

CABINET

12 July 2022

Title: Procurement of Electricity and Gas Supplies and Ancillary Services	
Report of the Cabinet Member for Finance, Growth and Core Services	
Open Report with Exempt Appendices (relevant legislation: paragraph 3 of Part I of Schedule 12A of the Local Government Act 1972)	For Decision
Wards Affected: All Wards	Key Decision: Yes
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Accountable Director: Leona Menville, Director of Homes and Assets	
Accountable Strategic Leadership Director: Lisa Keating, Strategic Director, My Place	
Summary	
<p>This report seeks approval to appoint a specialist energy procurement broker who can also deliver a fully managed service, to provide expert, independent advice to help the Council procure gas and electricity on terms that are the most economically advantageous and support the Council's renewable energy opportunities.</p> <p>The Council currently purchases its gas and electricity through LASER (a company owned by Kent County Council, which procures energy on behalf of local authorities). LASER is currently negotiating a new energy supply contract which will come into effect on 1 October 2024.</p> <p>The LASER contract helps support the delivery of the Council's Carbon Zero Roadmap in a number of ways, including enabling the Council to procure green energy and other initiatives to reduce the organisational carbon footprint. In addition to their energy procurement Frameworks, LASER also offer Carbon Zero Frameworks specifically designed to support the delivery of carbon reduction measures through the delivery of technologies such as LED lighting solar PV, heat pump systems, battery storage should they be required.</p> <p>The report also refers to Power Purchasing Agreements (PPA) which, currently, are not financially viable for the Council in isolation in view of the relatively low level of energy consumption. However, as the PPA market matures there will be more options available.</p>	
Recommendation(s)	
The Cabinet is recommended to:	
(i) Approve the appointment of LASER as the Council's energy broker to procure gas and electricity supplies and associated meter services such as Meter Operation	

and Data Collection Services on behalf of the Council, in accordance with the procurement strategy set out in the report;

- (ii) Authorise the Strategic Director of My Place, in consultation with the Strategic Director of Inclusive Growth, the Cabinet Member for Finance, Growth and Core Services and the Chief Legal Officer, to conduct the procurement and award and enter into the contract(s) and all other necessary or ancillary agreements, including finalising the preferred purchasing strategy (basket option) in accordance with the strategy set out in the report; and
- (iii) Delegate authority to the Strategic Director of My Place, in consultation with the Strategic Director of Inclusive Growth, the Cabinet Member for Finance, Growth and Core Services and the Chief Legal Officer, to progress arrangements in relation to Power Purchasing Agreements (PPAs) in the event that they become a viable option in the future, including conducting any procurement and awarding and entering into any contract(s) and other necessary or ancillary agreements.

Reason(s)

To assist the Council in achieving in its priority of delivering “A New Kind of Council” by securing cost effective energy supplies on terms that will support the Council’s economic development and renewable energy generation objectives.

1. Introduction and Background

- 1.1 The Council’s current arrangement for supplying gas and electricity to all corporate buildings (including schools who opt into the LASER contract) and housing supplies across the LBBB portfolio is due to expire on 30 September 2024.
- 1.2 If we do nothing our contract with LASER will expire on 30 September 2024 and all the authority’s supplies will move onto “out of contract rates” which are significantly more expensive. Out of contract rates vary from supplier to supplier but broadly speaking in the current market conditions they are typically 35% to 40% more expensive than contracted rates.
- 1.3 LASER are Energy Procurement specialists who help identify the best energy purchasing options for organisations. They assist in mitigating financial risk to the Council through their purchasing models and in-depth market knowledge.
- 1.4 LASER can begin this process for LBBB from 1st October 2022 allowing them to purchase energy supplies ready for our use from October 2024 at the best available prices over the next two years.
- 1.5 The current market view from industry experts is that we are likely to see continued highs in energy prices for the foreseeable future. Ensuring the Council has an energy contract and purchasing strategy in place, to mitigate exposure to extreme market highs in terms of energy prices, is critical in order to deliver value for money.
- 1.6 The procurement also has to take into consideration the Council’s commitment to become a carbon neutral organisation by 2030, and as part of the Council’s Draft

Carbon Zero Roadmap there are mitigating actions that are being taken to reduce both our energy consumption and the amount of carbon we create to achieve that target. Such as:

