

Environment & Climate Change
Islington Town Hall
Upper Street, N1 2UD

Report of: Executive Member for Environment, Air Quality and Transport

Meeting of: Executive

Date: 30 November 2023

Ward(s): All

Subject: Procurement Strategy for Council Energy Contracts

1. Synopsis

- 1.1. The Council procures electricity and gas for its own buildings, landlord supplies in its housing portfolio and on behalf of clients including leisure centres and schools. The Council's current energy supply agreements end on 31 March 2025. New supply agreements need to be in place at least six months before the end of the current agreement to allow sufficient forward purchasing to be implemented.
- 1.2. It is proposed that the Council competitively procures a two-year contract with a Public Buying Organisation (PBO) with a possible extension of a further two years. This provides an opportunity to assess energy market stability in the medium-term future, at which point the Council can reassess which procurement method is most advantageous. The PBO will be chosen based on financial, operational and social value criteria. This will include a requirement to allow the council to purchase renewable electricity to meet the council's Vision 2030 commitment.

2. Recommendations

- 2.1. To approve this procurement strategy to appoint a Public Buying Organisation (PBO) under a competitive process to procure the Council's electricity and gas supply contracts for the period 1 April 2025 to 31 March 2027, with an option to extend these contracts by a further two years to 31 March 2029.
- 2.2. To delegate authority to the relevant Corporate Director, following consultation with the Corporate Director of Resources and the Executive Member for Environment, Air

Quality and Transport, to sign an access agreement and award energy contracts through a PBO chosen by the methodology set out in this strategy.

3. Background

3.1. Nature of the service

- 3.1.1. The Council is required to procure electricity and gas for its own portfolio, including Council buildings, streetlighting and landlord supplies for its housing. It also purchases electricity and gas for the Council's leisure centres managed by Greenwich Leisure Limited (GLL), as well as most primary schools and some academies.
- 3.1.2. The Council purchased energy in-house since the deregulation of energy markets in the 1990s until the end of 2022/23. The Council tendered for energy supply contracts for four-year periods, which were awarded based on the profit margin of suppliers. In 2019 the Council awarded four-year electricity and gas supply contracts.
- 3.1.3. These contracts were not for energy at a fixed price (such contracts are advised against by Government guidance due to the risk of being tied into high prices for a long period). Instead, Council officers made trades on the electricity and gas commodity markets through the selected suppliers to purchase the volume of electricity and gas required each year.
- 3.1.4. Typically each year's volume was purchased in a single trade. Officers monitored the energy markets with the aim of making trades during dips in prices. In the relatively stable energy market that has existed since deregulation, this strategy worked well. The Council was able to obtain prices lower than Public Buying Organisations (PBO) (who have larger portfolios that cannot be purchased in a single trade).
- 3.1.5. Significant increases in energy market volatility following the threat and subsequent invasion of Ukraine meant that the strategy of waiting for dips in the market price was not practical and increasingly risky. During August 2022, commodity prices reached well over ten times the level the Council traded at for 2021/22.
- 3.1.6. To mitigate the risk caused by exposure to the commodity market, the Council terminated its existing supply contracts by mutual consent and entered into a two-year agreement with the LASER PBO, primarily to access better prices for 2023/24.
- 3.1.7. The long-term impact on market prices from the Ukraine war and Russian gas supply changes remains uncertain. While energy prices have dropped since the peak in summer 2022, they have not returned to pre-crisis levels. A further escalation of the conflict, involving more countries, could see prices spike again to the levels seen in 2022. In addition, Russian gas supplies were replaced by Liquefied Natural Gas (LNG), which can be extremely price volatile, with cargoes going to the highest bidder and although European gas storage levels are currently high, the UK only has a small

gas storage capacity and is reliant on both LNG and gas from Norway and Europe via interconnectors.

