

Leicester
City Council

WARDS AFFECTED - ALL

CABINET

26TH SEPTEMBER 2005

THE FUTURE OF ENERGY SERVICES IN THE CITY

Report of the Corporate Director for Housing

1. PURPOSE OF REPORT

- 1.1 The purpose of the report is to update Members on work undertaken since officers last reported to Cabinet in February 2005 and seeks a decision from Cabinet as to the future direction of energy services provided by the Council and whether Members want to develop an Arms Length Company, bring the service in-house or continue with the current arrangement for the co-ordination and management of energy services in the City.

2. SUMMARY

- 2.1 The report describes the current range of services provided by the Council and indicates how they are typically funded. The report seeks decisions from Cabinet as to whether a new approach should be adopted to co-ordinating and managing energy in the City linked to the creation of an Arms Length Company or the service being brought in-house. Cabinet is also asked to indicate the extent of the new 'Company', should this be the chosen way forward?
- 2.2 Members may already be aware that the Council currently hold the position of Vice President of Energie-Cities and have made a bid for the Presidency in 2006/7. The Council need to determine who will represent it at these meetings and to this end the Whips discussed the issue but no consensus was reached. Cabinet therefore need to determine who should represent the Council at these meetings in future.

3. RECOMMENDATIONS

- 3.1 In an attempt to determine a way forward on the issues highlighted in the report **Cabinet is recommended to** move to the next stage of the process by setting up an Cabinet Energy Working Group to explore the various options in more depth and to delegate authority to the Corporate Director's of Housing and Resources, Access and Diversity, in consultation with the Cabinet Energy Agency Working Group, to agree the structure, range of functions and financing (if appropriate) of the service, including establishing a new Company should that be the chosen way forward, and the Assistant Head of Legal Services be authorised to sign any contracts required on behalf of the Council.

- 3.2 Cabinet is also asked to delegate to the Corporate Director's of Housing and Resources, Access and Diversity, in consultation with the Cabinet Energy Agency Working Group, authority to approve the Council's nominee on the Board of Directors' of the newly constituted Leicester Energy Agency, should this prove necessary.
- 3.3 Cabinet is requested to note the actions of the Corporate Director of Housing, in consultation with the Leader of the Council, in putting Leicester forward for the Presidency of Energie-Cities.
- 3.4 Finally, Cabinet is requested to indicate who should represent the Council at Energie-Cities meetings in future following the failure of the Whips to agree on a nomination.

4 HEADLINE LEGAL AND FINANCIAL IMPLICATIONS

4.1 Legal Implications (Joanna Bunting)

- 4.1.1 The issues, risks and work involved in progressing each or any of these options should not be underestimated. Particular concerns would be the implications of the transfer of staff and assets, the means of complying with the EU Procurement Regulations if the Council is to buy back the energy it requires, state aid issues, the financial security and performance guarantee of any company (we would expect to see a form of outline business case before any detailed work would proceed) and what the reaction of the private sector would be (I would prefer to see a further comparator option of a private sector led SPV).
- 4.1.2 Whatever relationship we have with the "agency" the Council would still expect service standards and performance indicators to be maintained and the long-term use and investment of public money to be justified. Because of this some of the perceived advantages, for example "not ... made to justify every pound of expenditure" and "it can be more ... risk taking" are an indication that our approach is, quite frankly, misplaced.
- 4.1.3 At this point in time I remain deeply concerned about the viability of either option 1 or option 2 and would recommend that further conceptual and viability work is undertaken. This could usefully follow on from the outcome of the Energy Strategy.

4.2 Financial implications (Rod Pearson)

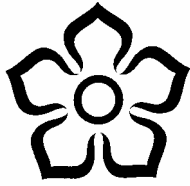
- 4.2.1 This report seeks a decision from Cabinet about whether a different approach to managing energy should be adopted; particularly through the use of an Arms Length Company.
- 4.2.2 The report contains indications of the likely advantages and disadvantages of the various options to the City Council. However, before any final decision to proceed is taken, a more detailed business plan showing expected income and expenditure for any new company should be considered together with an assessment of the financial impact on the Council. The business plan would include a risk assessment.

5 REPORT AUTHORS/OFFICERS TO CONTACT

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DECISION STATUS

Key Decision	No
Reason	N/A
Appeared in Forward Plan	N/A
Executive or Council Decision	Executive (Cabinet):



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SUPPORTING INFORMATION

1. BACKGROUND

- 1.1 A review of the City Council's Energy functions commenced, following Council's decision on 25th February 2004 to make budget savings of £80k in a full year by transfer those functions located in the Regeneration and Culture Department either to the Housing or Resources, Access and Diversity Department. The review commenced under the Council's protocol for organisation and staffing change. In June 2004 the Regeneration & Culture Energy Team was transferred to the Housing Department and the staffing review was suspended to enable satisfactory financial management systems to be set up. This work was completed in December 2004 and a policy decision was sought from Cabinet in February 2005 to give a direction to the future of energy services in the Council.
- 1.2 However, before proceeding with the further staffing review, the Corporate Director of Housing sought the views of Members as to what sort of organisation they wanted in the Council for energy services in the future. This consultation exercise resulted in four Scrutiny Committees being consulted before Cabinet took a decision in February 2005. In fact, in total, 62% of all Members on Council were given the opportunity to indicate what sort of service they wanted for Energy in the future.
- 1.3 The following highlights the decisions taken by Cabinet in February 2005 and In response to these resolutions the then Leader of the Council, Councillor Willmott, set up a small working group of Members to consider the best way forward. The group included the Leader, Councillor Corral, Councillor Bhatti and Councillor Vincent (Chair of the Leicester Energy Agency) and the following actions were agreed / progress made:

Resolution

- (i) That a Cabinet Energy Agency Working Group be established to consider and make recommendations to Cabinet regarding Services to

be delivered by the Energy Agency and how the provision of these services will be integrated in the Council's overall organisational framework;

- (ii) That the membership of the Working Group be approved as follows: the Leader, Councillors Bhatti, and Corral and Councillor Vincent in his capacity as Chair of the Energy Agency;

Action Taken

The Group was established and the decisions/proposals agreed by the Group are outlined within this report, for consideration by Cabinet.

Resolution

- (iii) That the Council continue to operate a dedicated shop front for Energy Services in the Council and look for better alternative sites;

Action Taken

The Head of Property Services has provided a list of appropriate accommodation that could be used to provide front of house shop facilities, for consideration by Members. Subsequent to this Councillor Blackmore, Leader of the Council indicated that he favoured using the Housing Options Service Advice Centre on Bishop Street as the new premises for the Energy Service. **Cabinet's view to this proposal is sought.**

Resolution

- (iv) That a comprehensive marketing strategy be developed to highlight the work of the Energy Service in the City and beyond, and the opportunities available through the shop for citizens to access high quality advice and energy efficient goods at competitive prices. This could include a re-launch of the shop facility either in its current or new location, new product lines, revised opening times and more Internet access;

Action Taken

The Head of Marketing in the Housing Department has been instructed to commence work on the strategy with a completion date of July 2005. A draft strategy has been produced and is currently out for consultation.

Resolution

- (v) That, given the requirements of the Energy Efficiency Directive, which comes into force in January 2006, where all public buildings have to be certificated for their use of energy and water, that officers consider how best the Energy agenda can be moved forward so that the Council complies and opportunities to reduce costs and reinvest savings can be maximized;

Action Taken

Depending on the long-term option chosen (see section below on Options for Developing the Leicester Energy Agency) this may have an effect on this item. If Members wanted to adopt any option other than Option 3, but were still interested in centralising all energy budgets, a report could be presented to a future Cabinet recommending this.

Resolution

- (vi) That the Council continue to hold the position of Vice President of Energie-Cities (the Council has held this position since 1997);

Action Taken

The Cabinet has already confirmed this and the Cabinet Energy Agency Working Group were keen to stand for the Presidency, next time round, in 2006/7. **Following consultation with the Leader of the Council, the Corporate Director of Housing has put Leicester forward for the Presidency of Energie-Cities in 2006/7.**

Resolution

- (vii) That the Corporate Directors' Board sets up a mechanism to review the role of the Sustainable City Officers' Group (SCOG) and other environmental management groups, e.g. EMAS, in consultation with the Leader of the Council, to make sure they meet the strategic needs of the Council;

Action Taken

Corporate Directors' Board has agreed that the Corporate Director Regeneration and Culture should under take this review on behalf of the Council in consultation with the Leader of the Council. This review has now started. If Option 1 or 2 for the future of the Leicester Energy Agency were chosen, this review would be essential to ensure that the Council had appropriate mechanisms in place to protect its interests.

Resolution

- (viii) That staff continue to explore the options available for creating an ESCO, which limits the liability on the Council;

Action Taken

A paper to be prepared for consideration by the Group in six months time highlighting all the options available and risks attached to each option. This paper would not be necessary if the Council decided to adopt option 2 for the future structure and legal standing of the Leicester Energy Agency (see paragraph 2 below), as the Company would be charged with developing the ESCO.

Resolution

- (ix) That the Council continues to support the Leicester Energy Agency, who should act as an advisory body to the Council, but any proposals from the Agency that effect the Council must be agreed by Cabinet, or the Corporate Director of Housing in consultation with the Cabinet Member for Housing, before being implemented. The Corporate Director of Housing be given authority to negotiate an agreement between the Council, De Montfort University and the Leicester Energy Agency to formalise this arrangement and the Head of Legal Services be delegated authority to sign the agreement on behalf of the Council.

