

Cheshire East Council

Cabinet

Date of Meeting: 22nd August 2017

Report of: Frank Jordan - Executive Director of Place

Subject/Title: Transfer of the Fairerpower Contract to The Skills & Growth Company

Portfolio Holder: Cllr Don Stockton (Cabinet Member for Regeneration)

1. Report Summary

- 1.1 The purpose of this report is to propose that the Fairerpower Contract is transferred to, and modified by, The Skills & Growth Company to enable the expansion of the Fairerpower scheme in the North West and Midlands Region to support the Council's energy objectives and ensure the scheme is viable and sustainable in the longer term.

2. Recommendation

2.1. It is recommended that:

- a. Cabinet approve the novation of the Fairerpower contract between the Council and OVO Energy Limited dated 12th December 2014 ("the Contract") to the Skills and Growth Company, and delegate authority to agree the terms of the novation agreement to the Executive Director of Place in consultation with the Director of Finance and Procurement, Director of Legal Services and the Portfolio Holder for Regeneration.
- b. Cabinet agree that the preferred option for the operation of Fairerpower is to provide a multi-energy supplier offering in the North West and Midlands (Option D) as it best meets the Council's commercial principles of eliminating future subsidy.
- c. Cabinet authorise the Executive Director of Place in consultation with the Director of Finance and Procurement, Director of Legal Services and the Portfolio Holder for Regeneration to agree any future changes relating to the contract for Fairerpower.
- d. Cabinet authorise the Executive Director of Place in consultation with the Director of Finance and Procurement and Portfolio Holder for Finance and Communities to approve a loan on commercial terms from the CERF reserve to fund setup costs and cash flow requirements, subject to appropriate due diligence.

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- e. Cabinet authorise the Executive Director of Place in consultation with the Director of Finance and Procurement, Director of Legal Services and the Portfolio Holder for Regeneration to determine the terms on which the Skills & Growth Company may enter into contracts with other Local Authorities for the supply of energy.
- f. Cabinet authorise the Executive Director of Place to take any and all necessary or consequential actions, arising from the above recommendations, in consultation with the Director of Finance and Procurement, Director of Legal Services and the Portfolio Holder for Regeneration.

3. Other Options Considered

- 3.1. Appendix 1 summarises the various options that have been considered in relation to the scope of Fairerpower, see Appendix 1. The options considered were; do nothing and continue (A), managed exit (B), restricted local offer (C), multi supplier local offer (D), multi supplier national offer (E) and finally a national supply licence (F). With the exception of Options A and B the options are not mutually exclusive and there is a natural progression in terms of scope, commercial value and risk arising from options C through to F.
- 3.2. Option D is recommended to be the preferred option. Option D is to provide a multi supplier local offer which offers medium risk levels, it was decided this was a reasonable risk level.

4. Reasons for Recommendation

- 4.1. The recommendation provides the best fit to deliver the Fairerpower scheme. The Skills and Growth Company have the experience in delivering the scheme on behalf of the Council and also have the required skills to develop the scheme and provide synergy with other energy initiatives that are being developed with the Council.
- 4.2. The Skills and Growth Company has developed a business plan for the future development of the scheme, including financial forecasts. The decision to operate in the current OJEU tendered area of the North West and Midlands is viewed as a medium risk level.

5. Background/Chronology

5.1. Background

- 5.1.1. The Fairerpower scheme was established in 2014 to support delivery of the three key aims of the Council's Energy Vision:
 - Developing affordable energy options for local residents and businesses
 - Developing a local energy economy
 - Developing secure decentralised and locally managed energy services.

- 5.1.2 OVO Energy was appointed as the Council's energy supply partner. Currently, the Skills & Growth Company manages the delivery of Fairerpower on behalf of the Council under an operating agreement.
- 5.1.3 To date, the Fairerpower scheme has secured more than 7,500 customers, each of whom are estimated to have saved an average of £250 after switching. This equates to a total saving to local households of c£2.1m. OVO have also invested in energy efficiency measures in the Cheshire East area, which will help to reduce household energy expenditure in the long-term.
- 5.1.4 Notwithstanding these achievements, the full potential of the Fairerpower scheme has not been realised due to contractual issues between the Council and OVO Energy. Contractual changes were agreed by the Council in 2016 to address these concerns, under which OVO has been released from unfulfilled contractual obligations and the Council receives consideration for the same. The Council is also freed from its obligation to pay for ongoing contract management and marketing and instead pays a fixed referral fee per customer signed up.
- 5.1.5 A review of the Fairerpower contract has been conducted which has responded to the following questions, as follows.