- REFIT programme to improve the thermal efficiency of our corporate estate by insulation upgrades and replacing windows
- The installation of Solar Panels (PV) and heat pumps
- Deployment of more efficient building optimisation, controls and energy management
- Purchasing green energy
- Investigating Power Purchasing Agreements

1.7 These actions will also help with future cost avoidance through lower energy consumption.

2. Proposed Procurement Strategy

2.1 Outline specification of the works, goods or services being procured

2.1.1 The recommendation is to appoint LASER as the Council's energy broker. Such an appointment will provide the Council with expertise required to procure the Council's energy supplies on the most economically advantageous terms.

2.1.2 LASER deliver the following services as part of their Fully Managed Service.

- Energy Procurement
- Price Validation
- Invoice Validation
- Query Management
- Budget Reporting
- Web Portal access

2.1.3 As part of the LASER service the Council has access to a dedicated Account Manager who focuses on the more strategic aspects of the service such as assisting with market forecasts, providing data to allow us to review our purchasing strategy (benchmarking) and providing information of additional service offerings such as PPAs and new service offerings. The Council also has a dedicated Customer Service Account Manager who focuses on the operational delivery of the service.

2.2 Estimated Contract Value, including the value of any uplift or extension period

2.2.1 The Council's spend with LASER for the financial year 2021-22 was approximately £8m. Appendix 1 gives a summary of the costs for the last four years.

2.2.2 The prices for the financial year 2021-22 were prior to the conflict in Ukraine, this coupled with other global market forces have had a significant impact on energy prices. Based on market industry advice we are likely to see continue market highs in terms of energy prices for the foreseeable future.

2.2.3 On 17 March 2022 LASER issued revised budget forecasts to all their customers basket on their purchasing strategies (basket). The forecast market highs for the PIAS Basket are, 176.2% increase for gas and 147.6%% increase based for electricity based on year-on-year price forecasts. Appendix 2 shows LASER's revised price modelling based on the current market volatility.

(**Note:** All appendices to this report are in the exempt section of the agenda as they contain commercially sensitive information (relevant legislation: paragraph 3 of Part I of Schedule 12A of the Local Government Act 1972) and the public interest in maintaining the exemption outweighs the public interest in disclosing the information.)

2.3 **Duration of the contract, including any options for extension**

2.3.1 2+2-year contract.

2.4 **Is the contract subject to (a) the (EU) Public Contracts Regulations 2015 or (b) Concession Contracts Regulations 2016? If Yes to (a) and contract is for services, are the services for social, health, education or other services subject to the Light Touch Regime?**

2.4.1 Yes subject to Public Contract Regulations, this contract is not for services for social health, education, or other services subject to Light Touch Regime.

2.5 **Recommended procurement procedure and reasons for the recommendation**

2.5.1 The recommended route to market is that we procure through a Central Purchasing Body (LASER). This strategy is compliant with the Public Contracts Regulations 2015.

2.5.2 This route to market offers financial risk mitigation in a volatile market.

2.6 **The contract delivery methodology and documentation to be adopted**

2.6.1 The Quality and Compliance Team within My Place are responsible for the procurement of energy contracts (gas and electric).

2.6.2 To procure through the new LASER Framework which commences on 1 October 2024 for a delivery period, however purchasing for this period can commence from 1 October 2022.

2.6.3 LASER are in the process in the final tender stages of evaluating supplier's responses. They are likely to award the contract to supplier in mid-late June 2022.

2.6.4 The Council will use LASER's standard terms and conditions which will be reviewed by the LBBD Legal Team prior to entering into any contract.

2.6.5 LASER's KPIs and SLAs will stay the same on the new framework and the Council will continue to receive Customer Month End (CME) reports which are used to evaluate LASER's performance.

2.7 Outcomes, savings and efficiencies expected as a consequence of awarding the proposed contract

- 2.7.1 The rising cost of energy means that there are no direct savings to be made when purchasing any energy contract. The best outcome for the Council is to procure an energy contract that delivers “cost-avoidance” by not purchasing during market highs and executing a purchasing strategy that delivers the lowest-risk option for the Council.
- 2.7.2 The Purchase in Advance (PIA) basket gives LASER a two-year purchasing window, allowing them to take advantage of any market opportunities in terms of price dips to deliver an overall price that is below market average back to the authority.
- 2.7.3 The PIA basket has consistently performed well and has delivered LBB market prices below the market average, see Appendix 3 for full breakdown.

