



Committee Decision Report

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Report to: *Strategy and Resources Committee*

Date of Decision: *15/09/2022*

Subject: *Commission of the Council's Electricity Supply*

Has an Equality Impact Assessment (EIA) been undertaken?	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
If YES, what EIA reference number has it been given? (TBC)				
Has appropriate consultation taken place?	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
Has a Climate Impact Assessment (CIA) been undertaken?	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
Does the report contain confidential or exempt information?	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
If YES, give details as to whether the exemption applies to the full report / part of the report and/or appendices and complete below: -				

Purpose of Report:

The existing contract for the supply of electricity to the Council with Npower was procured for a period of four years using the Yorkshire Purchasing Organisation (YPO) Electricity framework 791 from 1st April 2019 to 31st March 2023.

The Council's contract for electricity provides a supply to all Council assets and includes an optional traded offer to maintained and academy schools.

This report describes the options available to the Council for the procurement of its electricity from the 1st April 2023 to 31st March 2026.

Recommendations:

That Strategy and Resources Urgency Sub-Committee

- 1) The Council commission the Council's electricity supply for the period 1st April 2023 to 31st March 2026 as set out in this report.
Approves the procurement strategy and contract award for the Council to enter into a 3-year contract via the CCS Energy Framework, with its nominated supplier EDF Energy Ltd effective from 1st April 2023 to the 31st of March 2026

Background Papers:

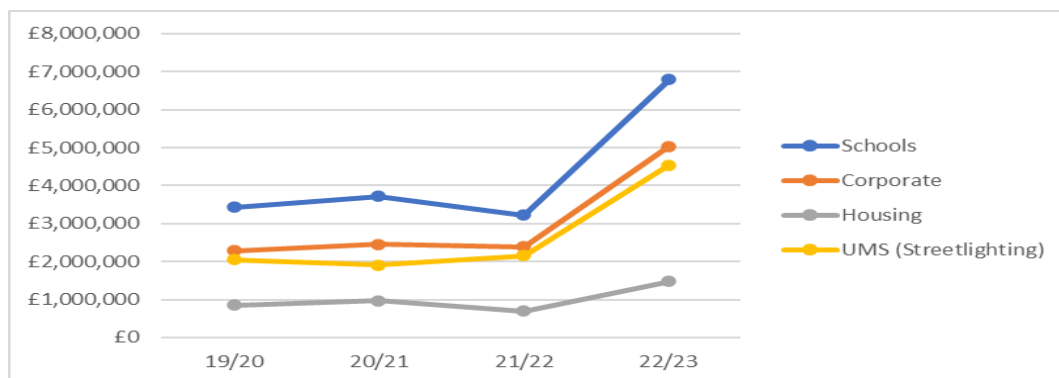
Appendix 1 – Procurement Strategy – Electricity Supply

Lead Officer to complete: -		
1	I have consulted the relevant departments in respect of any relevant implications indicated on the Statutory and Council Policy Checklist, and comments have been incorporated / additional forms completed / EIA completed, where required.	Finance: <i>Kerry Darlow</i>
		Legal: <i>Henry Watmough-Cownie</i>
		Equalities & Consultation: <i>Louise Nunn</i>
		Climate: <i>Kathryn Warrington</i>
<i>Legal, financial/commercial and equalities implications must be included within the report and the name of the officer consulted must be included above.</i>		
2	SLB member who approved submission:	<i>Ajman Ali</i>
3	Relevant Policy Committee	<i>Strategy and Resources</i>
4	I confirm that all necessary approval has been obtained in respect of the implications indicated on the Statutory and Council Policy Checklist and that the report has been approved for submission to the Decision Maker by the SLB member indicated at 2. In addition, any additional forms have been completed and signed off as required at 1.	
	Lead Officer Name: <i>Jason Peck</i>	Job Title: <i>Contract Manager</i>
	Date 06/09/2022	

1. PROPOSAL

1.1 Background

The Council is a significant user of buildings related electricity with over 1,000 operational buildings and schools. The electricity needs of these buildings as well as the City's unmetered street lighting are currently being supplied by Npower and contract managed through the Council's Facilities Management Energy Team and Procurement and Supply Chain Team. Due to global events current electricity markets are extremely volatile and the price of electricity has increased sharply, see chart below detailing historical and projected costs of electricity to the organisation.



