

<b>Report of:</b>	Director of Finance: Ian Wright Executive Member for Environment and Finance & Governance: Cllr Barrie Cooper
<b>Submitted to:</b>	Executive - 7 September 2021
<b>Subject:</b>	Supplier Incentive Programme

## Summary

Proposed decision(s)
That Executive approves: <ul style="list-style-type: none"> <li>i) the Council reverting back to the Statutory payment term of 30 days</li> <li>ii) the procurement and implementation of a Supplier Incentive Programme ('SIP') with Oxygen Finance Ltd ('Oxygen') via the NEPO 521 Early Payment Services Framework</li> <li>iii) utilising the E-Invoicing format to ensure compliance with Public Contract Regulations 2015 (PCR)</li> </ul>

Report for:	Key decision:	Confidential:	Is the report urgent? <sup>1</sup>
Decision	Yes	No	No

Contribution to delivery of the 2020-23 Strategic Plan		
People	Place	Business
The implementation of the SIP will support sustainability of local businesses.	Supporting the local business community through access to early payment for services within terms they deem acceptable.	Offering local suppliers the opportunity for significantly early payment which will increase cash flow which can assist in sustainability and recovery from COVID.

Ward(s) affected
This would affect all wards as suppliers are located all over Middlesbrough as well as outside of our borough. Due to the nature of this contract individual ward members were not consulted but the Executive Member for Finance and Governance was due to the business being under her remit.

<sup>1</sup> Remove for non-Executive reports

## **What is the purpose of this report?**

1. To seek Executive approval of the procurement and implementation of a SIP for Middlesbrough Council.

## **Why does this report require a Member decision?**

2. In line with the scheme of delegation a contract award over £150k and internal policy changes require Executive approval.

## **Report Background**

### **What decision(s) are being asked for?**

3. That Executive approves:
  - a. the Council reverting back to the Statutory payment term of 30 days
  - b. the procurement and implementation of a Supplier Incentive Programme ('SIP') with Oxygen Finance Ltd ('Oxygen') via the NEPO 521 Early Payment Services Framework
  - c. utilising the E-Invoicing format to ensure compliance with Public Contract Regulations 2015 (PCR)

### **Why is this being recommended?**

4. As part of a drive to improve commercialisation an opportunity has been identified which will allow the Council to continue to support the local economy and suppliers but also create an income stream which is not currently being achieved.
5. The Council spends circa £170m annually on goods and services and implementing SIP will benefit the Council financially but also offer even shorter payment terms for all suppliers' particularly local small businesses through improved cash flow which will also support them in COVID recovery.
6. Middlesbrough Council does have in place an early payment term for all invoices of 20 days, which is 10 days earlier than our statutory obligation. The 20 days was approved in 2007 to support Small to Medium Enterprises (SMEs) when the recession hit. There is little detail available providing the reasons and anticipated timescale for this approach and instruction provided to the Strategic Delivery partner at the time was that this was a standard approach for all suppliers and not just SMEs and came at no cost to the supplier.
7. Whilst introducing an early payment term was a positive move to support the economy and suppliers at the time it was not a commercially astute approach and means that the Council is sacrificing cash flow to the benefit of all suppliers regardless of size or status, which in the current climate is not a sustainable option.
8. The SIP offers the Council the ability to continue to support the local economy and suppliers but also make a commercial return of approximately £150k per annum over the next 5 years.

9. In April 2021 the Council was achieving 97.50% of invoices being paid within the 20 days which is a fantastic achievement but paying suppliers 10 days earlier with no financial benefit is not commercially viable for the future and the time feels right to review and improve practices to further strengthen our sustainability for the future as well as the economy.

10. Middlesbrough Council Strategic Plan 21-24 has three interrelated strategic aims:

People	Working with communities and other public services in Middlesbrough to improve the lives of local people.
Place	Securing improvements in Middlesbrough's housing, infrastructure and attractiveness, improving the town's reputation, creating opportunities for local people and improving our finances.
Business	Promoting investment in Middlesbrough's economy and making sure we work as effectively as possible to support our ambitions for People and Place.