2.8 Criteria against which the tenderers are to be selected and contract is to be awarded

- 2.8.1 As the Council will be procuring through a Central Purchasing Body we will be calling off from their framework.
- 2.8.2 An options appraisal has been undertaken as to which purchasing strategy is the most cost effective and lowest risk for the authority.
- 2.8.3 LASER are on the only Central Purchasing Body that offer a Fully Managed Service all other frameworks offer a procurement only service which would require at least an additional three FTEs within LBB to deliver the same service that LASER offer as part of their Fully Managed Service.
- 2.8.4 Based on this criteria, and the current market data available, the recommendation is that we procure the LASER Fully Managed Purchase in Advance (PIA) basket. This will be procured through the new LASER Framework.

2.9 How the procurement will address and implement the Council’s Social Value policies

- 2.9.1 As this contract is a direct award there is no opportunity for the Council to evaluate social value to its own set of requirements.
- 2.9.2 LASER and the Primary Supplier are not offering any borough specific social value activities or projects as part of this contract. However, LASER, will push for Corporate Social Responsibility (CSR) action plans from their Primary Supplier.
- 2.9.3 As part of the Framework tender process LASER has asked the Primary Suppliers to provide evidence on how they would approach the following CSR activities:
- how employee and supply chain engagement is encouraged
 - how targets are set and reviewed
 - what progress has been made over the last 3 years
 - what targets are set for the next 3 years with regards to

- Environmental sustainability
- Community improvements
- Economic development

2.9.4 Once the Council has entered into a contract with LASER via the new Framework, contact will be made with the Primary Supplier Account Manager to build a relationship and establish if they are willing to undertake any borough specific social value activities. However, there is no expectation that the Primary Supplier will deliver any social value activities as part of this contract.

2.9.5 If the procurement objectives are achieved, then LASER will supply the Council with energy on cost effective terms, they will also help support development of the Council's energy efficiency and renewable energy opportunities such as the procurement of Green Energy and possibly the procurement of Power Purchasing Agreements (PPA) helping the Council to reduce its carbon footprint.

2.10 **Contract Management methodology to be adopted**

2.10.1 Contract management of the LASER contract sits within two teams within My Place. the Corporate Portfolio is managed by the Quality and Compliance Team and the Housing Portfolio is managed by the Business Improvement Team.

2.10.2 LASER's KPIs and SLAs will stay the same on the new framework and the Council will continue to receive their monthly Customer Month End (CME) report which contains billing status, meter reads status, customer debt, open queries (query management) and AMR status. The monthly (Corporate and Housing) CME report is reviewed by each responsible team within My Place and any queries or issues that are identified are referred to LBBD's customer support team at LASER by email using the Council's dedicated email address.

2.10.3 As part of the service Quarterly Service reviews will take place to discuss and review:

- Service performance review
- Billing Performance
- Review of outstanding queries
- Review of KPIs
- Review of LBBD Issue Log
- Suggested service improvements

2.10.4 The authority also has a dedicated Account Manager at LASER that provides support for the following:

- Price modelling data
- Market data on basket performance
- Primary point of contact for any contractual queries or issues
- Support on PPAs
- Information on new service offerings or baskets

2.10.5 The contract will be financed through existing budgets and budget holders already have budget for their existing gas and electricity supplies, prices are subject to

market fluctuations however, LASER are able to give indicative likely price increases in advance of the start of financial year.

3. Options Appraisal

3.1 The following options and routes to market were considered. The preferred route to market is indicated.

3.2 Do Nothing

3.2.1 This option has been discounted as doing nothing will mean when our current contract with LASER expires on 30 September 2024 we will move onto “out of contract rates”. Out of contract rates vary from supplier to supplier but broadly speaking in the current market conditions they are typically 35% to 40% more expensive than contracted rates.

3.3 Procure through a Central Purchasing Body (CPB)

3.3.1 The recommended route to market would be to procure through a Central Purchasing Body (CPB) . A CPB is ‘a contracting authority which provides centralised purchasing activities, and which may also provide ancillary purchasing activities.

