



Date of Meeting: 5 November 2019

Portfolio Holder: Cllr Ray Bryan  
Lead Member for Highways, Travel and Environment  
Cllr Tony Ferrari  
Lead Member for Finance, Commercial and Assets

Local Member(s): All

Lead Officer: Aidan Dunn  
Executive Director of Corporate Development (S151)

**Executive Summary:**

Dorset Council (DC) and its partner organisations, principally schools, spend over £7m a year on electricity and gas supplies. Gas and electricity market prices are highly volatile and price movements of more than 10% in a week are not unprecedented. The Pan Government Energy Project recommended that “all public sector organisations adopt aggregated, flexible and risk-managed energy procurement” such as the framework contracts provided by Professional Buying Organisations (PBOs).

Since 2009, on the advice of Procurement, the former sovereign Councils have each procured electricity and gas for themselves and partner organisations through LASER, a PBO established by Kent County Council (KCC). Following the formation of Dorset Council, these contracts have been converged into single contracts for electricity and gas. LASER provides energy procurement and contract management on behalf of its public sector members. LASER currently procures energy for over 200 public organisations including 130 local authorities, representing over £450m of energy contracts every year. It has just completed the procurement\* to appoint the energy providers for the period October 2020 to September 2024. *\*In accordance to Public Contract Regulations 2015 (PCR15).*

The Council needs to decide now whether to continue to procure its energy via LASER for the new contracts commencing in 2020. This decision is needed now because LASER forward buys energy in advance in order to secure optimum energy prices, by taking maximum advantage of market opportunity.

LASER acts like a ‘buying club’, whereby DC joins together with other authorities and the tender of prices with energy suppliers takes place based on energy supplies worth £450m (approximately 2% of the UK’s non-domestic energy demand) rather than with just the Council’s £3.2m (£7.1 including partners). The approach is compliant with procurement regulations (PCR15). LASER provides the aggregated, flexible, and risk-managed approach recommended by Government, and expertise in energy-buying for local authorities.

A small number of alternative PBOs provide a similar framework to LASER, adhering to Government guidance for public bodies. As part of this review process, other PBOs were

considered. The main alternatives to LASER, such as Crown Commercial Services (CCS), West Mercia Energy (WME), Eastern Shires Purchasing Organisations (ESPO), Yorkshire Purchasing Organisations (YPO) and North Eastern Purchasing Organisations (NEPO) have been investigated. They all provide a compliant route to procurement in line with Government Guidance.

Of these, several are smaller than LASER, buying significantly lower aggregated volumes, and therefore not going to market as frequently. They are not as well-resourced in energy buying as other PBOs. Smaller PBOs do not necessarily buy sufficient volume for the employment of independent buying advisors to be viable, and as a result tend to be supplier-led. They may also have less separation of the buying and audit functions. Furthermore, contract length varies between PBOs. LASER's next framework provides flexibility to pre-select a contract duration between 1 and 4 years. This is especially attractive to partner organisations, such as schools, thereby increasing the Council's portfolio and buying power.

Analysis of other PBOs shows a high degree of variability in customer service – with LASER scoring well. Given the large number of individual energy supply accounts that the Council manages, this is especially important. With regards pricing, forward purchasing strategies can only be assessed through benchmarking of past performance. This is covered in more detail below, but independent benchmarking undertaken has shown LASER to be an effective option.

Independent benchmarking of LASER's performance has been carried out by the Major Energy User's Council (MEUC) – an independent consumer organisation representing large energy users in the public sector, industry and commerce. Based on the MEUC's benchmark figures for the 2018/19 period, LASER delivered an outturn price 4.5% below the MEUC members average for gas and 10.4% below the MEUC members average for power. Both gas and power Purchase in Advance (PIA) baskets out turned a price significantly below the broader market average.

Comparing the past performance of PBOs is not straight forward and has shown to be unreliable or to come with such margins of error as to make difficult a meaningful comparison. This is due to the large number of variables between different tariffs/contracts and distribution areas, affecting the multiple components of pricing within a unit rate / standing charge, some of which are bundled as part of the unit rate, others of which are itemised separately. Further to this, analysis of past performance has been found to yield different results depending on the time frame chosen. The Council has taken steps to compare the historic performance of PBOs and other procurement options via independent organisations including, the Association of Public Sector Excellence in Energy (APSE Energy), the Mid West Energy Group, South West Audit Partnership and London Energy Project. These have supported the proposed action to utilise the LASER framework.