The contract covers all the Council's property portfolio including a traded offer to maintained and academy schools, as well as all the unmetered electricity supply for street lighting.

The current electricity contract was procured in 2019 for 4 years using the Yorkshire Purchasing Organisation (YPO) Electricity Framework 791. The framework consists of a single supplier, Npower, and offers customers the option of purchasing under a Flexible or Fixed contract option; with the Council having entered into the Flexible term contract for the duration of the 4 years. This contract is due to expire on 31st March 2023, and consequently a significant amount of work has been undertaken to review the future requirements of this supply contract.

The Council is required to review the procurement options available to it for retendering the electricity contract using a route which is compliant with UK Public Contract Regulations and in line with current industry best practice. The Council is looking for a solution that will deliver best value to the authority/end users whilst minimising any supply risk.

1.2 Recommendation

Contracting through a Public Buying Organisation (PBO) offers the Council the best value procurement route. Following an evaluation of the currently available PBO frameworks the Crown Commercial Services (CCS) framework is considered to offer the best route for purchasing the Council's electricity supply. The nominated supplier of electricity for CCS is EDF Energy Ltd. This overarching energy Framework from CCS is for electricity and gas and commenced on 14/08/2019, expiring 01/10/2023.

It is therefore recommended that the Council enter into a 3-year contract via the CCS Energy Framework, with its nominated supplier EDF Energy Ltd effective from 1st April 2023 to the 31st of March 2026 for the Council's electricity supply.

The Council is currently contracted with CCS for the supply of gas until the 31st March 2025. A separate report submitted to the committee recommends extending the Council's contract for gas supply with CCS for one year, to the 31st March 2026. This will align both energy contracts and avoid duplication of decision making moving forward and ensure consistency of approach in both electricity and gas purchasing.

2. HOW DOES THIS DECISION CONTRIBUTE?

- 2.1
- Consideration of and bench-marking the options available for purchasing the Councils electricity supply will ensure to the best of our ability value for money and flexibility.
 - Ensuring we engage experts in the field of purchasing the Councils electricity supply, i.e., with the knowledge and tools to monitor and forecast commodity price changes allowing them to purchase electricity at the lowest price on behalf of the Council and its other customers.
 - Actions that ensure a minimal spend on procurement of electricity while ensuring quality of provision, i.e. best value.
 - Flexibility within the contract enables SCC to consider purchasing electricity from renewable sources which would contribute to carbon reductions.

3. HAS THERE BEEN ANY CONSULTATION?

- 3.1 No consultation, but careful evaluation of the options available to ensure best value for money.

4. RISK ANALYSIS AND IMPLICATIONS OF THE DECISION

4.1 Equality Implications

- 4.1.1 Overall, there are no significant differential, positive or negative, equality impacts from this proposal. It will benefit all sites through achieving best value.

4.2 Financial and Commercial Implications

- 4.2.1 With CCS, customers have a choice of both fixed and variable purchasing options. Its fixed options include the short term L6 and medium term L12 and L24 baskets. The key feature of the locked baskets is that all the energy is purchased in the six, twelve or twenty-four months before the delivery date resulting in a fixed monthly commodity price for the year. One benefit of these products is that it provides some price certainty at the start of the year to help with budgets. A price cap is applied at the start of the purchasing window to help protect budgets, and there is also a sell back facility allowing traders to improve the price.

The L6 basket has a short 6 month purchasing window (October-April) giving a fixed price at the start of delivery. This offers a medium low risk strategy and has historically performed well in previous years (and was one of the baskets used to benchmark historic prices achieved by CCS). SCC are able to join this basket from 1st April 2023 as trading is due to commence 1st October 2022 (cut off date to join is 15 Sept 2022).

The L12 basket has a 10 month purchase window (April-Feb) giving a fixed price 2 months before delivery. It is designed to offer month to month budget certainty (like the Locked 6 basket) but with a slightly longer purchase window and fixed rate known before the delivery period. Like the Locked 6 basket, this would be a medium-low risk strategy that aims for month to month budget certainty. The earliest SCC could join this basket would be April 2024, as purchasing for April 2023 started 1 April 2022. The other fixed option offered by CCS is the L24 basket, which is similar to the L12 but with a further 12 months to purchase. This is a new basket offered by CCS from April 23 so there is no benchmarking data available to date. This option is not available to SCC immediately but does offer the longest purchasing window of all the fixed products.