3.3.2 Contracts for centralised purchasing services can be awarded directly to a CPB (where appropriate). The contract can include ‘ancillary purchasing services’ (covering technical infrastructure, procurement advice, management of procurement projects etc.) meaning that a full managed service can be provided. TEC have been excluded from the CPB list below as they predominately purchase energy for Higher Education establishments (which makes up 93% of their customer base) rather than local authorities who have specific purchasing requirements based on their portfolios (Corporate and Housing). The available CPBs for energy procurement are:

- Crown Commercial Services (CCS)
- ESPO
- LASER
- NEPO
- WME
- YPO

3.3.3 Under this option, the Council would continue to purchase energy through a compliant framework, managed on behalf of the Council and other public sector organisations by a Central Purchasing Body (CPB). The CPB would obtain competitive wholesale energy prices through aggregating energy volumes across a large number of public sector organisations. The strategy is also compliant with the Public Contracts Regulations 2015.

3.3.4 This option provides access to energy traders, employed by the CPB, who track energy markets and forward buy energy at the most advantageous times to manage the inherent risk of energy market volatility.

- 3.3.5 Currently LASER and WME are the only CPBs that can deliver a Fully Managed Service. WME only offer green energy through their Flex procurement contracts which typically add an additional 2-3% to the cost. They currently trade 1.2 billion kWh of gas and electricity through their frameworks each year which is delivered to around 11,000 supply points. LASER trade 7.25 billion kWh of gas and electric annually supplying over 80,000 customer supply points. For the financial year 2021-22 the Councils spend with LASER was just over £8m for the supply of gas and electricity to approximately 2,230 supply points across both portfolios based on the LASER October pricing schedules.
- 3.3.6 The cost to transfer the Council's portfolio from LASER to WME would be significant in terms of staff time, and would require resources from My Place, Accounts Payable and IT. This coupled with them only offering green procurement for electricity; and having such a small customer base means the Council would not benefit from any aggregated spend. It is also possible that WME would not be resourced to be able to deliver a fully managed service to the Council as onboarding the LBBID supplies would be a 20% increase in terms of the number of supplies they provide gas and electric to. For these reasons WME have been discounted as a route to market.
- 3.3.7 LASER is our existing energy broker delivering a fully managed service so there would be no cost to the organization in terms of business take on. LASER also offer customers the ability to procure green energy in percentages on either a portfolio basis or by per supply. This fully customizable purchasing approach allows the Council to adapt their green purchasing requirements to not only meet ever growing budget constraints but also meet the organisations carbon zero targets. For these reasons LASER is the recommended route to market.
- 3.3.8 For the reasons listed above this is the recommended route to market for energy procurement for the Council.
- 3.4 **Go direct to one of the big five- Procurement Only Service (POSO) tender to main UK energy suppliers**
- 3.4.1 The main energy suppliers are:
- British Gas
 - Eon (Eon purchased Npower in 2019 so these companies have now merged into a single entity)
 - Scottish Power
 - EDF
 - SSE
- 3.4.2 The cost and resources required to run our own tender process are considered high risk. As these suppliers only offer a procurement only service additional resource of at least three FTEs withing LBBID would be required to deliver the services that are currently provide by LASER as part of their fully managed service. For these reasons this option has been discounted.

3.5 Collaborate with another organisation or authority (not LASER or CCS) Services POSO only

3.5.1 As the service provided would be procurement only (POS0) this would require at least three additional FTEs to undertake the activities that are currently provided by LASER under the fully managed service. As this model is at odds with LBB0's "commissioning model" as we would need to "insource" this service and as there is no additional funding for the additional posts required, this option has been discounted.

3.6 Set up LBB0 as an Energy Provider

3.6.1 Under this option, the Council would establish a fully licensed electricity and gas supply company and buy electricity and gas from the wholesale market. It would compete nationally with other suppliers such as British Gas. Once established, the Council would seek to encourage schools, tenants, and leaseholders to transfer energy supplies to authority's energy company.

3.6.2 Two city Councils did set up their own energy companies, Nottingham (Robin Hood Energy) and Bristol (Bristol Energy). Both of these companies have now ceased trading resulting in financial losses for both Councils.