11. The need to create a prosperous local economy, supporting people and the local business community and creating an environment in which they can flourish, has never been greater following the impact of the COVID-19 pandemic. The Council must support local businesses and job creation through embedding social value in commissioning and procurement, including managing and monitoring delivery of social value activities, and through the prompt payment of invoices.
12. The Council has been considering the implementation of the SIP programme for some time and hopes that this solution will further enable electronic receipt, matching and payment of supplier invoices thereby improving processes and cash flow for all suppliers as well as providing the functionality for an optional three way incentive programme to deliver even earlier payments (e.g. even earlier than the 20 days).
13. With enhanced checks and controls in place as part of the SIP programme, it should also reduce the risk of duplicate and fraudulent payments, which presents a heightened risk in the current economic climate. The SIP could enable thousands of invoices to be processed early, injecting millions of pounds of liquidity into the economy, with the additional revenue generated from the SIP Programme being channelled into frontline services for the benefit of local residents. The SIP works on the following principles:
- E-invoicing
  - Supplier payment terms are set at standard 30 days
  - No supplier is compelled to sign-up to or participate in the programme
14. A description of the **key** objectives of the project needs to achieve are shown below:
- To procure and implement a SIP to suppliers
  - To on board at least 40% of our in-scope suppliers (3<sup>rd</sup> party Trade spend)
  - To improve P2P processes to maximise invoice acceleration
  - To improve cash flow for suppliers which could assist in recovery from COVID 19 and generate additional funds that can be reinvested into frontline services (on a free of charge basis for Small Local suppliers – “Freepay”)

15. As stated earlier there are financial benefits that will be achieved over the contract term as well as bringing internal efficiencies, reducing risk for the Council and continuing to support suppliers and the local economy, ensuring that they are paid in as early as possible and within terms that they are happy to agree.
16. There is an estimated £750k bottom line rebate return that could be achieved over the 5 year and in light of continued financial pressures faced by the public sector this seems the right time to re-set our policy and procedures in order to achieve this return.
17. It is recognised that in agreeing to implement SIP it will require changes that could be consider negative from a suppliers point of view, however, working with Oxygen and using their experiences from other Local Authorities that have introduced this we will have a number of flexibilities to ensure that the impact on suppliers is a neutral as possible.
18. As part of the Middlesbrough SIP we will be able to set parameters for certain suppliers to still receive early payment at no cost (this is referred to as 'Freepay' and is something other Local Authorities have implemented).
19. It is also important to remember that this is completely at supplier discretion, e.g. if they do not wish to provide a rebate then the payment term will simply revert to contractual term of 30 days. Please note that any change to a suppliers payment terms will be managed with them and reflective of ensuring least disruption for the suppliers.
20. On the opposite scale providers may wish to secure an even quicker payment term and be happy to pay a small rebate for that.
21. Please note that Oxygen will also provide us with full support in relation to implementation of the project which will ensure a partnership approach and have in place a fully signed of work plan and communication plan to ensure a smooth and efficient transition for all parties. There will be a number of suppliers that are already signed up to SIP programmes with other Local Authorities and will provide an initial quick win which will likely be identified during implementation.
22. In addition to the rebate there are also other non-cashable benefits that we feel could be realised through the implementation of this system:

#### **Benefits to the Supplier / Economy**

- Suppliers could secure even quicker payment terms which would further improve liquidity and cash flow
- Local small and micro businesses will be able to benefit from 'Freepay' at no cost
- Deliver Social Value contributing to the development and post Covid-19 recovery of the local economy through the earlier payment of invoices

#### **Benefits to the Council**

- There are legislative drivers that may be partially addressed through a properly implemented SIP
  - The Public Contracts Regulations 2015 - liabilities paid within 30 days (increased compliance to target)
  - The Public Procurement (Electronic Invoices etc.) Regulations 2019 - Electronic Invoicing Directive contains provisions relating to the processing

of electronic invoices (ability to comply through implementation of eInvoicing)

- The Late Payments Directive - automatic entitlement to interest for late payment (reduction in late payment liability)
  - Improved Council performance in terms of Accounts Payable.
  - Improved strategic engagement with suppliers who choose to sign up.
  - Encourages suppliers to help drive best practice (e.g. e-invoicing) and compliance (e.g. no PO/ no pay).
  - Contributes toward social value goals by improving cash flow for local businesses and creating added social value in Middlesbrough.
  - Over the medium term the programme will generate a net return (after implementation costs and lost interest on balances held) that can be reinvested into the delivery of front line services.
23. The Public Contracts Regulations 2015 requires local authorities to ensure that every public contract which they award contains suitable provisions to require “**that any payment due from the contracting authority to the contractor under the contract is to be made no later than the end of a period of 30 days from the date on which the relevant invoice is regarded as valid and undisputed**” and report on the number of invoices paid within these terms. This is particularly important for many of the small local businesses that provide services to the Council.
24. Middlesbrough Council has in place a reduced payment timescale of 20 days and in implementing this project the Council will need to revert back to the statutory 30 days payment term. This is already reflected in Council contractual terms however as part of the programme implementation we would work with Oxygen to agree a change management and communications plan to support the move from 20 to 30 days. Oxygen have experience of similar changes in payment practice with several other Local Authorities.
25. The implementation of a SIP will assist with embedding the Council’s ‘no PO no pay policy’, ensuring that goods and services are purchased from the right supplier at the correct price. With enhanced checks and controls in place as part of the SIP programme, it should also reduce the risk of duplicate and fraudulent payments, which presents a heightened risk in the current economic climate.
26. This project will be managed via the Council’s Programme Management Officer (PMO) process and a small Project Group has been established which will be responsible for implementation of this project and is made up of:
- Head of Finance & Investments
  - Specialist Commissioning & Procurement Senior Manager
  - Team Leader – Invoice & Debt Recovery Team
  - VAT Officer
  - ICT Business Partner
  - Business Partner – Programme & Project Management
  - Manager – Oxygen Finance Ltd
27. The Project Group will meet regularly during the implementation phase to ensure a smooth transition into go live.

