



EXECUTIVE DECISION RECORD
REF No: 517/22

A1 Service Area	Programmes and Transformation
A2 Title	Twelve month fixed price gas contract
A3 Decision Taken By	Leader of the Council
A4 Chief Officer	Please print name: Sal Khan Please sign name: Approval by email 301122
A5 Leader	Please print name: Cllr George Allen Please sign name: Approval by email 301122
A6 Date of Decision	Date: 30 th November 2022

Confidentiality

A7 Is this Decision confidential by containing exempt information as described in Schedule 12A of the Local Government Act 1972?	No
A7.1 If yes, please state relevant paragraph from Schedule 12A LGA 1972.	N/a

Scrutiny

A8 Which Scrutiny Committee should this decision be submitted to? (*Please tick as appropriate*) ✓

Scrutiny Community Regeneration Committee

Scrutiny Environment and Health and Well Being Committee

Scrutiny Value for Money Council Services Committee ✓

<p>B1 What is the Decision?</p>	<p>To appoint Total Energies via an ESPO Framework Agreement on a twelve month fixed price gas contract from April 1st 2023 to March 31st 2024.</p>
<p>2 What are the reasons for the Decision?</p>	<p>The Council's current gas contract expires on 31st March 2023 therefore to avoid expensive out of contract rates, the Council needs to ensure its gas supply is contracted from 1st April 2023.</p> <p>The European energy market has carried a great deal of uncertainty over recent months and that uncertainty will continue as we enter the winter period. The war in Ukraine, the sanctions on Russia, the supply issues with Nord Stream 1 and 2 and other global issues have created significant risk to gas supplies in Europe and therefore have impacted on costs.</p> <p>Over the coming months there remain significant risks as gas supplies are extremely tight and the market will react quickly on any hint of further disruptions to supplies. This may come from damage to infrastructure due to the war in Ukraine, unplanned outages at gas fields or severe cold weather periods.</p> <p>The risk, uncertainty and instability in the market meant any quote the Council received for its gas supply was only valid on the day the quote was issued.</p> <p>Due to the significantly increased cost of gas and volatility in the market place, the expensive out of contract rates and because a quote is only valid the same day it is issued, an EDR under the urgency provisions is required to mitigate this risk and ensure value for money to the Council.</p> <p>The Council has monitored gas prices over recent months and has taken advice from its current energy supplier, as well as other energy brokers, on market forecasts and the winter/ early spring outlook. Due to the uncertainty of the market and the influence international politics and the weather will have on future prices, it is important to appoint a gas supplier before the winter period.</p> <p>The instability in the market also meant suppliers were reluctant to quote for a twelve month gas supply from April 1st 2023. However, the Council engaged with its current supplier Total Energies, through the ESPO Framework, and also Utility Aid, an energy broker, to requests quotes. The Council received two sets of quotations (Total Energies and SSE) and using our consumption data, Total Energies provided the best value for money and the contract will be managed through the ESPO Framework.</p> <p>A framework agreement is a contract procured in accordance with relevant procurement regulations by an independent purchasing organisation that local authorities can access. Utilising frameworks is compliant with the Council's Contract Procedure Rules.</p>
<p>B3 What are the contributions to Corporate Priorities?</p>	<p>Value for Money Council</p>

B4 What are the Human Rights considerations?	There are no Human Rights issues arising from this decision.
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Financial Implications

B5 What are the financial implications?	<p>The main financial issues arising from this decision are set out in the table below.</p> <p>Cabinet agreed in September 2022 to set aside some funding towards medium term cost pressures such as this.</p>
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Revenue	2022/23	2023/24 £	2024/25
Costs based on estimated gas consumption for the period April 1 st 2023 – March 31 st 2024.		250,384	
Total Budget from Approved MTFS		70,931	
Estimated budget pressure (subject to actual consumption)		179,453	

The finance section has been approved by the following member of the Financial Management Unit:	<p>Please print name: Paul Billings</p> <p>Please sign name:</p> <p>Approval by email 301122</p>
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Policy Framework

B6 Is the Decision wholly in accordance with the Council's policy framework?	Yes
B6.1 If No, does it fall within the urgency provisions (Part 3 of the Constitution)?	n/a
B6.2 Has it got the appropriate approvals under those provisions?	n/a
B7 Is the Decision wholly in accordance with the Council's budget?	No
B7.1 If No, does it fall within the urgency provisions (Part 3 of the Constitution)?	Yes
B7.2 Has it got the appropriate approvals under those provisions?	Yes

Equalities Implications

B8 What are the Equalities implications:
B8.1 Positive (Opportunities/Benefits): None Identified
B8.2 Negative (Threats): None Identified
B8.3 The subject of this decision is not a policy, strategy, function or service that is new or being revised. An equality impact assessment is not required.