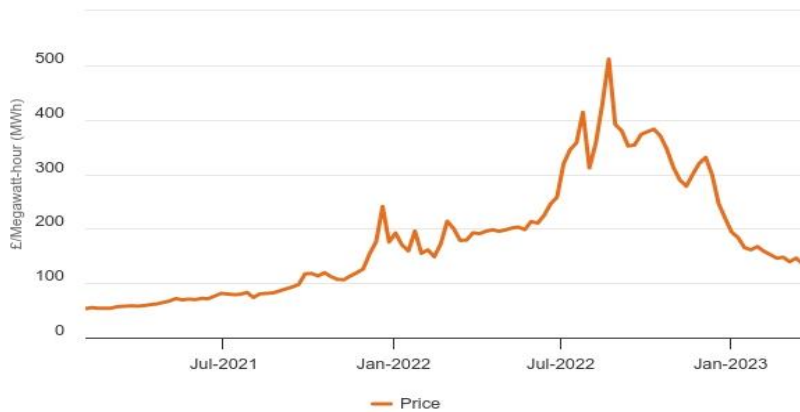
- 3.1.8. Any energy procurement strategy also needs to take into account the Council's Vision 2030 net zero ambition, which includes a commitment to procuring 100% renewable electricity. The Council is currently doing this by using a renewable tariff through its electricity supplier, which is backed by Renewable Energy Guarantees of Origin (REGO) certificates that certify the power has come from renewable sources. Another option is to purchase a proportion of the Council's electricity directly from the operator of a renewable generation facility through a Power Purchase Agreement (PPA).
- 3.1.9. REGOs are traded as a separate commodity and therefore have a price risk dependent on demand. At present, prices of REGOs are rising significantly. In the Council's previous electricity supply contract starting in 2020, the Council paid 0.08p/kWh for REGOs; in 2023/24 it is paying over 1p/kWh. However, the green credentials of REGOs have been questioned and there is a risk that they could lose their renewable status from a carbon reporting perspective at some point in the future.
- 3.1.10. Power Purchase Agreements are typically long-term (10-15 years) and it can take several years before electricity is delivered, especially if the renewable asset (solar farm or wind farm) is a new build rather than an existing one. They provide electricity at a set price (usually adjusted for inflation), eliminating the risks attached to the energy markets in terms of price volatility. However, determining what is the right price to set in the first instance is problematic, as setting the price too high means being tied into that price for a long period. PPAs also only cover part of the electricity needs of an organisation, as there would be periods of low or zero generation. As a result, the Council would still need a standard electricity supply contract (backed by REGOs) to cover its remaining electricity needs.
- 3.1.11. The Council is involved in the London-wide Renewable Power for London programme, which is looking at creating a collaborative PPA for London boroughs. Investing in a new build renewable asset is considered the greenest option but can take several years before any electricity is generated. There are also issues with planning and grid connectivity which can pose additional risks which could prevent or delay the plant being built.
- 3.1.12. A Section 20 Leaseholder Consultation exercise will need to be undertaken with relevant leaseholders once the route to procurement is agreed, as required by the applicable legislation. As the cost of energy is not fixed and cannot be "approved" by leaseholders, once the first stage of the consultation is done, the Council will need to apply for dispensation from the First Tier Tribunal in relation to the carrying out of the second-stage consultation. Dispensation has been granted by the First Tier Tribunal on each of the previous energy tenders.

3.2. **Estimated value**

3.2.1. The Council currently procures 41 gigawatt hours of electricity and 107 gigawatt hours of gas annually across the Council and external client portfolio. The table below shows the breakdown of electricity and gas consumption in 2022/23:

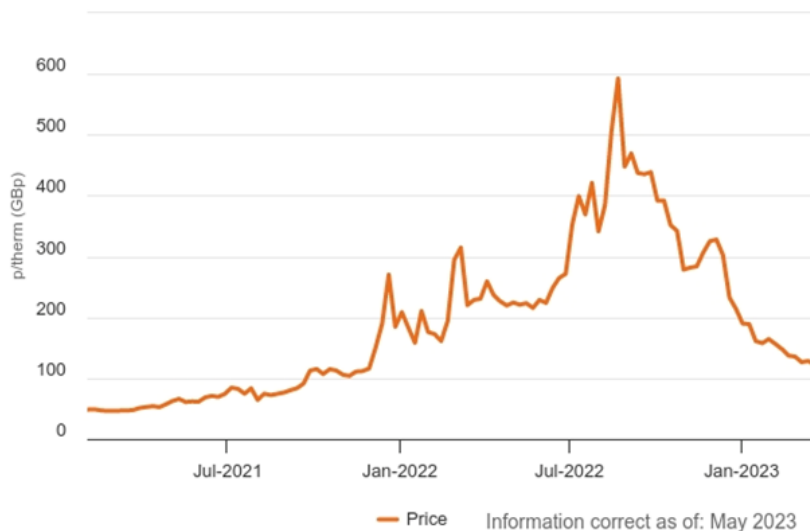
Energy consumption by portfolio		Electricity (GWh)	Gas (GWh)
Council	Housing	19.8	73.1
	Corporate buildings	7.8	11.4
	Streetlighting	3.1	N/A
	Total	30.7	84.5
External clients	Leisure centres	3.2	6.4
	Schools	4.8	11.7
	Academies/other	2.3	4
	Total	10.3	22.1
Total		41.0	106.6

