CABINET

23 January 2018

Title: B&D Energy - 'White Label' Energy Supplier	
Report of the Cabinet Member for Finance, Growth and Investment	
Open Report	**For Decision**
Wards Affected: All	**Key Decision:** Yes
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Accountable Strategic Director: Claire Symonds, Chief Operating Officer	

Summary

Recent government estimates suggest that 10% of Barking and Dagenham households suffer from fuel poverty. These are generally vulnerable households which have incomes below the national poverty line with higher than average fuel bills than a typical household. The Council's own independent fuel poverty assessments found that on some estates this was as high as 38%. Set against a borough backdrop of unprecedented levels of personal debt and insolvency, squeezed household budgets will continue to be pressed by energy costs.

Despite the Council's best efforts to provide affordable warmth through insulation projects and on-line fuel switching, the impact of rising price inflation and the expiry of 77 cheap fixed energy deals this year will leave many households facing an average £200 increase in fuel bills.

In response, the Council has appraised various options which could provide residents with the opportunity of competitive, cheaper fuel tariffs while allowing the Council to generate a modest commission to reinvest in services and fuel debt projects. Numerous models for delivering an independent stand-alone energy supply company have been considered but the conclusion is that a 'white label' partnership with a reputable energy supplier which can deliver bespoke, locally-branded, competitive energy tariffs is the most appropriate option at the present time.

Recommendation(s)

The Cabinet is recommended to:

(i) To approve the proposed 'white label' approach to deliver a branded energy supply to the residents of Barking and Dagenham; and

(ii) Delegate authority to the Chief Operating Officer, in consultation with the Cabinet Member for Economic and Social Development and the Director of Law and

Governance, to develop and register the intellectual property rights in the trademarks and branding for the energy products to be delivered through the white label option, and enter into the contracts and all other necessary or ancillary agreements with the successful bidder in accordance with the strategy set out in the report.
Reason(s) To tackle fuel poverty, fuel debt and provide affordable warmth through bespoke localised energy tariffs.

1. Introduction and Background

1.1 Tackling fuel poverty has become a prominent focus of government policy. The 2014 Competition and Markets Authority (CMA) report into the domestic energy market widely acknowledged weak consumer interaction in the energy retail market which contributed to distorted competition, particularly with regard to standard variable tariffs. The CMA indicated this year that families are paying £1.4bn more in energy bills than they should be, simply by failing to switch supplier to find a cheaper tariff.

1.2 The latest affordable warmth statistics from the Department for Business, Energy and Industrial Strategy, suggest that 335,000 households in the capital are suffering from fuel poverty and the average gap between what households pay and what they can afford amounts to £333 per year.

1.3 In April 2017 the industry regulator, Ofgem, introduced temporary price caps until 2020, for the country's 4.3m prepayment meter customers. The watchdog also announced a new cap on standard variable tariffs for the 3m most vulnerable households from February 2018. The average dual fuel cost for these households is £1,031 per year.

1.4 In October 2017 the Government unveiled the Draft Domestic Gas & Electricity (Tariff Cap) Bill which aims to give Ofgem powers to regulate until 2023 the most expensive standard variable and default tariffs which affect two thirds of UK energy consumers. The mechanism to regulate prices is yet to be decided and realistically will not be in place until 2019. In response several energy companies, including British Gas and E.On have recently announced long-term plans to end standard variable tariffs.

1.5 However, there are no guarantees of incentivising greater switching to more competitive tariffs. British Gas plans will also only apply to new customers while those on current tariffs will be advised they can switch to other deals. E.On's proposals affect smart meter households only. While the caps will help to contain cost increases for Barking and Dagenham residents they will do nothing to encourage people to gravitate towards more affordable and competitive fuel tariffs.

1.6 From a local perspective, despite the Council's best efforts to provide affordable warmth and encourage on-line collective fuel switching, resident take up of opportunities to reduce fuel bills has been low. This needs to be reviewed against the impact of rising price inflation and the expiry of 77 fixed energy deals leaving many households facing an average £200 increase in their fuel costs if they fail to find a competitive deal.