Action Taken

The Corporate Director of Housing and Head of Legal Services to organise a twelve-month extension to the old LEA agreement, under delegated powers. **Work on this has been delayed pending Members considering options for developing a long-term proposal for the Leicester Energy Agency, see paragraph 2 below.**

2. LEICESTER ENERGY AGENCY

- 2.1 Members will appreciate from previous reports, that the Agency, as currently formed, has no legal standing and is not able to officially act on behalf of the Council. As a result, officers sought the advice of Members on whether they wished to continue with the Agency or look for an alternative vehicle for delivering energy services with Europe. Following an extensive consultation exercise, which included seeking the views of four Scrutiny Committees and Cabinet, 62% of all Members on the Council were consulted and all indicated their support for the Agency. This gives Cabinet a strong base on which to legally re-establish and develop the Agency to meet the long-term aims of the Council in the future.
- 2.2 In considering the future role of the Agency, and how it best fits in to the Council's formal machinery, it is important to develop an arrangement that gives the Agency maximum freedom but allows the Council (Cabinet/Corporate Director of Housing) to take an independent view on any proposals put forward, both in terms of its long-term benefit to the City and in relation to other priorities in the Council. The history of the Leicester Energy Agency is shown at Appendix 1 for Members information. It is also worth noting the background on other Agencies established in the UK, with part European funding, around the same time as Leicester's Agency was established in 1996. Two such agencies set up shortly after Leicester were Croydon Energy Network and Southwark Energy Agency.
- 2.3 The Croydon Energy Network has subsequently become Creative Environmental Networks (CEN) and operates a number of energy efficiency renewable energy education programmes and strategic support for householders, businesses and communities in London and the South East. (www.cen.org.uk).
- 2.4 The Southwark Energy Agency merged with RENU (Renewable Energy in the Urban Environment) to create SEA-RENU (Sustainable Energy Action, Renewable

Energy in the Urban Environment). They are a non-profit company and an environment charity working with businesses, local authorities, schools and the wider community in London. (<http://www.sustainable-energy.org.uk/>)

- 2.5 Both of these organisations have secured European Union funding, UK funding and funding from charities to promote energy efficiency and renewable energy and work with communities. They have been doing very similar things to the energy services work of the City Council.
- 2.6 It may also be worth noting that the Greater London Assembly (GLA) have recently announced the launch of the London Climate Change Agency (www.London.gov.uk/view_press_release.jsp?releaseid=5234). Allan Jones who previously worked for Woking Borough Council is managing the Agency. Its aim is to reduce London's CO₂ emissions by 20% of the 1990 level by 2010.
- 2.7 The London Climate Change Agency is similar to the aims of the original Leicester Energy Agency, established in 1996. In order to establish the Climate Change Agency, Phil Jessup from the Toronto Atmospheric Fund in Canada was seconded for a 6 month period. Phil Jessup previously worked with the International Council for Local Environment Initiatives and was involved in establishing financing mechanisms to achieve large-scale reductions in CO₂ emissions.
- 2.8 Leicester is well connected not only with Energy Cities, but also the International Council for Local Environmental Initiatives. Previous City Council leaders have spoken at world municipal leaders summits on climate change including attending the Rio de Janeiro Earth Summit in 1992 and the Johannesburg Summit in 2003.
- 2.9 The success of both the former Croydon Energy Agency and the Southwark Energy Agency suggest that the Leicester Agency could also succeed. The fact that climate change is a world issue and the recent G8 Summit discussed it, suggests more action should be taken locally. The publication of the recent Local Government Association report (Leading the Way) specifically mentions Leicester's work as an example of best practice (www.lga.gov.uk/documents/publication/leadingtheway.pdf).
- 2.10 In view of the international perspective, the National Local Government Association report on how local authorities can meet the current challenge of climate change and the fact that the GLA have set up a Climate Change Agency should give Members confidence that establishing an arms length Leicester Energy Agency can help to push the environmental aims of the Council forward without losing control.
- 2.11 Leicester's Climate Change Strategy was published in 2003. This was an update of the 1994 Energy Strategy and attempted to measure Leicester's progress in reducing greenhouse gas emissions, making homes more comfortable to live in and making businesses more competitive over the previous decade. The main conclusions on the Climate Change Strategy were:-

- a. The need to make sure that all new buildings in the City are designed and built to both adapt to the threat of climate change and to minimise greenhouse gas emissions. This has resulted in the Leicester Better Buildings Project (www.Leicesterbetterbuildings.org.uk); and
- b. Establish a citywide combined heat and power scheme, which maximises renewable energy. This would use heat that is normally (thrown away) in the process of generating electricity and would dramatically reduce greenhouse gas emissions from Leicester. It also has the potential to generate substantial income from the sale of both electricity and heat and from this income, help finance further energy efficiency improvements in the City. In order to achieve a citywide combined power plant, an energy services company approach would be the logical and most effective way forward.

2.12 Officers believe that this review gives Members a rare opportunity to develop something innovative and should not be missed. However, care must be taken to ensure any review of the Council's environmental services is undertaken in such a way that the structure created allows the Agency to flourish and to push the Council's Environmental agenda forward in a more focussed way, and at the same time, establishes a more forward thinking and aggressive unit that is capable of exploiting opportunities to the full, at no or limited additional costs to the Council.

2.13 Should Members decide they want to pursue creating an Arms Length Company, and intend to transfer staff and projects currently managed by the Energy Centre, then there would be legal implications for all the European projects as these would need to be transferred to the new energy agency, or contracted to the agency, but must comply with European procedures and not put at jeopardy existing or future funding. It would be a procedure that could involve legal services in a number of contract changes with the Commission but also with each partner (overseas in most cases) as the Council would need to obtain their agreements. This need not be a barrier but it will need to be handled carefully. If Members did not wish to do this, but still wanted to create the Arms Length Company then the company could simply start afresh and all the current contracts could remain with the Council until they were completed.