Electricity Prices: Forward Delivery Contracts - Weekly Average (GB)



Information correct as of: May 2023

Gas Prices: Forward Delivery Contracts - Weekly Average (GB)



Information correct as of: May 2023

3.2.2. Estimating the potential value of the next set of energy supply contracts requires consideration of several factors, including:

- The extreme volatility of energy markets over the last 18 months
- Changing consumption with more electricity and less gas
- The impact of future regulatory changes, particularly the government's Review of Electricity Market Arrangements.
- Potential increases in non-commodity costs to pay for new infrastructure and replacing fossil fuel generation
- Changes in weather patterns, requiring more cooling in the summer months,
- Work programmes under the Net Zero Carbon strategy to reduce energy consumption
- Potential reduction in grid electricity needed if part of annual consumption is met by PPA

3.2.3. The Council's volume is expected to fluctuate with the changes in operations, particularly due to decarbonisation works (including fleet electrification and the electrification of heat) and changes in building portfolios (with new build housing blocks being added on a regular basis). The programmes of work to reduce energy consumption include increased insulation, more efficient controls and lighting products as well as a concerted campaign at all sites to reduce consumption through good housekeeping. The overall impact is likely to be an increase in electricity consumption and a decrease in gas consumption. Although electricity is more expensive than gas, most building decarbonisation projects are expected to result in a decrease in running costs to the sites due to the works reducing the total amount of energy consumed.

3.2.4. However, at present these impacts, particularly market volatility, are difficult to quantify. The removal of Russian gas from large parts of Europe has seen an increase in demand for LNG increasing its price volatility and decarbonisation programmes have increased the demand for electricity (to replace gas). Therefore a forecast of annual value of the contract is based on 2022/23 prices and volumes, as set out in the table below. It should be noted that these are not the prices originally traded - Central Government introduced the Energy Bill Relief Scheme which came into effect on 1 October 2022 which reduced the commodity cost element of gas and electricity to the support prices set by the scheme. This reduced the commodity element of the prices by around 30-40% from October 2022. With energy market prices now falling, current market intelligence indicates that actual prices obtained in the two-to-four-year period after 31 March 2024 will be lower.

Energy spend in 2022/23		Electricity cost	Gas cost	Total
Council	Housing	£6,977,000	£6,147,000	£13,124,000
	Corporate buildings	£2,770,000	£1,098,000	£3,868,000
	Streetlighting	£1,000,000	–	£1,000,000
	Total	£10,747,000	£7,245,000	£17,992,000
External clients	Leisure centres	£1,117,000	£569,000	£1,686,000
	Schools	£1,675,000	£1,134,000	£2,809,000
	Academies/other	£787,000	£355,000	£1,142,000
	Total	£3,579,000	£2,058,000	£5,637,000
Total	£14,326,000	£9,303,000	£23,629,000	

3.2.5. The table below shows the potential total cost for two and four year periods at 2022/23 prices. The maximum expected value of a two-year contract would be £47.3m and the maximum expected value over four years would be £94.5m.

Potential spend at 2022/23 prices		Cost for two years		Total two-year cost	Total four-year cost
		Electricity	Gas		
Council	Housing	£13,954,000	£12,294,000	£26,248,000	£52,496,000
	Corp. buildings	£5,540,000	£2,196,000	£7,736,000	£15,472,000
	Streetlighting	£2,000,000	–	£2,000,000	£4,000,000
	Total	£21,494,000	£14,490,000	£35,984,000	£71,968,000
External clients	Leisure centres	£2,234,000	£1,138,000	£3,372,000	£6,744,000
	Schools	£3,350,000	£2,268,000	£5,618,000	£11,236,000
	Other	£1,574,000	£710,000	£2,284,000	£4,568,000
	Total	£7,158,000	£4,116,000	£11,274,000	£22,548,000
Total	£28,652,000	£18,606,000	£47,258,000	£94,516,000	

3.2.6. For reference, market prices at the end of June 2023 would give the cost outturn shown below, with a two-year contract value of £29.3m and a four-year contract value of £56.3m. Market prices in June 2023 and Green Book forecasts suggest prices will be lower in years three and four than in years one and two.

