

## BARNSELY METROPOLITAN BOROUGH COUNCIL

**REPORT OF:** EXECUTIVE DIRECTOR GROWTHY & SUSTAINABILITY

**TITLE:** Approval to Procure Utilities Contract (Water & Wastewater and Associated Services)

<b>REPORT TO:</b>	<b>CABINET</b>
<b>Date of Meeting</b>	<b>26/07/2023</b>
<b>Cabinet Member Portfolio</b>	<b>Regeneration and Culture</b>
<b>Key Decision</b>	<b>No</b>
<b>Public or Private</b>	<b>Public</b>

### **Purpose of report**

The Council has an ongoing and inevitable requirement for the supply of water and wastewater. Expenditure for the total portfolio (which includes BMBC, Berneslai Homes and direct billed schools) is in the region of £700,000 (ex VAT) each financial year. BMBC is accountable for approx. 70% of this total with BH and direct billed schools accounting for the remaining 30% as they procure through our contact but are responsible for their own budgets. This report seeks Cabinet approval to procure a utility contract through the use of a Public Buying Organisation (PBO), Crown Commercial Services (CCS) framework agreement for the provision of water and wastewater and associated services.

### **Council Plan priority**

Enabling Barnsley

### **Recommendations**

- 1. That Cabinet approve the intention to procure the Council's water and wastewater and associated services using the Crown Commercial Services (CCS) framework agreement.**

## **1. INTRODUCTION**

- 1.1** The Council has an ongoing and inevitable requirement for the supply of water and wastewater. Expenditure for the total portfolio (including Berneslai Homes and direct billed schools) is in the region of £700,000 (ex VAT) each financial year, with BMBC being accountable for approx. 70% of this total.

- 1.2 The size of the expenditure means that the Council must demonstrate an OJEU compliant competition process when identifying a supplier and awarding a contract to comply with the Public Contract Regulations.
- 1.3 The Council also procures water and wastewater and associated services on behalf of Berneslai Homes, local authority-maintained schools, some academies, voluntary aided schools and other third parties. Together they make up the remaining 30% of the total portfolio.
- 1.4 The Council has also switched to the CCS framework agreement to contract its electricity supplies from April 2023 to help minimise the value of what is inevitable expenditure and support more accurate forecasting.

## **2. PROPOSAL**

- 2.1 CCS provides a compliant route to market for the provision of water and wastewater and associated services through their framework agreements.
- 2.2 Using the CCS route to market the Council is able to combine our requirements with those of other member organisations so that we go to market with a larger overall contract value and are able to use our combined value commitment to leverage best value. According to CCS, on average customers achieved a 4% reduction against the average retail margin using the existing framework.
- 2.3 CCS conduct a competition on behalf of all organisations signed up to participate to identify a preferred supplier.
- 2.4 The CCS tender process also evaluates the quality of the supplier's tender submission, and they can provide expertise in this evaluation process.
- 2.5 The quality of the service we receive from suppliers is especially important. An excellent quality provider allows us to manage our energy and water contracts more efficiently.
- 2.6 The Framework Agreement then offers a standard form of contract for the Council to execute with the appointed provider to ensure robust terms and conditions linked to industry standards and requirements.
- 2.7 The use of the CCS framework agreement, as well as ensuring compliance, provides assurance of value for money in the following ways:
  - Economy of Scale: going to market for a larger volume gives us access to the lowest possible rates.
  - Competition: CCS conduct a tender process on our behalf.

- Accurate Management Information: consumption and billing data are supplied to your request, including self-service online.

2.8 There is no charge to the Council for the use of the Framework Agreements.

### **3. IMPLICATIONS OF THE DECISION**

#### **3.1 Financial and Risk**

Consultations have taken place with representatives of the Service Director – Finance (S151 Officer.)

Expenditure for the Council in relation to water, wastewater and associated services is substantial and therefore costs are managed through a formal multi-year contract which allows continued visibility to assist with accurate forecasting in this area of inevitable spend.

