

## Record of Cabinet portfolio holder decision

Local Government Act 2000 and the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

<b>Decision made by</b>	Cllr Rob Simister
<b>Key decision?</b>	No
<b>Date of decision</b> (same as date form signed)	31 July 2015
<b>Name and job title of officer requesting the decision</b>	John Backley Technical and facilities manager
<b>Officer contact details</b>	Tel: 01235 540443 Email: john.backley@southandvale.gov.uk
<b>Decision</b>	<p>That:</p> <ul style="list-style-type: none"> <li>(a) Cabinet authorises the head of HR, IT &amp; Technical Services to use LASER to negotiate the electricity and gas contracts for all council-owned buildings within the Kent County Council (LASER) framework agreement from 1 October 2016 to 30 September 2020;</li> <li>(b) Cabinet authorises the head of HR, IT &amp; Technical Services to agree the purchasing and management options but with the authority to change the options during the contracts, both in consultation with the relevant cabinet member; and</li> <li>(c) Cabinet authorises the head of legal and democratic services to enter into the contracts negotiated by LASER.</li> </ul>
<b>Reasons for decision</b>	<p><b>Background</b></p> <ol style="list-style-type: none"> <li>1. In a report dated 9 June 2011, cabinet authorised the head of service to use LASER to negotiate the electricity and gas contracts for all council buildings within the Kent County Council (LASER) framework agreement from 1 October 2012 to 30 September 2016 using its fully managed service. In addition the report authorised the use of the 'purchase within period' option. LASER are now looking for commitment to the next framework from 1 October 2016 to 2020.</li> </ol>

## **Current performance**

2. The current frameworks have performed extremely well. For the period October 2009 to September 2013, benchmarking of LASER's purchasing performance achieved wholesale energy prices around four per cent below market value which equates to £3,300 per year.
3. Between 2011 and 2014, LASER achieved a price for electricity which was 1.2 percent below average market price and gas was 0.4 percent below average market price. LASER is able to undercut the best prices on the market due to its buying power and because it does not have a private equity owner.

## **Options considered for securing electricity and gas contracts**

4. Several buying organisations, both private and public sector, can secure contracts on our behalf. However, public sector organisations are favoured because they focus solely on public sector needs rather than trying to match the potentially competing objectives and requirements of private and public sector organisations. In addition, these groups have a long experience of acting on behalf of the public sector and are, therefore, well versed in their requirements and processes. Lastly, they will certainly comply with EU procurement rules.
5. LASER currently has over 115 local authorities on its contract. Oxfordshire County Council, West Oxfordshire District Council, Vale of White Horse District Council and Oxford City Council all purchase their energy through LASER. The current selected provider for electricity is Npower and Total GP for gas supplies.

## **Options with LASER for procuring electricity and gas contracts**

6. If it is agreed to use the services of LASER, then the council has two (main) purchasing options to procure the energy. These options are:
  - purchase in advance (PIA) - purchases are concluded prior to each supply year 1 October to 30 September giving a fixed price for the period. This provides more certainty as the cost of the electricity and gas is known in advance
  - purchase within period (PWP) - purchases are concluded prior to and within the supply periods October to March and April to September - this is a more risky approach where LASER aims to buy at

	<p>different times during the year when markets are judged to be low.</p> <p>7. Officers, consider that it is worth the council taking the risk in at least the first year in opting for PWP for all supplies. Officers are able to review this option on an annual basis with the possibility of changing on the anniversary (the 1 October each year). Therefore, officers recommend cabinet to authorise the head of HR, IT and Technical Services, in consultation with the relevant cabinet member to use the PWP option, but with the authority to change the option during the contracts.</p> <p>8. Officers consider the current purchasing and management service options work well but request that the head of service has delegated powers, in consultation with the relevant cabinet member to change these during the contract period.</p> <p>9. Officers are in discussion with RM regarding the supply of electricity and gas at 135 Milton Park with the aim of transferring to the LASER portfolio if agreed.</p>
<p><b>Alternative options rejected</b></p>	<p>10. Other public sector buying organisations do exist but officers do not consider that given the past experience with LASER and that the provision of the service has been good, carrying out a full tender exercise from scratch, involving tender evaluation and comparison with other providers would be very time consuming and not provide major savings in the long term.</p> <p>11. By joining in with an established framework agreement, we can reduce the risk as a lot of the electricity and gas has already been bought. This is the opportunity to increase our buying power and improve control of contracts by joining an established and recognised energy supply framework agreement. The options of 'doing nothing' or negotiating ourselves have, therefore, been discarded.</p>
<p><b>Legal implications</b></p>	<p>12. Kent County Council (KCC) is the 'contracting authority' for the contracts operated by LASER. The energy supply contracts are procured through OJEU compliant tender processes. An 'open procedure' procurement process, in accordance with European Combined Procurement Directive 2004/18/C has been utilised for the tender and award of flexible energy supply contracts for the period October 2016 to September 2020. Following a robust and competitive procurement process, KCC has awarded</p>