Potential spend at 30 June 2023 prices		Total cost in years 1 and 2			Total cost in yrs 3 and 4		Four-year total
		Electricity	Gas	Total	Electricity	Gas	
Council	Housing	£9,120,000	£7,182,000	£16,302,000	£8,450,000	£6,715,000	£31,467,000
	Corp. buildings	£3,648,000	£1,268,000	£4,916,000	£3,380,000	£1,185,000	£9,481,000
	Streetlighting	£1,262,000	–	£1,262,000	£1,170,000	–	£2,432,000
	Total	£14,030,000	£8,450,000	£22,480,000	£13,000,000	£7,900,000	£43,380,000
External clients	Leisure centres	£1,426,000	£619,000	£2,045,000	£1,271,000	£560,000	£3,876,000
	Schools	£2,162,000	£1,216,000	£3,378,000	£1,927,000	£1,100,000	£6,405,000
	Other	£1,012,000	£375,000	£1,387,000	£902,000	£340,000	£2,629,000
	Total	£4,600,000	£2,210,000	£6,810,000	£4,100,000	£2,000,000	£12,910,000
Total	£18,630,000	£10,660,000	£29,290,000	£17,100,000	£9,900,000	£56,290,000	

- 3.2.7. The Council's commitment to purchasing renewable energy is also likely to have an impact on the value of the contract. If the Council chooses to sign up to a Power Purchase Agreement through Renewable Power for London, this will significantly reduce the volume of electricity purchased through the Council's main electricity supply contract, reducing its value proportionately. The PPA could be "sleeved" into future contracts by ensuring it is included in the Terms and Conditions.
- 3.2.8. The price of renewable energy tariffs backed by REGOs has increased significantly in recent years and for 2023/24 REGOs cost 1.04p/kWh. Switching all electricity portfolios to REGO-backed renewable tariffs will have an impact on the value of the electricity contract.
- 3.3. **Options appraisal**
- 3.3.1. Four options have been considered for this procurement. The two main options were purchasing through a PBO and in-house purchasing. Two alternative options, joining the London Energy Partnership or using a third-party intermediary have also been reviewed, but not recommended. All options considered would allow for signing up to a Power Purchase Agreement or purchasing 100% renewable electricity.
- 3.3.2. Option 1: Use a PBO appointed after a competitive process
- 3.3.2.1. Public Buying Organisations (PBOs) have established frameworks for energy contracts for the public sector. They have call-off contracts with pre-tendered energy suppliers, who have been appointed following a procurement process compliant with the Public Contracts Regulations 2015 or PCR.
- 3.3.2.2. Using a PBO involves signing an access agreement with the PBO and call-off contracts with the gas and electric suppliers proposed by the PBO (some have multiple suppliers). The PBO carries out all trades with no input from the client and charges a fee. The Council then manages the billing process.
- 3.3.2.3. While it would be possible to directly appoint a PBO that had already complied with the PCR, each PBO is a service provider in its own right, putting in place the Council's energy contracts and being paid for this service. Therefore it is also proposed to subject this element to competition. The Council would choose a PBO based on pre-defined criteria which would include the prices achieved in previous years, fees that are charged and the ability to insert PPAs and the costs involved. Further detail on the proposed criteria is set out in section 3.6 below.
- 3.3.2.4. PBOs also have a number of procurement options the Council can choose from. The main three are:
- Purchase in advance (PIA): Where all volumes are purchased ahead of delivery to ensure a constant price throughout the delivery year. This gives certainty of the costs at the start of the year, allowing for budget setting to take place.

However, it risks missing out on dips in prices during the year, particularly during post-crisis periods when price trends will be largely downwards for an extended periods.

- Locked baskets: Which specify a fixed period when trades will be made. This provides a level of price certainty at the points when the trades are fixed. However, the main risk is that market prices are high during those fixed periods.
- Variable option: Where the PBO buys throughout the year based on their risk strategy. This allows access to dips in the market. However, should prices rise steeply, PBOs will have price caps set which will determine at what maximum price they will buy electricity or gas.

3.3.2.5. There is no preferred option at this stage. As part of the procurement process, PBOs will be asked for historic prices for different baskets, which will determine the choice of basket.

3.3.2.6. Pros and cons of using a PBO include:

Pros	Cons
<ul style="list-style-type: none"> • Dedicated energy brokers with access to live pricing data • Public sector focus of PBOs - Use of governance panel and risk management strategy set by committee • Larger trading volumes (aggregated with other clients) offer more hedging opportunities • Shorter timetable for procurement • Alignment with energy purchasing strategy of other London boroughs 	<ul style="list-style-type: none"> • PBO fees (over £100,000) • Council has no control over trades or price • PBO has little performance incentive • Council has no control over supplier terms and conditions • Loss of rare in-house trading expertise if continue to outsource this function • Larger trading volumes reduces nimbleness to make most of dips in market • No multi-year buying ahead for most baskets • Non-negotiable Terms and Conditions may reduce Social Value options • Long timeline for adding new supplies (current SLA is 90 days) leaving sites on out-of-contract rates, which are usually significantly higher

3.3.3. Option 2: In-house purchasing:

3.3.3.1. As the PCR applies to energy purchas, reverting to in-house purchasing would mean the Council appoints electricity and gas suppliers via a full Find a Tender Service. The tender would be a two-stage process, with an initial Supplier Questionnaire (SQ) phase with pass/fail answers on mandatory requirements (such as being able to

supply green electricity), followed by an invitation-to-tender (ITT) stage with a full scoring process. In previous procurements suppliers were scored entirely on price (specifically, the profit margin element).