If the Council remain with the current water provider, Business Stream, this will result in the move to default rates as the current framework expired on 31st March 2023. This will see the Council incurring an additional predicted spend of approx. £44,000 for financial year 2023/24 or circa 6% increase.

It is likely that the process, if approved, will be completed by the end of September 2023 so there is only likely to be an additional charge of c£22,000 in year across the contract with the revised framework then hopefully providing a reduced fixed figure over the length of the revised agreement. Any additional costs for 23/24 are expected to be contained within existing agreed allocated resources.

Efficient procurement of water, wastewater and associated services is just part of the solution. With contracts in place the Council also need to carefully manage the usage of water in our buildings and operations to ensure any expenditure is necessary and unavoidable.

There is a risk that not implementing a new water contract could result in the Council operating without the protection of a formal agreement with a supplier and being subject to out of contract rates which are typically much higher than contract rates.

There is a risk that continuing to purchase our utilities via existing contracts which have not been re-procured via competition could introduce a risk of challenge from other suppliers in the market.

There is a risk that continuation with our existing suppliers without competition could result in uncontrolled price changes being enforced on the Council which could result in increased costs and uncertainty and inability to forecast.

#### **3.2 Legal**

Compliance with Public Contract Regulations (PCR) 2015 is required for the

purposes of procuring the provision of water supply by the Council and the Council is compliant with the law in using a CCS established procuring solution. The terms and conditions of the applicable contract and schedules have been checked by the legal team, and the council is able to proceed.

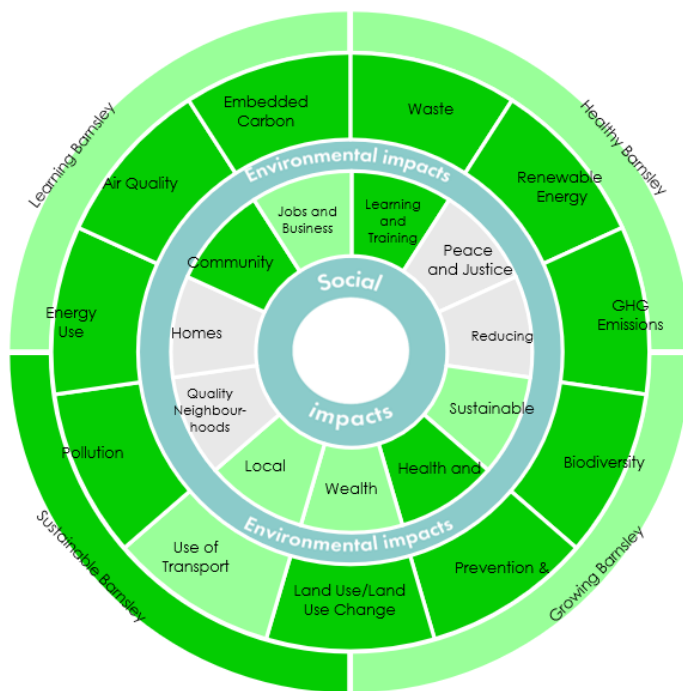
The securing of water supply is essential for the Council and the other named beneficiaries and the Council relies on the general power of competence under s1(1) Localism Act 2011 and, the Council's duty to secure best value under s3(1) Local Government Act 1999.

There are no other legal implications of this report.

### 3.3 Equality

Equality Impact Assessment Pre-screening completed determining full EIA not required

### 3.4 Sustainability



The Council will not know details of the water provider until the tender has been completed as this is being procured via CCSs framework. However, CCS is enabling greener supply chain by supporting suppliers to meet new government regulations and publish their carbon reduction plans in line with Cabinet office guidance (Procurement Policy Note (PPN) 06/21 – Taking account of Carbon Reduction Plans in the procurement of major government contracts.

There is a mandatory requirement for all water utility companies to provide climate adaptation plans and a legal reporting requirement to report on Environmental, Social and Governance standards on an annual basis and these requirements are over and above what is required of the Council. The

following text applies to all water framework providers:

Greenhouse gas emissions - All UK water companies have made a joint commitment to reach carbon net zero by 2030 and this supports the Councils zero 40 and zero 45 objectives.

