

LONDON BOROUGH OF CROYDON

To: all Members of the Council (via e-mail)
Access Croydon, Town Hall Reception

PUBLIC NOTICE OF KEY DECISIONS MADE BY THE CABINET MEMBER FOR FINANCE AND TREASURY ON 29 SEPTEMBER 2015

In accordance with the Scrutiny and Overview Procedure Rules, the following decisions may be implemented from **1300 hours on 7 October 2015** unless referred to the Scrutiny and Overview Committee:

The following apply to each decision listed below

Reasons for these decisions: are contained in the attached Part A report

Other options considered and rejected: are contained in the attached Part A report

Details of conflicts of Interest declared by any Cabinet Member: none

The Leader of the Council has delegated to the Cabinet Member the power to make the decisions set out below:

CABINET MEMBER'S DECISION REFERENCE NO. : 53/15/FT

Decision Title: Award of short term contract for gas and electricity supplies

Having carefully read and considered the attached Part A report and the requirements of the Council's public sector equality duty in relation to the issues detailed in the body of the report, the Cabinet Member for Finance and Treasury in consultation with the Leader of the Council

RESOLVED:

1. To approve the award of two short term electricity and gas supply contracts for corporate property, schools, academies and communal areas of housing via Crown Commercial Services frameworks to Corona (Gas supplies) and EDF (Electricity supplies), for 6 months from 1st October 2015 to 31st March 2016

Scrutiny Referral/Call-in Procedure

1. The decisions may be implemented **1300 hours on 7 October 2015** (5 working days after the decisions were made) unless referred to the Scrutiny and Overview Committee.
2. The Borough Solicitor, Director of Legal and Democratic Services shall refer the matter to the Scrutiny and Overview Committee if so requested by:-
 - i) the Chair or Deputy Chair of the Scrutiny and Overview Committee and 4 members of that Committee; or
 - ii) 20% of Council Members (14)
3. The referral shall be made on the approved pro-forma (*attached*) which should be submitted electronically or on paper to Solomon Agutu and Jim Simpson by **1300 hours on 7 October 2015**. Verification of signatures may be by individual e-mail, fax or by post. A decision may only be subject to the referral process once.
4. The Call-In referral shall be completed giving:
 - i) The grounds for the referral
 - ii) The outcome desired
 - iii) Information required to assist the Scrutiny and Overview Committee to consider the referral
 - iv) The date and the signatures of the Councillors requesting the Call-In
5. The decision taker and the relevant Chief Officer(s) shall be notified of the referral who shall suspend implementation of the decision.
6. The referral shall be considered at the next scheduled meeting of the Scrutiny & Overview Committee unless, in view of the Borough Solicitor, Director of Legal and Democratic Services, this would cause undue delay. In such cases The Borough Solicitor, Director of Legal and Democratic Services will consult with the decision taker and the Chair of Scrutiny and Overview to agree a date for an additional meeting. The Scrutiny & Overview Committee may only decide to consider a maximum of 3 referrals at any one meeting.
7. At the Scrutiny & Overview Committee meeting the referral will be considered by the Committee which shall determine how much time the Committee will give to the call in and how the item will be dealt with including whether or not it wishes to review the decision. If having considered the decision there are still concerns about the decision then the Committee may refer it back to the decision taker for reconsideration, setting out in writing the nature of the concerns.
8. The Scrutiny and Overview Committee may refer the decision to Full Council if it considers that the decision is outside of the budget and policy framework of the Council.
9. If the Scrutiny and Overview Committee decides that no further action is necessary then the decision may be implemented.

10. The Full Council may decide to take no further action in which case the decision may be implemented.
11. If the Council objects to the decision it can nullify the decision if it is outside of the policy framework and/or inconsistent with the budget.
12. If the decision is within the policy framework and consistent with the budget, the Council will refer any decision to which it objects together with its views on the decision. The decision taker shall choose whether to either amend / withdraw or implement the original decision within 10 working days or at the next meeting of the Cabinet of the referral from the Council.
13. The response shall be notified to all Members of the Scrutiny and Overview Committee
14. If either the Council or the Scrutiny and Overview Committee fails to meet in accordance with the Council calendar or in accordance with paragraph 6 above, then the decision may be implemented on the next working day after the meeting was scheduled or arranged to take place.
15. **URGENCY:** The referral procedure shall not apply in respect of urgent decisions. A decision will be urgent if any delay likely to be caused by the referral process would seriously prejudice the Council's or the public's interests. The record of the decision and the notice by which it is made public shall state if the decision is urgent and therefore not subject to the referral process.

