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Report of: *Head of Capital Delivery Service*

Report to: *Simon Green, Executive Director Place*

Date of Decision: *5 September 2016*

Subject: *Gas Supply*

Is this a Key Decision? If Yes, reason Key Decision:-	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
- Expenditure and/or savings over £500,000	<input checked="" type="checkbox"/>	
- Affects 2 or more Wards	<input type="checkbox"/>	
Which Cabinet Member Portfolio does this relate to? <i>Cllr Bryan Lodge – Cabinet Member for Environment</i>		
Which Scrutiny and Policy Development Committee does this relate to? <i>Economic and Environmental Wellbeing</i>		
Has an Equality Impact Assessment (EIA) been undertaken?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
If YES, what EIA reference number has it been given? <i>(Insert reference number)</i>		
Does the report contain confidential or exempt information?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
If YES, give details as to whether the exemption applies to the full report / part of the report and/or appendices and complete below:-		
<i>The appendix is not for publication because it contains exempt information under Paragraph 3 of Schedule 12A of the Local Government Act 1972 (as amended).</i>		

Purpose of Report:

The Council has a requirement to purchase gas to assist with the continuation of its daily activities. Currently the Council's gas requirements are met by calling off from the Yorkshire Purchasing Organisation (YPO) gas framework agreement. The Council entered into a contract with British Gas (British Gas) under this framework on 1 June 2013 for a fixed term of 46 months through to 31 March 2017.

A commercial option appraisal has been prepared to assess the viability of different procurement options and approval is now being sought to enter into a new gas supply agreement for a minimum term of 24 months from the 1st April 2017.

The Council does not have a specific power or duty relating to the purchase of gas. However, a reliable source of gas is essential to the discharge of some of its functions and the Council does have a specific power to do anything (whether or not involving the expenditure, borrowing or lending of money or the acquisition or disposal of any property or rights) which is calculated to facilitate, or is conducive or incidental to, the discharge of any of their functions (s111(1) Local Government Act 1972).

Recommendations:

The Executive Director is recommended to:

Approve the Council remaining with its current supplier, British Gas, until 31st March 2017 when the existing contract expires.

Approve the Council continuing its membership with Yorkshire Procurement Organisation for the next framework period – a maximum of four years (till 31st March 2021)

Background Papers: N/A

Lead Officer to complete:-		
1	I have consulted the relevant departments in respect of any relevant implications indicated on the Statutory and Council Policy Checklist, and comments have been incorporated / additional forms completed / EIA completed, where required.	Finance: <i>Paul Schofield/ Chris Nicholson</i>
		Legal: <i>Sarah Bennett / Janusz Siodmiak</i>
		Equalities: <i>Annemarie Johnston</i>
<i>Legal, financial/commercial and equalities implications must be included within the report and the name of the officer consulted must be included above.</i>		
2	EMT member who approved submission:	<i>Simon Green</i>
3	Cabinet Member consulted:	<i>Cllr Bryan Lodge</i>
4	I confirm that all necessary approval has been obtained in respect of the implications indicated on the Statutory and Council Policy Checklist and that the report has been approved for submission to the Decision Maker by the EMT member indicated at 2. In addition, any additional forms have been completed and signed off as required at 1.	
	Lead Officer Name: <i>Renia Kotynia</i>	Job Title: <i>Energy Programme Manager</i>
	Date: <i>01.08.2016</i>	

1. PROPOSAL

- 1.1 The Council's gas requirements are currently met via the Yorkshire Purchasing Organisation (YPO) gas framework agreement. This framework was competitively procured by YPO in line with the (2006) Public Procurement Regulations, and was Official Journal of European Union (OJEU) compliant. British Gas was the successful tenderer and accordingly the Council entered into a contract with British Gas on 1 June 2013 for a fixed term of 46 months through to 31 March 2017 (leaving less than 10 months left to run).
- 1.2 For the most part, the contract has been running smoothly and without incident. However, there have been a number of issues with British Gas billing since they updated to a SAP billing and CRM system over a year ago, which (very briefly) caused difficulties for the Council in fully reconciling gas bills for payment. Due to British Gas' implementation of their new billing system numerous queries and discrepancies have been identified and followed through which led to late payments to British Gas by the Council over the last 2 years. This issue has been added to the corporate risk register and closely monitored by the Energy Unit within the Capital Delivery Service.
- 1.3 The British Gas supply contract account will expire on 31st March 2017. There is an option to terminate this contract before this expiry date. However, the Council requires an on-going supply of gas to effectively operate and manage building assets. Therefore, a new supply arrangement is required to allow the Authority to meet its continuous energy demand.
- 1.4 Prior to 2008 the Council tendered its gas supply for the City Council only. Although this proved to be reasonably successful in a very volatile market, the risk of forward buying all of the Council's requirements for a year ahead on the day potentially was significantly high. Advanced procurement of a gas supply requires considerable resource, foresight, expertise and specific software to monitor markets daily which the Council does not have at this time.
- 1.5 The Council setting up its own energy buying unit is an area under consideration. A detailed consideration of this is beyond the scope of this report and this proposal would require a full Business Case developing and taking through the Council's normal approval route with Commercial Services involvement. The Council has previously undertaken purchasing of its own energy, before deciding the better approach would be to buy-in the expertise via a framework (and therefore leading to the current position of joining a consortium and an independent third party purchasing gas on the Council's behalf).
- 1.6 Buying via a well-established framework has been the Council's

