

Delegated Cabinet Member Key Decision Report

Decision Maker and Portfolio area:	Cllr Abdul Jabbar Cabinet Member for Finance & Corporate Resources
Date of Decision:	1st May 2024
Subject:	Oldham Green New Deal Delivery Partnership - grant acceptance and appointment of consultants
Report Author:	Andrew Hunt, x6587
Ward (s):	N/A

Reason for the decision:

To accept £1.3m grant funding from the DESNZ Local Net Zero Accelerator programme via GMCA;

To accept £30K grant funding from the Innovate UK Net Zero Living Pathfinder Places programme;

To appoint Ernst & Young to the role of Independent Assurance Provider to support the 15-year delivery programme, at a cost of circa £725K, £400K of which will be covered by the DESNZ grant funding and the remainder will be covered by contributions from the main Oldham Green New Deal Delivery Partner over the 15-year lifetime of the programme.

To appoint Womble Bond Dickinson as the Council's Legal advisors for both the Oldham Green New Deal Delivery Partnership (at a cost of £100K, to be funded from the DESNZ grant) and the Oldham Low Carbon Heat Network Commercialisation work (at a cost of £150K, to be funded from the Green Heat Network Fund grant)

To appoint Carbon Co-op and First Choice

Homes Oldham to deliver specific aspects of the Oldham Green New Deal Delivery Partnership project, to be funded from the DESNZ grant.

Summary:

On 26 February 2024, Cabinet approved a report to accept £8.7m grant from the Green Heat Network Fund, for the purpose of developing the Oldham Low Carbon Heat Network to RIBA Stage 3 design (Commercialisation) and rendering the project attractive to the commercial sector.

The same report secured Cabinet approval to delegate authority to accept up to £1.5m in grant funding from the DESNZ Local Net Zero Accelerator programme (once finalised between GMCA and DESNZ), and to subsequently appoint consultants to support the Oldham Green New Deal Delivery Partnership initiative.

The GM Combined Authority has now signed a Grant Funding Agreement (GFA) with DESNZ for the Local Net Zero Accelerator grant, and GMCA will sign a back-to-back GFA with Oldham Council to disburse £1.3m of the £6.2m secured by GMCA to Oldham, for the purpose of appointing consultants to deliver various elements of the Oldham Green New Deal Delivery Partnership initiative.

Additionally, the Council was successful in a bid for £150K to the Innovate UK Net Zero Living Pathfinder Places programme. The grant funding will enable the Council to work in partnership with the Centre for Local Economic Strategies (CLES) to ensure that the Oldham Green New Deal Delivery Partnership is structured in such a way as to return maximum social value to the borough. £120K of the £150K will be transferred directly to CLES from Innovate UK, and the Council will receive the remaining £30K to cover staff costs.

A compliant procurement process has been carried out to select consultants for the role of Independent Assurance Provider (IAP) to the Council. The IAP will support the Council in procurement of a commercial low carbon infrastructure provider partner and ongoing governance of the Oldham Green New Deal Delivery Partnership. Ernst & Young were the successful bidder at a cost of £725K - £400K of

which will be covered by the DESNZ grant funding and the remainder will be funded indirectly by the OGND Delivery Partner once procured over the term of the 15-year programme. N.B. should a Green New Deal Delivery Partner not be successfully procured, costs to Ernst & Young will be capped at £400K and the project will not proceed any further nor any further costs incurred.

Womble Bond Dickinson have been selected to provide Legal support for both the Oldham Green New Deal Delivery Partnership work (by direct appointment) at a value of £100K and for the Oldham Low Carbon Heat Network Commercialisation work (via CCS RM6240 call-off framework) at a value of £150K.

Carbon Co-op have been selected to further develop and deliver their proprietary approach to Community Led Energy Planning (CLEP) in three Oldham wards and provide a high-level training package for Council officers in how to engage with the community, at a value of £220K, to be funded from the DESNZ grant. A direct award will be made to Carbon Co-op as they are the Intellectual Property owners of the Community Led Energy Planning approach and as such no other supplier for this approach is available in the marketplace. As the project builds on the CLEPs developed as part of the previous Oldham Energy Futures project, no other community engagement approach is appropriate for this new project.