1.7 As a result the Council has explored several models for providing cheaper, competitive Barking and Dagenham branded gas and electricity tariffs for residents. Energy supply companies, joint ventures and alternative strategic partnerships have been examined. Judging by the performance of such models in other local authorities this could reduce the energy bills of residents with an average household energy consumption by anything between £75 and £250 per year. The options considered are:

- Establishing a 'white label' energy partnership with a fully licensed energy supplier (examples include Sainsbury's Energy, M&S energy, Liverpool LECCy)

- Establishing a wholly Council-owned independent and fully licensed energy supply company (examples include British Gas, Bristol Energy, Robin Hood Energy)

2. Issues and Proposals

2.1 Year-on-year price increases for domestic energy over the last decade have created significant numbers of fuel poor households in Barking and Dagenham. In 2009/10 the borough was ranked as having the highest fuel poverty level in London but with a proactive programme of energy efficiency and thermal comfort works this was reduced to seventh by 2013 and thirteenth by 2014.

2.2 Despite this progress several wards continue to suffer from higher levels of fuel poverty (Appendix 1). While there is no specific data for fuel debt in Barking and Dagenham 1.1m households UK wide were in gas and electricity arrears in 2016 and with historically poor levels of switching to cheaper energy suppliers and rising cases of insolvency and personal debt in the borough, these numbers are expected to rise.

2.3 To tackle current levels of fuel poverty and debt the Council has evaluated the following energy supply models:

2.4 ***Option 1: Fully licensed operator***

2.4.1 To establish an independent energy company, the local authority nominee company would have to apply to Ofgem for the right to hold an electricity and gas license to become a fully licensed operator abiding by stringent statutory industry codes of compliance.

2.4.2 The two most significant municipal suppliers currently in the market are Nottingham City Council's Robin Hood Energy (RHE) and the Mayor of Bristol's Bristol Energy.

2.4.3 After four years of planning, RHE was launched in 2015 as the UK's first local authority owned, not for profit, energy company. The Council provided £2m in set-up costs, with access to a further £15m loan facility, to develop the company as a fully licensed supplier. The company plans to reinvest its eventual profits to keep customer tariffs low. In-house Council staff were used to establish the mechanics of the company with the support of a single energy consultant.

2.4.4 RHE currently employs 120 staff running a full energy company operation covering regulatory compliance, spot-purchasing and trading of gas and electricity, marketing and communication, finance, customer services, debt recovery and billing. It expects to break-even in 2018, based on attracting between 100,000 and 150,000 customers which requires pitching to consumers well beyond Nottingham's municipal boundaries.

2.4.5 Conversely, Bristol Energy began trading in 2016, after five years of planning, and adopted a business plan which aimed to make a profit by 2019 which also requires pitching for a customer base beyond the city. Bristol City Council is the sole shareholder and has injected £15.3m capital into the business. It is yet to make a profit.

2.5 ***Option 2: White label provider***

2.5.1 Under this model the local authority is not required to hold a license. Ofgem's liberalisation of white label arrangements in 2015 allows the Council to create an energy partnership with an existing licensed supplier to offer gas and electricity through localised branding, potentially at bespoke tariffs. This would be achieved by appointing a trusted and reputable supplier through a contracted energy partnership. The Council acts purely in a marketing capacity with the supplier acting as a wholesaler providing the fuel at a competitive tariff. The supplier will carry the risk and burden of all fuel purchasing, demand matching, regulatory compliance and customer service functions.

2.5.2 This emerging 'white label' energy market is a policy response to rising prices and to the domination of the energy supply by the Big Six. Some providers have adopted an arrangement with large suppliers – Sainsburys Energy works with British Gas while M&S Energy and Ebico are white label partners of Scottish and Southern Electric. Others have collaborated with greener or more market ethical suppliers - White Rose Energy is a white label arrangement with Robin Hood Energy; additionally, several councils in East Anglia have collaborated with OVO Energy.

