

## **Cabinet – 18 December 2019**

### **Implementation of Supplier Early Payment Programme**

**Portfolio:** Councillor Bird, Leader of the Council

**Related portfolios:** All

**Service:** Finance – Council Wide

**Wards:** All

**Key decision:** Yes

**Forward plan:** Yes

#### **1. Aim**

- 1.1 Implementation of a programme to enable early payment by the council of its external suppliers is proposed as part of the continuing effort to maximise the use of all the council's assets to support the delivery of its priorities and to realise financial benefits through the Walsall Proud Programme.

#### **2. Summary**

- 2.1 As part of the continuing effort to maximise the use of all of the council's assets to support the delivery of its priorities, it is proposed that a programme to enable early payment to the council's external suppliers is implemented.
- 2.2 The programme will enable those suppliers who decide to participate to be paid earlier than their contracted payments terms. This is expected to yield a number of benefits to engaged suppliers, to the council, and for the wider Walsall economy. This will also contribute towards Proud Programme benefits.
- 2.3 The council has identified Oxygen Finance Ltd. ('Oxygen'), as a provider who is able to implement and manage the council's proposed early payment programme ('the programme'), and who can be engaged through an existing public sector framework operated by Oldham Metropolitan Borough Council.
- 2.4 For the programme to be successful it will require a change in existing behaviours across the council and the amendment of a number of existing policies and practices and adoption of revised ones, as set out in the report.
- 2.5 As the implementation of the programme potentially incurs expenditure in excess of £250k it is a key decision.

#### **3. Recommendations**

- 3.1 That Cabinet approves the immediate introduction of a supplier early payment programme (as detailed within paragraphs 4.8 to 4.16 of this report).

- 3.2 That Cabinet approves the required changes to the council's existing policies and practices (detailed in section 4.9 of the report) and delegates authority to the Executive Director of Resources and Transformation to implement these changes with immediate effect.
- 3.3 That Cabinet delegates authority to the Executive Director of Resources and Transformation, in consultation with the Leader of the Council as portfolio holder for finance, to finalise and enter into contract with Oxygen Finance Ltd as the service provider for the implementation and management of the early payment service for a term of 5 years by way of a call-off contract through the Oldham Metropolitan Borough Council framework agreement (OJEU Notice 2016-OJS113-201705).

#### **4. Report detail - know**

##### **Context**

- 4.1 An early payment programme for external suppliers will enable those suppliers who decide to participate to be paid earlier than is currently required against their contracted payments terms, and is expected to yield a number of benefits to engaged suppliers, to the council, and for the wider Walsall economy.
- 4.2 An early payment programme works on the following principles:
- Where suppliers decide to participate, existing supplier payment terms (which are normally 30 days) are replaced with incentivised, accelerated payment terms;
  - The acceleration is the difference between the contracted payment term and the actual number of days it takes to pay;
  - Engaged suppliers are paid early, typically around 10 days (the "Target Date"), from the invoice receipt date in exchange for an Early Payment Rebate ("EPR");
  - EPR is calculated on each individual invoice and the rebate is determined by actual early payment performance;
  - It is possible to gain increased rebates for the council if invoices are paid earlier than the Target Date, and
  - No supplier is compelled to sign-up or participate in the programme and no supplier will be disadvantaged by not participating as the non-participating supplier's contracts already in place will continue to operate.
- 4.3 Implementing the programme would represent a genuine benefit for both the council and its suppliers as it presents the following potential opportunities:
- For suppliers to gain improved liquidity and better cash flow certainty (and potentially reduce any financial burden they may currently experience in relation to short term cash flow borrowing costs);

- To the council to engage more strategically with suppliers who sign up (although no supplier is compelled to sign up);
  - To the council to contribute to the development of the local economy through the earlier release of cash into the local economy, and
  - For income generation for the council from a tangible new income stream (from discounts offered) to help with addressing financial challenges. This supports the Proud Programme income generation approved principles and benefits realisation.
- 4.4 Implementing the programme would also present the council with further opportunities to improve invoice payment performance; drive end-to-end invoice process efficiency and improve compliance monitoring and management reporting of invoice processing and supplier payment.
- 4.5 There is also a legislative driver that may be partially addressed through a properly implemented early supplier programme, namely the Public Contracts Regulations 2015 and the EU Late Payments Directive.
- 4.6 Specifically, the above Regulations and Late Payment Directive, between them:
- Require the council to ensure payments to suppliers are made within 30 days from invoice received date;
  - Impose penalties for late payment of invoices (unless genuinely invalid or disputed by the council), including statutory fixed fee penalties of between £40 and £100 per invoice are deemed payable in addition to interest at 8% above Base Rate on all late payments calculated as - the debt x (Base Rate+ 8%) x number of days late / 365; and
  - Since April 2017 require the council to publish on its website: (i) percentage of supplier invoices paid within 30 days; (ii) total statutory liability for fixed fees plus and statutory or contractual liability for interest payable for late payment; and (iii) total of actual interest and penalties paid for late payments.
- 4.7 Alongside the economic benefits set out above, the implementation of this programme should therefore also reduce the council's exposure / risk of non-compliance with these regulations by seeking to encourage providers to agree to move to payment terms which would be significantly faster than the legislation requires, and also by having a greater internal focus on timeliness of payments.

