



# **NORWICH** City Council

**Committee Name:** Cabinet

**Committee Date:** 14/09/2022

**Report Title:** Utilities Contracts

**Portfolio:** Councillor Kendrick, cabinet member for resources and  
Councillor Harris, cabinet member for housing

**Report from:** Head of legal and procurement

**Wards:** All Wards

## **OPEN PUBLIC ITEM**

### **Purpose**

The purpose of this report is to seek Cabinet's approval on the future commissioning of utility contracts

### **Recommendation:**

It is recommended that the Cabinet:

- 1) Agrees to enter a single year agreement with Crown Commercial Services for the procurement of gas from 1 April 2023 on a fixed term basis; and
- 2) Asks officers to continue to explore the future options for the procurement of electricity from October 2023 and longer-term options regarding gas procurement

### **Policy Framework**

The Council has five corporate priorities, which are:

- People live independently and well in a diverse and safe city.
- Norwich is a sustainable and healthy city.
- Norwich has the infrastructure and housing it needs to be a successful city.
- The city has an inclusive economy in which residents have equal opportunity to flourish.
- Norwich City Council is in good shape to serve the city.

This report meets the corporate priority to ensure Norwich City Council is in good shape to serve the city

## Report Details

1. The council has two major energy contracts that are due to expire within the next year; first, the gas contract, which is due to expire on 31 March 2023, and electricity, which is due to expire on 30 September 2023.
2. Both contracts are currently let through the ESPO utilities framework and are supplied by Total Gas and Power. The contracts were entered into on a 4-year term and have generally represented good value with the Council benefitting from the purchasing power of being on a framework as well as being protected from the recent significant price rises in the energy market. However, as these contracts are now approaching their end dates the council faces the prospect of being exposed to the current energy rates.
3. Each year, the council spends approximately £1m on gas and slightly less on electricity. This includes the costs of operational assets such as City Hall and the Halls, a range of properties in the general fund, and communal housing properties which are re-charged to residents through service charges. As a result, it is important that the council seeks to obtain best value, where it can, to protect both the public and residents purse.
4. The current utilities market is extraordinarily challenging. The rises in prices of utilities, particularly gas and electric, has been widely reported; the current contract has protected the Council from significant price rises to date, but this will not be possible under the new contract. As was reported to cabinet in July in the Medium-Term Financial Strategy Update, the council was anticipating an additional cost pressure of £0.75m from its utilities contracts in 2023/24.
5. The council has been carefully considering its options for future procurement of supplies in light of the challenging market. The main options for procurement are either purchasing utilities ourselves versus utilising a framework provider.
6. Historically, the council has used framework providers. These are large purchasing organisations who procure supply from the market on behalf of a range of organisations and tend to obtain better rates for councils using bulk purchasing power and their management of the market. The main two providers are the Eastern Shires Purchasing Organisation (ESPO) and Crown Commercial Services (CCS) although there are other smaller providers who offer utilities contracts.
7. In order to renew its current utilities agreement with ESPO, the council would have been required to commit to a new agreement in June 2022, to come into effect on 1 April 2023 for a 4-year period. Whilst longer term agreements can give opportunity for certainty, there was concern at the time that this would provide limited options to the council as the market shifts in future and so this option was not taken forward.
8. Informal discussions with procurement advisors have indicated to the council that CCS are usually the largest buyer in the market and therefore offer the potential for the best value. This has been validated to benchmarking from the Department for Business, Energy and Industrial Strategy which demonstrates

that during 2021/22, Crown Commercial Services energy rates available to customers were consistently 12% lower than the general industry benchmark. Discussions have therefore been taken forward with CCS regarding the council's future options, as set out below:

### Future Options for Gas Purchasing

9. The council's current contract expires on 1 April 2023. CCS has indicated that the following options are available to the council:

**Table 1: Purchasing options**

Option	Benefits	Risks
Enter the CCS agreement on a fixed term rate for a minimum of 1 year (with the option to then extend or enter a new longer term deal)	<ul style="list-style-type: none"> <li>Once opted into the agreement, CCS will then work with the Council to assess the best option for future purchasing requirements beyond the first year</li> <li>Whilst it is necessary to accept costs will be higher than at present, this route presents certainty for the Council on its rates over the next year</li> </ul>	<ul style="list-style-type: none"> <li>The agreement works so that authorities opt in by 16 September, and then CCS approach the market to obtain rates for opted in authorities. As such, we would not know rates until committed. The Council could not opt out once it has committed</li> </ul>
Enter the CCS agreement on a variable rate for a minimum of 1 year with the option to extend (approx. 40% brought up front with 60% brought at a later stage)	<ul style="list-style-type: none"> <li>Once opted into the agreement, CCS will then work with the Council to assess the best option for future purchasing requirements beyond the first year</li> <li>If there is a reversal in the market and prices begin to fall, the Council will benefit from that</li> </ul>	<ul style="list-style-type: none"> <li>The agreement works so that authorities opt in by 16 September, and then CCS approach the market to obtain rates for opted in authorities. As such, we would not know rates until committed. The Council could not opt out once it has committed</li> <li>If prices continue to rise, the Council will be exposed to this risk</li> </ul>
Spot purchase off procurement framework agreements	<ul style="list-style-type: none"> <li>Gives us more flexibility in the short term</li> </ul>	<ul style="list-style-type: none"> <li>If prices continue to rise, the Council will be exposed to this risk</li> <li>Need to continue to re-visit the market more regularly, creating greater administrative burden versus 1 year variable contract</li> </ul>
Procure our own utility contracts	<ul style="list-style-type: none"> <li>We would be in control of the contract and terms</li> </ul>	<ul style="list-style-type: none"> <li>We are highly unlikely to get as good value as if we used a</li> </ul>

		procurement framework provider. • We do not have the same market specialisms as a framework provider
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10. We have asked whether there would be the potential of including some gas on to the fixed term contract and some on variable in order to hedge potential risks from each option; however, CCS have advised that is not feasible as this is representative of the existing variable offer.
11. If the decision is to commit to the contract, CCS will continue to provide the council with regular budgetary projections as their buyers procure from the market. If a fixed term contract is entered into, the Council will be given a final purchase position on 1 April 2023. If a variable contract is entered into, we will have certainty over a proportion of the contract on 1 April, with further budgetary projections throughout the year adjusted for as actual rates are known.
12. Due to the lead in timing for these future contracts the initial option for the gas contract is to contract for a (short term) 12 month delivery contract which, in effect, will commit the council to buying gas over a 6 month period (October 2022 to March 2023) at a range of future rates and then accessing gas over a 12 month contract period starting April 2023 at the rates already secured. So, during the period October 2022 to March 2023 the buying consortium will be purchasing gas on our behalf for summer 2023 (April to September) and for Winter 2023 (October 2023 to April 2024).
13. In March 2023 the council will have a further range of options for its gas supply from April 2024 onwards, ranging from a similar 1-year contract to 24 and 42 month longer term contracts. In all these medium and long term scenarios the consortia will again be purchasing gas on a 'forward supply pricing basis' ie they will purchase for the relevant summer and winter seasons in advance and so whilst the prices will be known (and therefore fixed) the extent to which it provides good value for money will depend on whether the market is rising, when purchasing in advance should hedge against future price rises or falling when it would be better to purchase nearer to the point of consumption.
14. As above, if we enter an agreement with CCS by 16 September, they will continue to then work with the council to assess its future options over the longer term – whether, for example, it would be better to enter a medium (2 year) deal or a longer term deal (more than 2 years), and on a fixed or variable rate. However, if we don't enter a deal by 16 September, then we will have to spot purchase from the market until the next opportunity which would be in March 2023 for supply in the period starting April 2024 – hence such a decision would expose the council to a variable rate spot purchase arrangement for April 2023 until March 2024.
15. The onus on the council in this difficult market is to secure the best deal that it can. In order to support the council in assessing the options, advice has been procured from Cornwall Insight, a local company who operate as one of the

leading energy advisors in the country. Their report is included within Exempt Appendix A.

