

Report for: Cabinet

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| Date of Meeting: | 10 March 2022 |
| Subject: | Water Services Procurement |
| Key Decision: | Yes |
| Responsible Officer: | Dipti Patel – Corporate Director, Community |
| Portfolio Holder: | Councillor Varsha Parmar, Portfolio Holder for Environment & Climate Change |
| Exempt: | No |
| Decision subject to Call-in: | Yes |
| Wards affected: | All |
| Enclosures: | None |

Section 1 – Summary and Recommendations

This report outlines recommendations to award a new contract for the provision of the Council's water, wastewater, and ancillary services to the Council's existing supplier, Anglian Water Business (National) Ltd trading as Wave Utilities, by entering into a framework agreement with NEPO¹, for an initial 2 year term commencing 1 May 2022 to 30 April 2024 with an option to extend for a further 2 years until 30 April 2026 (minimum two years).

The Council has 166 water supply points with an annual current total spend of approximately £471,500.

Recommendations:

1. Approve Harrow Council accessing the NEPO Central Purchasing Body NEPO311 Water Retail Services framework agreement for water, wastewater, and ancillary services, to re-appoint Anglian Water Business (National) Ltd trading as Wave Utilities as a single water retailer to meet Harrow's multi-site business requirements and water efficiency product and services.
2. Approve the direct award of a contract for the provision of water, wastewater, and ancillary services, to Anglian Water Business (National) Ltd trading as Wave Utilities to commence on 01/05/2022 for a period of 2 years with an option to extend for a further 2 years but not beyond 30 April 2026.
3. Delegate authority to the Corporate Director of Community following consultation with the Portfolio Holder for Environment & Climate Change to take all necessary steps to enter into and implement the contract, to include deciding whether to exercise the extension option in due course.

Reason (for the recommendations):

To procure high quality water services at competitive rates for the Council's corporate sites and the 56 participant Schools. The Council will also avoid the default charge rate which would otherwise apply after 30 April 2022 when the current contract term ends.

1- The Northeast Procurement Organisation (NEPO) is a Central Purchasing Body as defined in the Public Contract Regulations 2015 (PCR15).

Section 2 – Report

2.1 Introduction

Following deregulation of water market in England in April 2017, water and wastewater services to non-domestic premises have been split into wholesale and retail services. Business customers including the public sector can now choose their preferred retailer and find the right deal for their water portfolio.

Retailers are responsible for providing their customers various services including billing, meter reading, account management, water leak detection, water efficiency and other customer support services. We can choose to have one retailer for our water supply and another for wastewater services or appoint one retailer for both. Based on our previous experience of working with separate clean and wastewater contractors, a sole supplier for both services, is the preferred approach, as it provides a single point of contact reducing the associated management time and administration.

The retail fees cover the services the retailers provide. They also pay the wholesalers for the water their customers use and recharge this sum to their customers.

Wholesalers are appointed companies that own and operate the network of pipes and mains within a particular geographic area. They are responsible for treatment and transport of our drinking water and wastewater services. Retail suppliers purchase the required volume of water from water wholesalers.

The wholesale charges make up most of customers' water and sewerage bills and cover:

- The cost of the water for each cubic meter used by the Council and schools
- The cost of getting the water to the Council premises and schools
- The cost of taking wastewater away from our sites
- Fixed charges for treating wastewater and to contribute towards the infrastructure needed to supply water

The wholesale charges are normally set annually according to price limits they agree with OFWAT², the industry regulator. They publish their water and sewerage service charges for the coming year, which apply from 1st April to 31st March. The charges can go up or down. They are determined centrally and are not linked to the choice of retailer.

When the wholesalers change their prices, then retailers must change the prices they charge us, and we see these charges on our bills. The regional wholesale water companies continue to serve non-eligible and household

² : OFWAT, Office of Water Services, is the independent economic regulator of the privatised water and sewerage industry in England and Wales.

customers directly and there is no option for those customers to separately procure retail services.