3.6.3 B&D Energy is a District Heating provider; they procure their energy (gas and electricity) through the Council's LASER contract.

3.6.4 This option would require significant additional resource to not only provide the service that LASER currently provide under their Fully Managed Service but also energy traders who would need to be experienced in trading these commodities.

3.6.5 For the reasons listed above this option is considered high risk and has therefore been discounted.

3.7 Procure our own energy contracts through a Third-Party Intermediary provider

3.7.1 Under this option, the Council would use a private sector third party intermediary (TPI) to procure energy. TPIs act as agents between suppliers and customers and charge fees through the energy bill.

3.7.2 TPIs cannot aggregate the Council's energy requirements with other customers therefore, the Council would have to develop a bespoke tender process to engage with energy suppliers, together with the associated resource implications for tendering and managing energy supply contracts.

3.7.3 TPIs are also often tied to specific utility companies and therefore are unable to offer full access to the energy market. In addition, they are under no obligation to disclose the level of commission they receive from the contracted utility. This would raise questions about value for money and transparency.

3.7.4 TPI led procurement strategy is not endorsed by the London Energy Project (while the London Energy Project has ceased trading, its recommendations are still considered Best-Practice).

3.7.5 This option is not recommended because officers consider that it would run a high risk of challenge from a procurement and value for money perspective.

3.8 Open Tender Process to appoint a Broker

3.8.1 Under this option, the Council would undertake its own tender to procure a broker to purchase our gas and electricity. The estimated value of Council's proposed energy supply contracts is above the current Public Contract Regulations 2015 threshold and therefore this option would require the Council to issue a standalone compliant tender to secure its own energy supply, independent of a Central Purchasing Body or any other intermediary.

3.8.2 A direct tender process would also require additional financial and resourcing for the staff for tender and contract management thus placing additional resourcing pressure on the Council. As the authority is inexperienced in this area procurement this option is seen as high risk and has therefore been discounted.

3.9 Options Appraisal of LASER's purchasing strategies (baskets)

3.9.1 The following purchasing strategies have been reviewed as part of the Options Appraisal and the preferred purchasing strategy is indicated.

3.10 Purchase In Advance (PIA)

3.10.1 The Purchase in Advance option facilitates the purchase of all site volume prior to delivery for a 12-month supply period.

3.10.2 The delivered price is fixed for the 12-month period. This option has a lower risk as LASER have the ability to purchase energy up to two years in advance of the delivery period, allowing them to hedge purchases over the buying window.

3.10.3 This basket option has consistently performed well for LBBD over the past few years with LASER being able to purchase energy for the authority below market average price. This is the recommended purchasing strategy (basket). See Appendix 3 for basket market performance.

3.11 Purchase Within Period (PWP)

3.11.1 The Purchase within Period (PWP) option allows customers to purchase a proportion of the required volume prior to delivery for each six-month supply period. The remainder is then purchased within this period.

3.11.2 A reference price will be set at the beginning of the supply period when open volume is still to be purchased. This reference price will be applied to billing during the 6 months and a reconciliation between the reference price and final achieved price will be carried out at the end of the period. Given that the PWP basket option has a shorter purchasing window it leaves the authority open to greater exposure of market volatility and is considered higher a risk purchasing strategy and for this reason has been discounted as an option.

3.12 Budget Certainty

- 3.12.1 The Budget Certainty basket allows you to put your volume in a capped basket you can set a maximum commodity price so that you'll have price certainty, however the LASER basket also has the ability to "sell-back" if market conditions drop and there is an opportunity to sell this energy back into the market and re-purchase it at a lower price bringing the overall basket budget price down.
- 3.12.2 As the Price Certainty Budget basket commences in April it has been impossible to benchmark this against the PIA Basket as this commences in October. The current market highs have skewed the data, so it is impossible to compare a like-for-like comparison due to the longer purchasing window for the PIA basket.
- 3.12.3 The recommendation is that a final evaluation is undertaken by officers prior to entering into any agreement with LASER. By this point there will be more market data available and LBBDD should be able to undertake a comparison between the two baskets Price Certainty and Purchase in Advance to see which basket will be most the financially advantageous for the Councils.

