TO: THE MONITORING OFFICER
(TOM CLARK, SOLICITOR TO THE COUNCIL)

RECORD OF ACTION TAKEN BY A CABINET MEMBER UNDER DELEGATED POWERS

ENERGY SUPPLY AGREEMENT – LASER ENERGY BUYING GROUP

MSDC currently purchases all its energy through the Laser Energy Buying Group (LEBG) having done so for a number of years. LEBG use OJEU compliant procurement frameworks and have 25 years' experience in the public sector. In summary MSDC has 55 utility supply points across its portfolio equating to a total usage of 1,767,628kWh of gas and electricity and an annual spend of around £170,000.

In March 2016, MSDC entered into a fixed-term framework agreement with LEBG expiring September 2020. The "flexible" agreement model offered through the framework enables LASER to advance purchase electricity and gas ahead of supply, thereby avoiding spikes in the market and securing the most competitive energy rates.

Under current arrangements, LEBG provide the council a fully-managed service for all sites and bill MSDC directly. This has the benefit of reducing the number of bills, bill validation, and reducing late payment fees. Overall this significantly reduces the council's administration requirement in the order of 0.5 FTE staffing requirement.

As we are now at the end of the current agreement, if we are to continue with the flexible framework LEBG require MSDC to sign up to a new fixed-term agreement to expire on 30th September 2024. The new agreement also allows us an option to terminate without penalty after two years. This will allow the council increased choice in a time of relative uncertainty.

Should we decide not to enter into this agreement, we can opt to move to a 2 year fixed price agreement from 1st September 2020, although we cannot be certain of the energy prices at that time. This would also present greater risk when MSDC would be looking to re-enter the market in 2 years' time, due to the uncertainties within the energy market.

It is therefore recommended that we continue with the current arrangements to protect against market volatility and enter into a new agreement by their deadline of **June 2020**

Cabinet Member: Judy Llewellyn-Burke– Deputy Leader of the Council	
Has the Cabinet Member received a report prior to making the decision?	**Yes**
In the case of a key decision where the Cabinet Member has received a report, please state the date a copy of the report was made available to the Chair of the relevant Scrutiny Committee and placed in the public domain:	**N/A**
Record of decision taken: Yes	

Date of decision: 24 June 2020	
Statement of reasons for making the decision: 1. LEBG are one of the largest public sector buying groups and MSDC has been satisfied with the service provided. 2. The existing agreement was established through the Joint Procurement framework and West Sussex County (WSCC) currently procure £11.1m energy for their corporate estate, schools and academies through the same agreement, along with Horsham and Crawley District Councils. It is proven to be competitive. 3. By entering into this agreement, LEBG can manage the risk associated with the volatile energy market by procuring energy supplies flexibly in advance, to take advantage of lower prices.	
Alternative options considered and rejected: 4. Other public sector energy procurement frameworks include the Crown Commissioning Service (CCS, previously known as the Government Procurement Service) and the East Shires Purchasing Organisation (ESPO). ESPO already utilises the LEBG framework, and CCS offer fewer purchasing options, placing a greater administrative burden on member organisations that could potentially increase the overall cost.	
Code of Conduct Interest of Cabinet Members? If *yes*, please advise on the nature and whether dispensation in place **No**	
Is the decision to be protected from call-in? (*i.e.* if any delay would seriously prejudice the Council's or the public's interest) - see Scrutiny Procedure Rule 14 (M)	**Yes**
If so, please state: N/A	

Signed:

Cabinet Member: Judy Llewellyn-Burke– Deputy Leader of the Council

This record must be forwarded immediately to the Monitoring Officer (TC) and copied to the relevant Cabinet Member.

For Monitoring Officer

Date of publication of Member Information Service Bulletin	

Date of decision can be implemented (on the Thursday after publication of the Member Information Service Bulletin, unless already protected from call-in)	

Summary

The contract agreement with LASER offers continuing value for money. The purchase-in-advance strategy remains the best balance of cost and risk. The fully-managed service provides assurance with respect to billing accuracy and significantly reduced demand for administration.

Economic uncertainty indicates that the council may be best served by a 12 or 18-month contract supply agreement, in order to capitalise on any further market price falls.

LASER Purchasing Framework

LASER (part of Kent County Council Commercial Services) provides a central purchasing framework, specialising in OJEU-compliant competitively tendered public sector energy purchasing. Public sector buying frameworks typically offer good transparency in terms of breakdown of energy costs and the charges they levy to cover their costs. Cost savings are passed onto the customer, not to shareholders as in the case of private sector-based buying agencies.

Buying energy within a framework consortium offers value for money through economies of scale achieved by aggregating customer's demand for energy.