First Choice Homes Oldham has been selected to provide services to the Council for the project, which comprise activities to educate social housing tenants about the benefits of energy efficient retrofit of their homes, to remove barriers to deployment of Social Housing Decarbonisation Fund grant which FCHO is in receipt of and which is currently at risk of being underspent due to lack of take-up by tenants. FCHO will provide these services to the project at a value of £50K, for which a direct award will be made as FCHO is the only housing provider in the borough in receipt of SHDF grant at sufficient scale to accelerate the decarbonisation of a significant proportion of the housing stock in Oldham borough, being the original recipient of Council social housing.

What are the alternative option(s) to be considered? Please give the reason(s) for recommendation(s):

Option 1 – do not accept the grant funding and appoint consultants. Under this option, the work to establish a Green New Deal Delivery Partnership will not progress. There are significant reputational risks under this option as the work in Oldham is part of a wider GM programme. Additionally an alternative delivery route would have to be found for the heat network project which the Council has already accepted £8.7m in Green Heat Network Fund grant funding for.

Option 2 (preferred option) – accept the grant funding and appoint consultants. Under this option the work to establish a Green New Deal Delivery Partnership will progress.

Recommendation(s):

Option 2 (preferred option) – accept the grant funding and appoint consultants. Under this option the work to establish a Green New Deal Delivery Partnership will progress.

Implications:

What are the financial implications?

The budget for the DENZ grant element of the project is shown below and can accommodate the costs of the proposed contracts.

Cost	Org	LNZA Grant £k
Independent Assurance Provider Stage 1	Ernst & Young	300
Independent Assurance Provider Stage 2	Ernst & Young	100
SPV/JV Legal Support	WBD	100
Carbon Co-op	CC	220
First Choice Homes (resident eng)	FCHO	50
Oldham EVCI Strategy	TBC – TfGM budget (not Oldham)	30
Sub total		770
Staff costs	OMBC	515
Total DESNZ / GMCA Grant		1,285

As stated in the body of the report, £325k of the EY costs are to be met by the Delivery Partner, once procured. If the project does not reach this stage then EY's costs will be capped at £400k.

[Chris Kelsall Assistant Director of Finance
(Capital & Transformation)
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What are the **procurement** implications?

Continued engagement with the Commercial Procurement Unit is key to ensuring resource availability/allocation in line with the project requirements, and for the requirements to be procured in line with any applicable funding conditions, public procurement law and the Council's Contract Procedural Rules.

Delivery of the Oldham Green New Deal Delivery Partnership (OGNDDP) procurement process will require input and support from various Council teams, e.g., Risk and Insurance, Finance and Legal Services etc., Market engagement has been conducted to establish the market's interest in the OGNDDP opportunity, to inform/support viability, options, and enable an informed high level procurement strategy to be developed to ensure the Council proceeds with the most advantageous option through the most appropriate route to market.

The above threshold services procurement process (DN631261) to appoint the OGNDDP Independent Assurance Provider (IAP) has been conducted in the form of a call-off under Crown Commercial Services' Management Consultancy Framework (MCF3) Lot 3 Complex and Transformation; in full compliance with the Council's Contract Procedure Rules, and the Public Contracts Regulations 2015. The process commenced to maintain programme should the Council accept the recommendations of this report; grant funding and approve the award of the IAP contract whereby the IAP can be appointed without delay to then support the procurement and implementation the OGNDDP itself (including the delivery of the Oldham Low Carbon Heat Network).

The Council's IAP requirements relate to a niche and emerging service area, evidenced by only two interested credible organizations responding in October 2022 to the public/open market engagement pack. Both were on the CCS Framework: MCF3 Lot 3, and so an Expression of Interest was issued to 28 providers on the Lot in September 2023 in compliance with the Framework rules. One provider, Ernst & Young LLP, expressed interest and returned a full tender response 11th December 2023. A

public/open tender would have been unlikely to yield a better response rate than use of the Framework based on the niche requirements and prior public/open market engagement results. Ernst & Young is experienced in delivering the services required, and to protect the Council's commercial position were not made aware that they were the only provider engaged in the tender process.

