

Executive Report

Delegated Decisions - 19 March 2024

ENERGY SUPPLY CONTRACTS FROM OCTOBER 2024 TO 2028

Name of Cabinet Member	Councillor Lauren Townsend (Cabinet member for Resources)
Report sponsor	Stuart Proffitt Director of Environment and Property
Report authors	Neil Allen Head of Regulatory Services neil.allen@milton-keynes.gov.uk Gemma Drake Senior Sustainability Officer gemma.drake@milton-keynes.gov.uk

Exempt / confidential / not for publication	No
Council Plan reference	Not in Council Plan
Wards affected	All wards

Executive Summary

Approval is sought for using the Local Authority South-East Region (LASER) Energy Buying Group for procuring gas and electricity supply contracts from October 2024, for a period of four years. The contract will cover the purchase of gas supplies and of electricity supplies.

Gas will be supplied to our operational properties, Housing Revenue Account (HRA) tenants and leaseholders, and schools who choose to be part of this arrangement. Electricity will be supplied to HRA tenants and leaseholders and schools who choose to be part of this arrangement. These will be purchased across an expected mix and range of the day ahead market (20-25%) and lookahead market price (80-75%). The specialists on the LASER framework will advise on this.

The arrangements for the HRA will be subject to consultation. Initial advice has stated that S105 consultation with tenants is not required as the change in energy supplier is not deemed to be a matter for S105 consultation. Consultation is required for HRA leaseholders to approve entering into the framework agreement with LASER as it is a Qualifying Long Term Agreement (QLTA). Leaseholders will be consulted on whether they approve the Council entering into a framework agreement with LASER whereby the highest ranked / lowest cost supplier will be awarded the call-off contract.

Therefore, until consultation has been undertaken, the framework for HRA properties cannot be awarded.

In addition to the arrangements here, further provisions will be put in place to secure electricity supply should our Milton Keynes Waste Recovery Park (MKWRP) not be available, i.e. for planned maintenance or for other reasons. Should the MKWRP asset not be able to supply electricity for a sustained period, LASER will be requested to review the market and purchase the most appropriate forward pricing for the period during which MKWRP is expected to not be supplying - please refer to the separate delegated decision on 19 March 2024, specifically the virtual power purchase agreement (vPPA) and Annex D (exempt) - MKWRP Risk Register (Updated March 2024).

The anticipated total value of these contracts during this period is more than £40m, please see table below (not including operational assets and street lighting).

	Estimated costs based on 23/24 usage and rates
Gas	£4,553,000
Elec - Schools	£3,800,000
Elec - Non MKCC sites	£800,000
Elec - HRA	£1,050,000
Per Annum	£10,203,000
4 Years	£40,812,000

All directorates are affected by this decision and an appropriate procurement strategy will ensure best value to the council for all budget holders.

1. Proposed Decisions

- 1.1 That Milton Keynes City Council continues to use the LASER Energy Buying Service framework contracts to procure gas (reference Y22008), electricity and associated metering supplies (reference Y22009) from the 1 October 2024 for a period of four years.
- 1.2 That authority be delegated to the Director of Environment and Property, in consultation with the Director of Finance and Resources and the Cabinet member for Resources, to make the final arrangements for the supply from the LASER Framework, including:
 - (a) the scope of delivery over the term of the framework agreement; and
 - (b) consultation or other appropriate arrangements (as required) with tenants and leaseholders of the Housing Revenue Account (HRA), schools and other current users of the existing contract.
- 1.3 That appropriate consultation be undertaken, and that authority be delegated to the Director of Environment and Property, in consultation with the Director of Law and Governance, to confirm the most optimal route for both HRA tenants and leaseholders.

2. Why is the Decision Needed?

- 2.1 The existing LASER Energy Service framework comes to an end on 30 September 2024 and arrangements for the continued supply of energy under bulk contracts is required to continue to deliver an appropriate and procurement compliant supply of energy.
- 2.2 The HRA represents around 33% of gas and some of the smaller electricity sites and costs are recovered in service charges to tenants; hence price movements have a direct impact upon council tenants. This requires consultation as identified earlier. Schools are formula funded so will have to make allowances in their own budgets; the same as foundation schools and academies. These sites represent 52% of gas and electricity contracts (excluding street lighting).
- 2.3 Energy costs and usage in Milton Keynes City Council operated properties (including schools and HRA properties) are broken down as follows:

	23/24 kWh usage	23/24 Costs (rounded)
Elec - GF Buildings inc in vPPA	3,222,203	£1,120,000
Elec - Street Lighting inc in vPPA*	8,081,718	£2,500,000
Elec - Schools included in the Laser Contract	11,399,988	£3,800,000
Elec - HRA included in the Laser Contract	2,907,058	£1,050,000
Elec - non MKCC included in the Laser Contract	2,353,234	£800,000
Gas - Schools in the Laser Contract	26,022,358	£2,290,000
Gas - HRA in the Laser Contract	17,308,672	1,510,000
Gas - non MKCC included in the Laser Contract	563,902	53,000
Gas - GF in the Laser Contract	7,918,578	700,000
TOTAL	79,777,711	£13,823,000

The budget provision covers the direct costs to the council, that is the General Fund (GF), HRA and street lighting costs for both gas and electricity in the table above.

- 2.4 The supply of energy is essential to many council services, and it is the purpose of this process to ensure that service users do not individually have to carry the burden of procuring their supplies. There have been no adverse responses from services users to this approach.
- 2.5 Consultation or a dispensation to consult with users and housing tenants will be undertaken where relevant and appropriate as the decision for MKCC to use the LASER framework is not binding on any school, academy or HRA property.
However, the decision to use the bulk supply contract will deliver value for money given the purchasing power of LASER and the associated economies of scale.
- 2.6 The procurement of gas and electricity through a public sector-based provider will progress the following aims of the Council Plan 2022-2026:

- **Meeting our financial challenges** - ensuring a stable procurement path for energy.
- **Value for money services** - providing the best long-term value for energy supplies.
- **Prevention is Better than cure** - in terms of added social value provisions.
- **The importance of co-operation and partnerships** - helping smaller organisation benefit from a large procurement process.

3. Implications of the Decision

Financial	Y	Human rights, equalities, diversity	Y
Legal	Y	Policies or Council Plan	Y
Communication	N	Procurement	Y
Energy Efficiency	Y	Workforce	Y

(a) Financial Implications

Market investigation indicates that oil prices (which correlate directly to energy prices) are currently slowly falling but as we know the energy market can be volatile to external factors. Conflicts in various countries have made long term prediction of prices difficult, especially the price of gas, due to the move away from reliance on Russian gas supplies albeit new supply routes are now established to mitigate this risk. We use the LASER Framework to utilise the knowledge of specialist energy professional services i.e. full-time energy traders to provide advice to us to secure the most appropriate energy supply for our needs during the term of the framework.

We have secured our gas and electricity supplies via LASER contracts for over eight years now and have built a well-established relationship which has allowed us to investigate the opportunities to utilise the MKWRP in supplying power in the manner described in the separate delegated decision previously referred to. LASER have an excellent understanding of our needs, consumption, and use of renewable energies. This choice of framework reduces our exposure in the current market with the flexible procurement options meaning that energy purchases are hedged over a long period of time and over multiple purchases rather than on any one specific day. LASER have a Governance Panel where MKCC can be a customer representative, as we have in the past, having a direct input into the purchasing strategies of LASER.

The budgets included within the 2024/25 MTFP for the GF, street lighting and HRA properties are all based on the prices within the current LASER contract that ends in September 2024. Any change in the

final prices in the new contract from October 2024 will be reflected in the 2025/26 MTFP.

(b) Legal Implications

The Council has various statutory and discretionary obligations under numerous pieces of legislation. To fulfil these obligations, the Council has premises for its staff and others who are involved in delivering Council obligations. These premises require utilities including gas and electricity to operate.

The report is requesting approval to procure contracts for Gas and Electricity using the Laser Frameworks referenced as Y22008 for gas and Y22009 for electricity. Use of frameworks is a recognised route to market that is compliant with procurement law. This is provided that the Council is permitted to use the chosen frameworks and adheres to the terms of the framework in letting any contracts.

S20 consultation is required with leaseholders as the LASER framework is a Qualifying Long-Term Agreement (QLTA) as it will last for at least twelve months or more and leaseholders will be charged more than £100 p/a under a variable service charge. The Council will be required to consider observations made during the consultation period before a decision to award a contract under the frameworks for HRA leaseholders can be made. Initial advice has stated that S105 consultation with tenants is not required as the change in energy supplier is not deemed to be a matter for S105 consultation. The option to apply for a dispensation from consultation has been considered, however advice is that where the opportunity to consult is available, it has been recommended as the most optimal route to follow.