3.3.3.2. Once the supplier is appointed, the Energy Services team would be responsible for making trades to secure prices. In advance of the contracts with the energy suppliers commencing, a trading strategy would need to be developed, reviewed by an external specialist and then signed off by senior leadership. This would have clear setpoints for making trades for different periods and volumes.

3.3.3.3. Pros and cons of in-house purchasing include:

Pros	Cons
<ul style="list-style-type: none"> • No annual fees • Small volume means full year can be bought in single trade • SQ stage removes unsuitable suppliers • Can hedge for longer periods • Direct negotiation of terms and conditions with suppliers • Possibility of including social value in contract negotiations • In line with Council insourcing policy 	<ul style="list-style-type: none"> • Speed of response to market movements • Limited access to live energy data • Limited number of experienced traders with associated risk of delays in buying decisions • Council authorisation processes for purchasing decisions increases risk of delay in buying decisions • Longer tender process

3.3.4. Option 3: Join a PBO through the London Energy Partnership

3.3.4.1. There is a proposal to recreate the London Energy Partnership, under which a lead borough would sign up with a PBO with their own volumes of gas and electricity along with other participating boroughs (this was formerly undertaken by the London Energy Project until 2017/18 when it ceased).

3.3.4.2. This option was discounted as the proposal is not yet available with the added difficulty of coordinating timing across multiple boroughs whose existing contracts end at different times. The proposal also has little added value but would involve paying two lots of fees, to the lead borough and the selected PBO.

3.3.5. Option 4: Use a third-party intermediary

3.3.5.1. A third party intermediary (TPI) is a private sector version of a PBO. While a TPI may be able to offer more innovative trading options, they have less governance than PBOs and therefore are a higher risk option. As PBOs are aimed specifically at public sector organisations, TPIs are not considered an appropriate option.

3.3.6. Preferred option

3.3.6.1. Using a PBO is the preferred option at this point in time. This is primarily due to a desire to outsource the risk element of trading amid continuing (albeit reduced) volatility in the energy markets.

3.3.6.2. It is proposed that the PBO contract be for two years, with a possible two-year extension. This will enable the Council to reconsider its requirements in a rapidly changing energy environment, which includes changing consumption patterns due to decarbonisation works, potential regulatory changes indicated by central government, increasing non-commodity charges, the Council's Net Zero Carbon energy savings programme, the possibility of signing up to a PPA and the volatility of the energy markets.

3.3.6.3. A return to more stable energy markets would warrant reconsideration of returning to in-house purchasing with an agreed and adopted trading strategy, which has been proved to be the better option in stable market conditions. The performance of the appointed PBO will have a significant bearing on this consideration.

3.4. **Timetable**

3.4.1. The table below sets out the estimated timeline for this procurement:

Action	Dates
Executive approval of procurement strategy	30 November 2023
Section 20 leaseholder consultation and dispensation application	December 2023 to February 2024
Selection process for PBO	
Delegated decision	March 2024
Award of contracts to chosen PBO	
Trading window (for PBO)	Summer 2024 to March 2025

3.4.2. The above estimated timeline allows sufficient time to complete the procurement process for the PBO by the summer of 2024, which in turn allows the PBO a trading window of at least six months prior to the contracts starting in April 2025.

3.5. **Key considerations**

3.5.1. Social value will be a consideration of this contract. Two social value measures related to the ability to purchase renewable energy will be pass/fail criteria due to these being a requirement of the Council (due to the commitment made in Vision 2030). A set of questions on social value will be developed, which will ask PBOs what social value they can deliver in Islington. This could include providing funding for the SHINE fuel poverty service, contributing to fuel poverty and decarbonisation projects and/or providing employment, training or experience opportunities.