	<p>the frameworks to Npower for electricity and Total GP for gas. Npower and Total GP are the incumbent framework providers but the new framework delivers additional functionality.</p> <p>13. A four year flexible supply agreement will be entered into between KCC and Npower and Total GP. The council then sign a tripartite agreement (side agreement) for the duration of the four year framework. The tripartite is executed by the council, the suppliers and KCC. The tripartite provides authority for LASER to purchase South energy requirements for the duration of the four year agreement.</p>			
<p><b>Financial implications</b></p>	<p>14. During the past year 2014/15, the cost for electricity and gas was:</p> <ul style="list-style-type: none"> <li>• electricity cost, £75,000 for 651,000 kWh (Crowmarsh offices and Cornerstone) and £25,000 for 225,000 kWh for the smaller sites</li> <li>• gas cost, £28,000 for 884,905 kWh</li> </ul> <p>15. The total cost to the South for energy procured in 2014/15 was £128,000 per year plus £2,300 to LASER.</p> <p>16. LASER seek opportunities to maximise purchases during periods of low market prices. The earlier that the council can commit to the 2016-20 framework, will prove beneficial in protecting us from price spikes and help maintain an achieved price which is below market value.</p>			
<p><b>Other implications</b></p>	<p>17. There is no central/corporate budget for energy supplies. Cost centres each have budgets for energy and these are managed locally by each team or service. Supplies can be added or removed at any time without penalties.</p>			
<p><b>Background papers considered</b></p>	<p>None</p>			
<p><b>Declarations/conflict of interest? Declaration of other councillor/officer consulted by the Cabinet member?</b></p>				
<p><b>List consultees</b></p>		<p><b>Name</b></p>	<p><b>Outcome</b></p>	<p><b>Date</b></p>
	<p>Ward councillors</p>	<p>N/A</p>		
	<p>Legal</p>	<p>Pat Connel</p>	<p>Agreed</p>	<p>14 July 2015</p>
	<p>Finance</p>	<p>Steve Guard</p>	<p>Agreed</p>	<p>24 June 2015</p>
	<p>Human resources</p>	<p>N/A</p>		

	Sustainability	Heather Saunders	Agreed	1 July 2015
	Diversity and equality	Cheryl Reeves	Agreed	1 July 2015
	Communications	Gavin Walton	Agreed	29 June 2015
	Strategic Management Board	Steve Bishop	Agreed	14 July 2015
<b>Confidential decision?</b> If so, under which exempt category?	No			
<b>Call-in waived by Scrutiny Committee chairman?</b>	No			
<b>Has this been discussed by Cabinet members?</b>	Yes			
<b>Cabinet portfolio holder's signature</b> To confirm the decision as set out in this notice.	Signature _____ Councillor Robert Simister _____ Date _____ 31 July 2015 _____			

**ONCE SIGNED, THIS FORM MUST BE HANDED TO DEMOCRATIC SERVICES IMMEDIATELY.**

For Democratic Services office use only		
Form received	Date: 31 July 2015	Time: 13:10
Date published to all councillors	Date: 3 August 2015	
Call-in deadline	Date: 10 August 2015	Time: 17:00

## Guidance notes

1. This form must be completed by the lead officer who becomes the contact officer. The lead officer is responsible for ensuring that the necessary internal consultees have signed it off. The lead officer must then seek the Cabinet portfolio holder's agreement and signature.
2. Once satisfied with the decision, the Cabinet portfolio holder must sign and date the form and return it to the lead officer who should send it to Democratic Services immediately to allow the call-in period to commence. Democratic Services staff are located on the ground floor north wing (C block) of the Crowmarsh Gifford offices. Tel. 01235 540307 or extension 7307.  
Email: [democratic.services@southandvale.gov.uk](mailto:democratic.services@southandvale.gov.uk)
3. Democratic Services will then publish the decision to the website (unless it is confidential) and send it to all councillors to commence the call-in period (five clear working days). The decision cannot be implemented until the call-in period expires. The call-in procedure can be found in the council's constitution, part 4, under the Scrutiny Committee procedure rules.
4. Before implementing the decision, the lead officer is responsible for checking with Democratic Services that the decision has not been called in.
5. If the decision has been called in, Democratic Services will notify the lead officer and decision-maker. This call-in puts the decision on hold.
6. Democratic Services will liaise with the Scrutiny Committee chairman over the date of the call-in debate. The Cabinet portfolio holder will be requested to attend the Scrutiny Committee meeting to answer the committee's questions.
7. The Scrutiny Committee may:
  - refer the decision back to the Cabinet portfolio holder for reconsideration or
  - refer the matter to Council with an alternative set of proposals (where the final decision rests with full Council) or
  - accept the Cabinet portfolio holder's decision, in which case it can be implemented immediately.