16. Taking all the above into account, the recommendation is that cabinet supports entering into a 1 year fixed term deal with CCS for the procurement of gas from 1 April 2023 and to continue to explore options with regards the longer term purchasing position, with a view to bringing forwards a further report in early 2023 alongside proposals regarding electricity (see below)

### **Future Options for Electricity Purchasing**

17. As above, the council's electricity contract expires on 30 September 2023. This gives more time for the council to consider its options including for longer term contracts. CCS have confirmed that by 15 March 2023, they would require the council to confirm whether it wishes to opt into its interim solution, which would see the council on an interim rate for the period 1 October 2023 – 31 March 2024, and then on a medium-term deal from 1 April 2024. There would be no benefit to the council of making a decision to commit to a future energy deal now with CCS, versus March.
18. As a result, it is recommended at this stage the council continues to explore its future options for electricity purchasing before making a final commitment for the contract beyond October 2023. This will enable time to get further understanding about the market position and potential options. Proposals can then be brought forward alongside proposals for a potential longer-term position for gas purchasing.
19. We have also discussed green energy with CCS. There are no effective options for purchasing green gas through their framework at present (and limited options across the sector for green frameworks that are compliant with public procurement regulations); they do have buying options for green electricity which can be considered at cabinet when proposals come forward for electricity purchasing. Clearly, the council has a strong desire to reduce its carbon footprint, but the present market position makes this a challenging proposition in the short term.
20. One of the benefits of entering a 1-year agreement is that this presents the platform for the council to enter discussions to move towards greener supply as the market begins to fall on a quicker basis than if the council enters a longer-term agreement.

### **Consultation**

21. The proposals have been subject to advice from Cornwall Insight, as above.
22. Recharged utility costs from part of the communal areas service charges for some residents and leaseholders and also for those in sheltered accommodation that do not have individual metered supplies. All these residents receive heating and energy by way of communal heating schemes which must be recharged at actual cost for which there is no requirement for formal consultation (as the contract proposed is for 1 year or less)

23. However, given that those paying service charges have no choice to opt out of these schemes it is imperative that the council considers communicating the impact of rising utility prices on them as early as possible and in ways which gives advice and support to them managing these costs.

## Implications

### Financial and Resources

Any decision to reduce or increase resources or alternatively increase income must be made within the context of the council's stated priorities, as set out in its Corporate Plan and Budget.

24. The current budgets for utilities costs are set out below:

	<b>Gas (£)</b>	<b>Electricity (£)</b>	<b>Total (£)</b>
General Fund	77,901	532,939	610,840
HRA	783,552	140,470	924,022
<b>Total</b>	<b>861,453</b>	<b>673,409</b>	<b>1,534,862</b>

25. If the decision is to commit to a new gas contract, CCS will continue to provide the council with regular budgetary projections as their buyers procure from the market. If a fixed term contract is entered into, the council will be given a final purchase position on 1 April 2023. If a variable contract is entered into, we will have certainty over a proportion of the contract on 1 April, with further budgetary projections throughout the year adjusted for as actual rates are known.
26. The potential implications on the HRA and general fund are daunting. A proportion of the gas bills are standing charges and CCS have advised it is not anticipated these should rise; the proportion of standing charges is higher for general fund properties, and as such it is the HRA which is more susceptible to variances in the price of gas supply.
27. Indicative prices were provided by CCS in early August on which potential budgetary impacts have been based, as per table 2 below. Nonetheless, these should be seen purely as indicative at this stage until the buying process commences. By way of example, in the week leading up to this report, wholesale gas prices fell by 20-25%, but then rebounded by 30%.

**Table 2:** Potential increase in gas costs, 23/24:

	<b>2022/23 anticipated bills £</b>	<b>Forecast 2023/24 £</b>	<b>Additional costs £</b>	<b>% increase</b>
GF	96,108	285,712	189,604	297%
HRA/Lease holders	956,598	3,075,769	2,119,171	322%
Total	1,052,706	3,361,481	2,308,775	

28. The council is under a formal duty to ensure that the HRA costs are recharged to service users through service charges; this includes tenants of shared areas, both HRA tenants and leaseholders, as well as district heating scheme users. As such, the costs do not impact directly on to the council, but the wider context is the potential impact of such costs on our residents.

29. The service charges made to residents are for district heating and shared heating schemes, such as communal areas for buildings and sheltered housing schemes. It is not possible for residents to opt out of these schemes and secure their own, separate gas supply. Historically the council has been able to secure better rates for utilities than are available through the energy price cap although this cannot be guaranteed (the energy price cap does not apply to businesses, local government and communal housing schemes).