The short term variable (V6) basket has a purchasing window of 18 months. CCS buy energy in the 6 months before the start of the delivery date and continue to buy energy throughout the 12month delivery period which results in monthly price changes. The variable baskets give traders

a longer purchase window to avoid trading market spikes, and similar to the locked basket, a price cap is applied at the start of the purchasing window. This option also benefits from the sell back feature to allow prices to improve.

The long term variable (V30) basket is where the purchasing window is 42 months, commencing 30 months before the point of delivery and continuing throughout the 12 month delivery period. Although prices change monthly, this product allows greater year on year price stability. The benefits of buying energy over a longer period of time, is that it allows traders to reduce customers exposure to unfavourable market conditions/market spikes. This option also features the sell back facility. When benchmarked on historical performance, this low risk product delivered the greatest amount of savings for SCC. It is also worth mentioning that this product is mandated for all central government departments purchasing energy. The earliest SCC could join this basket is 1st April 2025. It should also be noted that unlike the other baskets which require only 12 months commitment, the V30 basket requires a 30 month commitment (SCC would need to provide 30 months notice to exit this basket).

There is also an option to have a mixed basket, where some sites are on a different basket to the others. This is the case with the Councils current gas contract with CCS.

A key factor in choosing the right buying strategy for SCC is to ensure it will meet the requirements of all its end users. There has been a historical requirement for schools and academies to have energy prices fixed over any given delivery period to allow for more accurate budgeting in spend. Furthermore, schools and academies have favoured flexible contracts that do not tie them into long term contractual arrangements. This is particularly important for schools that may change their status to an academy in the future. Similarly for housing sites, variable monthly prices would pose a challenge when re-billing tenants. CCS's locked baskets provide the price certainty our end users seek. Under the CCS framework, the variable basket could also be considered if using a 'reference price' as the price to charge tenants. At the beginning of a period the supplier quotes a reference price. At the end of the period, prices (reference and actual outturn price) are reconciled and the council either receives a rebate or makes a small payment.

CCS have set a cut off date of 15th September to join their L6 or V6 trading baskets for the supply year 23-24. Should the council miss the Basket commitment deadline, standard CCS 'fallback' is 'fixed term/fixed price' interim contracts until next Basket entry point.

The existing CCS framework (RM6011) expires on 1st October 2023. The new CCS framework (RM6251) is currently being procured and will commence 2nd October 2023. However, trading for each basket will either be on the current or new framework and the date a customer

would need to submit notice of termination to leave would depend on the chosen basket. For example, for the current framework (RM6011) we would need to give notice by 15 September 2023 to leave the Locked 6 and Variable 6 baskets on 1 April 2024 when trading under the new framework (RM6251) would start. For the Locked 12 basket we would need to give notice by 15 March 2024 to leave by 1 April 2025 when trading under the new framework would start. For the Locked 24 basket we would need to give notice by 15 March 2024 to leave by 1 April 2026 when trading under the new framework would start. And for the Variable 30 basket we would need to give notice by 15 September 2023 to leave by 1 April 2026 when trading under the new framework would start.

These are the same dates for both Gas and Electricity.

In order to commit the Council for the length of the framework, the Council would look to enter a 3 year contract now (1st April 2023-31st March 2026), which covers all CCS trading under the existing framework until 1st April 2026. Any trading beyond 1st April 2026 would take place under the new framework (RM6251) and therefore the joining date for the longest basket (V30) would be 15 September 2023. In order to bring all future contract renewals (and council decisions) in line with the CCS framework renewal date, the next decision would be required by 15 September 2023, and every 4 years after that (15 Sept 2030, and so on), in order to enter the council into contract for a period of 4 years. Decisions to switch between trading baskets for sites i.e. from L12 to L24 for example, would be taken by Commercial services in conjunction with the client, as these will not extend trading commitments beyond the framework term.

The existing decision for the gas contract was taken for 4 years in 2021 and therefore covers the Council until 31st March 2025. If the council wishes to bring this in line with electricity contract and also cover the term of the framework, a further 1 year decision will be required for Gas to cover the Council from 1 April 2025 to 31 March 2026.

