

**Report to Steve Read, Assistant Director (Environment and Public Protection)**

**July 2022**

**Procurement of energy supplies – corporate estate and maintained schools/academies**

**Report by Steven Fall (Energy & Data Manager – Energy Services)**

**Electoral division(s): All**

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**Summary**

This report provides full commentary around the performance of the LASER contract used by West Sussex County Council (WSSCC) and Service Level Agreement (SLA) schools for the procurement of energy and associated ancillary services. During 2021 an independent report undertaken by Cornwall Insight showed that the County Council receives a competitive rate for its energy across the corporate estate and schools, that the buying strategy has strong governance and that the County Council's exposure to financial risk in the energy markets is well managed.

A further third-party benchmarking and options analysis has been undertaken to inform future decisions on this contract in advance of the termination notice deadline of 30 September 2022. This report was also undertaken by Cornwall Insight. The outcome of this benchmarking confirms that the County Council still receives a highly competitive rate for energy and that the upcoming LASER 2024 Flex Framework is aligned with the County Councils strategic energy/carbon reduction objectives, as well as the outcomes of the Council Plan.

**Recommendations**

That the Assistant Director (Environment and Public Protection) approves that the County Council continues to procure energy supplies from the LASER Flex Framework for the period between 1 October 2024 and 30 September 2028.

## Proposal

### 1 Background

- 1.1 [A key decision](#) was taken in July 2015 to enter into a 2-year rolling access agreement for the procurement of energy supplies (electricity and gas) through the LASER Energy Buying Group's Framework Agreement. This report seeks to revisit that approach to ensure that it continues to provide value for money to the County Council.
- 1.2 The Council currently uses the LASER Flex contract to procure energy supplies for:
  - 1.2.1 The Council's corporate estate (around 235 sites) and street lighting supplies. These supplies are 'Purchased within Period' (PWP) which means LASER can purchase the commodity within the same year that it is used.
  - 1.2.2 West Sussex maintained schools & academies (around 250 SLA schools). These supplies are 'Purchased in Advance' (PIA) which means LASER must purchase all of the commodity before the start of year in which it is used.
- 1.3 Under both of the current buying strategies, LASER purchases energy commodities in advance to mitigate financial risk and generate cost savings to the Council. Given that the Council has not exercised a 24-month termination notice to exit, the LASER Framework agreement will automatically renew in October 2022.
- 1.4 All utility costs are paid for from existing revenue budgets (either corporate, schools, or streetlighting). In future years these will increase with inflation set as part of the standard financial year process.
- 1.5 The 2021 report provided by Cornwall Insight showed that the County Council receives a competitive rate for its energy, that the buying strategy has strong governance and that the County Council's exposure to financial risk in the energy markets is well managed.
- 1.6 In March 2022 the Energy Services team commissioned Cornwall Insight to undertake further benchmarking of LASER's performance. The objectives of this benchmarking were as follows:
  - Market performance analysis:
    - A backward-looking review of an agreed period of buying/out-turn prices (at least 12 months) for the Council's procurement baskets to reassess whether LASER have secured good value for money against the market; and that their 'hedging' strategy was fit for purpose.
    - A forward-looking review of market insights in the context of the Council's current energy procurement baskets; to explore whether these are still delivering best value for money within a turbulent energy market or whether other basket choices may provide better value whilst balancing risk.

- Risk management:
  - A review of the risk management approach across available baskets within the LASER Flex Framework (and upcoming 2024 Flex Framework), whether these are fit for purpose and deliver good value.
  - A comparison of the hedging strategy and risk approach within the council's chosen baskets with alternative options, and whether market insights indicate these options deliver good value within a turbulent energy market.
- Additional value:
  - An assessment of whether the range of additional services available through the Flex Framework complement the Council's energy/carbon reduction strategies.
  - A review of how these additional services add value to the Council, e.g., sale of renewable power from the Council's solar Photo Voltaic (PV) farms as well as an assessment of the alternatives available in the market and whether market insights support the selling of such power through this route.