- 3.5.2. London Living Wage does not apply to this procurement. The Council's internal requirement for the applicability of London Living Wage is that the organisation being appointed "employ staff (other than an apprentice or intern) who provide a service for or on behalf of the Council involving two or more hours of work in any given day in a week, for eight or more consecutive weeks in a year on the Council's premises and/or property owned or occupied by the Council (including where the Council is a tenant and is provided building-related services through a lease); and/or land which the Council is responsible for maintaining or on which is it required to work". Employees of the PBO and electricity and gas suppliers to be appointed through this procurement will not be working on council premises or Council-owned or maintained land.
- 3.5.3. There are no TUPE, pensions or staffing implications from this procurement exercise.
- 3.5.4. As this procurement will involve purchasing electricity and gas for landlord supplies in the Council's housing portfolio, which has an impact on leaseholders, the Council must apply for Section 20 dispensation for the procurement process via the First Tier Tribunal as further explained in paragraph 3.1.12.
- 3.6. **Evaluation**
- 3.6.1. There are several PBOs that could be used to procure electricity and gas supply contracts, each of which have several "baskets" for energy supply contracts. These include:
- Crown Commercial Services (CCS)
 - Eastern Shires Purchasing Organisation (ESPO)
 - LASER – Incumbent provider
 - North East Purchasing Organisation (NEPO)
 - Yorkshire Purchasing Organisation (YPO)
- 3.6.2. CCS and LASER are based in the south-east region and serve the majority of London boroughs.
- 3.6.3. It is proposed that the PBO and the supplier/basket of that PBO be chosen based on scored responses to a questionnaire sent out to the potential providers. This would cover financial and quality (operational and social), with the following weighting:
- Financial – 60%
 - Quality – 20%
 - Social – 20%
- 3.6.4. The proposed questions PBOs will be asked are set out in the table below, including the proposed weighting. Some of the requirements are necessities and will be scored on a pass/fail basis. For example, the Council needs to have the ability to sign up to a Power Purchase Agreement to secure renewable electricity, purchase REGO-backed renewable electricity, we require consolidated invoices and we need access to a web portal for the bills.

Area	Question	Weighting
Financial	Trading performance of the PBO over last four years (average kWh commodity price achieved for electricity and gas each year for each supplier and basket)	40%
	Total annual fee based on Council's portfolio	20%
	Total	60%
Operational	Ability to do group consolidated billing for each supplier	Pass/fail
	Access to web portal for billing for each supplier	Pass/fail
	Billing methodology for each supplier	10%
	Time taken to add or remove sites from contract	10%
	Total	20%
Social	Ability to add PPA to contract for each supplier	Pass/fail
	Availability of REGOs	Pass/fail
	Social value offer	20%
	Total	20%
Total		100%

3.7. Business risks

- 3.7.1. Due to the extremely volatile energy markets over the past 18 months, all organisations have seen energy costs rise to unprecedented levels. The risks associated with future energy contracts are manifold. Using a PBO is designed to mitigate this risk as they have robust risk management strategies and dedicated brokers with access to up to the minute data.
- 3.7.2. However, using a PBO also has financial risks. The main one is that there are no incentives in PBO contracts for them to perform well and clients do not have any input into trading decisions. As PBOs purchase in large volumes, this can lead to trading taking place at whatever market rates are available to secure supplies rather than taking opportunities to beat the market by buying and selling on dips/spikes in prices.
- 3.7.3. Poor performance by a PBO carries additional financial risks to the Council and client organisations. Poor prices could lead to the Council's external clients seeking better deals elsewhere, which could result in them signing up to deals that are more attractive in the short-term but are more expensive in the longer term.
- 3.7.4. One of the Council's commitments in its Vision 2030 strategy is the procurement of 100% renewable electricity via REGOs' and potential PPA with a renewable generator. REGO's are a tradable commodity and as such are liable to prices fluctuations based on supply/demand fundamentals. There is also the risk that the PBO's appointed supplier cannot accommodate a PPA, which would prevent the Council joining a PPA to procure renewable energy.

- 3.7.5. The lack of control over the terms and conditions of suppliers has several operational risks. Due to the Council's huge portfolio (over 3,000 landlord electricity supplies), a supplier that cannot provide group billing and instead sends individual bills would create an overwhelming bill management workload. Billing methodology will be a scoring criteria.
- 3.7.6. Similarly, the time taken to add or remove sites from the contract is a financial risk. If it takes a long time to add a site, this means sites will remain on (much higher) out of contract rates for longer periods. This will also be a scoring criteria.