The Access Agreement to buy energy with LASER is a 4-year term. LASER offers councils the ability to leave earlier should they wish to, provided all their energy supply contracts purchased within the framework have elapsed. This provides assurance and scope for the Council to move to better performing products and providers, were LASER services or products to fall in performance.

The framework offers both fixed price and variable options with varying time periods according to customer risk appetite.

Benchmarking against other providers

A price evaluation exercise was undertaken by the Major Energy Users Council (MEUC). This is an independent consumer led body for energy users in the UK. In terms of final realised price paid by the customer, MEUC indicate that LASER offers a marginally better cost-competitive product. This information is shown in later sections in this paper.

Similar to LASER, Crown Commercial Services offer identical products and buying strategies. Considering other public sector buying frameworks, presently there is no clear market differentiator in terms of buying strategy and price to warrant a move from LASER.

Additionality

Summary: LASER's "fully managed" service offers additionality to the contract. It is considered good value, reducing council administrative time and resourcing.

Compared to other providers, LASER offers a "fully managed" service at an additional cost. Mid Sussex District Council utilises this service, costing last year £7554. The service comprises of the following benefits:

1. **Billing settlement and validation**: The benefit of this is to reduce time spent by the customer on billing administration. The supplier's bill is paid by LASER, the bill is then validated by running multiple checks on the cost components and invoicing history. Once validated LASER generate their own invoice to the customer.
2. **Bill consolidation** – the benefit of this is to summarise cost and consumption for all sites onto one bill. The council pays just one bill a month for all gas and electricity supplies.
3. **Access to LASER's billing data portal.** Customers can view their bills or run various cost or consumption reports.

Contract type

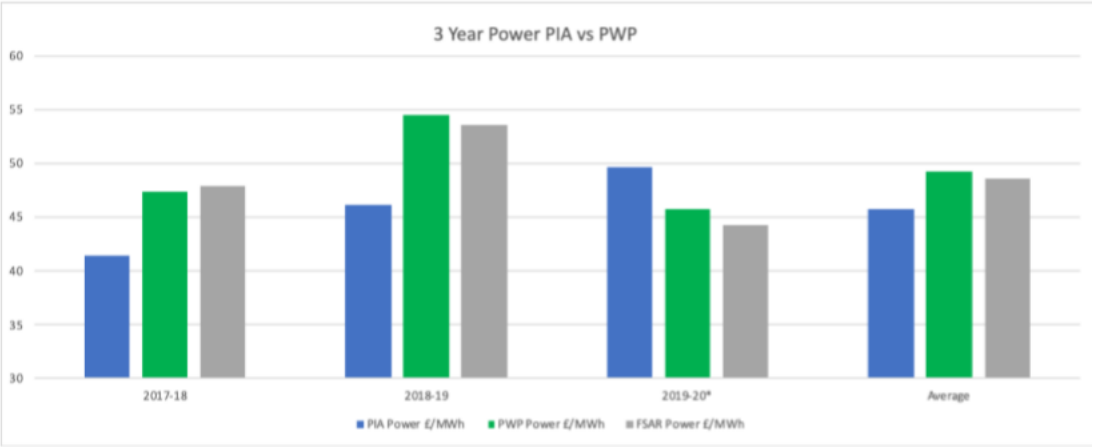
Summary: The council uses the Purchase in Advance purchase "basket". Market conditions indicate this is still the better strategy for the foreseeable future. A 12 or 18-month contract may be better than a longer contract since this allows the council flexibility to respond to cost reductions arising from future global economic decline.

Similar to other energy retailers LASER offer various types of energy purchasing or "basket" options. These reflect when and how much energy is purchased on the open market. LASER offer four basket options to customers. Ranked in order of cost risk these are: fixed price fixed term (FPFT), Purchase in advance (PIA) , purchase within period (PWP), and flexible set and reset (FSAR). Put simply FTFP and PIA buy energy in advance of the supply period, PWP and FSAR buy energy before and during the supply period.