2.5.3 The Council's soft market testing of the few existing white label energy firms have resulted in positive responses. Should the Council wish to start offering residents lower energy tariffs under the B&D Energy brand this is considered to be the most appropriate arrangement. This option is considered capable of achieving a launch and to start recruiting customers by May 2018.

2.5.4 A white label arrangement could provide:

- Competitive bespoke B&D Energy tariffs, aiming to be consistently in the top 15% best offers in the energy market
- A 3-5-year supply contract with potential resident savings of £163 per year
- A guaranteed UK based customer service team, branded digital information, bills and phone numbers

2.5.5 The Council would be expected to develop and fund an effective communications strategy to generate enough interest for a solid customer base of at least 3,000 over the first year of the contract. The Council makes no profit but would receive a nominal fee for each household that switches and for every year it remains with B&D Energy. Based on existing examples, this could earn an average commission of £36,000 in the first year which could then be reinvested in fuel debt initiatives and future marketing.

2.5.6 A priority will be to encourage those residents who can to move away from pre-payment meters (PPMs) and onto direct debit tariffs and those who use PPMs to budget properly to seek a more competitive PPM tariff . Where there is evidence that households are in fuel debt we will work with voluntary sector partners to help alleviate the debt through the commissions generated by the project. While the rise in prepayment tariffs has been transitionally capped, such households are still estimated to be paying £226 a year more than those on the cheapest direct debit tariff.

2.5.7 It is assumed that the arrangement will be supported by existing resources to support the marketing, contract management, legal and financial aspects of such a scheme. An additional £30,000 from an external grant for supporting affordable warmth initiatives can be utilised for marketing in the first year.

2.6 Considering the lack of internal expertise to develop a fully independent energy supply company and the significant market and investment risks of such a venture the Council's best option for entry into the energy supply market is considered to be a white label partnership.

2.7 The Council may enter such a partnership through its general powers of competence under s.11 Localism Act 2011 and it may charge for the marketing costs it incurs through the commissioning mechanism.

2.8 There are no expected state aid implications and the proposed arrangement is not expected to fall within the scope of the Public Contracts Regulations 2015 as the Council will not be receiving or purchasing services or supplies from any appointed partner. In these circumstances a competitive procurement exercise is not required. However, in the interests of transparency, the Council will advertise for expressions of interest on Contract Finder for one month following the approval of this proposal by Cabinet.

2.9 Should the Council be minded to establish a stand-alone energy company in the future its business viability will be tested through the duration of the white label partnership. If a sufficiently strong enough customer base can be established such a venture may become a viable proposition.

3. Options Appraisal

3.1 Do Nothing and Light-touch approach

Should the Council do nothing to support affordable warmth, fuel poverty levels will remain at existing levels or continue to rise. Residents will be left to navigate the energy market of their own accord with many remaining on costly prepayment meter tariffs and expensive standard variable packages if they fail to switch.

Between 2013/15 the Council committed to the promotion of on-line collective fuel switching campaigns such as the Big Community Switch. While officer resources were minimal and the Council obtained a nominal commission from switchers through the LBBD website, experience has demonstrated very low-switching with about 3,000 registrants over 3 years and only 15% of them actually changing tariff.

3.2 GLA Energy for Londoners Scheme

The Mayor of London's Fuel Poverty Action Plan and Draft Environment Strategy sets out ambitions to tender for a fully licensed energy supply company through Energy for Londoners. The objectives include tackling fuel poverty and generating supply through microgeneration and renewables. There is long-term potential for Barking and Dagenham to join a pan-London approach to affordable warmth through the GLA, however at present the Mayor has only announced a soft testing of the market to gauge interest from suppliers and boroughs. Barking and Dagenham is in a position to negotiate bespoke tariffs for the locality based on its priorities.