3.8. Other details

- 3.8.1. The Employment Relations Act 1999 (Blacklist) Regulations 2010 explicitly prohibit the compilation, use, sale or supply of blacklists containing details of trade union members and their activities. Following a motion to full Council on 26 March 2013, all tenderers will be required to complete an anti-blacklisting declaration. Where an organisation is unable to declare that they have never blacklisted, they will be required to evidence that they have 'self-cleansed'. The Council will not award a contract to organisations found guilty of blacklisting unless they have demonstrated 'self-cleansing' and taken adequate measures to remedy past actions and prevent re-occurrences.
- 3.8.2. The following relevant information is required to be specifically approved in accordance with rule 2.8 of the Procurement Rules:

Relevant information	Section in report
1. Nature of the service	See section 3.1
2. Estimated value	See section 3.2
3. Timetable	See section 3.4
4. Options appraisal for tender procedure including consideration of collaboration opportunities	See section 3.3
5. Consideration of: <ul style="list-style-type: none"> • Social benefit clauses; • London Living Wage; • Best value; • TUPE, pensions and other staffing implications 	See section 3.5
6. Award criteria	See section 3.6
7. Any business risks associated with entering the contract	See section 3.7
8. Any other relevant financial, legal or other considerations.	See section 4

4. Implications

4.1. Financial implications

- 4.1.1. It is the Council's responsibility to procure electricity and gas for its own portfolio, including Council buildings, streetlighting and landlord supplies for its housing. In addition, the Council also purchases electricity and gas for the Council's Leisure

Centres via Greenwich Leisure Limited (GLL) as well as most primary schools and some academies. To mitigate the risk caused by volatility in the energy market over the past 18 months, the Council terminated its previous supply contracts by mutual consent and entered into a two-year agreement with the LASER Public Buying Organisation (PBO), during financial year 2022/23. This report considers options to procure electricity and gas supply contracts for the period from 1 April 2025.

- 4.1.2. The electricity and gas for the Council's own non-domestic buildings and streetlighting is paid for directly by the general fund. Following the surge in energy prices during 2022/23, the general fund additional energy price impact has been covered from a supplementary corporate provision, now embedded in the medium-term financial strategy (MTFS) from 2023/24, based on and regularly reviewed against the latest energy estimates. This is over and above pre-existing directorate budgets.
- 4.1.3. The Housing landlord electricity and gas supplies are paid from the Housing Revenue Account. Electricity and gas bills for leisure centres, schools and academies are paid by the relevant services themselves with the Council procuring and managing the supply contracts on their behalf.
- 4.1.4. The rising energy prices over the period from 2022/23 are set out in this report, along with estimates of the potential total contract cost for two- and four-year periods (from 2025/26) at 2022/23 prices. The maximum estimated value of a two-year contract is stated in the report at £47.3m and the maximum expected value (at this very early stage) of a two-year contract extended for a further two years is stated at £94.5m.
- 4.1.5. Four options are presented in the paper namely (1) continuing with a PBO arrangement with sub-options, (2) reverting to an in-house process, (3) joining a PBO through the London Energy Partnership and (4) using a third-party intermediary (TPI), a private sector version of a PBO. Option 3 was discounted primarily as it is not yet available. In addition, financially, it would involve paying two lots of fees – to the lead borough and to the PBO - which would not represent good value for money on the face of it. Option 4 was discounted on the basis that it is more suited to private sector organisations and represents a higher risk from a governance and potentially value for money perspective.
- 4.1.6. Of the two viable options presented in the report, options (1) and (2), the PBO is in line with the procurement approach since 2022/23, with the argument that this is more appropriate given the continued volatility in the energy market, which remains albeit at a lower level of instability than 12-18 months ago. Financially, a PBO would appear to be the favourable option from a financial risk perspective as it outsources the trading risk and ensures that the Council gets prices that are largely no worse than other councils, many of which are also under PBO arrangements.

- 4.1.7. Within Option 1 there are three sub-options (purchase in advance, locked baskets and the variable option). The Council would request prices achieved by the relevant PBO from each basket for the last few years and this in turn would inform the decision of which supplier/basket to use. At that stage the financial consequence of each sub-option would need to be appraised with the impact built into future versions of the Council's MTFS, and the other services for which the Council procures energy. Other than the option and sub-option chosen, the financial impact will also depend on the movement in energy prices in the intervening period as well as projections around the level of usage/demand.
- 4.1.8. The chosen procurement method will need to consider the scenario of the Council potentially signing up to a physical Power Purchase Agreement (PPA) to purchase a proportion of the Council's electricity in future directly from the operator of a renewable generation facility. If this was to occur, then there would need to be a sleeving arrangement with our electricity supplier where they agree to take the electricity supplied from the renewable asset our PPA is for. They would add on 'sleeving' costs for facilitating this. This would need to be detailed in any PPA approval report and built into the MTFS going forward.
- 4.1.9. The final estimated and actual cost of the new procurement arrangement will need to be factored into the Council's budget and MTFS from 2025/26 with any necessary budget provided over and above the existing corporate energy provision or adjusted downwards as appropriate. The level of the Council's energy costs is reviewed on an ongoing basis as part of the quarterly budget monitoring process.
- 4.2. **Legal implications**
- 4.2.1. This report details the procurement strategy for the Council to purchase gas and electricity. The Council has power to enter into the proposed contracts under section 111 of the Local Government Act 1972 and section 1 of the Local Government (Contracts) Act 1997, which enable the Council to carry out any activity that is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions, and to enter contracts accordingly.
- 4.2.2. As required by paragraph 14 of the Council's Procurement Rules, the report is to be presented to the Council's Commissioning and Procurement Board, and will then be presented to the Executive as a Key Decision.
- 4.2.3. The Council's Procurement Rules require that the Executive take decisions on awarding contracts above the threshold for Chief Officers decision, which is £2m for revenue contracts; however this is recommended to be delegated, which is within the power of the Executive to decide.