## **Proposal**

- 4.8 It is therefore proposed that the council seeks to implement a Supplier Early Payment Programme with immediate effect.
- 4.9 For the implementation of the programme to be successful, it is necessary for the council to formally change a number of existing policies and practices and formally adopt a number of new ones. It is proposed that the policies and practices set out below are formally changed / adopted as required:

(1) To embed early payment terms into all future tenders across all categories;

- (2) To adopt a policy of no early payment negotiations with suppliers to be undertaken outside of this Early Payment Programme i.e. council policy will be that outside of this EPR programme no council officer / service will be able to negotiate individually with a supplier for any other type of early payment discount;
  - (3) To update all existing payment terms in the finance system to a standard 30 day term (unless contract terms for specifically identified contracts are shorter than the standard term and cannot for genuine reasons be amended to the standard 30 day term);
  - (4) To embed a standard 30 day payment term in all future contracts by the council in line with relevant legislation (unless for genuine reasons the payment term for specifically identified contracts have to be shorter than the standard term);
  - (5) To adopt 'Invoice Received Date' rather than the 'Invoice Date' as the standard trigger day for determining supplier payments and calculating contract payment day in accordance with the legislative definition (i.e. date it is received into the council's accounts payable system and/or the service processing team for feeder systems which feed payment requests into the finance system);
  - (6) To introduce a daily payment run. Currently the authority operates a formal payment run for suppliers twice a week, on Tuesdays and Thursdays. However to ensure the authority is in the best position to secure the benefits of the early payment programme, and can make payments to providers who have signed up to the scheme as soon as possible, a daily payment run process will be introduced. This change is not envisaged to incur any additional costs as outside of the existing Tuesday and Thursday payment runs the council normally makes other provider payments throughout the week in relation to interface files produced by service ordering systems, such as Mosaic;
  - (7) To remove the allowance currently made in the finance system for possible BACS lag time (currently 3 days) and to adopt a policy of payment date being the date the payment leaves the council's bank accounts, there being no provision in any supplier payment legislation for such an allowance.
- 4.10 To ensure that the council has the necessary advice, guidance, systems and capacity to ensure a successful implementation it is also proposed that a partner is procured to support the council with this development.
- 4.11 In support of this the council has undertaken a high level review of a range of organisations which provide support in this area. This clearly highlighted that of the leading provider of early payment programmes in the UK, with a much wider range of experience in the local authority sector than others, was Oxygen Finance Ltd.
- 4.12 Oxygen has a significant local authority client base (aside from private sector and NHS clients) that currently include nearly 50 authorities, accounting for over £20bn of spend:
- 5 new councils signed up within the last 5 months

- large city councils including Cardiff, Sheffield, Wakefield and Coventry
  - 9 metropolitan borough councils
  - 5 County councils – Cumbria, West Sussex, Warwickshire, Lancashire and Essex
  - 9 London boroughs
  - 100% renewal record with clients
  - Winner of Public Finance 2019 Award for partnership with Warwickshire County Council
- 4.13 Following discussions held with Oxygen by council officers, it was identified that Oldham MBC's framework is readily accessible and available for direct award by other local authorities.
- 4.14 It is therefore proposed that Oxygen are selected as the enabler of a supplier early payments programme by way of a 5 year call-off contract through the Oldham MBC framework agreement.
- 4.15 The cost to the council of engaging Oxygen in this capacity is a one off £50k upfront contribution in support of the significant initial input that will be required, followed by a split of any early payment discounts allowed by and secured from suppliers of 60:40 between the council and Oxygen. However the capacity and experience brought by Oxygen will:
- Lead the supplier on-boarding negotiation, providing capacity to undertake this work and national experience in the sector with regard to potential level of discounts that suppliers will be willing to offer, which should maximise the financial benefit to the council;
  - Provide enabling technology which will automatically identify and calculate the relevant discount that is applicable and automate the financial system processes required to facilitate a revised (discounted) payment and centrally capture the saving for the council;
  - Support overall process improvement of invoice payment by identifying on an ongoing basis missed opportunities and providing input to understand the reasons for this and ongoing changes required to avoid this in future periods; and;
  - Support the take up / utilisation of the I-Supplier Portal being developed within the council's One Source system, which allows suppliers to receive electronic purchase orders and then send electronic invoices, with the potential to therefore further improve payment timescales.
- 4.16 Without the support of an external partner the authority would not have the capacity, technology and experience required to effectively implement an early payment system.