2.14 Clearly, there could be a number of options available on how the Council moves forward, and four of these are shown below for Cabinet's consideration:

2.15 **Option 1**

2.15.1 The Council and other partner organisations should constitute the Agency as a separate legal entity (arms length company) with the remit to explore opportunities locally, regionally, nationally and internationally, for subsequent consideration by the Cabinet/Corporate Director of Housing.

2.15.2 To achieve this objective the newly constituted Agency would employ its own staff that would develop proposals and make opportunities available to the Council, other partner organisations and other interested groups for them to either endorse or reject. The Agency would be expected to work with other councils, agencies and public

bodies, both in the UK and abroad, and put together proposals for bids to Government, Europe and any other funding organisations or body's, which will bring benefits to the citizens in Leicester. The bids should also be structured in such a way that helped promote Leicester as a centre of excellence and raise the City's profile locally, regionally, nationally and internationally.

2.15.3 The Council could provide a grant to the Company to enable it to fulfil this role and assess its performance on an annual basis as part of the normal budget process. This would be similar to the creation of Leicester Promotions and would be done by measuring the Agency's performance against a set of service requirements laid down in a Service Level Agreement, as part of the contract between the new Company and the Council.

2.15.4 As an independent organisation, the Agency could access opportunities, by multi government working, which would not normally be available to the City Council, and bring additional benefits of cross fertilization of skills, experience and ideas. The Agency could also explore opportunities for charging a fee to other accessing organisations for providing this service and therefore, reduce the overall cost falling on the City Council, but any charges should not be to the detriment of its prime objective – to develop initiatives to achieve the Council's goals as set out in the Environmental and Climate Change strategies.

2.15.5 The Agency would also be expected to bring in grants/subsidies from Government, Europe, other environmental agencies and private companies that moved the energy agenda forward in support of the Council's overall aims and objectives.

2.15.6 **Advantages**

- i) The Agency is free from bureaucracy and administrative controls of the City Council.
- ii) It has a clear brief (as outlined in the Service Level Agreement) and maximum flexibility.
- iii) It is not continually scrutinised and made to justify every pound of expenditure.
- iv) It can be more entrepreneurial and risk taking.
- v) It is only accountable to its own Board of Directors (and indirectly to the Council through the SLA).
- vi) It can develop and market its services more aggressively.
- vii) It can assist on major new initiatives, such as developing an ESCO for the City.
- viii) Any major expenditure is outside Government controls and does not count as Council capital expenditure.

- ix) It can contract more freely for other energy related work with other organisations like utility companies, other public sector bodies e.g. health, prison service, carry out private sector studies and provide a national or regional monitoring service based on intelligent metering.
- x) It may be easier for the energy agency to engage with the business sector in Leicester by being a separate entity to the local authority and by not being part of the statutory regulative body or enforcement agency.

2.15.7 **Disadvantages**

- i) Council has influence/indirect control rather than direct control.
- ii) Could require a major overhaul of the Council's current environmental arrangements, which may face opposition from staff, the Unions and other people with a vested interest.
- iii) Depending on how structured, the Agency could be a partner organisation and not directly linked to other in-house environmental services (Environmental Management Team, Housing Energy Team, SCOG etc.), which could lead to a clash of policies/priorities between the various organisations.
- iv) The relationship between the Company and Environ including the ECO House project could sour as both could be in direct competition for Council, Government and European grants.
- v) The energy agency might be less able to represent the local authority view at Government events and workshops with DEFRA, DTI, DfT, Carbon Trust and Energy Saving Trust – although this could be made a condition of the SLA.

2.16 **Option 2**

- 2.16.1 This is as option 1 but more radical as it requires all environmental/energy services to be brought together and transferred to the Company. Members may also decide that they want to transfer the Council's CHP plants and even the Council's energy budgets as part of a contract that commits the Agency to reduce energy costs, to the Council, by a fixed set percentage, year on year, in the future.
- 2.16.2 The Company would manage, on behalf of the Council, its Environmental and Energy agendas. It would be required to develop and introduce an ESCO (either independently or in partnership with another organisation) within a predetermined timescale, e.g. five years, and the Council would commit to purchase heat and power through the Company. Other Councils' have already succeeded in establishing ESCO's e.g. Woking, Southampton, Slough, Sheffield, Nottingham, Shetland Isles, Corporation of London etc., and are now major providers of heat and power in their areas and playing an important role in reducing CO₂ emissions.
- 2.16.3 It is intended that all profits made by the Company would have to, under the Articles of Association, be reinvested in energy reducing initiatives in Leicester. The new company could be an amalgamation of Environ, the Leicester Energy Agency and

some of the in-house functions of the Council depending on negotiations and how radical Members wanted to be with the opportunity before them **or** a partnership between the new company, Environ and De Montfort University. Environ's preferred option is for a partnership arrangement.

