

Brighton & Hove City Council

Cabinet

Agenda Item 38

Subject: Corporate Energy 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 seeks delegated authority for the continuation of Brighton & Hove City Council's ('the Council') electricity and gas purchasing strategy.
- 1.2 The electricity and gas supply contracts comprise of around 1,560 supplies across the Council's portfolio including operational buildings, schools, housing communal areas and street-lighting. The current total spend on these requirements is approximately £9.5m per annum.
- 1.3 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 agrees to the continued use by the Council of the Crown Commercial Services Energy Procurement framework until 31st March 2029 and grants delegated authority to the Corporate Director of City Services to continue to purchase electricity, gas, and associated metering services through the Crown Commercial Services Energy Procurement framework [RM6251] until 31st March 2029 at the latest.

3. Context and background information

- 3.1 The Council currently procures electricity and gas supply requirements through Crown Commercial Services (CCS) energy purchasing frameworks, which are specifically setup for central government and wider public sector bodies. Procuring through these frameworks can provide an element of protection against market volatility by utilising a forward purchasing strategy and offer economies of scale through the aggregation of purchase volumes.
- 3.2 The Council has been working with our Orbis partners in East Sussex and Surrey on a joint strategy for utility procurement which includes the alignment of utility contract dates to benefit from a single procurement process and reduce administrative duplication for council officers.

The Council's Current Contract Arrangements

- 3.3 The Council currently has two energy supply agreements procured through CCS frameworks which are included within the scope of this report:
- 3.3.1 Electricity Supply Contract which is split into 'Metered' & 'Unmetered'
- Metered: Comprised of 1,330 electricity supplies across the operational portfolio including corporate landlord operational buildings, schools, and housing communal areas.
 - Unmetered: Comprised the unmetered electricity supply for the Council's street-lighting and illuminated street furniture including approximately 20,000 lighting columns, 6,000 illuminated traffic signs and bollards and 358 feeder pillars and associated private cable networks.
- Earliest Exit: 31st March 2027
 - Value: Currently £7.3m per annum
 - Tariff: Purchased flexibly up to 30 months in advance of supply period. (V30 Basket – Further explored in section **3.8**)
 - Framework Supplier: EDF Energy
- 3.3.2 Gas Supply Contract:
This contract comprises 230 sites including schools, corporate landlord buildings and communal housing supplies.

- Earliest Exit: 31st March 2027
- Value: Currently £2.2m per annum
- Tariff: Purchased flexibly up to 30 months in advance of supply period. (V30 Basket – Further explored in section **3.8**)
- Framework Supplier: Total Energies

Rationale for continuing to procure through CCS energy frameworks

- 3.4 Central Government departments are obligated to procure through CCS frameworks which contributes to the highest energy purchase volumes among public buying organisations, and an annual expenditure of approximately £2.2bn. The framework traders leverage their expertise to monitor the market and strategically purchase energy at opportune times to

avoid peaks in wholesale costs. This purchasing strategy insulated the Council against some of the peaks in wholesale prices observed due to the ongoing 'energy crisis'.

- 3.5 The Energy Bill Relief Scheme (EBRS) was launched by the UK Government in September 2022. This support package was designed to protect customers from exceptionally high wholesale commodity prices between 01/10/2022 and 31/03/2023. During this period none of the supplies operated by the Council received this subsidy payment as rates delivered were kept under the qualification threshold. In this 6-month period CCS calculated that their customers paid an estimated £627 million less than they would have done had they been billed at the EBRS capped prices.
- 3.6 The CCS annual 'Commercial Benefits' report for 2022/23 indicated that using their framework saved the Council £1.04m when compared to standard commercial contract rates.
- 3.7 Currently CCS do not charge a penalty for variations in purchase volumes, useful where the portfolio of sites could be more fluid, or where authorities may look to diversify supply by supplementing supply contracts with its own renewable generation or purchased directly from generators through Power Purchase Agreements (PPA). Additionally, this could be beneficial if gas purchase volumes reduce due to sites joining heat networks.

Rationale for continuing to procure through CCS Variable (V30) basket.

