

# Decision Pathway – Report



**PURPOSE:** Key decision

**MEETING:** Cabinet

**DATE:** 03 November 2020

<b>TITLE</b>	Supplier Early Payment Initiative		
<b>Ward(s)</b>	All		
<b>Author:</b> Kevin Smith	<b>Job title:</b> Revenues Operations Manager		
<b>Cabinet lead:</b> Councillor Craig Cheney	<b>Executive Director lead:</b> Mike Jackson, Chief Executive		
<b>Proposal origin:</b> Councillor			
<b>Decision maker:</b> Cabinet Member			
<b>Decision forum:</b> Cabinet			
<b>Purpose of Report:</b>			
To seek approval for the procurement and implementation of a Supplier Early Payment Initiative ('SEPI') for payments to suppliers and to contract with Oxygen Finance Ltd ('Oxygen') as the service provider for the implementation and management of the service.			
<b>Evidence Base:</b>			
<p>Bristol City Council (the 'Council') has set out its ambitious plan to achieve inclusive, sustainable growth and in achieving this ambition economic growth and sound financial management are integral themes. The need to create a prosperous local economy, supporting people and the local business community and creating an environment in which they can flourish, have never been greater. 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.</p> <p>The Council spends some £400 million annually on goods and services, with in excess of 10,000 suppliers. Circa 40% is expended within the local area (defined for this purpose only as BS1 – BS16 postcodes). The Public Contracts Regulations 2015 requires local authorities to ensure that every public contract which they award contains suitable provisions to require <b><i>“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”</i></b> 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.</p> <p>At the end of September 2020 year to date performance of the Council's was 86.3% of invoices paid within 30 days. This is an improvement slightly from last year's position of 81.00% and predominantly resulting from the temporary accelerated payment in initial response to the Covid-19 pandemic. The main issues preventing this targets being achieved are the volume of invoices processed, internal systems and processes and the complexities of the type of provision. Bristol is not unique in this regard, roughly half of invoices in the UK are paid within 30 days; and roughly one fifth wait longer than 60 days.</p> <p>The headline findings in relation to SMEs from the Pay.UK Late Payments research 2019 (pre-Covid-19) indicated the following:</p> <ul style="list-style-type: none"> <li>• 78% of SMEs said they are being forced to wait a month, or longer, beyond agreed payment terms before</li> </ul>			

being paid and Some 45% of SMEs are waiting two months or more;

- of those SMEs impacted by delayed payments, 63% say it has a negative effect on their businesses;
- more than a third (35%) are forced to rely on bank overdrafts, while almost a quarter (24%) say that being paid late forces them to hold off paying their own staff or business bills;
- 24% of business owners say they take a cut in their own salaries just to keep cash inside their businesses; and
- 22% of those waiting on funds spending more than £500 a month chasing payments.

The position as outlined above is expected to have deteriorated further in the wake of the Covid-19 outbreak.

#### The Proposition

The Council has been working on a solution to electronically receive, match and pay supplier invoices to standard contract terms thereby improving the process and cash flow for all suppliers as well as providing the functionality for an optional three way incentive programme to deliver even earlier payments. The implementation of a Supplier Early Payment Initiative (SEPI) 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 SEPI programme, it should also reduce the risk of duplicate and fraudulent payments, which presents a heightened risk in the current economic climate.

The SEPI could enable thousands of invoices to be processed early, injecting millions of pounds of liquidity into the local economy, with the additional revenue generated from the SEPI Programme being channelled into frontline services for the benefit of local residents. The SEPI works on the following principles:

- New electronic -invoicing platform
- Supplier payment terms for new contracts are set at standard 30 days
- No supplier is compelled to sign-up to or participate in the programme

#### Optional three way Incentive:

- Engaged suppliers (on board) are offered an earlier settlement of their invoices, typically around 10 days ('Target Date') from the date of receipt of a valid invoice, in exchange for a discount directly related to spend categories and how quickly the payment is made; an Early Payment Rebate ('EPR')
- Existing supplier payment terms are replaced with incentivised, accelerated payment terms
- The acceleration is the difference between contracted payment term and actual number of days taken to pay
- The rebate is calculated on each individual invoice and is determined by actual early payment performance, i.e. the actual payment date compared against standard invoice terms
- The net cash flow is increased for the supplier / early payment rebate shared between the operator and the Council
- A phased approach will be adopted with on-boarding of suppliers to this new arrangement. Supplier spends that are not managed via our centralised systems and processes such as Social Care (Controcc) will be considered in a later phase of this programme.
- To support local micro businesses a 'Freepay' approach would be implemented, allowing eligible micro businesses in Bristol to receive payment of invoices earlier than under contracted terms without any early payment discount (0%) to the invoice sum.