With the caveat that past performance is no guide to future performance, between 2013 and 2017, LASER estimate their prices for wholesale energy alone (amounting to an annualised figure of £3,182K and accounting for less than half of the delivered energy costs) to be 2% lower than average market prices, equating to avoided costs to DC of £59.4k per annum; and 22% below maximum market prices, equating to avoided costs to DC of £687k. Whilst actual savings on the commodity element of pricing are impossible to state, comparison with these two values provides a good indicator and it is worth noting that use of a non-risk managed procurement approach such as standard spot pricing does leave an energy user vulnerable to the highest end of market pricing if its procurement decisions are forced to be made at market peaks in the absence of forward buying. In addition to these savings in commodity, it is estimated that the LASER contracts also delivered a further £293k of savings per year to DC. Using the commodity savings figure against average market pricing, this takes total estimated annual savings to £353K.

Based on current consumption, under the new framework, LASER's procurement only management fees would be approximately £53k (less than 1%) per annum (subject to CPI increases). This will be offset by approximately 2% fees which Dorset Council levies to partner organisations to cover the costs for added value services delivered as part of the contract management (including monitoring of energy consumption for reduction purposes, price checking and validation, and query management).

LASER was originally established by Kent County Council for members of the Central Buying Consortium (CBC). Dorset Council is a member of CBC and DC Procurement represent Dorset on the management board, at a national level in terms of procurement, and as such DC has influence with LASER which they would not have with other PBOs or national frameworks.

LASER remains the preferred PBO of the CBC members and there is a consensus across all local authorities currently using LASER to remain with LASER for the 2020-2024 period. This consensus view supports our proposal, and the recommendation of DC Procurement, that there is compelling reason to stay with LASER at this point in time. Further to this, an in-depth independent review of Dorset County Council's Energy Procurement Strategy was undertaken by South West Audit Partnership in 2017, which found that current "arrangements are adequately controlled, with Internal controls... in place and operating effectively and risks against the achievement of objectives... well managed."

Within the contracts there are several different purchasing options which balance cost against risk. These include purchase in advance (PIA) and purchase within period (PWP), plus four additional options. Since this is a technical issue, the Cabinet is asked to delegate the decision as to which option to select to the Executive Director Corporate Development (S151) and Executive Director for Place.

**Equalities Impact Assessment:**

N/A

**Budget:**

Based on current market pricing, Dorset Council (including partner organisations signed up to our contracts) spends approximately £7.1 million per annum on electricity and gas, made up of the following components (see table overleaf):

	<b>Electricity Contract Approx. Annual Value</b>	<b>Gas Contract Approx. Annual Value</b>	<b>Combined Contract Approx. Annual Value</b>
Dorset Council Corporate Estate and Assets	£1,300,000	£400,000	£1,700,000
Dorset Council Street Lighting	£1,500,000	£0	£1,500,000
<b>Dorset Council subtotal</b>	<b>£2,800,000</b>	<b>£400,000</b>	<b>£3,200,000</b>
Tricuro Estate and Assets	£300,000	£150,000	£450,000
Schools and Academies	£2,600,000	£850,000	£3,450,000
Other Partner Organisations (e.g Town Councils)	£50,000	£0	£50,000

<b>Partner organisations</b>	£2,950,000	£1,000,000	£3,950,000
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<b>Total Annual Contract Value</b>	£5,750,000	£1,400,000	£7,150,000
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VAT on energy costs is reclaimable and has been excluded from the above figures. A reduced rate of VAT of 5% can be applied to certain supplies, including those serving VA Schools, Academies and other charities, as well as certain residential care facilities. With this reduction in VAT comes an exemption from the Climate Change Levy which serves to lower energy costs. This process of applying for exempt status is managed by the Council.

**Risk Assessment:**

Having considered the risks associated with this decision, the level of risk has been identified as:

**Current Risk: HIGH**

Financial / Climate - Failure to enter gas and electricity supply contracts runs the risk of facing out of contract pricing, which can attract premiums in excess of 100%. Locking into certain contracts can also penalise future energy reductions, making them uneconomical and effectively blocking significant potential future cost and carbon reduction activities. Furthermore, failure to enter supply contracts in advance, minimises the window for forward buying and with that market opportunity.