3.3 Wholly-owned independent fully licensed energy supply company

Establishing a wholly-owned independent energy company is associated with significant commercial risk and upfront investment. There are few local authority-led energy companies in the market at present because initial set-up costs are on average £3.5m with additional onerous credit lines in excess of £15m and parent company guarantee requirements. Staff resourcing is intensive and infrastructure development and effective marketing is essential in building-up the required customer volumes to begin to pay back initial investment costs. It could take a minimum of 18 months to two years from concept to market and would require a customer base of 150,000 and more to start seeing returns on investment. Profit margins are slim at around 1%-4% but with all companies at present reporting significant trading losses and debt servicing. The Council would therefore be trading in a volatile wholesale energy market with fluid regulatory interventions.

To illustrate the trading risks, Bristol Energy recently announced the revision of its business plan due to lower than expected customer take-up. It currently has 80,000 customers and was expecting to generate a surplus in 2019 but is now not expected to break-even until 2021.

Taking a 'going it alone' approach to developing a Barking and Dagenham model for energy supply in the same way as Bristol and RHE would require significant access to specialist skills and finance to set-up and front fund costs of sales with no guaranteed return on investment. Expertise in energy trading and sales would require head-hunting personnel with the relevant experience of the industry. In the present circumstances the investment risk posed by this market entry model is not appropriate for Barking and Dagenham.

4. Consultation

4.1 The options appraisal was presented to the Barking & Dagenham Delivery Partnership board and Commission Watch. Comments were broadly supportive of the proposals, mainly because partners had direct contact with clients who suffered from fuel debt and struggled with energy costs. The appointment of a supplier who works with fuel debt charities and installs smart metering for customers was considered an essential element of any partnership.

5. Financial Implications

Implications completed by: Katherine Heffernan – Finance Group Manager

5.1 The proposal is for the Council test the market for a strategic energy supplier with a view to entering into a ‘white label’ partnership which can deliver bespoke, locally-branded, competitive energy tariffs for local residents. This is in preference to establishing a wholly-owned independent energy company which would create significant commercial risk and require a substantial amount of upfront investment.

5.2 Under the proposed arrangement the Council would act purely in a marketing capacity with the energy supplier acting as a wholesaler providing the fuel at a competitive tariff. The supplier will carry the risk and burden of all fuel purchasing, demand matching, regulatory compliance and customer service functions.

5.3 If a white label partnership was established, it is anticipated that the Council would be expected to develop and fund an effective communications strategy to generate enough interest for a solid customer base. It is assumed that the arrangement would be supported by existing resources to support the marketing, contract management, legal and financial aspects of such a scheme, however, £30,000 from an external grant for supporting affordable warmth initiatives can be utilised to fund these costs in the first year.

5.4 The Council would receive a nominal fee for each household that switches and for every year it remains with B&D Energy. This could earn an average commission of £36,000 in the first year based on the sign-up of an average 3,000 customers. This income would cover ongoing costs and any surpluses could then be reinvested in fuel debt initiatives.

5.5 Once the market testing exercise has been completed and there is more certainty with respect to the likely costs and income, it will be necessary to undertake a full financial analysis of the preferred proposal to ensure the scheme will be viable.

6. Legal Implications

Implications completed by: Derron Jarell, Regeneration Project Lawyer

6.1 Section 1 Localism Act 2011 (the general power of competence) provides the Council with the power to do anything that an individual may generally do.

6.2 Under the gas Act 1986 and Electricity Act 1989, an organisation supplying gas and electricity to any premises is committing an offence unless authorised to do so by a supply license.

6.3 A white label partnership is an organisation that does not hold a supply licence but instead works with a licenced partner supplier to offer gas and electricity using its own brand.

6.4 The body of the report sets out the case for Cabinet approving the delegation of authority to delegate to the Chief Operating Officer, in consultation with the Cabinet Member for Economic and Social Development and the Director of Law and Governance to conduct an competitive procurement exercise to enable the identification of a suitable licensed energy supplier, with which to enter into partnership; under a formal contract, and to conduct the procurement up to and including selection of the preferred partner in compliance with the Council's Contract Rules ("CR") and the Utilities Contract Regulations 2016. The partner will be responsible for the supply of energy to the end users of the service of the white label partnership and the partner provider will be obligated to comply with the supply licence conditions.