2.2 Background

2.2.1 How the Council benefits from the water de-regulation

Selecting a water retailer for all corporate sites and schools across the borough has created an opportunity for the Council to develop an effective working system for better use of water in our buildings as part of the Council's centralised water management services. We have now more effective control over water consumption across all Harrow sites and schools and under the current contract have been benefiting from:

- Lower prices
- Better quality billing and data services
- Regular water performance of our sites and KPI reports

2.3 Current situation

Harrow corporate buildings and state schools are currently using Anglian Water Business trading as "Wave" for their clean water supply and sewerage (wastewater services). Wave were procured via a local authority framework established following de-regulation. The water wholesaler for our area is Affinity Water.

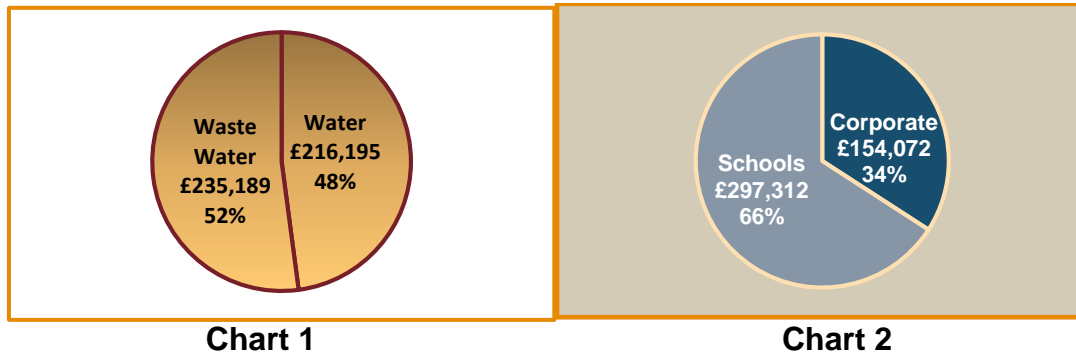
The table below shows total consumption and cost of the Council's water portfolio for 166 sites including 108 corporate sites and 58 Schools.

Table1: Water and sewerage cost and consumption of the Council's water portfolio 2020-21

| Number of sites including 58 Schools | Estimated Annual Consumption (cubic meter) | Water Total (£) | Sewerage Total (£) | Retailer charge | Total Clean Water and Sewerage (£) |
|--------------------------------------|--|-----------------|--------------------|-----------------|------------------------------------|
| Corporate sites | 78,697 | £79,471 | £74,601 | £7,173 | £161,245 |
| School sites | 141,660 | £136,724 | £160,588 | £12,911 | £310,223 |
| Grand Total | 220,357 | £216,195 | £235,189 | £20,084 | £471,468 |

The following diagrams show at Chart 1 the % split of Harrow's clean and wastewater charges and at Chart 2 the % split of water expenditure of Harrow Schools, which is as twice much as Harrow Corporate sites. The Council operates service level agreements with the schools to recover the water charges, along with a proportion of the officer time spent on contract administration.

The total value of this Framework Contract, with 5% projected annual price rise is expected to be £2 million, over the four year term.



Section 3 - Procurement option appraisal

The Council's current water supply and wastewater services contract expires on 30 April 2022 and needs to be replaced to enable the Council to continue a cost-effective water supply to its operational premises and schools with effect from 1st May 2022.

3.1 Procurement Options

The water market is more stable and predictable compared to the wholesale energy market, so procurement of water is less complex than purchasing energy supplies. However, we need to select the right water retailer who can meet the Council's water saving objectives and offer some added value services such as:

- Automatic meter reading (AMR) technology to avoid estimated bills
- Leak detection coupled with water efficiency measures
- Electronic and consolidated billing
- Harvesting rainwater for reuse

Taking the above priorities into account, this report considers four options for our future purchase of water supply and wastewater services:

3.1.1 Option 1 – Do nothing

This option is not recommended for the following reasons:

If the Council does not sign a new water contract, there is a maximum price (known as a default rate) which could be charged by the retailer for a standard level of service. The additional annual default charge would be around £20,000 for Harrow's water portfolio. Due to the value of the total contract requirement the Council is also required under the Public Contract Regulations 2015 (PCR's) to utilise a compliant procurement process to select a retailer for water and wastewater services.