1.7 Cornwall Insight successfully provided outcomes on all of the desired criteria.

1.8 A glossary of terms is included at Appendix A.

## **2 Proposal Details and Report Findings**

2.1 The 2022 Cornwall Insight report showed that LASER had achieved market-reflective prices during the summer and winter 2021/22 periods across both the Purchase in Advance (PIA) and Purchased within Period PWP approaches. Having assessed LASER's trading performance, Cornwall Insight concluded that all of the PIA trades within the selected period passed verification and 407 out of 426 (95%) passed on the PWP trades. This is an excellent performance rate.

2.2 Furthermore, this purchasing strategy had managed financial risk effectively by following an agreed policy approach, which contained clear control and reporting requirements. Purchasing and wholesale market/trading risks are reported back to the Council on a regular basis, through various pathways.

2.3 This reinforces positive findings from previous third-party assessments of the WSCC LASER contract undertaken by Auditel during 2019, and Cornwall Insight during 2021.

2.4 The outcome of this benchmarking exercise provides confidence to recommend that the Council continues to use the existing rolling agreement up to September 2024, then sign up to the new LASER Flex Framework from October 2024 for four years based on the outcome of benchmarking completed.

The Energy Services team will take a 'watching brief' to periodically reassess basket choices throughout the term of the contract to secure best value for money.

### 3 Options considered

3.1 Cornwall Insight examined the options open to WSCC from a contracting and risk management perspective and consider the following approaches result in a low to medium risk. They are therefore considered to be feasible options. Initially we will recommend retaining Laser on the existing strategies, and as stated above in 2.4 we will periodically assess alternative strategies under the new 2024 Flex Framework.

- Retain LASER on existing Strategies
- Retain LASER on alternative existing Strategy

Option	Timescale for implementation	Alignment with WSCC Carbon Management Plan	WSCC resourcing and control	Price/budget risk management	Volume risk management
<b>Retain LASER on existing Strategies</b>	No risk: Continuation of existing service	Medium risk: Dependent upon Flexibility of LASER capabilities	Low to Medium risk: Assume retention of existing resourcing	Price risk to be managed through Strategy Note: WSCC liable for LASER fees	Volume risk managed through provisions with LASER i.e. low risk
<b>Retain LASER on alternative existing Strategy</b>	0-12 months, subject to review and full risk assessment  Contractually 6 months' notice is required.  Medium risk subject to how market changes in period of notice	Medium risk: Dependent upon Flexibility of LASER capabilities	Low to Medium risk: Assume retention of existing resourcing	Price risk management to be agreed through new Strategy Note: WSCC liable for LASER fees	Volume risk managed through provisions with LASER i.e. low risk

3.2 Cornwall Insight consider the following approaches result in medium to high risk and are therefore not considered to be feasible options:

- Retain LASER and seek new and/or standalone Strategy
- Move to alternate Public Benefit Organisation (PBO)
- Move to private sector Third Party Intermediary (TPI)
- Seek direct contract with an energy supplier

For the purpose of comparison, Cornwall Insight examined these options in terms of the timescales associated with their implementation, resourcing and control, risk management (volume and price) and their potential to align with WSCC's Carbon Management Plan.

Summary of risk associated with the above:

<b>Option</b>	<b>Risk</b>
<b>Retain LASER and seek new and/or standalone Strategy</b>	<p>Long lead times and risk to hedging strategy</p> <p>Resource intensive</p> <p>Standalone strategies may not align with an existing product and will therefore have higher fees</p>
<b>Move to alternate Public Buying Organisation ( PBO)</b>	<p>Requires a full tender process with long lead times and hedging risk to implement effectively.</p> <p>Approach assumes alignment to the WSCC Carbon Management strategies which may not be achievable without a full risk assessment. Other PBO services and fees are not necessarily aligned with LASER</p>
<b>Move to private sector Third Party Intermediary (TPI)</b>	<p>Considerable (3 years ) lead-time to embed change with high risk to hedging through implementation.</p> <p>High risk to WSCC resourcing and the carbon Management Plan would require a higher archetype provider. TPI's are not typically aligned to public sector managed service requirements.</p>
<b>Seek direct contract with an energy supplier</b>	<p>As above has considerable lead-time and associated risks as a full bespoke strategy and delivery plan would need to be developed with the supplier. Risks to fees, resourcing and the carbon plan would be high.</p>