3.13 Flex Set and Reset

- 3.13.1 Flexible Set and Reset allows customers to purchase a proportion of the required volume prior to delivery for each 6-month supply period. The remainder is then purchased within this period. Budget limits are agreed in advance, with commodity purchases closed out if market prices move above the pre-set limits.
- 3.13.2 This option facilitates the sell back of volume if the market falls by more than the pre-set triggers. A mechanism is then in place to buy back prior to the point of use. This basket offers a similar purchasing strategy for PWP which is a shorter purchasing windows that PIA so for this reason this option has been discounted.

3.14 Green Purchasing Options Appraisal

- 3.14.1 LASER offer the ability to purchase "green energy" through the PIA basket. This means that all energy is purchased directly from a renewable source.
- 3.14.2 Barking & Dagenham has committed to achieving Net Zero as a Council by 2030 As part of the Council's carbon zero roadmap the recommendation is that we look to procure an increasing percentage of our energy through the Green Basket.
- 3.14.3 The Council can purchase green energy in either percentage amounts across the two portfolios (corporate and housing) or on a per supply basis. Using the "per supply basis" means that the Council can include some sites and exclude others, for example include all corporate sites but exclude schools for the time being.
- 3.14.4 Given the extreme market condition with unprecedented market highs in terms of prices, it is proposed that officers make a final decision under delegated authority as to how much green energy should be purchased taking current market conditions and any budget constraints into consideration.

- 3.14.5 For the purpose of budget modelling, a 100% Green Basket procurement on both the Corporate and the Housing portfolios has been included in Appendix 4 for information purposes only.
- 3.14.6 A full PPA evaluation will be undertaken which will include a full options appraisal of every type of PPA available including sleeved PPAs and LBBB potentially becoming a generator, with the ability to self-consume energy and also sell energy to other organisations via PPA agreements.
- 3.14.7 LASER is currently working a new PPA service offering which will be a Pan-London local authority PPA. This will allow local authorities to collaborative giving them increased purchasing power, opening up new opportunities within the PPA market that are not currently available. This option will also be considered as part of the PPA evaluation.

4. Waiver

- 4.1 Not applicable.

5. Consultation

- 5.1 All relevant officers have been consulted and the report was endorsed by the Procurement Sub-Group on 6 June 2022 and Procurement Board on 20 June 2022.
- 5.2 Section 20 consultation with leaseholders would typically be undertaken. However, as it is not possible to meet the s20 criteria, the Council shall apply for dispensation and that process has already commenced and the consultation process is due to start on 18 July 2022.

6. Corporate Procurement

Implications completed by: Euan Beales - Strategic Procurement Manager

- 6.1 The strategy detailed in this report is to procure through "LASER" as the Councils managed service provider for Gas, Electricity and ancillary services.
- 6.2 The wholesale market is extremely volatile, which has been amplified with the Ukraine conflict, Brexit and the Pandemic. As such it is vital that the Council partners with a professional company that understands the market and flexes its purchasing based on daily costs and market performance. In LASER these elements are covered off.
- 6.3 This is a very complex market which requires constant review to ensure the financial risks are reduced through procuring with the right model. The recommended purchase strategy is PIA, which allows LASER to leverage its knowledge against the market rates to drive the best possible outcome for the Council.

7. Financial Implications

Implications completed by: Sandra Pillinger - Group Accountant

- 7.1 This report recommends that the Council enters into a contract with LASER for a 2+2-year contract using the Purchase in Advance (PIA) purchasing strategy. This option fixes the delivered price for a 12-month supply period and is considered a lower risk option.
- 7.2 The market for energy supplies is currently highly volatile which results in cost uncertainty and unpredictability. LASER is able to obtain competitive wholesale energy prices through aggregating energy volumes across a large number of public sector organisations.
- 7.3 The cost of the LASER contract for 2021/22 was £8m. There are no savings to be obtained in the current market. The objective is to mitigate energy price rises and limit price fluctuations. The proposed contract with LASER protects against market increases to an extent, by providing price security every 12 months, and their purchasing power means that they are able to secure preferential rates from energy suppliers.
- 7.4 The actual cost of the contract will be determined by number of factors and is difficult to forecast, given the price uncertainties in the current energy market. The cost is also dependent on the demand for energy supplies from the Council's buildings and housing supplies, and those schools who are part of the contract.