It is intended that the contract to be awarded, if approved, will run for a period of 15 years to cover all three IAP service phases and align with the GNDDP. Delivery of Phase 1 and Phase 2 (to be delivered over the first 20 months of the contract) is grant funded, and tender submissions for these phases were based on a fixed fee. Ernst & Young's submission met the Council's budget requirements of £300,000 for Phase 1 and £100,000 for Phase 2. For Phase 3 service delivery a blended day rate was invited under tender. Ernst & Young offered a discount against the established CCS Framework rates for component Director and Partner level day rates. The level of actual Phase 3 service drawdown (over the full term of the contract) using the blended day rate cannot be fully quantified at this time, but is estimated to be in the region of £325,000 taking the total estimated cost of the contract to £725,000. On the basis of budget, and their bid submission in terms of allocated resource and expertise, the evaluation panel is confident that whilst a single bid has been received, that bid represents value for money and there is full confidence in Ernst & Young's ability to deliver.

After the completion of Phases 1 and 2, the contract terms provide the Council with the option to 'terminate at will'. Whilst the aspiration would be for the contract to successfully run its full course, this is a protection mechanism for the Council given that Phase 3 payments for the IAP will be funded by the GNDDP (yet to be procured), and not the Council itself.

The tender documents laid out the evaluation criteria against which Ernst & Young's bid was fully assessed (30% price, 60% technical, 10% social value). Ernst & Young scored the full 30% for price as the lowest/only bidder, 52.8% for technical, and 9% for social value (the latter

pending confirmation by the Social Value Portal at the time of writing). Total 91.8%.

Separately, the appointment of Womble Bond Dickinson as the Council's Legal advisors for both the GNDDP and the Oldham Low Carbon Heat Network Commercialisation work does not attract the PCR15 'light touch' regime as the individual or combined values do not reach the threshold (£). As such, in accordance with CPR 1.8.5; where the Director of Legal Services considers that a Procurement exercise would not protect or support the Council's interests, the CPRs shall not apply. Provided there is no breach of applicable grant funding conditions and the Council is confident in achieving value for money, the direct appointment of WBD is compliant. If approved, the appointments will be required to be published on Contracts Finder by Procurement in due course.

[Emma Tweedie, Senior Category Manager,
Commercial Procurement Unit]

Carbon Co-op

The appointment of Carbon Co-op whilst reaching the thresholds of the Public Contract Regulations 2015 (PCR 2015) is not subject to a competitive tender process under regulation 32.

Carbon Co-op own the intellectual property rights of the Community Led Energy Planning approach of which is to be further developed as a result of this funding. This means that only Carbon Co-Op are able to undertake this service.

Under regulation 32 (2) (b) (iii) the negotiated procedure without prior publication may be used where the services can be supplied only by a particular economic operator for the exclusive rights, including intellectual property rights.

First Choice Homes Oldham

An exemption to the Council's Contract Procedure Rules has been requested in order to make a direct award to First Choice Homes Oldham (FCHO). FCHO as outlined in the body of the report are the largest recipient in the borough of the Social Housing Decarbonisation

Fund, the other two recipients having only a small amount of stock in the area (approximately 26%) and their focus lying across GM as opposed to Oldham specifically. Despite being non-compliant, the risk of challenge from these organisations is minimal due but still a risk.

[Emily Molden – Senior Category Manager]

*What are the **legal** implications?*

The Senior responsible Officer and Project Manager must ensure that Subsidy Control is considered in consultation with Legal Services and that all relevant assessments are made and recorded and all relevant regulations and legislation is complied with to the satisfaction of the Section 151 Officer and in compliance with the Financial Procedure Rules of the Council. External advice may be needed to support these activities which will be a cost to the Project.

The report explains that a lawful and compliant procurement exercise was undertaken resulted in the selection of the preferred bidder (Ernst & Young) following the conclusion of the procurement referred to in this report.

The Council must be satisfied it can meet the objectives and terms and conditions and milestones of the funding imposed by the funding authority including any obligation to provide match funding and to monitor, keep any necessary records and file any necessary returns. Officers must also check the terms do not conflict with other funding conditions for the scheme/s or project/property already in place and ensure compliance with the Public Sector Equality Duty and obtain any necessary Environmental Assessments.

All works, services and goods procured by or on behalf of the Council must be procured in compliance with the Council's Contract Procedure Rules and all other relevant regulations including, where applicable, the Financial Procedure Rules and Land and Property Protocol. Officers must work with Legal colleagues to approve and formalise the terms of any necessary documentation in conjunction with Finance and Audit colleagues.