#### **4 Consultation, engagement and advice**

- 4.1 Market Research carried out through Cornwall Insight benchmarking strategies in 2021 and 2022.
- 4.2 Representatives from Energy Services, Procurement, Strategic Procurement, Finance, Legal were consulted during the development and analysis of the benchmarking and governance approach (including the democratic process).

#### **5 Finance**

- 5.1 The 2022-23 budgets for utility costs are sufficient to meet the demand and wholesale prices that the Council is currently experiencing. Given the current market conditions and the uncertainty surrounding the future use of the Council estate as staff return to the offices following the Covid-19 lockdowns, it is not possible to provide realistic estimates for future budget requirements. The impact of changes to consumption volumes and inflationary impact of wholesale price increases will be considered as part of the County Council's normal budget setting process.

5.2 The 2021/22 spend across the corporate, schools and street lighting estates was:

Utility	Corporate Estate	School Estate	Street Lighting	Total
	£m	£m	£m	£m
Electricity	2.52	3.22	3.56	9.30m
Gas	1.00	1.78	N/A	2.78m
Total	3.52	5.00	3.56	12.08m

5.3 Implications of the proposal:

(a) **How the cost represents good value**

- Cornwall Insight report has shown that LASER have continuously accessed the energy market in an appropriate way and delivered competitive unit rates for gas and electricity.
- Trading follows a clear risk-managed process which mitigates against rising energy costs seen in the market. Over time this has been extremely beneficial given prevailing energy market volatility.
- The existing LASER Framework has provided flexibility and adapted over time e.g., provision of metering services, green-energy procurement options, and sale of power from the Council's solar PV farms.
- Innovation of framework and provision of new frameworks being introduced, aligns with the Council's long-term energy and sustainability strategies
- Multiple buying strategies (baskets) remain under Laser's Purchase Only Service Offer (POSO) approach, which allow corporate, and schools supplies to operate as required. These basket choices can be varied as required during the term of the Flex Framework agreement with 6 months' notice

(b) **Future savings/efficiencies being delivered**

- LASER have indicated that new basket options may be introduced for the 2024 Flex Framework which may provide additional value to the council, and these can be assessed by the Energy Services team.

(c) **Human Resources, IT and Assets Impact**

- No impact expected

## 6 Risk implications and mitigations

Risk	Consequence	Severity	Details/Control
Rising commodity prices	Increased unit rates for corporate sites and SLA schools	Medium-High	<p>Energy prices are currently extremely volatile and have reached consecutive record highs since winter 2021.</p> <p>LASER employ a forward buying strategy to mitigate increasing wholesale energy market prices over the term of the Flex Framework.</p>
Basket choices	Increased unit rates for corporate sites and SLA schools	Medium-High	<p>Basket choices (e.g. hedging strategy) will differ in a rising/falling market and may impact future unit rates when supplies reach their delivery period.</p> <p>Market insights are monitored by LASER on an ongoing basis to transact trades and mitigate price increases for each delivery period. Coupled with third-party insights and continued discussions with LASER on managing the Council's exposure to risk.</p>
Unhedged volume	WSCC does not have energy commodity committed for future delivery periods	High	<p>If the Council terminates its contract with LASER now but is unable to secure an alternative provider in a timely manner, there is a risk that may not be able to purchase all the Council's requirements before the Oct 2024 delivery period.</p> <p>By remaining on the LASER Flex Framework, forward hedging for the</p>