preferred approach for some time, with current arrangements being the call-off from the YPO framework, which expires 31 March 2017.

- 1.7 In September 2009 the Council agreed to the procurement of electricity and gas via flexible purchasing in accordance with the recommendation of the Pan-Government Energy Project. The recommendation was that all public sector organisations adopt aggregated, flexible and risk managed energy procurement through a recognised Central Purchasing Body, such as YPO. Sheffield City Council is a shareholder and associate member of YPO.
- 1.8 Prior to the current flexible purchasing approach, electricity and gas were traditionally purchased through fixed price contracts. This was effective in securing best value when the energy markets were stable however in recent times the energy markets have become more volatile with wholesale price fluctuating massively and all indications are that this will remain so.
- 1.9 Under a fixed term contract approach the Council would be required to purchase electricity or gas at the time the fixed term contract expires to ensure continuity of supply. There is a risk that this coincides with a time when prices are high and therefore that the Council would be locked into a high price contract for the next fixed term period, usually 3 to 4 years. These arrangements typically involve volume tolerances, with take or pay terms. For this reason the Pan-Government Energy project recommended a flexible purchasing approach.
- 1.10 Flexible purchasing means buying the annual requirement for electricity or gas in regular amounts in advance over a period (usually twelve months). This enables purchases to be timed to avoid unusual market price spikes and also spreads the risk of price fluctuations. It does not guarantee that all energy is purchased at the lowest possible price available during a particular period but experience during the current contracts has shown that overall this approach has resulted in procurement at below average prices.
- 1.11 In addition, the aggregation of demand with other public sector bodies via the YPO energy consortium has resulted in further price advantages through economies of scale, a dedicated customer service and account management team and avoidance of take or pay contracts.
- 1.12 The Council's current contract with British Gas for the supply of gas is due to expire on 31 March 2017. Due to the requirement under flexible purchasing for the contractor to buy gas in advance it is necessary to put in place a new contract well before the end of the current contract to allow sufficient time for the benefits of flexible purchasing to be realised. Consequently YPO has undertaken an OJEU compliant procurement process to identify a supplier for the next contract period.
- 1.13 An open tender process was conducted; thirteen suppliers accessed the

tender, four submitted responses and met all mandatory requirements. The tenders were evaluated by YPO in accordance with the following weighting

- Cost 35%
- Quality 65%

and following the evaluation YPO has recommended that the energy consortium members enter into a contract with Corona Energy Limited (the successful tenderer) for the supply of gas from 1 April 2017 to 31 March 2021.

2. HOW DOES THIS DECISION CONTRIBUTE?

- 2.1 The new gas supply agreement will allow the Council to continue delivering heat and hot water services to its premises. Continuity of the gas supply will also support the indirect delivery of heat (through the supply of gas to plant rooms) to some of the housing tenants.
- 2.2 As a combined portfolio the Council requirement for gas is significant and this allows better buying power. This means that a corporate gas contract will deliver better price and higher value for money. Based on the lower management fee charged by Corona, the Council will make 67% savings on the management cost, circa £75k per annum.
- 2.3 Entering into a four year agreement with Yorkshire Procurement Organisation, will allow seamless process of gas supply. The new arrangement will be on the more favourable terms and will provide the Council with an option for earlier termination of the agreement if the Council wishes to do so.
- 2.4 Allowing the current gas supply to expire naturally on the 31st of March will reduce the potential risk and cost for the Council e.g. early termination charges that may be payable to the YPO.
- 2.5 The continuity with YPO will allow the commercial and energy unit teams to further evaluate appropriate tendering options for the future gas supply within the given minimum contracting period.

3. HAS THERE BEEN ANY CONSULTATION?

- 3.1 Not applicable

4. RISK ANALYSIS AND IMPLICATIONS OF THE DECISION

4.1 Equality of Opportunity Implications

- 4.1.1 Not applicable

4.2 Financial and Commercial Implications

4.2.1 Decisions on trades are based on market knowledge gained from an experienced YPO trading team, market reports, access to live trading screens, and regular communication with supplier trading teams. The YPO purchase optimising strategy requires trading volumes every month whether the market is up or down, but they retain the flexibility to manage the volumes they trade each month to ensure they aren't over positioned in a decreasing market or under positioned in an increasing market. Historically, YPO approach to flexible purchasing has enabled them to secure pricing that has consistently beaten the market average, and provided customers with budget certainty for the year ahead.