The commercial terms of this proposition are outlined in the exempt Appendix I1.

#### Benefits to the Supplier / Economy

- Suppliers will gain improved liquidity and better cash flow certainty
- Local 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 SEPI
- The Public Contracts Regulations 2015 - liabilities paid within 30 days

- The Public Procurement (Electronic Invoices etc.) Regulations 2019 - EU Electronic Invoicing Directive contains provisions relating to the processing of electronic invoices
- The EU Late Payments Directive - automatic entitlement to interest for late payment
- 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 Bristol.
- 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.

### Procurement

In taking the proposition forward the Council is seeking approval to commission Oxygen Finance via a direct call-off contract from a compliant public sector framework (NEPO 521 Early Payment Services Framework), open until March 2024 with the option of two 24 month extensions. There is no maximum value to any call-off. Oxygen is a specialist provider of payment solutions and one of the leading providers of early payment programmes working with public sector organisations to improve operational effectiveness, drive financial efficiencies and deliver directly and indirectly against the Council's social value objectives which will be embedded in the contract terms and conditions.

A contract term of 5 years is proposed which will enable the implementation costs (largely met by the contractor) to be recovered, new processes to be embedded and gradual growth of suppliers on board. This will be aligned with quarterly meetings and as a minimum annual reporting which will enable metrics that are deviating from expectation to be appropriately considered. This public sector framework provides a quick and value for money route to market and working in partnership with Oxygen Finance can implement a proven approach that can rapidly drive benefits locally.

Whilst we have modelled scenarios with a tapered approach which indicate a range of contract values for each of the 5 years, the rule of thumb is that the initiative could realise bottom line income equivalent to c.0.1% of its total procurement spend on boarded every year. To ensure sufficient headroom the contract value of £1.5m (over the 5 year period) is being proposed, noting that the actual value will be determined by the third party activity in scope, discount fee, level of on-boarding and pace of take up.

### Implementation

It will be necessary for the Council to change a number of existing practices around payment processes and adopt a number of new ones, which will need to include:

- Embed the option for early payment terms into all future tenders across the agreed categories;
- To adopt a policy of no early payment, or similar, negotiations with suppliers to be undertaken outside of this SEPI Programme;
- To ensure payment terms in the finance system for existing and new contracts are a standard 30 day term in line with relevant legislation (unless for genuine reasons the contract term for specifically identified contracts have to be shorter than the standard term);
- In line with the social value commitment, revise the terms further for Micro businesses who have a primary business base within the geographical boundaries of Bristol Wards) on boarding to 'Freepay'.

The draft implementation plan is outlined in Appendix I and will require a dedicated team of process change experts from Oxygen Finance along with a small resources team from across a range of support services such as Procurement, Accounts Payable and Communications for a short period to work collaboratively to establish the necessary processes and devise a communication strategy to promote the SEPI to suppliers and ensure the Supplier engagement undertaken by our proposed provider is aligned with our ethos and values and the benefits are clearly understood.

**Cabinet Member Recommendations:**

That Cabinet:

1. Approve the implementation of a Supplier Early Payment Initiative.
2. Authorises the Director of Finance in consultation with the Deputy Mayor (with special responsibility for Finance, Governance and Performance) to take all steps required to award the 5 year contract through a compliant public sector framework to Oxygen Finance Ltd with an estimated contract value of £1.5m and progress implementation of the programme including revisions to the associated policies and protocols.

**Corporate Strategy alignment:**

This proposal set out in this report supports and aligns with the vision within the Corporate Strategy in playing a leading role in driving a city of hope and aspiration where everyone can share in its success.

In particular this initiative supports the theme “Fair and Inclusive”, improving economic and social equality and developing a diverse local economy that offers opportunity to all.

Guided by the following principles:

- Build city resilience, improving our ability to cope with environmental, economic or social ‘shocks and stresses
- Use our assets wisely, generating a social and/or financial return
- Raise money in a fair but business-like way

**City Benefits:**

The supplier earlier payment initiative will assist in improving the local economy through increasing the liquidity of local suppliers and contribute to the creation of a prosperous local economy, supporting the local business community and creating an environment in which they can flourish.