2.16.4 **Advantages**

- i) The Agency is free from bureaucracy and administrative controls of the City Council.
- ii) It has a clear brief (as outlined in the Service Level Agreement) and maximum flexibility.
- iii) It is not continually scrutinised and made to justify every pound of expenditure.
- iv) It can be more entrepreneurial and risk taking.
- v) The Council has guaranteed energy budget savings, year on year, as specified in the SLA.
- vi) It's only accountable to its Board of Directors (and indirectly to the Council through the SLA).
- vii) It can develop and market its services more aggressively.
- viii) It would lead on major new initiatives, such as developing an ESCO for the City.
- ix) It could manage the Council's energy budgets and tackle problems e.g. leaks, more promptly, as well as pushing ahead with an environmental improvement programme (heat controls, insulation, metering system etc), as it would benefit from the resulting savings.
- x) Any major expenditure is outside Government controls and does not count as Council capital expenditure.
- xi) Allows the Council the opportunity to review how it structures and delivers its environmental agenda, and whether better value for money could be achieved by bringing a number of parallel and competing units together under one umbrella, leading to a more comprehensive and integrated service being created.
- xii) It can contract more freely for other energy related work from other organisations like utility companies, other public sector bodies e.g. health, prison service, can carry out private sector studies and providing a national or regional monitoring service based on intelligent metering.
- xiii) It may be easier for the energy agency to engage with the business sector in Leicester by being a separate entity to the local authority and by not being part of the statutory regulative body or enforcement agency.

- xiv) Reduces the complexity of European procurement for these services' as they will fall under the company's own procurement policies, which although covered by the service level agreement, could/would be less restrictive.
- xv) The agency would be far better placed to utilise the Council funding and match it with funding from other sources, including private sector and other public sector funding streams, and to maximise European funding where possible.
- xvi) Far more able to respond to the emerging markets within sustainable and renewable energy developments, and the opportunities would be much more rapidly achieved within this agency model, compared to the rather long drawn out situation within the local authority structure.
- xvii) The Company can actively market its services on a commercial basis without contravening or being in conflict with public sector rules or restrictions, and could actively seek overseas contracts, which would specifically raise the profile of Leicester.
- xviii) Environ, including the Eco House project, could be part of the new company or work in direct partnership with the new company, if this was felt to be more effective and complementary to the overall approach. It would be able to maximise the synergies and increase the leverage for seeking further funding in the future.

2.16.5 Disadvantages

- i) Council has influence/indirect control rather than direct control.
- ii) Could require a major overhaul of the Council's current environmental arrangements, which may face opposition from staff, the Unions' and other people with a vested interest.
- iii) Depending on how structured, the Agency could be either a partner organisation, not directly linked to other in-house environmental services (Environmental Management Team, Housing Energy Team, SCOG etc.), or an independent company, which could lead to a clash of policies/priorities between the various organisations, or a direct/sole provider.
- iv) If Environ and the new Company stayed as separate entities (without any formal links), the relationship between the Company and Environ including the ECO House project could sour as both could be in direct competition for Council, Government and European grants.
- v) If a sole provider, could require the service being put out to competition.
- vi) It would require a higher budget than option 1 and would need to develop a comprehensive Business Plan, which allowed for the smooth transfer of staff from the Council to ensure continuity of services through the transitional period and to safeguard staff employment rights.

2.17 **Option 3**

2.17.1 The Agency could continue to operate as an advisory organisation, employing no staff, as at present. However, a decision would be required whether the Agency was a legal entity or not.

2.17.2 If this was the chosen option then clear demarcation lines would need to be agreed so the Agency was clear what its role was, and what powers it had (if any) to act on behalf of the Council. It is unlikely that the Agency could take any decisions on behalf of Council without getting either the Corporate Director of Housing's, Cabinet's or full Council's approval. This could lead to delays and frustrations in the Agency when opportunities occur that require a quick decision.

2.17.3 **Advantages**

- i) Maintains the status quo and allows the Council the greatest influence and direct control of the energy agenda.

2.17.4 **Disadvantages**

- i) If not properly constituted, could create problems by committing the Council to something it does not want or see as a priority.
- ii) Is not able to operate fully or effectively in the market place.
- iii) Is not able to respond to opportunities quickly or speak with authority on behalf of the Council or its other partners.
- iv) Does not generate its own income stream, therefore has to rely on the financial support of the Council.
- v) Does not directly employ its own staff or have its own budgets.
- vi) Does not control its own destiny, always restricted by the amount of time staff can devote to it.
- vii) Leads to problems for managers of the Energy Team as there can be/is a conflict of interests in how much time staff should spend supporting the LEA compared to carrying out their other Council duties.
- viii) Not part of the Council 'machinery' and therefore, always on the peripheral.
- ix) Lacks direct influence within the Council and relies heavily on goodwill and support from other departments/Members to achieve real progress.
- x) Does not move the environmental or climate change agendas forward at a rapid pace.
- xi) There can be delays in getting responses and opinions from the energy agency to national and European consultation or replying to invitations to

make presentations or present results because of the need to seek approvals and permission.

- xii) Agency is not able to expand its services under the current structure and maximise its income generation.
- xiii) Retaining staff has proved very difficult, as there is no long-term plan; consequently, employment contracts have been fixed and short-term.