Signed: Borough Solicitor & Monitoring Officer, Director of Legal and Democratic Services

Date: 29 September 2015

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PROFORMA

**REFERRAL OF A KEY DECISION TO THE
SCRUTINY AND OVERVIEW COMMITTEE**

For the attention of: Solomon Agutu & Jim Simpson,
Legal & Democratic Services Division

Meeting:
Meeting Date:
Agenda Item No:

Reasons for referral:

- i) The decision is outside of the Policy Framework
- ii) The decision is inconsistent with the budget
- iii) The decision is inconsistent with another Council Policy
- iv) Other: Please specify:

The outcome desired:

**Information required to assist the Scrutiny and Overview Committee to consider
the referral:**

Signed:

Date:

Member of _____ Committee

For General Release

REPORT TO:	Cabinet Member for Finance & Treasury 21st September 2015
AGENDA ITEM:	Part A Background document to item 13.1 – Cabinet 21.09.15
SUBJECT:	Award of short term contract for gas and electricity supplies
LEAD OFFICER:	Richard Simpson Assistant Chief Executive Corporate Resources and s151 Officer
CABINET MEMBER:	Cllr Simon Hall Cabinet Member for Finance & Treasury
WARDS:	All
CORPORATE PRIORITY/POLICY CONTEXT The recommendation below relates to the establishment of short term interim gas and electricity contracts to enable a longer term innovative energy procurement strategy to be implemented. The recommendation is aligned to the Council's priority to seek value for money by ensuring that the most cost-effective procurement option is selected for the supply of electricity and gas.	
AMBITIOUS FOR CROYDON & WHY ARE WE DOING THIS: To ensure interim energy purchasing arrangements are in place whilst a new innovative energy procurement strategy is developed.	
FINANCIAL IMPACT: The Council currently spends a significant amount per annum in relation to electricity and gas supplies, however it should be noted that due to the volatility in the energy wholesale futures market, this figure is subject to fluctuation in either direction. This price movement is wholly dependent on prevailing market conditions, other socioeconomic conditions and geo-political events. Approval of the recommendation to award interim contracts for the provision of energy supply (electricity and gas) will be funded from existing departmental revenue budgets.	
FORWARD PLAN KEY DECISION REFERENCE NO.: 53/15/FT This is a Key Decision as defined in the Council's Constitution. The decision may be implemented from 1300 hours on the expiry of 5 working days after it is made, unless the decision is referred to the Scrutiny & Strategic Overview Committee by the requisite number of Councillors.	

1. RECOMMENDATIONS

The Cabinet Member for Finance and Treasury in consultation with the Leader of the Council is recommended to approve:-

- 1.2 The award of two short term electricity and gas supply contracts for corporate property, schools, academies and communal areas of housing via Crown Commercial Services frameworks to Corona (Gas supplies) and EDF (Electricity supplies), for 6 months from 1st October 2015 to 31st March 2016

2. EXECUTIVE SUMMARY

- 2.1 The Council's current energy supplies are provided through access agreements under the framework arrangements with single suppliers provided by Crown Commercial Services (CCS). Under the framework arrangement CCS use their own in-house energy analysts to instruct the suppliers on the frameworks to purchase energy directly from the wholesale market according to market conditions and CCS' purchasing strategy. This method of purchasing manages the risk of the volatile electricity and gas markets.
- 2.2 Extension of the purchasing arrangements for energy supplies using the CCS frameworks from 1st October 2014 until 30th September 2015 was previously approved through Corporate Service Committee (A46/14) under the original 2009 decision to use the CCS frameworks the authority was given to purchase those energy supplies up to a value of £9m per annum.
- 2.3 A review of the Council's current energy procurement strategy has been undertaken. Through its membership of the "London Energy Project" (LEP) the Council has contributed to the development of a benchmark to measure the performance of wholesale energy purchasing by Professional Buying Organisations such as CCS. The LEP benchmark demonstrates that the CCS purchasing strategy has performed well over the period 2009 – 2015. This provides assurance that this method of securing energy supplies has been delivering value for money however further opportunities for greater cost avoidance have emerged within the market.
- 2.4 The Council has sufficient energy volume to form its own portfolio for which a bespoke purchasing strategy can be developed and applied. This would allow the Council to adopt a more active trading approach that could improve performance. In addition a new and unique energy procurement product has become available which can deliver considerable cost avoidance through the exemption of levies. A Gas and Electricity Procurement Strategy paper is being prepared for cabinet consideration 20th October 2015.
- 2.5 The establishment of two short term gas and electricity contracts is being sought to provide interim contract arrangements while this future procurement strategy is approved and implemented. This strategy was approved by CCB on 27/08/15 (CCB1035/15-16)