**Residual Risk: LOW**

As per findings of 2017 SWAP Audit of Dorset County Council's Energy Procurement Strategy/ Procedures

**Climate implications:**

The LASER energy supply frameworks have been drawn up to serve public sector organisations, many of whom have declared a climate emergency. As such, they have been specifically designed to provide a large degree of flexibility to the customer, within the contracted period, to allow a range of actions to be taken that will reduce its carbon emissions. Under the LASER framework a green tariff can be selected in advance of the 2020 supply period start – or at any point thereafter for subsequent supply years within the contract. There is currently much debate around the additionality and Climate Change benefits of such an approach however<sup>1</sup>, and the LASER framework also provides significant flexibility to take further decisive and ambitious action to reduce the Council's carbon emissions in line with any recommendations from the Climate Change Executive Advisory Panel (CCEAP). A closer look at the key flexibilities of the LASER framework is given below:

**Flexibility to reduce purchased energy volumes significantly:** One of the most effective means of reducing carbon emissions is to reduce grid imported energy consumption significantly (through investment in energy efficiency projects and/or self-supply from on-site renewable energy installations). Many energy supply contracts contain punitive terms ('take or pay clauses') which penalise customers for significant reductions in purchased volumes (typically in excess of 10% volume variation). Due to the flexible procurement strategies employed by LASER, their large portfolio and longer-term supply periods, it is able to absorb variances in volumes and in doing so critically provide the flexibility for the customer to reduce its purchased consumption significantly. This is considered to be a major benefit of

<sup>1</sup> <https://www.regen.co.uk/we-need-to-talk-about-green-energy-tariffs/>

the LASER contract over alternative arrangements, paving the way for decisive action on energy and carbon reduction.

**Flexibility to utilise/purchase energy directly from renewable energy installations.**

Another means of reducing an organisation’s carbon emissions is to purchase renewable energy directly from a known off-site installation (e.g. a solar farm in Dorset or anywhere else in the country). The LASER framework has been set up to facilitate such arrangements via specialist flexible mechanisms such as sleeving or Power Purchase Agreements. LASER is actively promoting collaboration between its customers to increase development and subsequent benefits from new renewable energy installations. This may range from providing land, to investing in an installation, to selling renewable energy to other customers or to simply committing to purchase renewable energy from an installation. The end result of this is additional renewable energy generation – as is urgently needed to mitigate against further climate change. Critically, energy purchased under such arrangements can be seen as additional and is therefore less likely to be challenged if reported as zero carbon.

**Flexibility to purchase a green tariff:** A third potential course of action to address the climate emergency is to purchase electricity via a “green tariff”. Under such tariffs, for every Megawatt hour (MWh) of electricity purchased for a customer, the supplier also purchases a Renewable Energy Guarantee of Origin (REGO) certificate, which is issued by Ofgem for every MWh of renewable electricity fed into the grid. As such REGOs are traded in a secondary market to the main energy commodity at a fraction of the price. In its assessment of the value of green tariffs, Ofgem stated that it has seen no evidence that green tariffs “could materially support the production of renewable energy over and above what is already in place.”<sup>2</sup> Further to this there is a lack of consistency and clarity in guidance for organisations reporting their carbon emissions. The Government’s latest guidance for its own departments specifically precludes counting energy purchased through a green tariff as zero carbon<sup>3</sup>. This would appear to limit the benefits of adopting such green tariffs. That said, under the LASER framework a customer may choose to pay a relatively small premium to adopt a green tariff. This can be selected in advance of the contracted period or prior to any given supply year within the contract, if considered appropriate by the CCEAP (e.g. as a short-term measure or following updated Government guidance).

**Other Implications:**

Proposed arrangements allow partner organisations, including Tricuro, maintained schools and academies and Town Councils to access DC’s contracts and associated pricing. A 2019 Association for Public Service Excellence (APSE) Energy study showed that larger LA volumes of energy achieved lower pricing. Partner organisations can also benefit from contract management services, price checking and validation, query management and associated services, provided by DC.

**Recommendation:**

It is recommended that the Cabinet:

1. **Approves** the delegation of authority to the Executive Director for Corporate Development (S151) and the Executive Director of Place to enter into appropriate Customer Access Agreements through the LASER framework agreement for the

<sup>2</sup> [www.ofgem.gov.uk/system/files/docs/2018/05/appendix\\_13\\_-\\_renewable\\_tariff\\_exemption.pdf](http://www.ofgem.gov.uk/system/files/docs/2018/05/appendix_13_-_renewable_tariff_exemption.pdf)

<sup>3</sup>

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/585344/greening-government-commitments-overview-reporting-requirements-2016-2020.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/585344/greening-government-commitments-overview-reporting-requirements-2016-2020.pdf)

supply of electricity, gas and ancillary services.