2.18 **Option 4**

2.18.1 The Council could consider bringing in-house all of the services currently undertaken by the Leicester Energy Agency. However there would be consequences of such an approach as the Council cannot access all of the grants that are currently available to the Agency. In addition, because the Agency has contracts in place with other partners the Council would have to get their agreement to such a transfer or wait until the contracts expired before bringing the service in-house.

2.18.2 **Advantages**

- i) The Council would be in total control of its energy agenda and able to determine the level of priority and resources it allocates to this function.
- ii) Creates the minimum risk to the Council.

2.18.3 **Disadvantages**

- i) Unlikely to move the Energy agenda forward at the required pace if the Climate Change Strategy is to be delivered.
- ii) Is not able to operate fully or effectively in the market place.
- iii) Is not able to respond to opportunities quickly.
- iv) Does not generate its own income stream, therefore has to rely on the financial support of the Council.
- v) Unless a centralised energy function is created likely to be a conflict of interests in how much time staff should spend supporting the Energy Agenda compared to carrying out their other Council duties.
- vi) Unless a centralised function will lacks direct influence within the Council and have to rely heavily on goodwill and support from other departments/Members to achieve real progress.
- vii) Council is not able to expand its services under the current structure and maximise its income generation.
- viii) Unlikely to be able to make the step change required to make a real impact on the Energy agenda

- ix) Could miss out on the potential opportunities and benefits that would come from an Arms Length Company.

2.19 Should Members decide they wish to pursue option 1 or 2 above, they will also need to agree who will represent the Council on the Board of Directors of the new Company.

2.20 Current Functions Undertaken by the Energy Teams

2.20.1 Leicester's approach to energy is relatively unique. It takes a very comprehensive approach looking at housing, businesses, community etc. The functions currently undertaken by the Council in relation to Energy are:

- Corporate Energy Management.
- Advice and Assistance to domestic and SME (small to medium enterprises) customers.
- Promotional/Marketing/Awareness Activity (national and international).

2.21 Corporate Energy Management

2.21.1 This encompasses work that is done for the City Council in relation to buildings it owns and uses. It includes the:

- Management and administration of utility company accounts (gas, electricity and water).
- The intelligent metering project (the fitting of data transmitting metering equipment to Council sites and premises).¹
- The monitoring of energy and water usage across the Authority, reporting abnormal states.
- The filing of a number of statutory returns in relation to energy usage (e.g. BVPI's).
- Projects involving improvements to Council buildings (inc. schools).
- LAEF (Local Authority Energy Financing) Project (started in November 2004) – the management and administration of a scheme to improve energy usage in council buildings through prudential borrowing repaid from savings made.

2.22 Advice and Assistance to Domestic and SME customers

This refers to the work of the Energy Efficiency Advice Centre and the contract from the Energy Saving Trust, which is renewed annually on completion of a satisfactory audit and performance targets being met for previous year. The contract covers Leicestershire, Rutland and Northamptonshire.

- Energy Assessments and Advice to homeowners – including surveying, signposting to schemes available, contract and grant payment administration.

¹ The Council provides monitoring and reporting services for a very small number of commercial organisations through the intelligent metering systems

- Administration of Leicester Loan Scheme – loans to assist householders to fund energy efficiency improvements paid back from the energy savings.
- Administration of Solar City NRF Scheme – a rental scheme for householders to install solar panels – paid for from savings made by householders.
- Maintenance and advice on an approved contractors list and schedules of rates.
- The management and maintenance of information for HECA return purposes.
- Energy Shop.
- SME Advice and Assistance.

It is important to note that 25% of domestic customers to the energy Advice Centre are from outside Leicester. The Energy Advice Centre operates a partnership arrangement with Northamptonshire to provide advice and assistance to customers from this area. Advice and assistance to vulnerable households in the City is subject to a PSA stretch target and this is on course to realise the reward grant of £625,000.

2.23 Promotional/Marketing/Awareness Activity (national and international)

This activity encompasses a variety of tasks and projects where the focus of attention is outside Leicester. Again this is EST funded on an annual basis.

Regional/National Work

- Development of Regionally based initiatives – through a Regional Support and Development Officer post.
- East Midlands Community Renewables Initiative – a project to promote the use of renewable energy to a range of community groups across the region.
- Administration on behalf of HECA – Nationally and Regionally.
- Asia Pro Eco

This is a partnership support project between Leicester, Rajkot (India) and Gaia (Portugal) the principal beneficiary being the city of Rajkot in terms of the use of expertise developed in Leicester and Gaia.

Total cost of Leicester involvement	£85k
EU contribution	£55k
Leicester contribution	£30k

Duration – 18 months

Objectives

To develop a framework for renewable energy initiatives.

To promote sustainable development through partnerships, citizens involvement and local business.

To reduce negative, energy related, environmental impacts through good practice, developing awareness on alternatives and promoting energy efficiency.

- EU Interreg IIIB – ProBioEnergy

A project to establish best practice in and market the use of bio-energy (energy generated through the use of bi-products of farming and forestry as fuel) through the establishment of bio-energy networks i.e. links between key players in the field (the farming community, planners, investors suppliers etc).