2.6 The content of this report has been endorsed by the Contracts and Commissioning Board.

CCB Approval Date	CCB ref. number
7 September 2015	CCB1043/15-16

3. DETAIL

3.1 This request to establish two short term contracts is to secure supplies of electricity and gas to Council buildings and schools and communal areas of housing. The total unit cost of energy to customers comprises three elements:-

- Wholesale market price of the commodity;
- Regulated, pass through costs. These are the fixed charges associated with transporting, distributing and metering energy, along with nationally set taxes and levies;
- Supplier charges, i.e. the costs of billing, administration and profit margin.

3.2 The wholesale price makes up around 75% of a gas bill and 55% of an electricity bill. Electricity wholesale prices are settled on a half-hourly basis, while gas prices are settled daily. Wholesale trading results in markets that are highly volatile, with price changes of over 100% within a year. Because of this volatility, the timing for going to market has a much greater impact on the end unit price than competition among suppliers.

Existing Service Provision

3.3 The Council's current energy supplies are provided through an access agreement under the framework arrangements with single suppliers provided by CCS. These frameworks have been established through OJEU compliant tenders, with CCS acting as a Professional Buying Organisations (PBO).

3.4 Under the framework arrangement CCS use their own in-house energy analysts to instruct the suppliers on the frameworks to purchase energy from the wholesale market according to market conditions and CCS' purchasing strategy. CCS forward purchase from the market sufficient volume to meet the Council's annual energy requirements. As energy is purchased up to 6 months in advance of each annual supply period, the agreement operates on an 'evergreen' rolling annual basis. Hence, notice to withdraw from the purchasing arrangements must be given at least 6 months in advance of the start of each procurement round.

3.5 When approval was first given to use of the CCS energy procurement frameworks in 2009, the authority was to purchase energy supplies up to a value of £9m per annum. Two extensions of these purchasing arrangements have been granted:-

- Corporate Service Committee in September 2013 (A130/13) – extension from 1st December 2013 until 30th September 2014 and
- Corporate Service Committee in February 2014 (A46/14) – extension from 1st October 2014 until 30th September 2015.

- 3.6 The Council is a member of the LEP, a shared service established by 30 London Boroughs and 4 regional authorities outside London. The objective of the LEP is to achieve value for money and efficiencies through smarter energy buying, and improving energy billing processes and administration through collective engagement with suppliers and buying organisations. The LEP has developed an independent benchmark to measure the wholesale trading performance of PBOs.
- 3.7 The benchmark evaluates only the wholesale achieved prices against the market average (as recorded by leading market pricing sources). The benchmark is then evaluated over a rolling three year period to avoid the distortions of market volatility and to provide a better indication of the consistency of performance. The table below shows the average achieved wholesale prices for the CCS contracts.

Achieved average wholesale prices compared to market average			
	2010-13	2011-14	2012-15
Electricity	3.2%	0.2%	2.9%
Gas	3.1%	-2.3%	1.3%

The Future Service Provision

- 3.8 It is recommended that the Council continue to secure energy supplies via flexible wholesale purchasing as the alternative 'fixed price, fixed term' approach carries a high risk of fixing prices at a high market position. When purchasing under the existing arrangements with CCS, the Council's energy demand is aggregated with a wide range of public sector customers into a single large portfolio. CCS then applies the same risk managed purchasing strategy to secure wholesale energy to meet this aggregated demand. However, the Council has sufficient energy volume to form its own portfolio for which a bespoke purchasing strategy can be developed and applied. This would allow the Council to adopt a more active trading approach that could deliver a better performance than that set out in paragraph 3.7. Such bespoke services are only currently available from private sector PBOs.
- 3.9 This new and innovative energy purchasing strategy will be presented to Cabinet October 20th which will propose new arrangements for implementation from April 1st 2016.