3.1.2 Option 2- Become a retail licensee

This option is not recommended as it is considered a high risk and costly option for Harrow for the following reasons:

- a) We would need to provide OFWAT with robust evidence that the Council has the financial, technical, and managerial resources to supply services as a licensed retailer. These are currently beyond the Council's working capacity and it's unnecessary to act as a water retailer.
- b) The volume and value of water would need to be more than our total annual water consumption in order to make the option financially justifiable.

3.1.3 Option 3 - Tenders/Mini Competition

The Council can carry out its own tender by advertising the opportunity to the water and wastewater market, or to run a separate mini competition by utilising one of the available frameworks, which could meet our water procurement objectives and would be a compliant procurement approach.

This option however is not recommended in this case. In the context of the limited value of the retail element of the services to be procured (the wholesale charges being centrally pre-determined), the considerable officer time involved in conducting the procurement and the required pre-market engagement process is not considered proportionate when other options exist.

3.1.4 Option 4 – Using a PCR compliant framework that facilitates direct award

This option is recommended. Utilising a PCR compliant framework ensures that we appoint a retailer who has already demonstrated the cost effectiveness and quality of their services through a competitive process. A direct award via such a framework is fast and efficient, removing the need to undertake a costly and time-consuming separate tender or mini competition exercise for the relatively low value retail element of the services.

Several popular Central Purchasing Bodies' (CPB) water and wastewater purchasing frameworks have been reviewed to assess their functionality, quality of documentation, advantages, and disadvantages. Further investigation showed that the NEPO Water Retail Services Framework NEPO311 and YPO Water Framework YPO001008, would meet our requirements for the direct award.

The Council's existing supplier, Wave is the selected sole supplier on both frameworks. Following an evaluation of these two CPB frameworks, it has been noted that there are some minor differences between services, however in terms of costs, NEPO is comparably lower, as shown in Table 2, and offers a straightforward and efficient route for purchasing the Council's clean water supplies and sewerage services.

Table 2 - Harrow water portfolio - Cost breakdown - 2020/21

| Number of sites | Estimated Annual water usage. (Meter Reads) | Wholesaler charges (2020/21) | | | Default Changes – out of contract | Current contract Changes | YPO proposed new contract) Changes | NEPO (proposed new contract) Changes |
|-----------------|---|------------------------------|-----------------------|-------------------|-----------------------------------|--------------------------|------------------------------------|--------------------------------------|
| | | Annual water cost | Water sewerage charge | Annual Total cost | Retail charge | Retail charge | Retail charge | Retail charge |
| 166 | 220,357 | £216,195 | £235,189 | £451,384 | £40,546 | £20,084 | £22,425 | £21,100 |

The wholesaler total charge is set by the regional wholesaler (Affinity Water) regardless of retailer or contract. The retailer charge is a % of the wholesaler charge. The proposed percentage of the retailer charge under the YPO Framework is 4.975% and under the NEPO Framework is 4.67%, both of which are fixed and do not alter for the term of the contract.

The NEPO framework offering includes the potential of improved data quality by utilising advanced technologies for more accurate meter reading and efficient monitoring of our water consumption of all Harrow sites and schools. There are also proposed ancillary services to minimise the risk of missing water leaks and enable more efficient use of our water supplies.

An additional benefit is that the Council can award a 4-year (2+2 year) contract via the NEPO Framework. It is only possible to award a shorter-term contract using the YPO Framework as it ends in 2024 and its rules specify that call-off contracts cannot go beyond the date of the framework.

Wave have been our water retailer since April 2018 and throughout the contract period they have demonstrated their ability to meet the Council’s business requirements, priorities, and expectations. They have provided a good quality of service, effective price risk management, regular KPI reporting and cost avoidance through their “high consumption alerts”. It is considered that the Council and the participating schools have benefitted from their good levels of customer care during this period. Wave have furthermore independently demonstrated their quality of service and cost effectiveness through appointment to the CPB frameworks. The process of transferring a large number of sites to an alternative retail supplier, with the associated re-setting of the water database, would be a lengthy and challenging process and is not recommended.