The benchmarking exercise demonstrated the V30 basket presents the greatest opportunity for savings against the Councils electricity spend. It is also worth noting that Central Government are mandated to use the V30 basket for their gas and electricity supply. The Council would look to call off the CCS framework for a period of 3 years, however, due to the commitment dates associated with the longer term basket options, further delegated authority will be required in Sept 2023 in order to continue forward purchasing beyond March 2026.

The Council will initially join the CCS short term baskets in order to then be able to switch to the CCS V30 basket. The recommended route to switching to the desired V30 basket would involve joining the CCS L6 basket for Years 1 (23/24), L12 for Year 2 (24/25) and V30 for Year 3 (25/26).

To join the Locked 6/Variable 6 from 1 April 2023, or the Variable 30

basket from 1 April 2025 CCS would need the Annex to the contract signed, and the site addition submitted by 5pm on 15 September 2022. The Council has until 15 March to make a decision on the Locked 12 and Locked 24 baskets from April 2024 and April 2025 respectively. In relation to Green electricity, as prices from EDF will not be known until December 2023, it is recommended that any decisions to purchase green be deferred until this time.

As a new customer, the Council will not be joining any existing baskets which have already commenced trading. All trading will commence from October 2022 at the earliest, and therefore the future cost of energy is unknown.

The contract will be let for a period of 3 years, with the option to switch between trading/purchasing baskets to achieve best value for money (consideration will be given to performance/conditions in energy market at the time). Based on data for 2022/23 the total estimated spend on electricity for the 3 years of the proposed agreement is £52,911,108. Details below. Although schools and academies will be supplied through the contract, they do not form part of the Council's budget and are billed directly. **Figures in blue are forecasts. This amount is outside the current current budget framework so will flow into overall budget pressures and savings for the relevant years.*

The Councils procurement strategy of purchasing over an extended period via the V30 basket is considered the best option of managing any peaks in the market, but energy markets remain extremely volatile and there is no indication that prices will return to what would be considered normal levels in the medium to long term and prices may continue to rise.

Year	Schools	Corporate	Housing	Streetlighting	Total
19/20	£3,428,336	£2,280,111	£852,943	£2,055,358	£8,616,748
20/21	£3,717,782	£2,451,502	£963,376	£2,289,268	£9,421,928
21/22	£3,220,006	£2,387,550	£698,150	£2,053,179	£8,358,885
22/23	<i>£6,794,211</i>	<i>£5,037,730</i>	<i>£1,473,097</i>	<i>£4,331,998</i>	<i>£17,637,036</i>

The contract will be managed through the Council's Facilities Management Energy Team and Procurement and Supply Chain Team.

These teams will have the opportunity to work with CCS having regular review meetings which will ensure SCC understand any changes in the market. This activity will inform any change to the baskets SCC decide to purchase, changes allowable within the contract. The Facilities Energy Management Team will report on the forecast cost of electricity to Finance Business Partners on a monthly basis, or in the event of a significant change as soon as practicable.

Under the CCS contract, site removals would be processed with the suppliers and there will be no penalties; CCS have confirmed they do not have any take or pay clause in the contract. This would be the same of council and school sites, and the customer would need to process the change directly with the supplier for the school sites. In regards to site additions, these would be processed with CCS on their online portal. There are no charges or penalties for adding sites but they will not be able to go directly to the basket unless the contract end dates align and the additions have been processed in enough time. So, if a site addition is done for a meter which has a contract end date mid way through the year it will need to be placed on interim rates (fixed rates based on the market prices at the time of the transfer) until they can join the basket. If the site addition is submitted to CCS before 15 September the meter will join the basket the next April. If it is processed after the 15 September it will be on interim rates for an additional 12 months until the next April.

The overarching framework agreement between CCS and the supplier (Total Energies for Gas and EDF for Electricity) is deemed commercially sensitive but all areas that relate to the CCS customer are covered in the CCS Customer Access Agreement and the Model Contract with the supplier (Total Energies for Gas and EDF for Electricity). The Councils contract is with CCS (Customer Access Agreement) and this is the main contract. In addition, there is the Model Contract with the supplier (Total Energies for Gas and EDF for Electricity). Schools/academies would not have a direct contract/relationship with CCS or the supplier and any information they require would need to go through SCC. If the schools and SCC want to change this so the schools have a direct contract with CCS and the supplier the Council would need to process a Novation. If a Novation is processed the Schools would be in control of their trading strategies and responsible for any debt accrued after the Novation is processed.

