ISLINGTON
For a more equal future

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

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The appendix to this report is exempt and not for publication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 contact 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 contact) 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 changes 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 <u>Electricity costs</u>

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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