3.1.5 Recommendations - Preferred option for appointing our Water Retailer

The recommended option is that the Council participate in the NEPO 311 framework, thereby accessing the pre-procured water and wastewater contracts put in place by a prominent CPB³ that can meet our water and wastewater service requirements in an efficient and effective way.

3 - CPBs are contracting authorities that carry out centralised purchasing on a permanent basis.

The NEPO311 Water Retail Services is a sole-supplier framework agreement for the provision of water, wastewater, and ancillary services. NEPO has appointed Wave to provide water supply and sewerage services to eligible non-household customers in accordance with the Water Act 2014.

3.1.6 Proposed contract term

The initial term of the proposed contract agreement will be two (2) years commencing on the 1st May 2022, with the option to extend for a further period of up to two years, so long as the contract ends on or before 30th April 2026.

The extension option provides the Council with flexibility to review ongoing performance and the option to renegotiate or reprocure the service after year 2 if required.

4. Ward Councillors' comments

Not applicable. This report affects relates to the purchasing of water services at a large number of council and school sites across the borough and does not have particular impact upon specific wards.

5. Implications of the Recommendations

5.1 Risk Management Implications

Risks included on corporate or directorate risk register? **No**

Separate risk register in place? No.

The relevant risks contained in the register are summarised below. **N/A**

The following key risks should be taken into account when agreeing the recommendations in this report:

| Risk Description | Mitigations | RAG Status |
|--|--|------------|
| <ul style="list-style-type: none"> ▪ Non- compliance with Contract Procedure Rules and/or Public Contract Regulations | <ul style="list-style-type: none"> ▪ This report recommends utilisation of a pre-procured compliant framework | Green |
| <ul style="list-style-type: none"> ▪ Costs increase through the lifetime of the contract | <ul style="list-style-type: none"> ▪ We have no direct control over wholesale costs, although these have to be agreed nationally by the Water Services Regulation Authority (OFWAT) ▪ Historically the water market has been relatively stable compared to the energy market | Amber |
| <ul style="list-style-type: none"> ▪ The quality of service delivered under the contract is not maintained at a good level, including transparency of water and wastewater charges. | <ul style="list-style-type: none"> ▪ The proposed provider offers easy access to water consumption and billing data via their Water Data Portal. ▪ Specific requirements of the portfolio of Harrow water sites including installation of modern water metering devices, regular monitoring and Key Performance Indicators (KPI) reporting, water leak detection services, water efficiency services will be clearly addressed in the contract agreement ▪ We will have the right to terminate the contract if the agreed services are not delivered by the Retailer, and in any event the contract can be ended after 2 years if required. | Green |
| <ul style="list-style-type: none"> ▪ Serious water leaks and burst pipes could be very damaging | <ul style="list-style-type: none"> ▪ High consumption alerts will be provided by the supplier to highlight any potential nonvisible leaks. In addition, benchmarking reports for Harrow's water usage against normal and best practice will be provided by the supplier to flag any longer term areas of | Green |

| | | |
|--|-------------------------------------|--|
| | concern that require investigation. | |
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5.2 Procurement Implications

This procurement will be conducted as a Direct Award call-off from the North Eastern Purchasing Organisations (NEPO), Water Retail Services 311 Framework in accordance with the guidance and processes set out under that Framework for direct award call-offs.

The recommended supplier has demonstrated sufficient ability to meet the council's business requirements, priorities, and expectations under the current contract. Therefore, this Direct Award call-off from the NEPO Framework is supported by the Procurement Team as it provides a fully compliant route for an award of contract.

5.3 Legal Implications

The Council will be procuring a new single water supplier to meet the needs of Harrow's sites by way of a Framework Agreement run by NEPO for water, wastewater, and ancillary services. The Public Contract Regulations 2015 ('PCRs') permit the Council, as part of the local authority grouping, to call-off from this framework agreement. This negates the need for the Council to undertake a separately advertised procurement process.