- 3.8 CCS offer various purchasing models within their framework (called 'baskets') which can include fixed or variable price tariffs over various terms.
- 3.9 The framework's 'V30' purchasing basket that the three Orbis authorities currently utilise allows the CCS trading team to flexibly secure its requirement up to 30 months in advance of the supply period. CCS have commenced purchasing a portion of power and gas requirement for the 2026/27 year, which allows them to provide budgeting reports based on secured supply. This can assist with providing a level of certainty for budget holders.
- 3.10 The findings of the 'Pan Government Energy Project' (now part of the cabinet office) recommends that public sector organisations look to adopt an aggregated, flexible and risk-managed energy procurement strategy, this is in-line with the Council's current approach.
- 3.11 To withdraw from this basket, we are required to give 30 months-notice by September each year. If the Council were to give its notice in September 2024, then we would be able to leave the V30 basket in April 2027.
- 3.12 If authority is agreed, an internal performance analysis of the employed purchasing strategy will be carried out on an annual basis to ensure the framework and current basket options are delivering value for money.

Electricity Supply from Renewable Sources

- 3.13 The council currently secure renewable electricity via the CCS frameworks through optional 'Green' tariffs. The provenance of the energy is certified through the REGO (Renewable Energy Guarantees of Origin) scheme.
- 3.14 The REGO scheme is administered by OFGEM (Office of Gas & Electricity Markets) and has been designed to increase transparency for consumers who wish to buy renewable energy.
- 3.15 Although the purchase of a green electricity tariff does not guarantee any direct additionality of renewable generation into the grid, it is considered that high demand by consumers for 100% renewable supplies could increase pressure on electricity suppliers to invest in further renewable energy generation in the future.
- 3.16 A commitment to continue purchasing REGO certificates is required from the council each year, and therefore the option to purchase standard electricity from the grid can be actioned throughout the contract term. The price for securing these certificates can be extremely variable and there have been huge fluctuations in their trading costs in recent years. To ensure value for money, an annual evaluation of the additional budgetary impacts of purchasing REGO certificates will be provided to relevant heads of services, finance officers and cabinet members in order to assess affordability.

4. Analysis and consideration of alternative options

Market Engagement

- 4.1 In the lead up to this procurement activity, market engagement with key framework providers was carried out by relevant Energy & Procurement officers from all three Orbis partners. This included engagement with Crown Commercial Services ('CCS'), Laser Energy Buying Group, Yorkshire Purchasing Organisation ('YPO') and the Northeast Procurement Organisation ('NEPO').
- 4.2 The services offered by these organisations were assessed against the Council's requirements and some analysis of market performance and value for money was carried out. However, it is not possible to accurately benchmark all providers against each other solely based on cost. This is due to the variety of products and contract lengths.

Alternative Options

- 4.3. Option: Do Nothing
Description: No contract put in place following contract expiration.
- 4.3.2 Potential Advantages
- None
- 4.3.2 Potential Disadvantages

- No contract in place would be non-compliant with Public Contract Regulations.

4.3 Option: Conduct own tender exercise by contracting directly with suppliers
 Description: BHCC would be able to run a fully compliant tender process to establish a supply agreement to purchase energy. Various strategies including on the day spot purchasing or flexible purchasing mechanisms could be used.

4.4.1 Potential Advantages

- Council avoids paying any management fees to third parties for administrating any frameworks/contracts.
- Increased potential to maximise economic, social, and environmental benefits through a Council-led procurement process (by ensuring social value is captured in tender specifications and contract).

4.4.2 Potential Disadvantages

- Risk of exposure to market fluctuations.
- Requires significant expertise and knowledge to manage energy purchases in a complex market. It requires ongoing monitoring of energy markets.
- Resource and time intensive procurement process, if contracts not put in place in time could result in penalty / out of contract rates.
- Potential loss of benefits of aggregated purchasing volume of large frameworks, potentially less attractive to suppliers resulting in higher prices.
- BHCC would need to ensure that the arrangements have been subject to a full procurement process to ensure compliance with Public Contracts Regulations.

4.4 Option: Procure energy through an energy broker

Description: The Council is approached by consultancies and brokers that secure prices direct from suppliers. Independent energy brokers are similar to CPB's but without the benefit of aggregating large Local Authority portfolios.

4.5.1 Potential Advantages

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

4.5.2 Potential Disadvantages

- 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.
- Smaller brokers may not have access to all supplier offerings.
- BHCC would need to ensure that the arrangements have been subject to a full procurement process to ensure compliance with Public Contracts Regulations

4.5 Option: Procure Directly from Generators via Power Purchase Agreement (PPA)

Description: Purchase electricity directly from the operators of renewable generation assets such as solar PV/ Wind/ Battery Storage installations.

4.6.1 Potential Advantages

- Long-term price certainty and supply of green energy.
- Can contribute to Net Zero Goals
- Can Maximise local spend.