## **Other potential decisions and why these have not been recommended**

- 28. Implementing this internally has been considered however, the cost associated would be significantly more than the cost of procuring it via the NEPO Framework.
- 29. Oxygen Finance are working with over 30 other Local Authorities and have proven experience in implementation and delivery that the Council could not duplicate without significant additional resources.
- 30. Oxygen has over 10 years experience in running Early Payment Programmes and have developed a tried and tested methodology. This includes templates and a fully resourced team to minimise the effort required by the Council.
- 31. The Oxygen solution is VAT compliant and has been subject to legal guidance to ensure compliance to various relating legislative requirements including the Construction Act.

## **Impact(s) of recommended decision(s)**

### ***Legal***

- 32. There are no legal implications as the procurement would be via the NEPO Framework which is a compliant procurement route and suppliers would not be mandated to sign up to the system and would still be paid within the statutory 30 day period.

### ***Financial***

- 33. We are proposing to utilise the 50/50 Rebate split option via the NEPO Framework which means that there are no upfront costs for the implementation of the SIP.
- 34. After 6 months there is a monthly Service Charge of £2.5k, however by this time it is anticipated that the rebate received will be in excess and as such this cost will be covered by the rebates received.

### ***Policy Framework***

- 35. This decision will not amend an existing policy framework document.

### ***Equality and Diversity***

- 36. An Impact Assessment has been completed and found no concerns that the SIP could have any adverse effects and the assessment is attached as Appendix B.

## Risk

37. This project will assist in mitigating the following risks:

Risk No	Risk Description	
O8-055	If the Council doesn't respond effectively and efficiently to legislative changes it could be in breach of statutory duties in relation to service delivery and fail to make the most of opportunities.	The Council will be addressing legislative drivers through implementing the Supplier Incentive Programme. Also the process will implement enhanced check and reduce the risk of duplicated and fraudulent payments which will protect the public purse. The proposal will have a positive impact on this risk.
O8-036	If <b>performance standards fall to unacceptable levels</b> , due to cuts to funding, service or a failure to successfully implement the Change Programme, then loss of reputation and reduced outcomes for local people will follow.	This programme will improve the Council's performance in terms of its Accounts Payable Function. The proposal will have a positive impact on this risk.
O1-005	If poor economic growth occurs, then this will reduce public and private sector investment in the town, including town centre retail, housing development and business.	This process seeks to improve cashflow for suppliers and if they are in the local economy this may help keep businesses who are struggling going to sustain our local economy in these Covid-19 times. By implementing the programme the Council is trying to support local suppliers so this will have a positive impact on this risk.
O8-059	If incorrect assumptions are made in the MTFP this will result in a funding gap requiring further savings to be made.	Although not the driver for the programme over the medium term the programme will generate a return which can be factored into the MTFP and can be reinvested into front line services and therefore it will have a positive impact on this risk.

## **Actions to be taken to implement the decision(s)**

- Award contract to Oxygen via the NEPO Framework
- Implementation Plan to be developed (Oxygen template to be updated for Middlesbrough Council by Oxygen and approved)
- Project Group will manage implementation in partnership with Oxygen
- Policy and Procedures amended to reflect the removal of 20 days to statutory 30 day payment terms (Contracts do not need amending as it only refers to statutory limits)
- Agreement to include the programme in all future tenders on an evaluated basis

## **Appendices**

Appendix A – Oxygen Finance – Middlesbrough Council – October 2020

Appendix B – Equality Impact Assessment SIP

## **Background papers**

No background papers were used in the preparation of this report.

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