

Decision under Delegated Powers

Officer Making the Decision

Justin Henry
Strategic Director – Commercial Development, Assets and Leisure

Recommendation

That the Council renew a gas supply agreement with the Eastern Shires Purchasing Organisation before 28 February 2022

Reason

To take action in relation to a matter which would otherwise have been submitted to Cabinet, and to protect and mitigate the Council against the coming sharp rise in gas contract prices in the market.

Authority for Decision

Delegation of Executive functions - (Section 8.3 of the Constitution states that the Chief Executive, Strategic Directors and Heads of Service can take such action as is required in the case of an emergency or urgency subject to:

- (i) consultation with the Leader (or, in the Leader's absence, the Deputy Leaders);
- (ii) consultation with the Chief Executive and relevant Strategic Directors in each case; and
- (iii) a report on the action taken being made to the next meeting of the Cabinet.

Decision and Date

Taken on 24th February 2022



Justin Henry
Strategic Director – Commercial Development, Assets and Leisure

Background

1. Eastern Shires Purchasing Organisation (ESPO) is a public sector owned professional buying organisation (PBO), specialising in providing a wide range of goods and services to the public sector, one of which is energy supply.
2. Charnwood Borough Council have been largely protected from the turmoil in the UK energy markets over the last 12 months by virtue of its existing gas supply contract with ESPO, who forward purchased large quantities of the gas & electricity on behalf of customers in the early stages of the pandemic, in April 2020, when wholesale prices fell dramatically due to lockdowns.
3. The current rates are approximately 75% cheaper than the current wholesale market rates and are valid until 31 March 2022 for gas and 30 September 2022 for electricity. As part of the forward purchasing strategy, ESPO have already purchased much of the energy the Council will use in the following 12-month periods to further protect our budgets. The Council's gas consumption in the 2021 calendar year was £145,231.18
4. The Council will experience between 40% and 60% increases in gas charges from 1st April 2022 (anticipated to be between £203,323.65 and 232,369.89 in total annually), largely as a result of increases in Green levies and Unidentified Gas charges which are regulated by OFGEM and cannot be influenced by ESPO. Although a price rise of this percentage looks high, ESPO estimates that after these increases charges will still only represent 33% of the prices available if customers were to look for a new Fixed Price / Fixed Term contract in the current market.
5. Not signing the agreement could leave the Council exposed to gas supply costs of up to £704,151 per year.
6. ESPO are able to mitigate price shocks due to the way they purchase energy, namely, in advance when markets are favourable. It is crucial that the Council commits to the new gas framework, due to begin in April 2023, as soon as possible to ensure that our future requirements are secured as part of main portfolio consisting of over 28,000 customer supplies. The effectiveness of the ESPO strategy has mitigated the actual rises in the wholesale markets which are currently around 400% higher than those purchased by ESPO.
7. The ESPO framework uses a strategy which has kept prices low over many years and will attempt to do so in the future. The strategy is endorsed by the Cabinet Office as representing Best Practice in Public sector energy purchasing and is fully compliant with UK government procurement legislation.
8. If the Council does not enter into the agreement with ESPO, they will unfortunately be unable to secure the future volumes when the wholesale markets are conducive to do so and this would force the Council to source

a fixed term / fixed price contract which is against Cabinet Office advice on Best Practice advice for Public Sector energy procurement.

9. The agreement will run until from the date of the agreement until 31st March 2027. Prices within that time are not fixed and will fluctuate as the international gas markets fluctuate.
10. Signed agreements need to be returned to ESPO by the 28th February 2022.
11. This agreement will certainly help to avoid negative impacts of market price impacts but cannot wholly avoid them; market risks continue to exist regarding global gas supply and geopolitical instability, particularly with regard to the Russia and Ukraine situation.
12. The authority to award for a contract of this size is normally reserved to Cabinet. However, this item cannot be reasonably deferred as the risk of cost uplift (paras. 3, 4 & 5 above) outweighs the need to adhere to normal governance timelines.

Comments from HR

Not applicable

Financial Implications

The financial implications are outlined above.

Consultation with the Mayor, the Chair of the relevant Committee, or in their absence the Vice Chair *(Note: only applies to Council Functions)*

The Chair of Scrutiny Commission has been consulted (verbally and by email) that the decision will be taken under Special Urgency measures, and the Chair has approved the decision.

Consultation with Leader (or deputy appointed)

Both the Leader and Deputy Leader have been consulted on the issue. They individually agree that:

- the need to take the decision at this point helps to avoid very significant financial implications for the Council, and
- that the decision may not be reasonably deferred for the standard governance process

Consultation with Chief Executive and relevant Strategic Director(s)

The Chief Executive, Section 151 Officer and Monitoring Officer have all been consulted; each agrees that:

- the need to take the decision at this point helps to avoid very significant financial implications for the Council, and
- that the decision may not be reasonably deferred for the standard governance process

Risk Management

| Risk Identified | Likelihood | Impact | Overall Risk | Risk Management Actions Planned |
|--|------------|--------|--------------|---|
| The Council faces significant cost rises in gas supply | 4 | 4 | High 16 | <p>Signing this agreement will allow our purchaser, ESPO to undertake collective purchasing with larger volumes, thereby achieving better value from the market. This cannot fully insulate the Council from rising energy costs, but it forms the basis of a very substantial mitigation.</p> <p>The current geopolitical situation (Russia Ukraine conflict) and supply crunch in the face of very high demand in a post pandemic recovery mean the Council will certainly face costs increases in energy. The decision forms a part of mitigation.</p> |

Key Decision: Yes

This item is not included on the Forward Plan as this is an urgent decision. A report will be made to the next ordinary Council meeting.

Background Papers: None