Total cost of Leicester involvement	£42k
EC contribution	£21k
Leicester contribution	£21k

Approx start date Dec 2003
Duration 3 years

- EU Ruse

A project to promote sustainable energy in urban redevelopment in “New Member States” of the EU by sharing experience with existing EU states.

Total Cost of Leicester involvement	£17k
Leicester contribution	£8.5k
EU funding	£8.5k

- EU Solar Building Exhibition

This project aims to promote the integration of solar energy into new building developments through exhibition of project ‘show homes’ to the public. This is an international project carried out simultaneously in 12 EU-partner cities between 2003 and 2005. Solar and other sustainable energy measures will be integrated into new housing in order to increase the market share of renewable energy and energy efficiency in cost efficient housing and commercial buildings. After completion the buildings will be exhibited for a few weeks. Intensive promotion is aimed at motivating homebuyers and investors to visit the exhibitions. The project will raise profile of sustainable energy in City developments and will work towards development of the Leicester Standard.

EC contribution to Leicester	£48k
Duration – 3 years	

- Energie Cities – A network of European energy and environmentally conscious cities.

Energie-Citiés is an association of European local authorities for promotion of local sustainable energy policies. It has over 110 members in 21 countries and representing close to 300 towns and cities. Leicester’s membership involves attending meetings/conferences in Europe. Costs will be incurred in relation the

involvement with the association but it has not been possible to establish these at this stage.

2.24 **The Legal Status of the Leicester Energy Agency**

2.24.1 The Energy Agency is, in effect, a consultative partnership board, which was established to comply with the requirements of a partnership agreement made between the Council and DeMontfort University in 1996. The agreement has expired, but the Energy Agency has continued. The Agency is not a separate decision making body. The original agreement makes it absolutely clear that it is in no way intended to create any legal identity separate to the legal identity of the City Council and DeMontfort University. The Agency cannot enter into contracts in its own name, nor can it employ staff etc.

2.24.2 Unfortunately the status of the Energy Agency has not remained clear as reflected in some published material, which has declared it to be a separate body, which it is not. This report provides an opportunity to clarify what this Authority wants to achieve via The Leicester Energy Agency.

3. **STAFFING**

3.1 Currently there is 22 staff (20 full time equivalents) employed in the Energy Services section and 10 (8 full time equivalents) in the Home Energy Team. Their employment status break down is as follows:

	<u>Energy Services</u>	<u>Home Energy Team</u>
Permanent	16	7
Stand-by register	2	0
Consultants	2	0
Temporary	<u>0</u>	<u>1</u>
	20	8

3.2 The staff in Energy Services are currently organised into 3 teams responsible for providing services broadly (but not exclusively) in line with the three areas described in paragraph 2.19.1 above. The team includes a number of officers from ethnic communities and reflects Leicester's community generally. If Option 1 were chosen for the Energy Services Company only those staff in the Energy Services Team would transfer to the new company. If option 2 were chosen then all the staff associated with energy would transfer, including staff in the Home Energy Team and possibly some staff in Regeneration and Culture Department, if Members so determined; and if option 3 were chosen, no staff would be subject to transfer from the Council to the new Company.

3.3 Members should note that the impact of the Cabinet decisions could give rise to either a TUPE transfer, a major or minor reorganisation or reductions in the number of staff required and all of these options carry an element of risk for both staff and service users. Any changes will however be implemented through the Council's protocol for organisation and staffing change. Every effort will be made to protect staff and if

necessary redeploy any members of staff who are surplus to requirements elsewhere in the Council. The Council has an excellent record in achieving this in the past but it is always subject to suitable vacancies arising in the three-month period immediately following the review and staff being successful in finding a position.

4. FUNDING THE SERVICE

4.1 Funding for the above activities comes from a number of sources, for example in 2004/5 the budget was made up as follows:

	<u>£ 000</u>
General Fund Budget – direct provision	£ 99
Recharges to Other Council Departments	£ 191
Levy on Energy Usage (recovered via energy companies)	<u>£ 324</u>
Total Cost to Council	£ 614
<u>Plus:</u>	
Income from a range of projects/contracts/agreements	£ 495
Total available for expenditure on energy related work	<u>£1109</u>

4.2 The financial circumstances around energy work are never static with funding streams, particularly around income changing from year to year. This is one of the reasons why there initially was some difficulty in establishing the long-term financial costs/implications of the unit. However, now it is on a firm footing Members can, with some confidence, take a long-term view of the future of the service.

4.3 As can be seen from the table in paragraph 4.1, the Energy Service currently has at its disposal £614k of Council funds. Depending on the option adopted this may or may not be enough to cover the cost of the service. Under option 2 the Council would be looking for an annual reduction in its energy costs in line with the figure (yet to be agreed) in the Service Level Agreement. In addition, this option contractually commits the Company to develop an ESCO within a specified period of time. Option 3 maintains the status quo and therefore the current level of costs are likely to continue in to the future and Option 1 may bring some reductions in costs to the Council long-term depending how successful the Company was in selling its services to other councils/organisations.

