater weighting on water efficiency. The details of this new framework are to be released in Autumn 2024. Appraisal of this new framework would have been beneficial to consider as a potential route however at the time of analysing routes to market the necessary details were not available.

4.4.1 Potential Advantages:

- Compliance with public contract regulations.
- Onboarding process should be relatively simply as all the Council's supply points are already registered with Wave Utilities in the Central Market database (CMOS).
- Access to additional ancillary water efficiency measures

4.4.2 Potential Disadvantages:

- Details of the new framework are not available in time for analysis.
- Terms and conditions for new framework not identifiable from start of process.

4.4.3 Main Rationale for Not Being Preferred Option

Details of the new framework are not available in time for analysis.

4.5 Energy Broker/Conduct own tender exercise by contacting retailers

The Council is approached regularly by consultancies and brokers that secure prices direct from suppliers.

4.5.1 Potential Advantages:

- May offer flexibility in terms and conditions and tailoring of contract requirements.

4.5.2 Potential Disadvantages:

- Slight risk of exposure to market fluctuations
- Resource intensive procurement process, broker may not have experience working with Local Authorities.
- Potential loss of benefits of aggregated purchasing volume of large frameworks.

4.5.3 Main Rationale for Not Being Preferred Option

Most resource intensive procurement option and potential exposure to increased costs due to lower aggregated purchasing volumes.

5. Community engagement and consultation

- 5.1 As residential supplies will not be included in this exercise and will remain with the deemed wholesaler, the Housing Management Team will not need to carry out statutory consultation notifications with council tenants.

6. Financial implications

- 6.1 The council currently spends approximately £1.08m through the existing water supply and wastewater services contract and this is budgeted for across services. The majority of this cost is set by Southern Water where charges are expected to rise quite steeply over the next 4 years. A well-managed retail service with timely accurate meter readings will support good financial management and minimise loss through leaks.

Name of finance officer consulted: James Hengeveld

Date consulted :19/06/2024.

7. Legal implications

- 7.1 The Council is required to comply with the Public Contracts Regulations 2015 (PCR 2015) in relation to the procurement and award of contracts above the relevant financial thresholds for services, supplies and works. This contract has a value over the PCR 2015 threshold. Using a the YPO Water, Wastewater & Ancillary Services 1181 Framework is a compliant route to market. This new YPO Framework is valid from 1st September 2023 until 31st August 2027 and the Council can call off from this framework to replace the existing contract which expires on 26th October 2024.
- 7.2 The Council's Contract Standing Orders (CSOs) will also apply to this procurement exercise and the Council must comply with CSO 7 to ensure that the chosen Framework is appropriate and meets the criteria set out in CSO 7.2.

Name of lawyer consulted: Eleanor Richards Date consulted: 19/06/2024.

8. Sustainability implications

- 8.1 The Southeast of England is one of the most arid parts of the UK therefore water efficiency and conservation is vital in this area. Through monitoring the data from the newly installed AMR devices as summarised in section 3.9, at least 22 alerts have been sent to the relevant site contact with details of their high usage. Associated repairs were carried out or water saving equipment was installed to combat the high usage.
- 8.2 Issues have varied from external leaks, faulty urinal sensors, taps and toilets. The aim is to continue to implement these interventions through the length of the newly awarded contract.

9. Procurement implications

- 9.1 Procurement officers have been involved in the market analysis process and having considered the various options for route to market, it is agreed that the preferred route is using the YPO Water, Wastewater and Ancillary Services Framework 1181.
- 9.2 This option offers access to a singly appointed supplier, through a compliant framework, via a direct award. The new YPO framework meets the Council's expectations in terms of performance indicators, value for money and social value and sustainability commitments.
- 9.3 This option offers access to a singly appointed supplier, through a compliant framework, via a direct award. The new YPO framework meets the Council's expectations in terms of performance indicators, value for money and social value and sustainability commitments.
- 9.4 As expected, YPO's approach to social value demonstrates an alignment with Brighton & Hove City Council's requirements to consider economic,

social and environmental well-being. Social value as part of the new framework (water, Wastewater & Ancillary Services 1181) focuses on the above priority themes, and includes but is not limited to the following:

- Economic - Local jobs created and sustained, apprentices, work placement schemes and training opportunities.
- Social - Supporting local charities, helping local community groups, ethical supply & initiatives and community engagement involving local residents.
- Environmental - Reducing carbon footprint / pollution, minimising waste, using environmentally sourced goods & procedures and saving energy.

9.5 On the new YPO framework, the supplier (Wave) will remain the same as on the current framework. Wave's previous social value achievements include holding corporate volunteering events and employee volunteering days, delivering an information session at a local school, and offering mentorship to a local young men's group. These sorts of commitments align with the Council's expectations of suppliers to provide real value within the local community. Furthermore, YPO have pledged to work collaboratively with Brighton & Hove City Council to achieve the Council's own social value outcomes.

10. Conclusion

10.1 Securing a direct award contract through the YPO Water, Wastewater & Ancillary framework for the council's water services is the preferred route to market from those assessed.

10.2 The main potential benefits of the preferred option are improved customer service standards resulting in more efficient use of officer time and the option to continue to work alongside the supplier to implement efficiency services to highlight and reduce water wastage and associated carbon emissions.

10.3 Finally, improved data quality reduces the risk of missing leaks and wastage, and increased confidence in revenue forecasting & budget management.

Supporting Documentation

1. N/A