As the Council already has an existing contract with CCS for its gas supply, it will not need to enter into a new contract with CCS (Customer Access agreement). Instead the Council will be required to sign an Annex 2 to the CAA to add the selected electricity trading baskets to the contract.

4.3 Legal Implications

- 4.3.1 The Council has a specific power to do anything (whether or not involving the expenditure, borrowing or lending of money or the acquisition or disposal of any property or rights) which is calculated to facilitate, or is conducive or incidental to, the discharge of any of their functions (s111(1) Local Government Act 1972). The proposed Electrical supply contract renewal is incidental to the Council's statutory functions.

Use of a compliant Framework also complies with the requirements of the Public Contracts Regulations 2015 and Council's Contract Standing Orders.

Commercial services have reviewed the CCS terms and conditions and do not deem these to be contradictory to any of the council's policies. Further detailed review of the terms will be undertaken and if necessary, advice sought from legal services before entering a new contract with CCS.

4.4 Climate Implications

- 4.4.1 Overall, there are no significant differential, positive or negative, climate impacts from this proposal. The council currently purchases its electricity from renewable sources and there is the option for this to continue under the CCS framework with EDF. The Council will keep the option to purchase renewable/green energy supply to contribute towards the council's carbon reduction agenda. Traditionally renewable energy attracts a cost premium and therefore financial consideration would need to be given to whether the Council purchases all, none or some of its electricity from renewable sources. Customers opt in for their choice of Renewable Energy Guarantees of Origin (REGO) at supplier annual 'site verification' (CCS/EDF is in January) or at any point during the supply year subject to availability of the REGOs.

The premium applied to electricity supplied from REGO's is a set price at any given time in the market and is the same for all suppliers. The cost of the REGO premium has increased significantly. Current market forecasts indicate that if the Council decides to continue to purchase 100% of its electricity supply from renewable sources through the REGO scheme the premium will increase from the current annual cost of £55,000 to £490,000.

This report does not require a decision on the Council's position with regards to the purchase of electricity from renewable sources. This will be subject to a separate decision to be made by January 2023.

4.4 Other Implications

- 4.4.1 *Property* - Disruption to supply/out of contract penalties if replacement contract is not in place from 1st April 2023

5. **ALTERNATIVE OPTIONS CONSIDERED**

- 5.1 Option 1 - Do nothing

Advantages:

- There are no benefits with this option

Disadvantages:

- The tariffs would move on to out of contract rates which would increase costs to the Council
- The Council would not be able to demonstrate it has sought Value for Money, nor would this be compliant with Council Standing Orders.
- This option would not be compliant with Public Contract Regulations (PCR) and is open to legal challenge

Option 2 – SCC procure directly from a supply company:

Advantages:

- SCC able to run a fully compliant tender process to establish a supply agreement to purchase energy through various strategies including on the day spot purchasing or flexible contract. The council would tender only the known 'fixed' price element of the electricity (this includes suppliers profit margin/fee and estimated non-commodity costs over delivery period). The commodity costs are subject to live trading which will be made with the nominated supplier.
- Opportunity to work collaboratively with other local councils to achieve some economies of scale and potential income generation as lead authority.
- Council avoids paying any management fees to third parties for administrating any frameworks/contracts.
- Increased potential to maximise economic, social and environmental benefits through a Council-led procurement process (by ensuring social value is captured in tender specifications and contract)

Disadvantages:

- Requires significant expertise and knowledge to manage energy purchases in a complex market. It requires ongoing monitoring of energy markets and relies on officers going to the market on the right time and day. These purchases will be made through the nominated supplier.
- Limited volume of spend in comparison to PBOs who aggregate large volumes, means this is less attractive to suppliers resulting in higher prices.
- Time consuming and requires significant lead-in time to implement the new arrangements/contracts. If contracts are not awarded in time, we may incur out of contract rates from

current suppliers increasing costs.

Option 3 – SCC procure through an energy broker:

Advantages:

- Potential to secure prices direct from suppliers by monitoring market prices. Independent energy brokers are similar to PBO's but without the benefit of aggregating large Local Authority portfolios.