Interim Service Provision

- 3.10 The Council currently procures electricity and gas through the 3 CCS, OJEU compliant frameworks set out in table 1. As energy is purchased from the wholesale market on an ongoing basis, the frameworks operate on an 'evergreen' rolling basis with a minimum contract period of one year. The termination dates for the existing contracts are shown in table 1.
- 3.11 To enable the establishment of the new energy purchasing arrangements from April 1st 2016, it is not possible to extend the existing flexible contracts for gas and half-hourly metered electricity for a period of six months (as the minimum commitment is one year). It is therefore recommended that the Council enter into two interim fixed price, fixed term contracts for gas and half hourly electricity

with the incumbent suppliers to enable a co-terminus date for all energy contracts. Such short term 'bridging' contracts are common place in the public sector to enable the alignment of old and new energy contracts and supplies.

Table 1: Summary of CCS Energy Supply Contracts

PBO	Supply	Framework supplier	Annual value	Annual service charge	Supplies	Contract Termination Date
CCS Framework RM897	Gas	Corona	£2,419k	£21k	Corporate buildings, schools & academies.	30 th September, 2015
CCS Framework RM864	Electricity : half hourly metered	EDF	£2,206k	£12k	Largest sites and schools with mandatory half-hourly meters	30 th September 2015
CCS Framework RM999	Electricity : non half-hourly	British Gas	£1,847k	£25k	All other metered electricity supplies	31 st March 2016

4. CONSULTATION

4.1 The relevant Council officers have been consulted on these proposals.

5 FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

5.1 Revenue and Capital consequences of report recommendations

	Current year	Medium Term Financial Strategy – 3 year forecast		
	2015/16	2016/17	2017/18	2018/19
	£'000	£'000	£'000	£'000
Revenue Budget available				
Expenditure	2,313	-	-	-
Income				
Effect of decision from report				
Expenditure	2,313	-	-	-
Income				
Remaining budget	<u>0</u>	<u></u>	<u></u>	<u></u>

5.1 The contracts being entered into are for two interim fixed price, fixed term contracts for gas and half hourly electricity for the 6 month period to 31st March 2016. The costs of these contracts will be met from the existing revenue budgets available for the provision of gas and electricity.

5.1 **Approved by: Lisa Taylor, Head of Finance and Deputy S151 Officer on behalf of Finance**

6. COMMENTS OF THE COUNCIL SOLICITOR AND MONITORING OFFICER

6.1 The Council Solicitor comments that the proposed award of the short term contracts for gas and electric, as detailed in the report, meets the requirements of the Council's Tenders and Contracts Regulations and its statutory duty to secure best value under the Local Government Act 1999.

6.2 **Approved by: Gabriel MacGregor, Head of Corporate Law on behalf of the Council Solicitor & Director of Democratic & Legal Services**

7. HUMAN RESOURCES IMPACT

7.1 There are no HR implications that arise from the recommendations of this report for LBC staff; given that this is about the provision of goods rather than services, it is unlikely that TUPE would apply to any change of provision.

7.2 **Approved by: Michael Pichamuthu on behalf of Heather Daley, Director of Human Resources**

8. EQUALITIES IMPACT

8.1 A detailed / full Equality Analysis has not been undertaken for the following reason: This project is to secure energy supplies at best value to the Council, schools and housing tenants and leaseholders. The project will not affect any protected group more significantly than non-protected groups and will neither help nor hinder the Council in undertaking its duties under the Equality Act

9. ENVIRONMENTAL IMPACT

9.1 This contract is concerned with securing the best price for supplies of gas and electricity. The Council has a separate programme of activity which has the objective of reducing energy use (and associated carbon emissions) through investing in energy saving measures, and ensuring that best practice energy management is put in place.

10. CRIME AND DISORDER REDUCTION IMPACT

10.1 There are no crime and disorder impacts issues arising as a consequence of this report.

11. REASONS FOR RECOMMENDATIONS/PROPOSED DECISION

11.1 While value for money has been achieved through the CCS agreement, the Council has continued to investigate alternative procurement strategies that may deliver additional savings. CCS along with other public and private sector PBOs

continue to develop alternative procurement strategies and recent developments indicate additional savings are available to those already achieved. The award of two short term contracts via CCS frameworks for gas and electricity will ensure that sufficient time is provided for the Council to prepare and mobilise the Council's future Procurement Strategy.

12. OPTIONS CONSIDERED AND REJECTED

12.1 Not applicable.

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BACKGROUND PAPERS - LOCAL GOVERNMENT ACT 1972

None