Waste generation and pollution control - nothing is wasted from the water treatment process including the by-products. The contract will have a high positive impact on waste generation and all companies follow the mantra of reduce, reuse and recycle – some companies are capturing waste to convert it to renewable energy and others processing grit to convert to materials such as concrete blocks whilst others are recycling sewage into electricity, fertilizer and clean water.

Renewable energy – All water companies are investing in renewable energy; examples of some of the measures deployed include replacing grid gas with biomethane, deploying 120 MW of solar by 2030, electricity to come from on-site renewables through to the creation of energy from sewage, solar, crops, water, wind and food waste.

Biodiversity Strategies and action plans are in place to improve air quality and utilise natural solutions for carbon sequestration – all invest in activities such as tree planting, peatland restoration and river enhancements and all have created strategic partnerships to deliver biodiversity improvement across regions.

Transport – A low positive impact will had on the use of transport; water companies have committed to ensuring that all of their vans and cars are electric and for tankers and large vehicles to be zero emissions.

In terms of socioeconomics water companies actively invest in education and skills of their workforce and support customers to reduce, reuse and recycle water – many provide free items to customers to help them do this. Information can be used to promote the preservation of water through the 2040 and 2045 programmes of work and through our contracts with tenants and other third parties such as schools and health and social care alliances etc. to influence positive behaviour changes and preserve and protect our precious resources.

Companies have all made a commitment to ensure that safe, clean water is always available thus having a positive impact on access to sustainable food, health and wellbeing. The framework provider will ensure as far as possible by law that local businesses, particularly small medium enterprises can benefit. Anyone that is employed from the borough will be guaranteed fair, ethical and human rights and employment standard conditions are met. Opportunities for volunteering through nature-based recovery schemes and apprenticeships will be made available.

Future plans need to be considered to incorporate water into the working groups that we have in place which engage with BMBC and third parties to collaborate in the reduction of our energy usage.

### **3.5 Employee**

None

### **3.6 Communications**

The Council also procure on behalf of Berneslai Homes; local authority-maintained schools, and a number of academies and voluntary aided schools and third parties.

It is necessary whenever contracts need to be renewed to communicate details to all parties procuring through the Council's corporate portfolio, so they are aware of the appointed suppliers, the expected costs and the contract duration.

## **4. CONSULTATION**

A list of stakeholders consulted during the preparation of this report includes:

- Core Services – Procurement
- Core Services – Finance
- Berneslai Homes
- Regeneration & Culture – Sustainability & Climate Change

## **5. ALTERNATIVE OPTIONS CONSIDERED**

- 5.1 The Council could conduct its own tender process to identify a supplier for each utility. However, this option would require considerable officer resource, time, and cost to facilitate this process and we would not be able to leverage the value of the commitment of other authority spend making the contract less attractive to suppliers. Also, the utilities markets are very complex and the Council does not have the internal expertise and experience in contracting directly for these.

## **6. REASONS FOR RECOMMENDATIONS**

- 6.1 To provide assurance of value for money in the supply of water and wastewater.
- 6.2 To ensure a compliant route to market for the provision of water and wastewater and associated services is achieved.
- 6.3 To ensure more robust reporting functionality in order to support the councils ambitious Net Zero plans through Zero40 & Zero45 initiatives

**7. GLOSSARY**

Non-Applicable

**8. LIST OF APPENDICES**

Non-Applicable

**9. BACKGROUND PAPERS**

None

**10. REPORT SIGN OFF**

<b>Financial consultation &amp; sign off</b>	Senior Financial Services officer consulted and date <b><i>Ashley Gray</i></b> <b>18/05/2023</b>
<b>Legal consultation &amp; sign off</b>	Legal Services officer consulted and date <b><i>Sukdave S. Ghuman</i></b> <b>26/05/2023</b>

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**Date: 18.05.2023**