Disadvantages:

- Brokers will most likely charge a fee for their service. Types of contracts include fixed (broker charges fixed fee for service), hybrid (brokers costs built into unit cost of energy) and inclusive (cost of service built into total cost of energy)
- Smaller brokers may not have access to all supplier offerings
- SCC would need to ensure that the arrangements have been subject to a full procurement process to ensure PCR compliance.

Option 4 - Use of framework agreements offered by PBOs (recommended option):

Advantages:

- Compliant with PCR 2015. Several major PBOs offer energy supply frameworks that are available for the Council to use including Eastern Shires Purchasing Organisation (ESPO), Crown Commercial Services (CCS) and YPO.
- All PBO's centralise spend into single supply contracts aggregating demand by combining energy volumes across organisations to form one large portfolio making it more attractive for suppliers. PBO's can deliver energy prices which are lower than the Council would be able to achieve on its own.
- The risk of market volatility is reduced by opting for procurement through a PBO which is also considered to represent best value for money due to economies of scale and the PBO's purchasing power. PBO's will optimise energy prices by purchasing in advance and ensuring risk is managed and controlled by market experts.
- Increased certainty of utility commodity costs due to forward purchasing arrangements
- Scale of Operations – large aggregation of Public Sector

energy spend

- experienced energy staff including energy Specialists providing customer support
- established governance arrangements in place such as committees and boards

Disadvantages:

- PBO's charge a small management fee for accessing their arrangements

6. REASONS FOR RECOMMENDATIONS

6.1 The Council do not currently have expertise in energy market trading, therefore contracting through a Public Buying Organisation (PBO) offers the Council the best value procurement route.

Following an evaluation of the currently available PBO frameworks the Crown Commercial Services (CCS) PBO is considered to offer the best route for purchasing the Council's electrical supply. The nominated supplier of electricity for CCS is EDF. The benefits of the CCS framework are detailed below:

- Ensures full compliance with Public Contracts Regulations
- Largest energy spend of all PBOs - forecast £1.5Bn (Excl VaT) electricity spend for supply year 22-23
- Largest number of customers of all PBOs - 896 electricity customers for supply year 22-23
- Enhanced customer services options
- Dedicated and experienced staff – total number of staff on energy team is 38
- CCS specific customer services team
- key account and customer query management
- Competitive management and administration fees, transparent not for profit pricing structure
- Market and budget reporting
- Electronic portal for customers account access
- Annual audit
- budget forecasting
- Freedom to add or remove sites from the contract with no penalty should the portfolio change (subject to conditions)
- Low supplier cost to serve fee (CCS unable to disclose the supplier fee due to commercial confidentiality)
- CCS fees are charged on a per meter per year cost (HH £240 per meter, NHH £5 per meter classes 01 and 02, any meter with class 03 and above is £24 per meter). CCS state these fees are the lowest in the market. CCS does not charge a Levy % on Energy Services. Total CCS income from Energy Services via Framework RM6011 is

equivalent to 0.22% of total spend (Excl VaT) for 22-23.

- CCS is able to provide differing types of carbon neutral / 100% renewable energy via their nominated electricity supplier Edf (at varying costs). Edf standard Generation mix for 22-23 is 91.1% Carbon Neutral.
- A range of risk managed trading strategies including short term variable(V6), long term variable basket (V30), and a short term locked basket(L6). Additional option of medium term locked basket (L24) from 22/23. See table below for summary of trading basket options available to the Council with key timelines.

Basket	Termination Deadline	Leave date	Termination/ Join Deadline	Leave date	Join Date
Locked 6	10 working days before 1 October	31 March (6 months after October)	15-Sep-22	31-Mar-23	01/04/2023
Variable 6	10 working days before 1 October	31 March (6 months after October)	15-Sep-22	31-Mar-23	01/04/2023
Locked 12	10 working days before 1 April	31 March (12 months after April)	15-Mar-23	31-Mar-24	01/04/2024
Locked 24	10 working days before 1 April	31 March (24 months after October)	15-Mar-23	31-Mar-25	01/04/2025
Variable 30	10 working days before 1 October	31 March (30 months after October)	15-Sep-22	31-Mar-25	01/04/2025

The outcome of the benchmarking exercise supports the Council's decision to switch to CCS and EDF for the ongoing provision of its electricity supply.

CCS offer their customers opportunity to purchase a mix of variable and locked options within the contract – helpful to the Council in terms of schools becoming academies and giving a choice for housing sites.