To what extent has the Fairerpower scheme achieved its original objectives?

- 5.1.6 Although Fairerpower has secured more than 7,500 customers to date this falls significantly short of the target of 6,000 customers per annum set out in the original business plan. This is, in large part, due to the fact that OVO have not been proactively marketing the offer or servicing key sub-markets, including businesses and registered social landlord (RSL) void properties. An empty property without a tenant is referred to as a void. The market potential for voids is significant; across the Midlands and North West there are over 900,000 RSL homes. Should the Skills and Growth Company procure a supplier to deliver a voids solution to RSLs across the region it would provide a large market opportunity for generating bulk customer numbers.
- 5.1.7 In 2015, a potential of 4500 void properties were secured for transfer to Fairerpower from three housing associations, on an annual basis for the next three years. Unfortunately, this was an area of the contract that OVO could not fulfil. Attempts by the Fairerpower commissioning team to sign up strategic partners have also been frustrated by the ongoing contractual difficulties. Little progress has been made against the objectives of developing a local energy economy or independent energy supply sources and it is clear that different contractual arrangements will need to be put in place if the wider objectives of the Fairerpower scheme are to be delivered going forward.

Are the objectives still relevant in view of developments in the energy market since the scheme was set up in 2014 and the Council's current priorities?

- 5.1.8 Since 2014, there have been a number of new entrants to the energy supply market including not for profits such as Bristol Energy, Robin Hood Energy and ENGIE Energy offering affordable energy products for residents and businesses in direct competition with Fairerpower. Greater Manchester, Birmingham City Council and Cornwall Council are also reviewing options for

entering the energy supply market. Local residents, including low income households, now have access to a much broader range of affordable energy services, including pay as you go options and new products for the business segment are also starting to emerge. To that extent, it is arguable that the original objective of developing affordable energy options can be left to the market.

- 5.1.9 The objectives to develop a local energy economy and independent, locally managed energy services remain relevant in the context of delivering the Council's Energy Vision.

Is the ambition to leverage the Fairerpower brand for commercial purposes? If so, what is the scale of that ambition and appetite for risk and what are the prospects for commercial success?

- 5.1.10 Although not originally conceived as a commercial venture, there is considerable potential for Fairerpower to generate additional revenue which could either be returned to the Council as a dividend or reinvested to deliver other Skills and Growth Company services. Financial modelling completed by Skills and Growth Company suggests that additional revenues could be generated over the next 5 years if Fairerpower were to enter the North West and Midlands domestic energy supply market. The size of the opportunity with other market segments and products factored in (option D Appendix 1) is considerably greater and there is also potential to leverage the Fairerpower brand to sell a broader range of non-energy products.

- 5.1.11 With greater opportunity also comes greater risk. Fairerpower tariffs have consistently been below the national average of the Big Six suppliers over the contract period and pre-payment tariffs among the lowest. However, the tariff pricing offered by OVO Energy is not as competitive as it was when the contract was first signed and it is unclear what impact the entry of local authority backed energy supply companies, and actions taken by the energy regulator OfGem, are likely to have on the future profitability of Fairerpower.

5.2 Governance

- 5.2.1 The Fairerpower Tariff Board will become a quarterly briefing group to receive information on the scheme's performance and to provide oversight to become a key element of the governance structure for Fairerpower. To date all changes and developments have been discussed and ratified by the board and where required Officer Decision Notices have been completed. The contract amendments will be led by the Skills and Growth Company and reported to the Fairerpower quarterly briefing group, and where required Cabinet members.

- 5.2.2 An operating document for agreements on working arrangements with Cheshire East and the Skills and Growth Company and a draft trade mark licensing agreement have been prepared. A draft monitoring information report has been produced to meet reporting and transparency requirements.

The commissioning arrangement will be strengthened in the Place Directorate to ensure effective oversight of the Fairerpower scheme. Cheshire East Residents First group (CERF) will also receive information through the Skills and Growth Company reporting mechanism.