(c) Human Rights, Equalities and Diversity

The Council must give due regard to its Equalities Duties, in particular with respect to general duties arising from section 149 of the Equality Act 2010. Having due regard to the need to advance equality involves, in particular, the need to remove or minimize disadvantages suffered by equalities groups. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The purpose of the duty is to enquire into whether a proposed decision disproportionately affects people with a protected characteristic. It is not believed that the proposals in this report have any adverse equality implications as they are all equally applied.

(d) Workforce

The Energy Purchasing contract includes actions that relate to the reduction of emissions from the council property portfolio where colleagues will be part of the wider delivery.

4. Alternatives

Do Nothing

- 4.1 The Council cannot operate a whole range of statutory services without securing energy supply and therefore this option cannot be adopted.

The Council to Contract Independently

- 4.2 This is possible, however, is it unlikely to produce the optimum value for money due to the small scale of our consumption compared to a large purchasing organisation. This approach is likely to be more expensive due to the additional and experienced staff resources that would be required.

Contract through a Private Sector Based Provider

- 4.3 Profit driven organisations without detailed knowledge of the local authority sector are available to use. Such a provider needs to show a profit on the transacted business which would increase the cost of delivery to the Council.
- 4.4 Business continuity may be uncertain in present economic climate. A full find a tender (FTS) tendering process would be required to engage with such a provider together with the associated resource and time implications.

Contract through Public Sector Based Provider - Crown Commercial Service (CCS)

- 4.5 This is a public sector-based procurement specialist providing framework options for a wide range of common goods and services. Energy procurement is one element of the range of goods and services they offer. Their current offer, Supply of Energy 2, is limited to one supplier for gas and one supplier for electricity.

Contract through Public Sector based provider - LASER Energy Services (recommended option)

- 4.6 Local Authority South East Region (LASER) Energy Services are familiar with local authority needs and processes, having been created from within Kent County Council in 1989. They are energy procurement specialists with excellent market knowledge and long-term track record within the public sector, with a public sector portfolio of over 200 customers of whom 125 are local authorities representing an annual spend of over £500million.
- 4.7 LASER Energy Services are a not for profit organisation, with any surplus re-invested in service improvements, and there is also a mechanism for the authority to participate in the organisation as a member of the governance panel.
- 4.8 As part of the tender, suppliers are obliged to provide additional social value to LASER customers. For example, LASER have a provision to provide up to £130k per annum to support local initiatives and there is the potential for the Council

to apply to LASER to work with them on a targeted basis under the new frameworks.

- 4.9 A compliant FTS tender process has been completed, resulting in two new contracts being awarded for Electricity and Gas supplies, permitting access by other public sector organisations from 1 October 2024 to 30 September 2028. Both of the LASER frameworks (Y22008 and Y22009) have the option for mini competitions or a direct award where we need to consider the services we want to secure before and then discussing with LASER the most effective way of using the framework. LASER will then assist the Council through the process of whether to run a mini-competition or the co-ordination of a direct award, with award based on the lowest price.
- 4.10 LASER Energy Services aggregate gas and electricity volumes across all customers to enable supplier management fees to be kept to a minimum.
- 4.11 To ensure transparency LASER disclose all supplier fees; provide benchmarking on their performance and report to a governance panel which includes LASER customers and an external expert (see the attached **Annex** for more detail).

5. Timetable for Implementation

- 5.1 It is important that a decision is made well before the end of the current contract ends in September. LASER will be updated following the call-in period to commence work (ideally by 31 March 2024) to allow the Council to benefit from inclusion in the LASER framework. Delays in this process may impact the ability of LASER to procure energy supplies at the most advantageous rates for the supply period start in October 2024 on the basis of current forecasts.
- 5.2 In addition, an early decision will help financial planning for the coming year, and allow dialogue with budget holders such as Schools, Academies and non MKCC users of the contract such as some Town/Parish Councils and community organisations.
- 5.3 The Council will carry out a 30 day S20 consultation with leaseholders. Consultation will commence in early April 2024 for a minimum of 30 days. Following observations, if approved, the use of the framework could be awarded in May 2024 for the HRA.

List of Annexes

Annex Flex Info Pack - Milton Keynes Council - V1

List of Background Papers

None