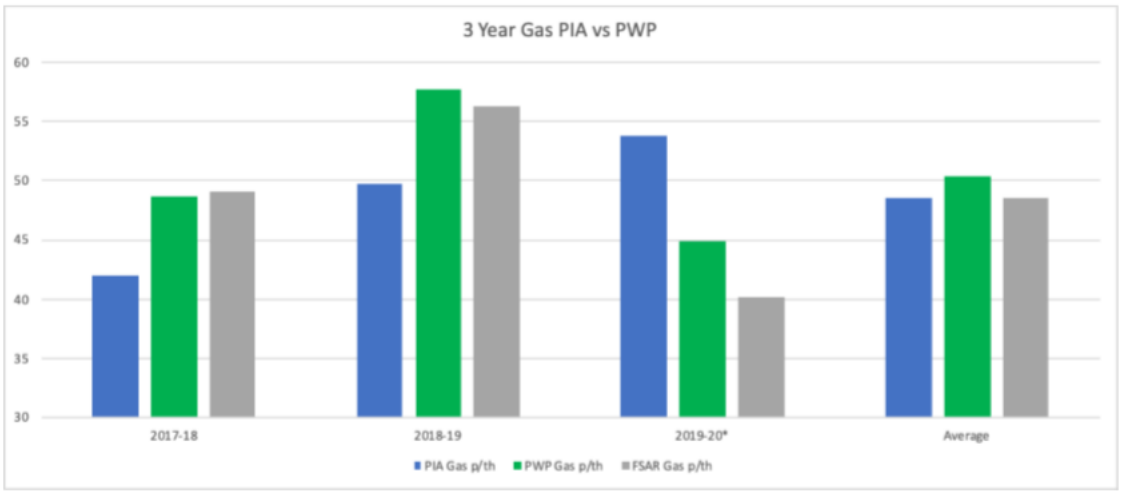
Balancing risk and cost competitiveness, the council had agreed with LASER to buy electricity and gas through the PIA basket. The PIA approach is to purchase quantities of energy within a period of up to six months prior to the start of the agreed contract supply start date. The approach reduces the council's exposure to market risk. PIA is also more flexible against market cost spikes when compared to the FTFP purchase model, since all the customer's energy requirement is bought in just one purchase on a fixed calendar date. PIA does not have the flexibility of PWP since there is no ongoing opportunity to buy in the market when there are market price drops.

The market has seen considerable volatility over the past two years, and most notably 2020. This might better favour the PWP or its related variant FSAR, if the buying strategy algorithm is sound and the customer has an adequately adventurous risk appetite. Unless energy is bought always within a period of falling market costs the general trends indicate that overall the PIA strategy works well. The graph below illustrates this. PIA is shown in the charts below in green, PIA as blue and FSAR in grey for both power (electricity) and gas.

Power



Gas



When considering buying strategies it is important to consider the main cost driver – market sentiment. Here is an excerpt from a market report from LASER, issued 15/5/20. This indicates the trend is for rising prices and that the market has responded to the fall in demand and costed-in the impact of Covid19.

"We have seen some bullish sentiment creep into the market this week, with the maintenance, rising oil prices and demand spiking in the domestic gas market. Furthermore, it looks as if the gas and power markets could be seeing the effects of a technical price floor, as we have seen mixed movements this week".

In terms of future market reaction, it is also possible that a global economic recession could develop and deepen, causing energy costs to fall or stagnate. Equally further impacts arising from Brexit, may cause the cost of Sterling to fall, thereby increasing foreign imports of gas and oil. Given this it may be prudent to limit the contract duration to 12 or 18 months to allow flexibility in the council's response.

PIA offers a further advantage by giving price certainty at the date supply starts. This reduces billing administration due to rebilling and reconciliation. The higher-risk PWP and

FSAR products do not offer this and instead involves an estimated “reference price” in billing. This then reconciled with a credit or debit at periods throughout the contract.

Energy Price Benchmarking

The tables below provide a benchmarking evaluation of LASER compared to the market standard as set by the Major Energy Users Council (MEUC). For the past two years LASER’s outturn price for both gas and electricity was lower than the MECU average ranging from 3.2% to 10.81% below other users costs. Accepting historical performance is no guarantee of future performance, the evidence suggests that LASER is still likely to deliver value for money.

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	52.10	51.46
LASER PIA Outturn	49.78	46.11
MEUC Market Average	56.45	54.59
% Difference	-4.46%	-10.39%

2019/20

	Gas (p/th)	Power (£/MW)
High Market Price	68.87	62.82
Low Market Price	44.02	41.65
MEUC Member's Average	63.00	50.25
LASER PIA Outturn	56.19	48.64
MEUC Market Average	59.41	59.57
% Difference	-10.81%	-3.20%

Other charges : Pass-through costs

Invoiced energy costs consist of two elements; the supply unit rate and “pass through” charges. Over the past two years these non-energy costs have risen by between 6-10%, irrespective of the energy cost.

Previous analysis indicates for half-hourly supplies, the energy supply cost (the “unit rate”) comprises 40% (electricity) and for 72% (gas) of the bill. The non-energy pass-through charges therefore account for the remaining 60% of the electricity invoice and 28% of the gas invoice, regardless of supplier.Pass-through charges are based on customer consumption and are non-negotiable charges levied on behalf of infrastructure agencies and government. They are regulated, set and controlled by OFGEM. The best approach to mitigating these charges is to reduce energy demand and consumption.