5.3 Local Authority Partnerships

- 5.3.1 The Skills and Growth Company plan to enter into a contract with another Northwest local authority to deliver Fairerpower opportunities in that region. In order to enter into this contract, the current contract between OVO and Cheshire East Council requires novation to the Skills and Growth Company. It is hoped that this will be the first of many contracts to assist local authority partners to deliver energy supplies to their residents to support initiatives of fuel poverty reduction.

6. Wards Affected and Local Ward Members

- 6.1. All wards

7. Implications of Recommendation

7.1. Policy Implications

- 7.1.1 The Council's partnership with the Skills and Growth Company to supply energy will enable competitive energy pricing for all residents, but with the added benefit of supporting those in fuel poverty, who are currently unfairly penalised by their circumstances. This offering is proposed to be provided across the Midlands and North West as previously tendered in October 2014.
- 7.1.2 Aligned to the Council's goal of helping people live well and for longer, a reduction in energy bills will also increase disposable income contributing to the goal of creating a stronger and more resilient community.
- 7.1.3 By addressing fuel poverty amongst residents, the project will also help to improve the resilience of communities in the context of rising energy prices and insecurity of energy supply. In addition to this, the reduction of fuel poverty is also an outcome measure within the corporate performance framework
- 7.1.4 The Skills and Growth Company will build on the initial vision, aims and objectives as approved by Cabinet to include a wider geographic coverage to enable our fellow local authority residents to benefit from the scheme and also to provide additional services, subject to procurement, for energy supplies such as oil and LPG for rural communities, and services for business, registered social landlords and new developments.
- 7.1.5 The development of a wider geographic coverage will enable the scheme locally to be viable outside the Cheshire boundary but within the Midlands and North West. Fairerpower services could be scaled to other regions or nationally if successful in the Midlands and North West.

7.2. Legal Implications

- 7.2.1. A confidential appendix to this report contains legal advice in relation to the contractual arrangements proposed.

7.3. Financial Implications

- 7.3.1 As part of the annual management fee payable to The Skills & Growth Company, the Council currently pays £140,000 for the management and operation of Fairer Power
- 7.3.2 Following novation to The Skills & Growth Company, Fairer Power would be able to make money by receiving fees from its energy supply partner when customers switch. Estimates have illustrated that by extending Fairer Power to areas in the North West and Midlands (Option D – Multi-supplier local offer), operating viability could be achieved over the medium term and prospects for sustainability much improved.
- 7.3.7 Option D is recommended as providing an opportunity to remove the need for subsidy from the Council; and provide The Skills & Growth Company the opportunity to extend its offer into other areas, via engaging other Councils as strategic partners.
- 7.3.9 This will require provision of a loan to the Skills and Growth Company, to cover costs including additional procurement, contractual and marketing expenditure, in relation to new suppliers, new partners, and marketing to new customers. However, the loan would obviate the need for the £140,000 annual subsidy via management fee, and repayment of the loan would be covered from revenues made from extending the brand to new areas.

7.4. Equality Implications

- 7.4.1. No specific equality issues.

7.5. Rural Community Implications

- 7.5.1. The increased service offering that is recommended for procurement will provide additional services to rural communities with the potential to offer more cost effective energy solutions for residents who are currently off the gas grid.

7.6. Human Resources Implications

- 7.6.1. n/a

7.7. Public Health Implications

- 7.7.1. Opportunity to improve heating in cold homes and reduce energy costs for vulnerable residents.

7.8. Implications for Children and Young People

- 7.8.1. Opportunity to improve heating in cold homes and reduce energy costs for vulnerable residents, children and young people.

8. Risk Management

- 8.1. The Skills and Growth Company has completed an analysis of risk and identified the recommendations as the most beneficial to Cheshire East Council, balancing risks and opportunities.
- 8.2. Effective governance arrangements are in place with the council to ensure the contract is delivered in accordance with the terms.
- 8.3. Charging and trading risks are reduced by novating to the Skills and Growth Company.
- 8.4. Financial risks to CEC are reduced as the contract is novated to the Skills and Growth Company.
- 8.5. Operational risks are minimised by transferring to the Skill and Growth Company as they already manage the contract on CEC's behalf.

9. Contact Information

Contact details for this report are as follows:

Name:	Sophie Thorley
Designation:	Commissioning Manager
Tel. No.:	86564
Email:	sophie.thorley@skillsandgrowth.co.uk