5. MARKETING STRATEGY

5.1 If the City's energy services are to be developed and promoted in a more effective way then a high profile marketing strategy needs to be produced that builds on the very strong UK, European and International reputation the service has already. However, the corner stone of the Strategy must be in relation to reducing CO₂ emissions, increasing affordable warmth in homes and making local businesses more competitive. Officers have developed a draft strategy that is currently out for consultation.

6. **FINANCIAL, LEGAL AND OTHER IMPLICATIONS**

6.1 **Financial Implications**

This report seeks a decision from Cabinet about whether a different approach to managing energy should be adopted; particularly through the use of an Arms Length Company.

The report contains indications of the likely advantages and disadvantages of the various options to the City Council. However, before any final decision to proceed is taken, a more detailed business plan showing expected income and expenditure for any new company should be considered together with an assessment of the financial impact on the Council. The business plan would include a risk assessment.

6.2 **Legal Implications**

The issues, risks and work involved in progressing each or any of these options should not be underestimated. Particular concerns would be the implications of the transfer of staff and assets, the means of complying with the EU Procurement Regulations if the Council is to buy back the energy it requires, state aid issues, the financial security and performance guarantee of any company (we would expect to see a form of outline business case before any detailed work would proceed) and what the reaction of the private sector would be (I would prefer to see a further comparator option of a private sector led SPV).

Whatever relationship we have with the "agency" the Council would still expect service standards and performance indicators to be maintained and the long-term use and investment of public money to be justified. Because of this some of the perceived advantages, for example "not ... made to justify every pound of expenditure" and "it can be more ... risk taking" are an indication that our approach is, quite frankly, misplaced.

At this point in time I remain deeply concerned about the viability of either option 1 or option 2 and would recommend that further conceptual and viability work is undertaken. This could usefully follow on from the outcome of the Energy Strategy.

6.3 **Other Implications**

OTHER IMPLICATIONS	YES/NO	Paragraph Within Supporting References information
Equal Opportunities	No	
Policy	Yes	All
Sustainable and Environmental	Yes	All
Crime and Disorder	No	
Human Rights Act	No	

Elderly/People on Low Income	No	
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7. **BACKGROUND PAPERS - LOCAL GOVERNMENT ACT 1972**

Minutes of Full Council meeting 25th February 2004
 Report to Cabinet February 2005 on Future Profile of Energy Services

8. **CONSULTATIONS**

The Cabinet Energy Agency Working Group, Corporate Directors' Board, Head of Legal Services, Director of Regeneration and Culture and Chief Finance Officer have been consulted in the preparation of this report. The report has also been discussed with Professor Paul Fleming at De Montfort University and Mick Cooke, Chair of Environ.

9. **AIMS AND OBJECTIVES**

The recommendations in this report contribute to the Housing Department aim of "A decent home within the reach of every citizen"

10. **REPORT AUTHOR**

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The History of the Leicester Energy Agency

In 1990, Leicester became Britain's first Environment City, with the aim of promoting more sustainable development in the City.

Leicester has set a target for reducing its energy consumption to 50% below 1990 levels by 2025, and produced a Leicester Energy Strategy in 1994. The strategy looks at urban energy management in the City and considers energy supply, energy demand (including the domestic, non-domestic, and transport energy end use sectors, and advice) and monitoring and evaluation. The Leicester Energy Agency has been set up to implement the strategy's recommendations.

The Agency was formed in February 1996, with 3 years of funding from the European Commission through its SAVE II programme, as a partnership between Leicester City Council and De Montfort University. The Leicester Energy Agency has a partner Agency, Barnagel, in Barcelona, Spain.

The Agency has aimed to:

Implement energy efficiency improvements in homes and businesses in Leicester

Address social, economic and environmental policies by helping to provide affordable warmth in homes

Create new markets and jobs in energy services

Reduce local and global air pollution

The objectives of the Agency, over its first three years, have been to:

Improve the energy efficiency of up to 4,000 homes in the City with an average change in National Home Energy Rating (NHER) from 3 to 6

Improve the energy efficiency of up to 5,000 businesses, resulting in an average saving of 10% on their current energy bills

Attempt to create up to five new small and medium sized enterprises to provide energy services to homes and businesses

Achieve a reduction in energy consumption of between 340-840 TJ in Leicester overall

In its first 3 years, the Agency directly employed 2 full-time staff (Council Energy Officer, and De Montfort University Researcher) and a part-time Administration Assistant at the Council, drawing on the support of other energy-related staff at De Montfort University and the Council. The Agency's Director has been the City Council's Energy Manager. Since the end of European Commission funding the Agency has continued as a partnership drawing on the support of energy related staff at the City Council, and also De Montfort University but **has no status as a Legal entity**.

The Agency has a management Board which includes elected Councillors of Leicester City Council, representatives of the Housing Department and the Regeneration and Culture Department and the Director of the Institute of Energy and Sustainable Development at De Montfort University.

The Leicester Energy Agency currently is involved in a variety of projects on regional, national and European levels. These include:-

Asia Pro Eco

EU solar exhibition - European Solar Building Exhibition

EU Interreg IIIB ProBio Energy

EU RUSE

Energie-Cities