2. **Approves** the delegation of authority to the Executive Director for Corporate Development (S151) and the Executive Director of Place to procure and award a call off contract under a LASER framework agreement for the council's (including partners) gas and electricity supplies for a term of up to four years for the period 2020-2024.
3. **Approves** the delegation of authority to decide on the preferred in-contract purchasing option to the Executive Director for Corporate Development (S151) and the Executive Director of Place.

**Reason for Recommendation:**

Procurements over £5m are subject to individual reports (Cabinet 04-06-19 refers) and cabinet is required to approve all key decisions relating to these.

The Council and partners currently have significant spend per year in relation to supplies of electricity and gas which is subject to fluctuation due to the high volatility in electricity and gas wholesale markets. These wholesale market price movements are subject to market sentiment, socio-economic and geo-political events.

Approval of the recommendations to continue with an aggregated, risk managed and flexible purchasing arrangement for the supplies of electricity and gas will lead to cost avoidance. It will also critically provide enough flexibility for future estate transformation projects and investments aimed at reducing costs and climate impacts.

**Appendices:**

Appendix 1 – Importance of Maintaining an Effective Purchasing Window  
Appendix 2 – External Major Energy Users Council (MEUC) Benchmarking

**Background Papers:**

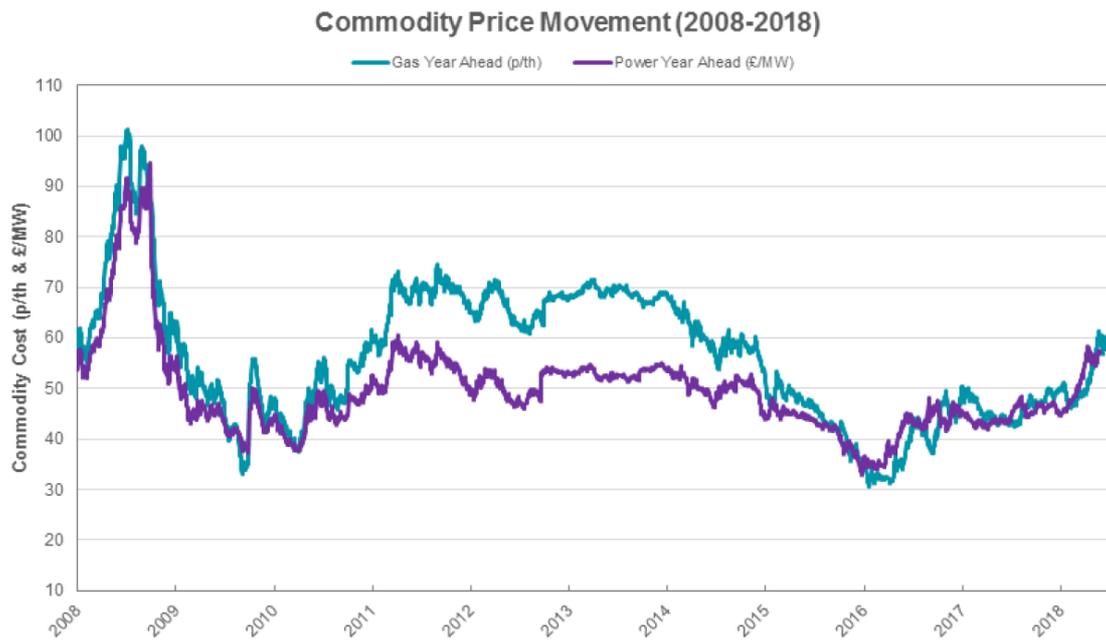
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## Appendix 1 – Importance of Maintaining an Effective Purchasing Window

The capability to forward purchase energy ahead of the supply period is a key part of any risk managed energy strategy. Having the option to secure electricity and gas volume for the period October 2020 to September 2024 well in advance of delivery is vital in protecting the Council and its partners against potential wholesale market price changes. The following graph shows how volatile historic gas and electricity market prices have been.



## Appendix 2 - External Major Energy Users Council (MEUC) Benchmarking

**2018/19**

	Gas (p/th)	Power (£/MW)
High Market Price	77.72	71.09
Low Market Price	42.39	37.75
MEUC Member's Average	52.07	50.92
LASER PIA Outturn	49.78	46.11
MEUC Market Average	56.38	54.61
% Difference	-4.40%	-9.44%