6.5 The domestic Retail Market Review ("RMR") rules set by OFGEM recognises that white label partnerships have the potential to deliver greater consumer choice; however, the white label partnership must comply with the RMR rules.

6.6 Potential for State Aid – it is unclear at this stage whether or not this will be an issue. According to the report the Council will perform marketing and promotional activities. These activities have not been fully costed at this stage of the process; however, if the costs are below €200,000.00 (de minimis threshold level) which a private enterprise can receive aid aggregated from all public bodies over a three (3) year period then State Aid should not be triggered. The Council may have to require its partner to monitor the costs associated with the partnership, and received from all other sources to ensure that the de minimis threshold is not met during the first three years of the partnership.

6.7 The report states that the proposed arrangement will not fall within the scope of the Public Contracts Regulations 2015, as the Council will not be receiving or purchasing services or supplies directly from the preferred partner.

7. Procurement Implications

Implications completed by: Euan Beales, Head of Procurement

7.1 The recommendations made within the paper are to advertise for expressions of interest on Contracts Finder to ensure a transparent opportunity is conducted.

7.2 From research conducted it appears that the requirements are not covered under the PCR 2015 and as such are not required to be procured under the terms as laid out. Evidence to support this can be taken from the report of the Executive Member for Environment and Transport at Islington Council titled "Angel Energy – Islington's "White Label" energy supplier. In the report the legal view outlined was that the process did not fall under PCR 2015, and I can see no other evidence to discredit the statement made, I would recommend that LBBD Legal offer a formal view.

8. Other Implications

8.1 **Risk Management –** such enterprises will always be subject to fluctuation in energy prices and regulatory interventions, but the Council will work with its appointed partner to mitigate the risks. There is a financial risk in that insufficient numbers of customers are generated to support the expected agreement over the 3 or 5-year period or to cover the branding costs incurred by the Council. However, this would be mitigated against by robust business planning, negotiating a suitably lower tariff to make switching worthwhile and a marketing strategy which draws on the market expertise of the company appointed.

The Council's reputation is the key risk element. By lending its trusted brand to energy tariffs, the Council is at the mercy of prices which can fluctuate. It must be mindful in its promotional material that it cannot be certain its offers will always remain the most competitive. Inevitably there will also be residents who will get into fuel debt.

However, the potential partners identified by the Council also continue to be well established as ethical leaders in competitive fuel tariff pricing. The white label partnership will seek to mitigate against the risks outlined above by transferring the burden of fuel purchasing, demand matching, regulatory compliance, customer services, billing and debt recovery to the partner. Commission proceeds will also be used to support fuel debt initiatives with the local voluntary sector, particular assisting those households who have been in debt for more than a month and cannot switch to a cheaper provider.

It should also be noted that if the chosen supplier ceases to trade at any point the industry regulator will use its powers to ensure customers are transferred to a different supplier.

8.2 **Contractual Issues –** A white label partnership would not provide for any direct payment for services to the Council nor a profit guarantee both of which would likely give rise to state aid. The Council will not be purchasing or receiving services from the supplier, so such an arrangement is not anticipated to fall within the scope of the Public Contracts Regulations 2015.

8.3 **Staffing Issues –** There are no staffing issues beyond the assumption that the arrangement will be supported by existing resources to support the marketing, contract management, legal and financial aspects of the scheme.

8.4 **Corporate Policy and Customer Impact –** In formulating this policy due regard has been given to the protected characteristics under the Equality Act 2010 and that the policy proposals to support households alleviate fuel poverty and debt will have a positive outcome for all residents and especially so for more vulnerable households.

8.5 **Safeguarding Children and Health Issues –** Lowering energy bills will help residents manage the cost of living and allow for warmer homes helping to reduce the impacts of cold, damp homes and improving the health and quality of life for all types of households including families and those with cold-related illnesses.

8.6 **Crime and Disorder Issues –** There are no crime and disorder issues.

8.7 **Property / Asset Issues –** There are no property and asset issues.

Public Background Papers Used in the Preparation of the Report: None

List of appendices:

- **Appendix 1 –** Fuel poverty ward map of Barking and Dagenham 2015