The Transparency obligations of the Council must be complied with together with any

Frameworks used and any obligations referred to in the Procurement and Finance Comments.

The Report Author has confirmed continued compliance with the Council's Contract Procedure Rules and Financial Procedure Rules.

The Report Author must ensure appropriate instructions are given to legal officers to properly contractualise all agreed terms into a Contract to protect the Council's interests and also ensure that the Contract is monitored going forward to secure proper performance.

[Rebecca Boyle – Corporate Group Solicitor]

*What are the **Human Resources** implications?*

No HR implications

[Rebecca Tyrer, Head of Organisational Development]

***Equality and Diversity Impact Assessment** attached or not required because (please give reason)*

No EIA prepared – individual low carbon infrastructure schemes coming forward from the OGND Delivery Partnership will have their own EIA where required.

[Andrew Hunt, Green Energy & Sustainability Manager]

*What are the **property** implications*

Securing the grant funding and confirming the Legal and quality assurance delivery partners has no direct implications for the council's property assets, however there are potential implications for the delivery of projects associated with the Green New Deal.

A number of Council buildings are scheduled to be connected to the proposed town centre heat network, and work will need to be undertaken to ensure that these buildings are ready for connection, along with due diligence around the proposed price for heat to be paid by the Council to the ultimate heat network operator.

There are a number of other potential projects involving the use of Council land and assets which could be offered as opportunities for the Oldham Green New Deal Delivery Partner, such as the installation of Electric Vehicle charging infrastructure on Council-owned car parks or the installation of renewable energy generation infrastructure on Council land.

The Property and Estates teams will need to be closely involved in the preparation and execution of the tender exercise for the OGND Delivery Partner to ensure that the Council's best interests are secured in terms of low carbon infrastructure projects to be developed on Council land and assets.

[Katy Webster, Assistant Director – Property and Projects]

Risks:

Legal, financial and procurement comments are detailed separately. The appointment of the consultants provides an opportunity for Oldham Council to make progress against its challenging carbon neutrality targets.

The service should ensure when appointing the consultants that all grant conditions are complied with and that there is sufficient monitoring of the project to ensure it fits in the timelines for completion. Special consideration of the appointment of Womble Bond should be undertaken in view of the procurement risks identified. The Green New Deal Delivery Partner will need to be aware of their requirement to fund part of the Ernst Young appointment when they are appointed. All projects should have their own risk registers in place and these need to be kept up to date and under review. Appointment of consultants and contractors should be procured in line with the Councils contract procedure rules, with relevant insurances in place.

[Vicki Gallacher (Head of Insurance and Information Governance)]

Co-operative agenda

The provision of the grant funding outlined will support the local supply chain, maximise social value, provide opportunities for training and employment for Oldham residents and provide cost and energy security for town centre households and businesses. This aligns with the Council's co-operative aims.

[Amanda Richardson, Policy Manager]

Has the relevant Legal Officer confirmed that the recommendations within this report are lawful and comply with

Yes

the Council's Constitution?

Has the relevant Finance Officer confirmed that any expenditure referred to within this report is consistent with the Council's budget? Yes

Are any of the recommendations within this report contrary to the Policy Framework of the Council? No

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- Reason why this Is a Key Decision**
- (1) to result in the local authority incurring expenditure or the making of savings which are, significant (over £250k) having regard to the local authority's budget for the service or function to which the decision relates; and
 - (2) to be significant in terms of its effects on communities living or working in an area comprising two or more Wards or electoral divisions in the area of the local authority.

The Key Decision made as a result of this report will be published within **48 hours** and cannot be actioned until **five working days** have elapsed from the publication date of the decision, i.e. before 14th May 2024, unless exempt from call-in.

This item has been included on the Forward Plan under reference FCR-04-24.

There are no background papers for this report

Report Author Sign-off:	
	Andrew Hunt
Date:	1 st May 2024

Approval:




Signed: (Cabinet Member) _____ Date: 1st May 2024

Cllr Abdul Jabbar

Cabinet Member for Finance & Corporate Resources

In consultation with:

Signed: 

Emma Barton, Deputy Chief Executive

Date: 1st May 2024