			Oct 24 delivery period can continue to mitigate significant uncertainty and price volatility currently occurring in the market.
Supplier stability	Energy supplier enters liquidation and prices secured for committed volume are put at risk	High	<p>Since 2021 thirty-one energy suppliers in the UK have ceased trading, affecting over 2 million customers.</p> <p>LASER carry out a competitive procurement exercise including financial assessment before suppliers can enter their Flex Framework. Currently the two providers are Total Energy &amp; Npower – which are at significantly lower financial risk compared to smaller companies in the market.</p>

## 7 Policy alignment and compliance

### 7.1 Our Council Plan 2021-25 Priorities

The recommendation supports Our Council Plan 2021-2025 priorities by:

- making the best use of resources
- supporting a sustainable and prosperous economy
- assisting with the underpinning theme of Tackling Climate Change

The proposal also helps to support the following outcomes:

- Outcome 3 - Maximising the productivity of our assets
- Outcome 4 – Value for money
- Outcome 5 – A sustainable economy that adapts to climate change

### 7.2 Legal Implications

- The Council procure energy supplies through a fully compliant and competitively procured LASER Framework and, from 1<sup>st</sup> October 2024, will procure through the new LASER Flex Framework (again compliantly and competitively procured).
- The new LASER Flex Framework will need to be fully reviewed, at the appropriate time by the Commercial Legal Team, to ensure the terms align to

the Council's Standing Orders on Procurements and Contract as well as the Public Contract Regulations 2015.

- The new Council policies on carbon reduction/carbon zero initiatives, as well as the Council's 2021-2025 Plan, will need to be incorporated into the new 2024 framework and contract terms relating to LASER reporting, benchmarking, KPIs etc.

### 7.3 Equality duty and Human Rights Assessment

No impact

### 7.4 Climate Change

The proposed option would commit WSCC into an energy supply contract up to Sept 2028. This is very close to the 2030 net carbon target, and is a key contract linked to the delivery of the carbon reduction strategy. The ancillary services offered by LASER will help WSCC to achieve these aspirations, for example:

- Forming the basis for procurement of energy (including options for renewable backing, e.g., power purchase agreements)
- Carbon offsetting
- Battery storage
- Electric vehicle facilities
- Procurement of metering contracts to form basis for strong data for long-term monitoring and target setting
- LED lighting upgrade services
- Ability to sell electricity generated in different ways from the Council's solar assets (including solar farms) will provide additional value to the Council by aligning with the carbon reduction strategy (potential for future offsetting) and optimising revenue income.
- Diversity of services offered via different products on the LASER Framework will support the Council in meeting its carbon reduction targets by 2030 (e.g., procurement of green/renewable energy, and supporting energy reduction/efficiency projects).

### 7.5 Crime and Disorder

No impact

### 7.6 Public Health

No impact

### 7.7 Social Value

Procurement by LASER of the current Flex Framework carried a weighting of 2% and was part of overall "Robust Supply Chain" which included social value, quality control and health and safety. The specific questions used at tender for the 2020 - 2024 contract were:

- Tenderers should provide details of their Corporate Social Responsibility and advise how this Framework would bring additional Social Value
- Tenderers should provide details of any specific projects or facilities that could be offered to local schools as part of Corporate Social Responsibility policy or Social Value to be delivered from the contract.

The procurement of the new 2024 Flex Framework carries a weighting of 10% solely for Social Value.

- The Supplier should present a view of actions they will provide should they be made the Primary Supplier and give contact details for the person who will be responsible for monitoring and reporting on progress made in this area. No specific examples are provided so as not to limit the scope suppliers may wish to present but the offering should be measurable in terms of pounds donated, time volunteered, tonnes of carbon saved or any other relevant and measurable offering. It is noted that all proposals may be developed over the period of the Framework including the adoption of alternative schemes.
- The Supplier should advise how they approach their own social value actions. In particular provide details of:
  - 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

Steve Read

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## **Appendices**

Appendix A – Glossary of Terms

## **Background papers**

None