4.6.2 Potential Disadvantages

- Deals require a long-term commitment (often 20 Years+)
- Additional Fees from developing contracts (legal & financial)
- Requirement for Supplier involvement/settlement
- means negotiation will likely be required with more than just a single party.

4.6.3 Separate PPA frameworks are available to call-off from, which could potentially supplement the existing supply agreements if determined a suitable solution at a later date.

4.6 Option: Calling off a framework agreement offered by a Central Purchasing Body (CPB) (Recommended Option)

Description: CPB's set up and manage energy purchasing frameworks which public sector bodies can access. Procuring through a CPB provides an element of protection against market volatility as well as benefitting from economies of scale through the aggregation of our supply requirements with other public sector organisations.

4.7.1 Potential Advantages

- Compliance with public contract regulations.
- Aggregation of purchasing volumes by combining energy volumes across organisations to form one large portfolio.
- Purchasing strategies in place that should mitigate the risk of market volatility.
- Different purchasing strategies available to suit requirements of Council, optimising pricing and ensuring risk is managed and controlled by market experts.
- Increased certainty of utility commodity costs due to forward purchasing arrangements

4.7.2 Potential Disadvantages

- Small management fee is charged by CPB for accessing frameworks.

5. **Community engagement and consultation**

5.1 As the delivered electricity and gas rates will have a direct impact on leasehold tenant service charges, the Energy & Water Team will liaise with

the relevant contacts in Housing management, who will lead on the required statutory consultation notifications.

6. Financial implications

- 6.1 The council spends approximately £9.5m annually on electricity and gas across all services which is fully funded within service budgets. The existing procurement arrangement through CCS has protected the council against the extreme volatility experienced over the last 2 years and provides a level of certainty for future years through the forward purchasing strategy. The recommended option to extend this purchasing arrangement to March 2029 will support continued cost efficiency, financial management and provide a reliable projection for medium term financial planning.

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.
- 7.2 The existing gas and electricity supply contracts are call off contracts from the CCS Framework Agreement for The Supply of Energy and Ancillary Services [RM6011] which came to an end on 1st October 2023. The existing supply of electricity is with EDF energy (with the term expiring at the end of the final requested delivery period); and the gas supply contract dated 23rd September 2020 is held with Total Gas and Power Limited (on a 1 year rolling basis, expiring on 30th September 2024).
- 7.3 Using the new CCS Energy Procurement Framework [RM6251] is a compliant route to market. This framework expires on 20th February 2027 and the new call off contracts will need to be put in place at the expiry of the annual term in the existing contracts, being 30th September 2024.
- 7.4 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. The criteria for choosing the new framework [RM6251] have been met.

Name of lawyer consulted: Eleanor Richards Date consulted (19/06/24):

8. Sustainability implications

- 8.1 CCS currently offer 'Green' tariffs where electricity supplies are sourced from 100% renewable sources. The provenance of the energy is certified through the REGO (Renewable Energy Guarantees of Origin) scheme.

9. Procurement implications

- 9.1 The current electricity and gas contract via the CCS is a compliant contract that requires 30 months' notice with opportunities to give notice in September of each contract year. At this time the current contract has demonstrated costs significantly below the market rate and therefore we recommend that the council continues with its current contract with a further review in early 2026 to assess the performance of the contract to consider options for 2029 onwards.
- 9.2 The CCS framework has two performance targets for SV, wellbeing, and fighting climate change. Every quarter, suppliers will provide an overview of the SV actions and activities for FCC, this includes any community works, volunteering, educational programs, etc. that they have delivered or been involved in. There is an annual reporting requirement for the same about wellbeing. Information is provided on the supplier's portals concerning their company SV targets, and environmental, social, and economic commitments. The supplier on the CCs framework was appointed after a quality and commercial evaluation that incorporated 10% of the quality evaluation as Social Value

10. Conclusion

- 10.1 Continuing to purchase the council's gas & electricity requirement through CCS Energy purchasing framework is the preferred route to market from those assessed.
- 10.2 The main potential benefits of this preferred option are that the CCS annual 'Commercial Benefits' reports for the Council's portfolio have indicated savings when compared to standard commercial contract rates. Particularly evident during the market peaks observed during the energy crisis.
- 10.3 In addition, the forward purchasing strategy can provide insulation against market peaks and provide customers with budget forecasts based on energy secured in the years and months prior to the delivery period.
- 10.4 Currently CCS do not charge a penalty for variations in purchase volumes.

Supporting Documentation

1. N/A