



Doncaster Council

Report

Date: 9th January 2017

To the Chair and Members of the Cabinet

Doncaster Council Energy Supply Offer – Non-Domestic

Relevant Cabinet Member(s)	Wards Affected	Key Decision
Mayor Ros Jones Cllr Joe Blackham	All	Yes

EXECUTIVE SUMMARY

1. Since 2010, Ofgem has been developing a major package of regulation to make the energy market simpler, clearer and fairer for consumers, including non-domestic (business) consumers.
2. Ofgem's Retail Market Review (RMR) identified the need to support businesses in a number of areas, including:
 - a. raising awareness of contract terms
 - b. improving the experience of switching energy supplier, and
 - c. improving trust and confidence in suppliers and Third Party Intermediaries (TPI's) such as energy brokers
3. Although Ofgem have since made changes to the standard licence conditions to further support small businesses, there is a clear opportunity for the Council to help Doncaster businesses secure a better energy deal and benefit from the added value that could improve the efficiency of their operations.
4. By making available a local energy supply offer for businesses, intervention from the Council could help with preparation for imposing carbon taxes, facilitate asset investment in energy efficiency and reduce the cost of operations for those delivering services to the general public.

EXEMPT REPORT

5. n/a

RECOMMENDATIONS

6. Recommendations for the Mayor and Cabinet to approve are;
 - a. To allow the Council to undertake an open 'OJEU compliant' tender process to recruit a suitable 'non-domestic' energy supply company partner.
 - b. To delegate the award of the contract to the successful tenderer and establish a 'white label' partnership agreement for a 'non-domestic' energy supply to the Director of Regeneration and Environment or their duly authorised representative, in consultation with the Portfolio holder for Customer, Corporate and Trading Services and the Director of Finance and Corporate Services or their duly authorised representative
 - c. To agree the strategic objectives of the new white label partnership for non-domestic customers (see paragraph 31).

WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER?

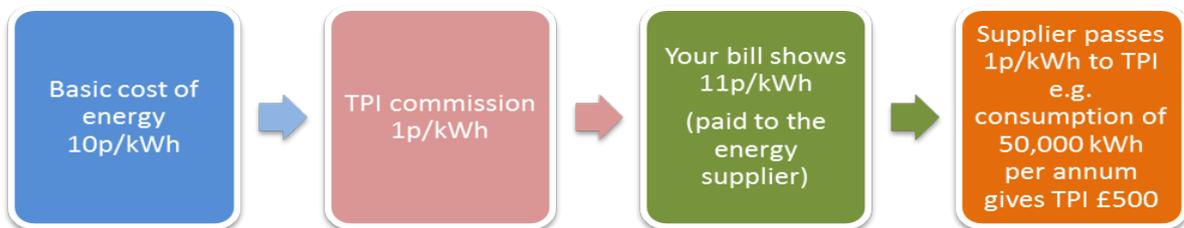
7. Provision of lower cost energy, made available to all businesses in Doncaster, but specifically targeted at those defined as small / micro-businesses (as defined in paragraph 23).
8. Financial support, through asset investment, to help businesses reduce operational costs.
9. Businesses are supported and inward investment in Doncaster continues to increase.

BACKGROUND

10. Ofgem's duty is to protect the interests of all consumers, including businesses. Business customers should be able to get the best energy deal without unnecessary difficulties.
11. The non-domestic energy market has different characteristics to the domestic market. There are many more suppliers, most contracts are for fixed terms, and more customers access the market through TPI's.
12. A fundamental part of the UK energy market is the ability of a customer to switch supplier when they find a better deal. Ofgem have taken a detailed look into what is happening in the non-domestic market and have started to address certain conditions that could be causing significant consumer harm.
13. One of those conditions was to enforce TPI's to comply with consumer protection laws. For example, a TPI is prohibited by the Business Protection from Misleading Marketing Regulations (BPMMRs) from carrying out misleading advertising activities and should therefore always identify itself and be clear about the purpose of its call. It is understood, with research undertaken by Element Energy for Ofgem, that almost two thirds of all non-domestic consumers reported that a TPI contacted them over a 12 month period, with an average of 12 broker contacts during that period. With this level of intensive selling technique there is no wonder that around 60 – 70% of an energy companies customers are acquired through TPI's.