4.2.2 The framework was awarded on the basis of 65% quality and 35% price. Pricing had been given a higher weighting from the previous framework given the increased focus on cost by authorities. However, as YPO trade out the gas volumes as part of their flexible purchasing strategy over the course of the year (or longer) ahead of supply to the customer to achieve a good overall price and aims to take advantage of falling prices in the marketplace, the price element for the award was solely based on management fees. These form a small element of the overall cost. Opportunities to save/avoid costs (e.g. billing accuracy, customer support, trading flexibility, site additions flexibility, etc.) were incorporated into mandatory requirements or scored elements of the quality section.

Corona scored highest overall –they submitted the lowest management fee and attained the second highest quality score by a small margin. As part of the framework, YPO have also built in a number of Key Performance Indicators around quality of service provision to provide additional confidence to customers.

Corona Energy is the third largest UK I&C gas supplier with just over 11% of the market. Corona has 180 specialist team members in their HQ at Watford, and all customer contact will be through a dedicated YPO team at this site. Customers will have a nominated person assigned to their account who will be their primary point of contact. Their team is highly trained through the Corona Academy and everyone has recently completed The 7 Habits of Highly Effective People training course. Their training and investment in staff ethos led Corona to be awarded Investors in People Gold accreditation last year.

Macquarie purchased Corona in 2006 and approximately 90% of Corona's business currently relates to the supply of gas – Corona started to supply electricity in April 2014. Corona has extensive experience in managing multi-site public sector customers' requirements to high satisfaction standards.

There are no termination costs applicable to the Corona contract where the Council continues to access for the time period specified (as detailed in the Appendix 1). However where the council or any site terminates

earlier than the set period then a penalty will apply, which will be the value due to Corona up to the date of cessation of supply agreement.

Where changes to sites apply e.g. meter removal due to site closure, at least 2 months' written notice must be issued; the Council will be responsible for all reasonable costs incurred by Corona in this instance. All costs incurred must be met by the business unit manager responsible for the sites or the schools where applicable.

4.3 Legal Implications

4.3.1 Having access to a secure gas supply will assist Council officers who provide statutory and other essential services to the citizens of Sheffield. Consequently, the need to procure a gas supply is incidental to the Council's statutory functions. The Council does have a specific power to do anything (whether or not involving the expenditure, borrowing or lending of money or the acquisition or disposal of any property or rights) which is calculated to facilitate, or is conducive or incidental to, the discharge of any of their functions (s111(1) Local Government Act 1972).

4.3.2 In setting up the framework YPO carried out an open tender process compliant with the Public Procurement Regulations and the use of such a framework is consistent with the requirements of Contract Standing Orders.

4.3.3 There are no TUPE implications arising from the proposals in this Report.

4.3.4 The supplier is responsible for obtaining all licences, authorisations, consents or permits required in relation to the performance of the framework requirements and ensuring the products delivered are in line with statutory requirements.

4.4 Other Implications

4.4.1 Not applicable

5. **ALTERNATIVE OPTIONS CONSIDERED**

5.1 A list of alternative options has been provided within CLOSED Appendix 1: Option Appraisal – Gas Supply. An overview of this paper has been set out as below:

5.1.1 **Decommissioning of gas supply.** This option is not achievable as the Council requires a gas supply to deliver heat and hot water services to its own premises and to premises of associated members i.e. schools, housing, etc.

5.1.2 **Serve notice of early termination on the current gas supply contract with YPO/British Gas.** Termination would realistically require a minimum

of six months to complete, and with less than a year left of the framework the earliest the Council could end the agreement would be March 2017. If termination did go ahead, an alternative supplier would also need to be procured, which requires full procurement process and would not be completed on time for end of the year. There would be a cost for early termination and potentially the Council could be exposed to the challenge from British Gas and YPO.

- 5.1.3 **The Council buys its own energy or runs its own procurement exercise.** The Council setting up its own energy buying unit is an area for further consideration in the long term, as there is not sufficient time to prepare this strategy within the 7 month time limit. Buying in-house is an approach followed by Liverpool City Council for example. A detailed consideration of this is beyond the scope of this report and proposal would require a full Business Case developing and taking through the Council's normal approval route with Commercial Services involvement.

6. REASONS FOR RECOMMENDATIONS

- 6.1 The recommendation from this report is to allow the existing contract with British Gas to expire on the 31st March 2017 and subsequently enter into a supply agreement with Corona Energy.
- 6.2 This is considered to be the best option due to the timescale it would require to establish new supplier. It will also provide circa £75k annual savings on energy spent as the new contract offers lower contract management fee.