**Consultation Details:**

None Required

**Background Documents:**

Not applicable

<b>Revenue Cost</b>	Initial set-up costs £0.05m  Ongoing costs in the range of £0.3m to £0.6m (total over 5 years) (depending on BCC / Supplier contract split)	<b>Source of Revenue Funding</b>	Initial set-up costs to be funded from Commercialisation Reserve  Ongoing costs to be self- funding from income generation
<b>Capital Cost</b>	n/a	<b>Source of Capital Funding</b>	n/a
<b>One off cost</b> <input checked="" type="checkbox"/>	<b>Ongoing cost</b> <input checked="" type="checkbox"/>	<b>Saving Proposal</b> <input type="checkbox"/>	<b>Income generation proposal</b> <input checked="" type="checkbox"/>

**Required information to be completed by Financial/Legal/ICT/ HR partners:**

Finance Advice: This report seeks approval to contract with Oxygen Finance for an initial 5 year term to implement and manage an early payment initiative with suppliers to Bristol City Council. Relevant due diligence work has indicated that Oxygen are highly experienced in the delivery and provision of Early Payment Services and the service is already in use at other local authorities. It is anticipated that circa 50% of the Council’s third party activity would be ‘in scope’, with public sector bodies, schools, utility companies ‘out of scope’.

This initiative is expected to yield a number of benefits to engaged suppliers, to the Council and to the wider economy.

Suppliers considered eligible for ‘Freepay’ are those with fewer than 10 employees and a turnover of less than £632k

(micro entity). These suppliers: (1) are active on the Accounts Payable system within the last 12 months (to be reviewed on a six monthly basis); (2)) have their registered Office address within the Council boundary.

Based on the areas in scope for early adoption, and whether the savings split for BCC: Oxygen is 50:50 or 60:40 with annual flat fee, payback could be achieved in as little as 1 year and generate a small return to the Council for reinvestment in front line services of £0.3m per annum within 5 years. The scheme is expected to reach maturity in the 5th year. Financial appraisal assesses that a widened scope in later phases could potentially increase the scheme's savings generation to £0.5m per annum for reinvestment in front line services within 5 years.

In both cases, sensitivity analysis indicates that a 10% point reduction in take up per year of an initial 5 year contract will reduce net income by £0.1m and extend payback by an additional 1 year.

Further exempt commercial information is included at Appendix I1, I2 and I3.

Finance Business Partner: Jemma Prince – 22 October 2020

2. Legal Advice: It is proposed to make the direct award to Oxygen through the use of the NEPO 521 Early Payment Services Framework, established in May 2020 by South Tyneside Council on behalf of NEPO (North East Procurement Organisation). This single supplier framework is available to all Associate Members, with membership being freely available. It is understood that the both the suitability and availability of the framework has been addressed by colleagues in procurement, and accordingly its adoption should provide a compliant procurement route.

Legal Team Leader: Eric Andrews – 21 Oct 2020

3. Implications on IT: Whilst this is an established product and we do not anticipate any real concerns, IT Services will need to ensure appropriate controls are in place to manage data exchanges and identity management in conjunction with Information Assurance colleagues. This will need to be factored into the delivery approach undertaken.

IT Team Leader: Simon Oliver Director – Digital Transformation – 16 Oct 2020

4. HR Advice: This is new work, so TUPE does not apply. 1 FTE client-side resource is required, which has been budgeted for, being funded from income.

HR Partner: James Brereton (People & Culture Manager) – 19 Oct 2020

<b>EDM Sign-off</b>	Mike Jackson	
<b>Cabinet Member sign-off</b>	Councillor Craig Cheney, Deputy Mayor, Cabinet member for Finance, Governance, Property and Culture	26 <sup>th</sup> October 2020
<b>For Key Decisions - Mayor's Office sign-off</b>	Mayor's office	26 October 2020

<b>Appendix A – Further essential background / detail on the proposal</b>	<b>NO</b>
<b>Appendix B – Details of consultation carried out - internal and external</b>	<b>NO</b>
<b>Appendix C – Summary of any engagement with scrutiny</b>	<b>NO</b>
<b>Appendix D – Risk assessment</b>	<b>YES</b>
<b>Appendix E – Equalities screening / impact assessment of proposal</b>	<b>YES</b>
<b>Appendix F – Eco-impact screening/ impact assessment of proposal</b>	<b>YES</b>
<b>Appendix G – Financial Advice</b> <i>(Financial officer must be the author of the advice)</i>	<b>YES</b>
<b>Appendix H – Legal Advice</b> <i>(Legal Services must be the author of the advice)</i>	<b>YES</b>
<b>Appendix I – Exempt Information</b> <i>(Legal Services must confirm that information is to be exempt in accordance with the constitution)</i> <ul style="list-style-type: none"> <li>I1 - Oxygen Finance – Short Form Proposal including implementation plan</li> </ul>	<b>YES</b>

<ul style="list-style-type: none"> <li>• <i>I2 - Exempt Finance</i></li> <li>• <i>I3 – Exempt Finance – Implementation Costs</i></li> </ul>	
<b>Appendix J – HR advice</b>	<b>YES</b>
<b>Appendix K – ICT</b> <i>Include here additional information from ICT</i>	<b>YES</b>
<b>Appendix L – Procurement</b>	<b>YES</b>