14. TPI's are expected to follow an agreed Code of Practice and there are some TPI's that enable businesses to get a good deal. However, the difference between a facilitated energy deal by a TPI and one by the Council is that the Council would deliver the energy deal with a lower level of commission. An example of how a TPI generates their commission is shown in Figure 1.

15. Figure 1.



16. The Council has seen examples of how energy market changes have benefitted both consumers and TPI's, but has heavily favoured the TPI. An example of this is shown below.

17. Figure 2.



18. A partnership between the Council and a 'preferred' energy company via a 'white label' arrangement could allow more Doncaster businesses to access an energy deal (providing gas and electricity) without incurring excessive commission / fees.
19. Pertinently, a white label provider (the Council) works in partnership with a licensed supplier (an energy company) to offer gas and electricity to consumers using its own brand. The white label does not have a supply licence of its own.
20. The concept has recently been introduced to the Council through the creation of Great North Energy; a white label partnership between Doncaster Council and Robin Hood Energy (supplier), a not-for-profit energy supplier wholly owned by Nottingham City Council.
21. Great North Energy is a brand owned and controlled by the Council and currently enables domestic customers to buy low cost energy. It is proposed that Great North Energy will be extended to include business energy tariffs.
22. There are over 8,000 businesses registered in Doncaster of which 97% are defined as either Micro-businesses or small businesses.

23. From an energy consumption perspective, a micro-business is defined as;
- Being an employer of fewer than ten employees (or their full time equivalent)
 - has an annual turnover or balance sheet no greater than €2 million
 - uses no more than 100,000 kWh of electricity per year, or
 - uses no more than 293,000 kWh of gas per year.
24. A micro-business is the type of business most sold to by TPI's and therefore the type of business the Council could provide the most support to.
25. For those micro-businesses using 100,000kWh of electricity, they might be paying £0.005p per kWh to a TPI, which is worth £500. If the same business used 293,000kWh of gas and paid a TPI £0.005p per kWh, which is worth £1,465; the business could get a similar energy deal from the Council, albeit with less commission being paid and therefore greater savings for the business.
26. It is important to note the difference between non-domestic (business) energy and domestic (household) energy due to the Council having recently set up Great North Energy for a domestic energy supply offer. Those differences being:
- Non-domestic energy is charged 20% VAT, whereas domestic energy is charged 5%.
 - Non-domestic supplies are subjected to a Climate Change Levy (CCL) tax.
 - Non-domestic energy contracts can run from 1 – 4 years, whereas domestic contracts are typically 1 year, with a maximum of 2.
 - Non-domestic energy consumption is monitored differently and has an energy meter profile relevant to its level of consumption.
27. CCL came into effect in April 2001 and has risen steadily over the past 15 years. From 2019 the tax will increase by 45% and 67% for electricity and gas respectively. The rates are shown in the table below:

28. Table 1.

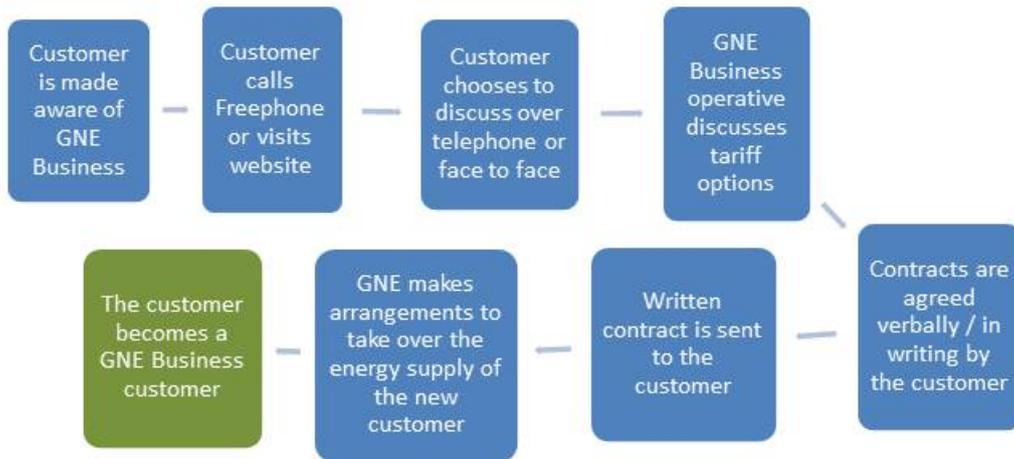
Year	Electricity	Gas
01 April 2001	0.430p/kWh	0.150p/kWh
01 April 2007	0.441p/kWh	0.154p/kWh
01 April 2008	0.456 p/kWh	0.159 p/kWh
01 April 2009	0.470 p/kWh	0.164 p/kWh
01 April 2011	0.485 p/kWh	0.169 p/kWh
01 April 2012	0.509 p/kWh	0.177 p/kWh
01 April 2013	0.524 p/kWh	0.182 p/kWh
01 April 2014	0.541 p/kWh	0.188 p/kWh
01 April 2015	0.554 p/kWh	0.193 p/kWh
01 April 2016	0.559 p/kWh	0.195 p/kWh
01 April 2017	0.568 p/kWh	0.198 p/kWh
01 April 2018	0.583 p/kWh	0.203 p/kWh
01 April 2019	0.847 p/kWh	0.339 p/kWh

29. This is an increase that will take a micro-business paying £1,130 CCL in

2016 to £1,840 in 2019 as a result of consuming 100,000kWh's of electricity and 293,000kWh's of gas.

30. One of the objectives of the Council would be to help businesses prepare for increases to CCL.
31. The strategic objectives of this project would include the following and contribute to the Council's Corporate Plan 2017-18, Doncaster Working:
 - a. Providing a better energy deal for Doncaster businesses
 - i. Making sure the energy deal and associated meter is suitable for the business consumption levels
 - ii. Helping businesses source asset finance for energy efficiency improvements
 - iii. Helping business reduce their energy consumption
 - b. Helping business understand and prepare for the impacts of forthcoming energy related legislation
32. The reasons for the Council entering the energy market is not just built on the idea to disrupt the work of TPI's; there is a strong case to help businesses achieve added value from their energy suppliers.
33. The objectives to help businesses fund energy efficiency improvements and reduce energy consumption can help provide a more sustainable business model and even improve operational efficiency leading to lower prices or greater profits.
34. Such improvements need to be considered sooner than later; with government agreed increases for CCL and the price of energy set to rise, a proactive approach to reducing consumption will help businesses realise a gradual increase they can adapt to, rather than experiencing a sudden increase which affects their business.
35. With options for asset financing and energy saving advice / support being provided by the partner energy company, the Council's role would be that of a facilitator. These services would be available as a result of a business agreeing a Council energy supply offer, but the partner energy company would be responsible for the delivery.
36. The practical role of the Council would be to undertake the marketing and selling of the energy supply offer. Consideration would need to be given to selling regulations ie. 'Before' and 'After' an order is placed.
37. The methods for marketing an offer to businesses would include 'face to face', 'telephone' and 'electronic' communications.
38. An example of the sales process in Figure 3:

Figure 3 –



39. With most of the sales agreements likely to be dealt with over the phone, for which a verbal contract is a binding contract, the telephone calls have to be recorded. It is not proposed the Council will undertake sales via telephone due the compliance requirements (calls having to be recorded) and so will concentrate on face to face sales and directing telephone sales to the partner energy supply company.
40. The responsibility and costs associated with customer services, billing and general correspondence would be borne by the partner energy.
41. With the Great North Energy brand already being established, albeit with a domestic focus, there will need to be some minor changes made to accommodate the non-domestic offer and messages. These changes will be to the website and marketing materials. The changes would be quite subtle, for example swapping some of the residential properties with business properties on our branded 'street scene' and accommodating a 'quotation' portal for non-domestic customers on the website. The same marketing / sales force would be used across domestic and non-domestic sales.
42. The production of tender documentation for the original white label contract was produced with support from an external solicitors. This documentation will require minor changes to make it fit for purpose for the recruitment and selection of a business energy partner which will be supported by the Council's legal team.
43. In addition to officer time, the only external costs are expected to be for design costs of £2,000, the production of flyers and sales brochures of £2,000 and a further £2,000 for digital advertising via social media, of which the production of flyers / sales brochures and digital advertising will be the only *ongoing* (annual) external costs. .
44. With a shared income approach being made available by potential white label energy supply companies, the development and delivery of this project can be self-financing. An average of £150 is expected to be paid by the partner energy supply company to Great North Energy Business for every customer it acquires. Fees would be paid annually for every year the

business remains a Great North Energy customer.

