

OFFICER DECISION RECORD

For staff restructures, please also complete an RA1 form to update the HR Portal. This is attached at Annex 2.

Decision Ref. No:

RE17 0035

Box 1

DIRECTORATE: Regeneration and Environment

DATE: 22/3/17

Contact Name: Richard Smith

Tel. No.: ext. 62514

Subject Matter: Contract award to Robin Hood Energy as the Council's energy company white label partner.

Box 2

DECISION TAKEN:

1. To award the white label energy contract (ref DN239819) to Robin Hood Energy (RHE) Limited.

Box 3

REASON FOR THE DECISION:

Give relevant background information

A decision was taken by Cabinet in June 2016 for the Council to procure the services of a fully licenced energy company who could provide the Council with an opportunity to operate a 'white label' partnership.

The objectives of the partnership would help the Council:

- a. Provide a better energy deal for residents
- b. Make sure the energy deal is suitable for residents
- c. Help residents understand their energy usage
- d. Help residents reduce their energy usage
- e. Understand our residents are better off as a result

As per the recommendations, an open tender process was undertaken for which a single compliant bid was received. The tender and contracting negotiations have been supported by Trowers and Hamlins solicitors.

The contract was approached in such a way that allowed the Council to state a set of Minimum Requirements, which had to be accepted by bidders and for the Minimum Requirements to be enclosed in the bidders' (energy company) own contract terms and conditions. The contract was then shaped and agreed by both parties, RHE and the Council.

Box 4

OPTIONS CONSIDERED & REASONS FOR RECOMMENDED OPTION:

If other options were considered, please specify and give reasons for recommended option

Option 1

Not to award the contract –

If the contract was not awarded, the objectives of the Council would not be achieved and its tenants and residents could continue to pay more for their energy.

- Although improvements have been made following the Retail Market Reform in 2011, competition between incumbent suppliers remains weak, with market segmentation and possible tacit co-ordination.
- Pressure from customers to switch energy company remains low and so the 'big 6' energy companies may continue to charge higher than necessary prices to the most vulnerable households.

Option 2

To award the contract in line with the recommendation.

As a result, the Council can work with a company who:

- Provides excellent customer service
- Has a socially equitable offer / company ethos
- Is determined to keep prices low
- Has an excellent customer service record
- Has easily accessible products and services
- Is a forward thinking partner
- Works ahead of legislative requirements
- Will help us deliver a low cost product to 'pre-payment' customers
- Will provide open book accounting in relation to the partnership
- Will allow the Council to decide on its branding
- Will allow the Council to lead on promotions and marketing
- Will allow the Council to use all data made available via Smart Meters
- Can switch Council owned 'void' properties, with the inclusion of smart meters, to a lower cost tariff ahead of a new tenants' arrival

Box 5

LEGAL IMPLICATIONS:

Section 1 Localism Act 2011 provides the Council with the power to do anything that an individual may generally do.

Under the Gas Act 1986 and the Electricity Act 1989, an organisation supplying gas and electricity to any premises is committing an offence unless authorised to do so by a supply license.

A white label partnership is an organisation that does not hold a supply license but instead works with a licensed partner supplier to offer gas and electricity.

The Council has procured a white label partnership arrangement in accordance with

the Concessions Regulations 2016.

Trowers and Hamblins Solicitors have been appointed to provide the legal advice and assistance in relation to the procurement.

Name: Nicky Dobson Signature: By email Date: 22nd March 2017
Signature of Assistant Director of Legal and Democratic Services (or representative)

Box 6

FINANCIAL IMPLICATIONS:

As stated above the costs of the establishing the partnership for a domestic energy supply company is estimated at £35k and this will be met from existing resources.

The income generated by the scheme has been estimated at £37k in the first year, rising to £75k in the second year. This would be additional income to the Council and would be used towards outstanding savings targets within the Energy team (currently around £77k).

Name: Matthew Smith Signature: Date: 22 March 2017
Signature of Assistant Director of Finance & Performance
(or representative)

Box 7

HUMAN RESOURCE IMPLICATIONS:

There are no HR related IMPS for this ODR proposal.

Name: Julie Carter

Signature: Date: 22nd March 2017
Signature of Assistant Director of Human Resources and Communications (or representative)

Box 8

PROCUREMENT IMPLICATIONS:

Procurement are satisfied that a compliant procurement process was followed and therefore have no issues with proceeding with the award of the contract from a procurement perspective

Name: Daniel Charlesworth Signature: Date: 22nd March 2017
Signature of Assistant Director of Finance & Performance
(or representative)

Box 9

ICT IMPLICATIONS:

- It is understood that as part of the contract, Robin Hood Energy will provide an online enrolment portal, a quote portal, a payment portal, and a customer online account management portal including Tariff search functionality. The functionality already exists via their existing website (<https://robinhoodenergy.co.uk/>), but the branding and content will be adapted to reflect the white label contact arrangements with DMBC. A link to the external website will be provided via the main Doncaster Council Website.
- Further consultation should take place with ICT to ensure any necessary compliance with the Council's ICT security policies and any legislation the organisation must adhere to in respect of public services network, security and data protection. The proposed portal and associated payment proposals must be presented to and approved by the Council's ICT Governance Board prior to any commencement of implementation, where applicable.

Name: Peter Ward (ICT Strategy Programme Manager)

Signature: P. Ward

Date: 22/03/17

**Signature of Assistant Director of Customers, Digital & ICT
(or representative)**

Box 10

ASSET IMPLICATIONS:

There are no immediate implications arising from the recommendations of this report that impact on the use of DMBC assets.