- 4.2.4. The Public Contracts Regulations 2015 (“PCR”) apply to this procurement. The proposed procurement strategy is to run an open tender process, without a separate pre-qualification stage. This must be initiated by way of a contract notice. Provided that the procurement is then run in a way that is fair and transparent, and ensures equal treatment of all tenderers then this is compliant with the PCR.
- 4.2.5. As referred to in the report, section 20 of the Landlord and Tenant Act (as amended) and associated regulations require prescribed consultation to be carried out with leaseholders in relation to certain service charges. This legislation has a process for applying for a dispensation from the First-Tier Tribunal where this legislation cannot be complied with. It is important that this legislation is followed, because otherwise leaseholders cannot be required to pay the service charges.
- 4.2.6. Under the Public Services (Social Value) Act 2012, local authorities are required to consider, before tendering a services contract, how what is being procured might improve the the economic, social and environmental well-being of its area, and how, in conducting the procurement, it might act with a view to securing that improvement. The PCR then allow for such provisions relating to environmental, social or employment-related considerations to be included in the eventual contract, where they are linked to the subject-matter of the contract and were included in the procurement documents.
- 4.3. **Environmental implications and contribution to achieving a net zero carbon Islington by 2030**
- 4.3.1. The use of electricity and gas is the Council’s most significant environmental impact, generating thousands of tonnes of carbon dioxide. This can be mitigated by using renewable energy. The Council aims to have a fully renewable electricity supplies by using a renewable electricity tariff backed by REGOs and possibly purchasing renewable electricity directly from a generator via a PPA. A renewable gas tariff is not a realistic option due to the significant cost increase. However, the Council has an active decarbonisation process to replace gas boilers with electrical heating (such as heat pumps) and it is expected that gas consumption will decrease over the next few years.
- 4.3.2. The Council’s Net Zero Carbon programme includes an assessment of each building and the options to decarbonise each one whether through retrofit of insulation, more efficient controls, low energy lighting or larger measures such as solar panels and heat pumps. This is allied to the Council’s energy saving programme, including reduced heating hours, and energy efficiency campaigns.
- 4.4. **Equalities impact assessment**
- 4.4.1. 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.

- 4.4.2. An Equalities Impact Assessment is not required in relation to this report, because no negative impacts were identified during the EQIA screening process.

5. Conclusion and reasons for recommendations

- 5.1. It is recommended that the Council procures its electricity and gas supply contracts through a PBO appointed following a competitive process for the period 1 April 2025 to 31 March 2027, with an optional extension of two years.
- 5.2. Using a PBO is the recommended option as it brings Islington in line with other local authorities energy purchasing, outsourcing the risk element of trading amid ongoing energy market volatility.
- 5.3. A two-year contract gives the Council the opportunity to review whether the market has restabilised in the next two years and reconsider its options. A shorter deal also allows the possibility of making significant amendments to the Council's energy purchasing arrangements in the nearer future to consider changes such as signing up to a PPA or significant changes in electricity and gas volumes due to the Council's corporate energy savings programme and decarbonisation works as part of its Vision 2030 strategy and Net Zero Carbon programme.

Final report clearance:

Approved by:

Cllr Champion, Executive Member for Environment, Air Quality and Transport

Date: 21 November 2023

Report Author: Jonathan Dean, Energy Management Officer
Email: jonathan.dean@islington.gov.uk

Financial Implications Author: Tony Watts, Strategic Finance Manager – MTFS
Email: anthony.watts@islington.gov.uk

Legal Implications Author: Jabeen Story, Chief Commercial Contracts and Procurement Solicitor
Email: jabeen.story@islington.gov.uk