45. It is anticipated that 250 businesses could sign up to Great North Energy Business in year 1, giving the Council c. £37,000 and therefore returning its investment for year 1. By the end of year 2, it is anticipated Great North Energy Business could have 500 customers, giving the Council c. £75,000.
46. The focus of this offer will be to benefit Doncaster businesses; however, as with the domestic offer via Great North Energy, there is great scope to extend the reach of this service to provide a competitive offering in surrounding areas and beyond. The extension of Great North Energy outside of Doncaster would be aligned with the Council's commercial objectives could provide greater opportunity for generating more revenue.
47. It is therefore proposed that Great North Energy Business will define its reach outside of Doncaster; for example, the north of England and into the Scottish borders, and that other 'northern' Council's will be named in the tender documentation, giving them opportunity to support, promote and share the benefits of Great North Energy.
48. A trial is likely to be proposed, which allows both the Council and the energy supply company to review the performance of the scheme in terms of customers acquired and any agreed KPI's.
49. The trial period will be year 1 of a 5 year contract that can also be ended before the start of year 2 or with an agreed period of notice by either party after the start of year 2.
50. The procurement process for such a partnership would be an open 'OJEU compliant' tender process that would be evaluated against quality and price using criteria such as, including the energy company evidencing, 'a history of competitive pricing', 'the ability to support its customers with finance for asset investment', 'excellent customer service record' and 'open book pricing'. The tender documentation will define the geographical reach of Great North Energy Business and enable other 'northern' Council's to work with us to realise the benefits in their own areas. The costs incurred for procurement, legal and financial advice will be accommodated within existing Energy Team budgets.

OPTIONS CONSIDERED

51. Options include:
 - a. Do nothing –
 - i. The energy market has made small improvements over the past few years with clearer pricing, contract terms and increased consumer protection, but small businesses will continue to pay more for their energy than is necessary due to the use of TPI's.
 - ii. Business energy users will continue to miss out on the added value energy some energy companies can provide, such as energy efficiency advice / audits and asset investment to support reductions in energy consumption.

- b. Enter into the non-domestic energy market through a white label partnership with a licenced energy supply company –

REASONS FOR RECOMMENDED OPTION

52. The recommended option is to partner with a suitable energy supply company to achieve the following:
- a. Provide a better energy deal to micro / small businesses in Doncaster
 - i. Make sure the deal is right for the business' needs
 - ii. Increase profits / reduce operational costs for the business
 - b. Provide energy saving advice / energy audits to help reduce energy consumption
 - c. Help businesses to finance building / technology based energy efficiency improvements
 - d. Help prepare businesses for the increase in carbon taxes in 2019

IMPACT ON THE COUNCIL'S KEY OUTCOMES

	Outcomes	Implications
	<ul style="list-style-type: none"> • All people in Doncaster benefit from a thriving and resilient economy. • <i>Mayoral Priority: Creating Jobs and Housing</i> • <i>Mayoral Priority: Be a strong voice for our veterans</i> • <i>Mayoral Priority: Protecting Doncaster's vital services</i> 	<ul style="list-style-type: none"> • Potentially generating a long term revenue stream for the Council.
	<ul style="list-style-type: none"> • People live safe, healthy, active and independent lives. • <i>Mayoral Priority: Safeguarding our Communities</i> • <i>Mayoral Priority: Bringing down the cost of living</i> 	
	<ul style="list-style-type: none"> • People in Doncaster benefit from a high quality built and natural environment. • <i>Mayoral Priority: Creating Jobs and Housing</i> 	