NEPO is a Central Purchasing Body and the Contracting Authority for their framework. As such, we do not need to run a separate UK/Official Journal of the European Union (OJEU) compliance process to utilise the NEPO's Framework.

The Council's legal officers will review the documentation to ensure that it complies with requirements of the Public Contract Regulations 2015 and the Council's Contract Procedure Rules.

The current CCS Framework Agreement ends on 30 April 2022. We are currently preparing all documentation required to enable the recommended retailer to implement the new purchased water supply service from 1 May 2022.

Approval has been sought in accordance with paragraph 7.5 of the Council's Contract Procedural Rules which states; "*The Director of Commercial, Contracts and Procurement must approve accessing externally established Framework Agreements.*"

5.4 Financial Implications

The expenditure on water consists of clean water charge, sewerage water charge and a retailer charge. Clean and sewerage water charges are set and levied by the water wholesaler (Affinity Water for our area). The only element that varies between different contracts is the retailer charge. As illustrated in Table 2, the difference in retailer charge is marginal under the two identified frameworks, and the annual charge is comparable to the current spend.

The framework covers both corporate building and school sites. Table 1 summarises the 2020/21 expenditure (Corporate sites £161k and Schools £310k). Spend relating to school sites is paid for by schools directly. The Energy Team receives a small management fee under SLA for managing the contract on behalf of schools. Spend on corporate sites is funded from existing budgets of £183k in General Fund.

Annual cost changes during the term of the contract are primarily dependent upon wholesale costs, which are determined nationally by Ofwat as explained above. Should the wholesale costs increase during the contract, there would be an increase in overall water charges. Schools will need to fund the increased costs from their school budgets. A central budget provision is set aside for inflation should the cost for corporate sites exceed current budgets.

As explained in section 3 option 4 of this report, the NEPO framework has been pre-procured, and the supplier has been required to demonstrate cost effectiveness as part of its appointment as sole framework supplier.

6. Equalities implications / Public Sector Equality Duty

The supply of water services to Council corporate buildings and schools benefits all users and it is not considered that persons with protected characteristics will be adversely impacted by the proposed contract.

7. Council Priorities

The provision of safe and reliable water supplies to Harrow's public buildings and schools benefits all users regardless of background or economic status and plays a part in tackling poverty and inequality within the borough. Furthermore, the provision of a service that minimises water leaks and water wastage benefits the environment by helping to conserve this important natural resource.

8. Social Value

All publicly funded schools in Harrow including academies and voluntary aided schools are able to purchase water via the Council's water portfolio arrangements to be procured through the proposed framework.

The recommended retailer has initiated some social value initiatives, which will be offered to participating authorities during the contract and which include:

Career Advice Workshops - In collaboration with Participating Authorities, Wave will host workshops where young people can receive help with CVs, interview techniques and receive information about working within the water industry.

STEM (Science, Technology, Engineering and Mathematics) promotion within schools - their 'Saving Every Drop' STEM project will allow children to learn how to reduce water usage, whilst increasing efficiency and sustainability awareness

Section 3 - Statutory Officer Clearance

Statutory Officer: Jessie Mann

Signed on behalf of the Chief Financial Officer

Date: 16/02/2022

Statutory Officer: Patricia Davilla

Signed on behalf of the Monitoring Officer

Date: 08/02/2022

Chief Officer: Dipti Patel

Signed by the Corporate Director

Date: 28/02/2022

Head of Procurement: Daniel Rinn

Signed on behalf of the Head of Procurement

Date: 09/02/2022

Head of Internal Audit: Susan Dixon

Signed by the Head of Procurement

Date: 16/02/2022

Mandatory Checks

Ward Councillors notified: NO, as it impacts on all Wards

EqIA carried out: The existing EQIA for the supply of water services has been updated and it is not considered that persons with protected characteristics will be adversely impacted.

EqIA cleared by: N/A

Section 4 - Contact Details and Background Papers

Contact: Saeed Atlas (Energy Services Manager)

Telephone (Mobile): 07864 802008, Email: saeed.atlas@harrow.gov.uk

Background Papers: None

Call-in waived by the Chair of Overview and Scrutiny Committee - NO