30. The service charge year runs from 1 October to 30 September. Over the next year, the service charges in respect of gas will therefore include an element on the current contract, and an element of the future contract rates, which will overall create an increase on service charges.

31. The council is undertaking work to support residents with the cost of living crisis. This builds on our well-established approach to financial inclusion, through measures such as our non-commercial debt policy, Council Tax Reduction Scheme and Living Wage activity. It includes:

- targeting direct financial support to people in most need through funds such as the Household Support Fund and the discretionary pot from the Energy Council Tax Rebate;
- ensuring people know what other support is available to them (through developing a new directory for frontline staff, changes to our website and a communications plan);
- providing Budgeting and Money Advice to council tenants via our Budgeting and Money advice team. This includes supporting people to apply for the correct benefits and set up payment plans where necessary.
- seeking external funding to support increased demand for essentials, to bolster existing provision of food, energy, homelessness-prevention services, and financial and social welfare advice;

- working with the voluntary sector, other councils and partners such as the City Vision Partnership to join-up our response.
- Officers are exploring further ideas and there will be a Members Briefing in October to discuss these.

## Legal

32. The value of the council's gas and electricity contracts mean that the council must follow the public procurement regulations 2015 in its purchase of energy. The purchasing routes provided by Crown Commercial Services are compliant with the regulations.
33. S.151 of the Commonhold and Leasehold Reform Act 2002 only requires a formal leaseholder consultation where the contract is more than 12 months; as such, no formal consultation is required for the proposals in this report. The Council will need to ensure any charges to leaseholders and HRA tenants reflect the actual cost of service provision.
34. Due to the time critical nature of the decision required by CCS for the gas contract the Monitoring Officer has agreed to waive the requirement for the decision to be subject to the call-in procedure. Both the chair of the scrutiny committee and the Leader of the opposition were invited to a briefing to explain the position in respect of these contracts and the timeframes.

## Statutory Considerations

Consideration	Details of any implications and proposed measures to address:
Equality and Diversity	The decision on the procurement route for the purchase of utilities does not itself create equality or diversity implications.
Health, Social and Economic Impact	As highlighted above, there is the potential that the increase in gas pricing may make it more challenging for residents to be able to afford service charges. The report sets out some of the support provided by the Council to the people of Norwich in tackling the cost of living crisis.
Crime and Disorder	None
Children and Adults Safeguarding	None
Environmental Impact	This report does not propose to increase the use of energy; however there is the potential to reduce the impact on the environment through purchasing of greener solutions. This is considered in paragraph 20 and 21 above.



## **Risk Management**

<b>Risk</b>	<b>Consequence</b>	<b>Controls Required</b>
Impact on the Council's financial position as a result of increased utility prices	<ul style="list-style-type: none"><li>• Increased savings requirement within the MTFS</li><li>• Potential for increased debt in the HRA due to increase in service charges</li></ul>	<ul style="list-style-type: none"><li>• Identification of potential costs within MTFS</li><li>• Regular updates on budget estimates from CCS</li><li>• Monitoring of debtors</li><li>• Ongoing support to debtors through non-commercial debt policy</li></ul>
Impact on residents of increased service charges	<ul style="list-style-type: none"><li>• Residents suffer hardship as a result of increased utility costs</li></ul>	<ul style="list-style-type: none"><li>• Continuing support to residents as outlined in paragraph 30 above</li></ul>

## **Other Options Considered**

35. The options available to the council at this stage are set out in Table 1 and throughout this report.

## **Reasons for the decision/recommendation**

36. The council's contracts for utilities are expiring and it is critical to delivering services within the council, as well as providing services to residents, that the council agrees a way forward for these contracts.

37. As this report sets out, the market for utilities is extraordinarily challenging. The same challenges the council is facing at this time are the same as being faced by households, businesses and other parts of the public sector throughout the country.

38. This report seeks to analyse the options available to the council to ensure it is best placed to try to secure the most economically advantageous option available.

## **Appendices:**

### **Exempt: Report from Cornwall Insight: Review of Energy Contract Procurement Options**

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