	<ul style="list-style-type: none"> • <i>Mayoral Priority: Safeguarding our Communities</i> • <i>Mayoral Priority: Bringing down the cost of living</i> 	
	<ul style="list-style-type: none"> • All families thrive. • <i>Mayoral Priority: Protecting Doncaster's vital services</i> 	
	<ul style="list-style-type: none"> • Council services are modern and value for money. 	<ul style="list-style-type: none"> • Providing a service that is self-financing and supports Doncaster's businesses.
	<ul style="list-style-type: none"> • Working with our partners we will provide strong leadership and governance. 	<ul style="list-style-type: none"> • Working with independent energy suppliers to help disrupt the energy market and protect businesses from inflated energy prices.

RISKS AND ASSUMPTIONS

The following risks and assumptions have been made:

53. The development of this proposal would only cost the Council in 'staff time' for the consultation, business case development and procurement.
54. 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 customer facing activity. The majority of expenditure, including all development costs to launch the partnership could be borne by the partner energy company.
55. 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.
56. 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.

57. 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.
58. Other white label arrangements being made by Local Authorities have a minimum of 3 – 5 year contract. There are of course break clauses included in these contracts should one or both partners want to end the project. It is anticipated the Council would make similar arrangements.

LEGAL IMPLICATIONS

59. Section 1 Localism Act 2011 provides the Council with the power to do anything that an individual may generally do.
60. Section 95 of the Local Government Act 2003 provides the Council with the power to trade for commercial purposes providing there is no statutory duty to provide the services already. In the event that the arrangement starts to generate a profit for the Council, a trading company must be formed.
61. 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.
62. 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 using its own brand.
63. The Council previously went out to tender for a white label partnership for domestic supply only. Therefore to create a white label partnership for non-domestic supply an additional procurement exercise has to be conducted.
64. The Council will enter into a white label partnership arrangement with a provider following an EU compliant tender in accordance with the Public Concession Regulations 2016. The partner supplier will be responsible for the supply of gas and electricity to the customers of the white label partnership and the partner provider will be obligated to comply with the supply license conditions.
65. The white label partnership must comply with Ofgem's Retail Market Review Rules and Standards of Conduct for suppliers in respect of business

consumers.

66. Legal advice and assistance will be required as the project progresses particularly in relation to aspects of the procurement, contractual documents and company law.

FINANCIAL IMPLICATIONS

67. As stated above the costs of marketing the service are £6k in the first year and £4k per annum thereafter. Assuming 250 businesses are attracted then income of around £37k per annum will be generated which is sufficient to cover the marketing costs and contribute to the Council's Commercialisation savings target (£100k in 2017/18 with further targets proposed for future years).

HUMAN RESOURCES IMPLICATIONS

68. No implications.

TECHNOLOGY IMPLICATIONS

69. No implications.

EQUALITY IMPLICATIONS

70. The energy supply offer will be made available to all businesses in Doncaster and the wider area (to be defined).
71. There are no equality implications associated with this proposal.

CONSULTATION

72. The following officers, members and external parties have been consulted regarding the energy supply offer proposals:

73. Officers:

- a. Director Regeneration & Environment – Peter Dale
- b. Head of Commercial Services – Adrian Pickersgill
- c. Chief Financial Officer & Assistant Director of Finance – Steve Mawson
- d. Assistant Director of Assets and Trading Services – Dave Wilkinson
- e. Senior Category Manager – Regeneration & Environment – Scott Duffield
- f. Mayors Political Assistant – Chris Stephenson

74. Members:

- a. Mayor – Ros Jones
- b. Cllr Joe Blackham – Portfolio Holder: Highways, Street Scene and Trading Services
 - i. The Mayor and member are both supportive of this proposal.

75. Partners:

- a. Chief Executive of Doncaster Chamber – Daniel Fell
 - i. Initial supportive comments with a view to the Council and the Chamber discussing how the offer can be developed and supported by the Chamber.

BACKGROUND PAPERS

76. n/a

REPORT AUTHOR & CONTRIBUTORS

Richard J Smith
Energy Manager
01302 862514
Richardjames.smith@doncaster.gov.uk

Peter Dale
Director Regeneration & Environment

Jo Miller
Chief Executive