Looking to the future, management of the Council's investment portfolio might benefit directly from the award of this contract as RHE Limited have the ability to switch Council owned 'void' properties, with the inclusion of smart meters, to a lower cost tariff ahead of a new tenants' arrival. This in turn will promote energy efficiency and reduced operational costs.

Name: Gillian Fairbrother (Assets Manager, Project Co-ordinator)

Signature: By email

Date: 22nd March, 2017

**Signature of Assistant Director of Trading and Assets
(or representative)**

Box 11

RISK IMPLICATIONS:

- The development of this proposal would only cost the Council in 'staff time' for the consultation, business case development and procurement.
- Ongoing costs to the Council would be linked to marketing and promotions only. Risk to finance would be low, depending on how much promotional activity the Council might consider in addition to the proposed 3,000 hours of customer facing activity. The majority of expenditure, including all development costs to launch the partnership could be borne by the partner energy company.

- In respect of the revenue the Council could receive as part of the tariff charging structure, legislative powers exist that allow the Council to embark upon this venture. Charging for services is only permitted on a pure cost recovery basis, i.e. a surplus that equates to 'profit' can't be generated without the formation of a trading company. However, there is the possibility that the partnership may start to generate profit for the Council if the customer base exceeds a certain threshold. As such, the charging structure will be regularly reviewed so that the Council could respond accordingly if this situation transpires. In the medium to long-term such a position may demonstrate a requirement to move the Council's 'energy supply offer' into a company structure with a proper tax regime.
- Following on from the above, as a continuation of provisions under the General Power of Competence (GPC) – which flows down from the 'Localism Act 2011' – and in line with section 95 of the 'The Local Government Act 2003', the Council can trade for commercial purposes providing there is no statutory duty to provide the services already. Therefore, if the 'energy company' grows much faster than we envisage and starts to bring in higher revenues, we may have to change the arrangement with the partner to a suitable delivery vehicle, i.e. a 'tangible', registered company. The overriding rationale behind this requirement is that it ensures there is a level playing field between Local Authorities and the private sector, by preventing Councils benefiting from their otherwise advantageous tax position. The arrangement must therefore be sufficiently flexible and future proof to enable it to adapt to a changing landscape.
- The highest risk for the Council would be reputational. That being consumer complaints about billing and the Council may receive the criticism for any price increases set by the partner energy company. Although this can be mitigated to an extent with agreed KPI's; customer service and customer retention performance would have to be regularly monitored. It is the Council's intention to select an 'ethical' energy company partner who, would be subjected to the same tax and wholesale increases as others, but is likely to impose lower annual increases than other energy companies.

To be completed by the report author

(Explain the impact of not taking this decision and in the case of capital schemes, any risks associated with the delivery of the project)

Box 12

EQUALITY IMPLICATIONS:

To be completed by the report author

There are no implications associated with taking this decision.

Name: Richard Smith Signature:

Date: 22/3/17

(Report author)

**Box 13
CONSULTATION**

Officers

(In addition to Finance, Legal and Human Resource implications and Procurement implications where necessary, please list below any other teams consulted on this decision, together with their comments)

Adrian Pickersgill – Head of Commercial Services
Dave Wilkinson – Assistant Director of Traded Services and Assets
Steph Cunningham – Head of Communications
Charlotte Coupe – Communications Manager
Chris Stephenson – Mayors Political Advisor
Peter Dale – Director of Regeneration & Environment
Steve Mawson - Chief Financial Officer & Assistant Director - Finance

Members

Under the Scheme of delegation, officers are responsible for day to day operational matters as well as implementing decisions that have been taken by Council, Cabinet, Committee or individual Cabinet members. Further consultation with Members is not ordinarily required. However, where an ODR relates to a matter which has significant policy, service or operational implications or is known to be politically sensitive, the officer shall first consult with the appropriate Cabinet Member before exercising the delegated powers. In appropriate cases, officers will also need to consult with the Chair of Council, Committee Chairs or the Chair of an Overview and Scrutiny Panel as required. Officers shall also ensure that local Members are kept informed of matters affecting their Wards.

Please list any comments from Members below:

Mayor Ros Jones
Cllr Joe Blackham
Cllr Tony Corden
Cllr Jane Nightingale

**Box 14
INFORMATION NOT FOR PUBLICATION:**

It is in the Public's interest to be aware of this decision record under the Freedom of Information Act 2000, therefore this decision will be published In full, redacting only signatures.

**PP Name: Adrian Pickersgill Signature: A Pickersgill Date: 23 March 2017
Signature of FOI Lead Officer for service area where ODR originates**

Box 15

**Signed: Dave Wilkinson
Director/Assistant Director**

Date: 23 March 2017

**Signed: S Wiles
Additional Signature of Chief Financial Officer or nominated
representative for Capital decisions (if required)**

Date: 22 March 2017

**Signed: J Blackham
Signature of Mayor or relevant Cabinet Member consulted on the above
decision (if required).**

Date: 22 March 2017

- **This decision can be implemented immediately unless it relates to a Capital Scheme that requires the approval of Cabinet. All Cabinet decisions are subject to call in.**
- **A record of this decision should be kept by the relevant Director's PA for accountability and published on the Council's website.**
- **A copy of this decision should be sent to the originating Directorate's FOI Lead Officer to consider 'information not for publication' prior to being published on the Council's website.**
- **A PDF copy of the signed decision record should be e-mailed to the LA Democratic Services mailbox**