

**Committee Name and Date of Committee Meeting**

Delegated Officer Decision – 09 December 2022

**Report Title**

Electricity Supply Contract and Ancillary Services

**Is this a Key Decision and has it been included on the Forward Plan?**

Yes

**Strategic Director Approving Submission of the Report**

Paul Woodcock, Strategic Director of Regeneration and Environment

**Report Author(s)**

Steven Cope, Commercial Energy Officer  
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**Ward(s) Affected**

Borough-Wide

**Report Summary**

The purpose of this report is to seek approval for Rotherham MBC to enter into a direct award with nPower Business Solutions for the supply of electricity and ancillary services via the YPO Supply of Electricity and Ancillary Services Framework.

**Recommendations**

1. Approve the award of the electricity contract via the YPO framework with nPower.

**List of Appendices Included**

Appendix 1 Part A - Initial Equality Screening Assessment.  
Appendix 2 Carbon impact Assessment

**Background Papers**

22-166 Elect Supply Contract Procurement Business Case

**Consideration by any other Council Committee, Scrutiny or Advisory Panel**

Name of Committee – Click here to enter a date.

Name of Committee – Click here to enter a date.

**Council Approval Required**

No

## **Exempt from the Press and Public**

No

*An exemption is sought for (insert appendix number) under (Select reason for exemption) of Part I of Schedule 12A of the Local Government Act 1972 is requested, as this report contains (insert why it meets that paragraph).*

*It is considered that the public interest in maintaining the exemption would outweigh the public interest in disclosing the information because (insert why)*

## **Electricity Supply Contract and Ancillary Services** Error! Reference source not found.

### **1. Background**

- 1.1 The Council's main Electricity Supply contract expires in March 2023 and therefore up for renewal. The focus of the business case is to obtain approval of the future Contract from April 2023 onwards which is recommended to procure via the Yorkshire Purchasing Organisation (YPO) Electricity and Ancillary Services framework as a direct award to nPower.
- 1.2 It is important to note that whilst the energy supply is provided via nPower, the ultimate arrangement is a triangulated arrangement between the Council, YPO and nPower with YPO taking on the trading of energy at the most cost-effective time for the Council. YPO have responsibility for the development of the trading strategies and as such there is a need for a strong level of trust required in YPO acting as the Council's agent. The procurement of electricity supply has been managed in this way for a significant period of time and over the years performance has been good but recognising that market conditions over the years have been relatively stable compared to the current period from Winter 2021.

At present wholesale electricity prices are at the highest ever as a result of global issues limiting the availability of gas on the wholesale market, most notably due to the ongoing and escalating conflict between Russia and Ukraine.

### **2. Key Issues**

- 2.1 Due to the significantly increasing high contract value and level of financial risk to the Council, alongside the wholesale energy market performance over the last 12-months this requires a high-level decision over signing the new Electricity Supply contract and the future procurement of energy.

The proposal is to enter into contract for a 4-year term (1 April 2023 – 31 March 2027) but the contract will contain a break clause option for the Council to withdraw from the Contract at the end of year 2 (and each 12 month period thereafter) by giving 15 months-notice period. The clause may be sensitive to commercial confidentiality and will be checked with the supplier.

### **3. Options considered and recommended proposal**

- 3.1 Other routes to market that have been identified but not recommended at this stage are:
  - There are other frameworks such as CCS, ESPO, NEPO – these all offer a similar offering to YPO but more detailed work is required to better understand what differentiates them from each other and to benchmark and determine whether there are financial benefits.

- Energy brokers – it is believed that due to the scale of the procurement that is undertaken by the Council this option would not be suitable and has been discounted.
- Carry out our own procurement – this is a possibility but would require additional staffing/expertise and wouldn't offer the same level of flexibility in procurement options that deliver additional savings to the Authority.

#### **4. Consultation on proposal**

- 4.1 Consultation on the approach to this procurement has been agreed through Procurement; Communications; HR; IT; Finance and Legal.

#### **5. Timetable and Accountability for Implementing this Decision**

- 5.1 The contract is time sensitive to enable the electricity wholesale trading to take place prior to the contract renewal on the 1<sup>st</sup> April 2023.

#### **6. Financial and Procurement Advice and Implications (to be written by the relevant Head of Finance and the Head of Procurement on behalf of s151 Officer)**

- 6.1 As a result of the increase in electricity prices, all organisations, including this Council, are experiencing significant financial pressures. As well as spend by the Council, our energy portfolio to which this contract relates, includes academy schools. The majority of the Council's electricity budgets are held within Asset Management, with some spend in the HRA and other directorates. In respect of General Fund budgets, the budget pressure arising from the unprecedented electricity and gas prices is being reported corporately, through the regular budget monitoring reports provided to Cabinet. Increases in costs to the HRA are being reported in that budget. The Council is receiving some financial relief from the Government up to the end of March 2023, however, it is not clear if this scheme will continue into 2023/24. Working with YPO gives this Council access to their wider buying power, which should enable us to get more competitive prices. However, it is likely that all organisations will experience high electricity prices for the short term at least.

- 6.2 This contract is being undertaken in compliance with the Public Contracts Regulations 2015 (as amended) and the Council's own Financial and Procurement Procedure Rules.

#### **7. Legal Advice and Implications (to be written by Legal Officer on behalf of Assistant Director Legal Services)**

- 7.1 The direct award proposed in the body of the report is compliant with the Public Contract Regulations 2015 (as amended).

The Terms and Conditions are nPower's standard Terms and Conditions and are acceptable for the supply of electricity as stated in the report.

## **8. Human Resources Advice and Implications**

8.1 There are no HR implications

## **9. Implications for Children and Young People and Vulnerable Adults**

9.1 Nil

## **10. Equalities and Human Rights Advice and Implications**

10.1 PART A - Initial Equality Screening Assessment complete and agreed

## **11. Implications for CO<sub>2</sub> Emissions and Climate Change**

11.1 There are minimal implications for changes to CO<sub>2</sub> emissions and climate change as a result of renewing this contract as electricity will continue to be an operational requirement until full decarbonisation has occurred. CO<sub>2</sub> emissions are largely dependent on internal use rather than energy contract (unless specifically purchasing renewable energy) and as such emissions would remain as they currently are.

11.2 The length of contract is acceptable when considering the Council's target to achieve Net Zero by 2030 and the recommended provider also allows for the purchase of certified renewable energy if required and should this become financially feasible.

11.3 Monitoring is also in place to allow adequate assessment of carbon emissions throughout the period of the contract.

## **12. Implications for Partners**

12.1. Nil

## **13. Risks and Mitigation**

13.1 The risks associated with the procurement of energy at this present time is the most significant it has been. Poor purchasing strategies could result in significant financial implications for the Council. A risk register has been prepared for this procurement, and is located at Appendix B to the Procurement Business Case. At present there are no red status risks, but the assigned contract manager will need to monitor and regularly update the risk register to ensure this position is maintained. Any significant issues that have the potential to create high risk levels must be escalated ASAP given the significant challenging financial position.

**14. Accountable Officers**

Steve Cope, Commercial Energy Officer  
David Rhodes, Environment, Energy and Data Manager  
Jon Marriott, AM HoS

Approvals obtained on behalf of Statutory Officers: -

|   | <b>Named Officer</b> | <b>Date</b>                 |
|---|----------------------|-----------------------------|
| Chief Executive   | Sharon Kemp          | Click here to enter a date. |
| Strategic Director of Finance & Customer Services (S.151 Officer) | Named officer        | Click here to enter a date. |
| Head of Legal Services (Monitoring Officer)                       | Named officer        | Click here to enter a date. |

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