8. Legal Implications

Implications completed by: Kayleigh Eaton - Senior Contracts and Procurement Solicitor, Law & Governance

- 8.1 This report is seeking approval to procure the Council's gas and electricity supply from October 2024. The Council is looking to utilise the new LASER framework and in order to do this the Council needs to confirm its commitment to LASER.
- 8.2 The procurement of gas and electricity is deemed to be a supplies contract under the Public Contract Regulations 2015 (the "Regulations") and as this contract would exceed the threshold for supplies it is required to be subject to competitive tendering under the Regulations. The use of a framework satisfies this requirement under the Regulations and the Council's Contract Rules. Rule 5.1 (a) of the Contract Rules specifically advises that it is not necessary for officers to embark upon a separate procurement exercise when using a Framework Agreement providing the Framework being used has been properly procured in accordance with the law and the procurement is made in line with the Framework terms and conditions.
- 8.3 Under s20 of the Landlord and Tenant Act 1985 the Council is required to consult with leaseholders if the Council is to be able to legally recover contributions towards gas and electricity costs from leaseholders. This report notes that the Council is seeking advice in relation to applying for a dispensation from the First Tier Tribunal. This can be granted in certain circumstances.

- 8.4 In line with Contract Rule 50.15, Cabinet can indicate whether it is content for the Chief Officer to award the contract following the procurement process with the approval of Corporate Finance.
- 8.5 The report author and responsible directorate are advised to keep Legal Services fully informed at every stage of the proposed tender exercise.

9. Other Implications

- 9.1 **Risk and Risk Management** - The Council's approach to energy procurement has always been to look for the most cost-competitive, lowest risk option. Given the extreme market conditions it is impossible to avoid significant cost increases, however, the recommended route to market using LASER as our Central Purchasing Body helps reduce this risk by having experts assist us in the purchase of energy.

The PIA basket also offer a longer purchasing window of two-years allowing LASER to hedge purchases over a longer period of time to capitalise on market opportunities by purchasing when the market price dips.

- 9.2 **TUPE, other staffing and trade union implications** - None

- 9.3 **Corporate Policy and Equality Impact** - The procurement of an energy contract for corporate and housing buildings through a Central Purchasing Body will deliver the most cost-effective lowest risk procurement strategy for the authority.

The procurement of this contract will help to ensure that we deliver value for money, which supports the delivery of the Council's Corporate Plan objective of a Well Run Organisation. It also supports the delivery of specific strategies and policies such as the Carbon Zero Roadmap through the purchase of green energy and the move to procure Power Purchase Agreements (PPAs) once a thorough review has taken place.

A s20 consultation dispensation will be required as the Council is unable to comply with the s20 scheme rules for energy procurement. Applying for a dispensation is "standard practice" for local authorities when procuring energy contracts. The Council has already commissioned a solicitor to provide expert legal advice on the s20 dispensation which is the same solicitor that LBBDD used for its last energy dispensation. Budget has been allocated for the legal costs.

The procurement of an energy contract for housing buildings has an impact on the residents who live in Council housing buildings, who are likely to be economically disadvantaged. The cost to residents is largely for the utilities consumed in communal areas which is paid from service charges, although in a small number of cases it will also pay for their home energy usage.

Rises in energy bills for communal areas or individual homes would have a notable negative impact on residents who are experiencing economic hardship. However, as outlined in the report, price rises are inevitable in the current global climate and this procurement is being conducted in a way which provides best value and lowest cost achievable, minimising this impact as much as possible. LBBDD has a wide

range of support for residents experiencing financial hardship which is being strengthened in response to the cost-of-living crisis, including the Homes and Money Hub, Hardship Fund, and the Becontree Collection Service. Residents experiencing difficulties in paying higher charges will be directed to these support services to address their needs and minimise the impact of higher costs.

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

List of appendices:

Appendix 1: LASER Cost and Consumption Data (exempt document)

Appendix 2: LASER Models based on current market conditions (exempt document)

Appendix 3: LASER PIA Basket Performance (exempt document)

Appendix 4: Green Basket Prices models (exempt document)