Risk Assessment

B9 What are the Risk Assessment implications:
B9.1 Positive (Opportunities/Benefits): The Council has a fixed price for its gas supply for twelve months from April 1 st 2023 to March 31 st 2024. As the Council is procuring gas supply from the ESPO Framework, it gives opportunity if the Council wishes, to join ESPO's flexible basket purchase arrangement for gas supply from 1 st April 2024, which is likely to yield beneficial rates moving forward.
B9.2 Negative (Threats): There remain significant risks to gas supplies over the winter period therefore delaying this decision may result in the cost of gas increasing. Market volatility means quotes are only valid the same day they are issued. If the Council does not enter a contract for gas supply it will pay expensive out of contract rates.
B9.3 The corporate risk register highlights wider economic and geo-political circumstances. Any financial implications to mitigate against these risks are considered above.

Legal Considerations

B10 What are the Legal Considerations:

B10.1 The main legal issues arising from this decision are as follows:

To comply with the Council's Constitution (Part 3 and Part 4A) and the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, the following action is required:

(Part 3 – urgent decisions outside of the budget and policy framework)

5.1 Where an urgent decision is required to safeguard the interests of the Council or otherwise in the public interest (threat to life or well-being) and the decision is not within the approved budget or Policy Framework, the decision may be taken by:

5.1.1 The Leader of the Council, in consultation with the Chief Executive or, in his absence, a Head of Service;

5.1.2 In the absence of the Leader, any Deputy Leader, in consultation with the Chief Executive or, in his absence, a Head of Service;

provided that:

- The Mayor and the Chairman of the relevant Scrutiny Committee; or*
- The Deputy Mayor and the Chairman of the relevant Scrutiny Committee*

agree that the decision is urgent and that it is not practical to convene a meeting of the Full Council.

5.2 Full reasons for the decision, details of the persons making the decision and those consulted and the reasons for urgency must be recorded.

5.3 A report must be made to the next available Council meeting with details of the decision and the reasons for urgency.

And also...

(Part 4A – cases of special urgency)

...the decision may only be made where the decision maker has obtained agreement from:

7.12.1 the chairman of the relevant overview and scrutiny committee; or

7.12.2 if there is no such person, or if the chairman of the relevant overview and scrutiny committee is unable to act, the Mayor; or

7.12.3 where there is no chairman of the relevant overview and scrutiny committee or Mayor available to act, the Deputy Mayor,

that the making of the decision is urgent and cannot reasonably be deferred.

7.13 As soon as reasonably practicable after the decision maker has obtained agreement under paragraph 7.12 that the making of the decision is urgent and cannot reasonably be deferred, the decision maker will:

7.13.1 make available at the offices of the Council a notice setting out the reasons that the meeting is urgent and cannot reasonably be deferred; and

7.13.2 publish that notice on the Council's website

This section has been approved by the following member of the Legal Team

Please print name: John Teasdale

Please sign name

[Approval by email 301122](#)

Sustainability Implications

B11 What are the Sustainability implications:
B11.1 The proposal would not result in an overall positive effect in terms of sustainability (including climate change and change adaptation measures). The positive/negative impacts are set out below (please refer to guidance notes).
B11.2 Positive (Opportunities/Benefits): None Identified
B11.3 Negative (Threats): None Identified

Health & Safety Implications

B12 What are the Health & Safety implications:
B12.1 A Risk Assessment has not been carried out and entered into Safety Media for all significant hazards and risks because there are no significant hazards or risks arising from this decision.

Key Decision

B13 Is this a Key Decision? Yes

Note: A Key Executive Decision is one where:

1. **REVENUE – Any contract or proposal with an annual payment or saving of more than £100,000**
2. **CAPITAL – Any capital project with a value in excess of £150,000**
3. **A decision which significantly affects communities living or working in an area comprising two or more wards.**

B13.1 If this is a Key Decision, is this an urgent decision such that a delay caused by use of the Call-in Procedure would <u>seriously</u> prejudice the public interest?	Yes
B13.2 If yes, has the Mayor or in his/her absence the Deputy Mayor or in his/her absence the Chair of the relevant Scrutiny Committee agreed that the decision will be exempt from Call-in?	Yes

NOTE: If this decision is subject to the Call-in Procedure it will come into force, and may then be implemented, on the expiry of 3 working days after publication – unless 10 Members of the Council call in the decision.

Please send the original signed document to andrea.davies@eaststaffsbc.gov.uk