## **5. Council Corporate Plan priorities**

- 5.1 The implementation of a supplier early payment initiative directly contributes toward the Corporate Plan priority of Economic Growth for businesses, by contributing to the development of the local economy by allowing suppliers to gain improved liquidity and better cash flow certainty through the earlier release of cash.

- 5.2 Additionally the development also supports the Corporate Plan priorities of Internal Focus and ensuring all council services are efficient and effective, by seeking to pay providers more quickly than is required whilst securing a new income generation opportunity for the council.

## **6. Risk management**

- 6.1 The key risks identified include:

- Insufficient resources being available within the council to commit to working on the required systems interface between Oxygen and the internal finance system, which may result in delays during the implementation;
- Supplier on-boarding proves to be slow due to dispersed supplier relationship management making it challenging to agree a uniform approach to managing participating suppliers across the council;
- Working arrangements and policies within the council cannot be changed quickly enough to allow new ways of working to be introduced, which may result in less than ideal acceleration of invoice payment periods and reductions in EPR income;
- The estimate of current invoice processing performance may be inaccurate caused by the quality / availability of data, which could lead to over / understating the benefits that may be deliverable for the council;
- Insufficient appetite by the council to include early payment in certain contract areas (advice from Oxygen indicates that nationally the contract areas which have seen most internal debate have focused on the construction contracts, transport contracts and social care contracts). This could result in lower than expected benefits being delivered by the programme.

- 6.2 None of these identified key risks are considered insurmountable. Actions and steps to resolve or mitigate these will commence in liaison with Oxygen. Others require a policy or practice change from current positions and these are specifically set out in the proposal above for adoption / change.

- 6.3 Furthermore, Oxygen's experience and expertise in implementation and delivery of the programme were identified as significant mitigating factors in managing the above risks.

## **7. Financial implications**

- 7.1 Based upon modelling undertaken with Oxygen (comparing to actual outcomes achieved by similar participating authorities) it is assumed that:

- The council spends circa £230m (including VAT) annually on trade spend;
- Circa £115m (including VAT) of this total will potentially be in scope of an early payment initiative;
- and circa £44.5m (including VAT) of the spend that is in scope will then be successfully on boarded to the scheme;
- Of the spend that is on-boarded an average discount of 1% will be achieved.

- 7.2 Once adjusting for VAT (which the council is able to reclaim from HMRC) then the potential net income to the council over a 5 year period once fully implemented is up to £1m ( $\text{£44.5m per year} \times 1\% \text{ discount} \times 5 \text{ years} = \text{£2.225m less VAT} =$

£1.85m, of which 40% would be payable to Oxygen, therefore leaving £1.1m net with the council, less the initial upfront £50k contribution, less circa £50k for short term internal resource requirements in support of programme set up = c£1m).

- 7.3 A summary of the financial model and associated timeline for delivery of the savings to the council is shown at **Appendix A**.
- 7.4 There will be a small staffing resource / time requirement to support the implementation of the programme for a period of approximately 3-4 months. This is estimated to be the equivalent of 1 FTE but split over 9 roles, therefore the impact on any one individual should be manageable within business as usual requirements. However should backfilling / short term support be required in support of this, the figures set out above have incorporated an allowance for this and show that the associated costs should be more than offset by savings delivered by the programme.
- 7.5 There will be no impact on individual service area budgets as the technological solution provided by Oxygen will allow the full cost of the invoice to be shown against service area budgets whilst any discounts achieved will be captured centrally (by way of an automated Debit Note facility that the technology solution will account for).
- 7.6 The proposal to engage with Oxygen to implement and manage the programme is considered the best option in terms of speed of engagement, implementation and delivery of an established solution with a suitable delivery partner.
- 7.7 Other than the initial £50k contribution, Oxygen will be engaged on a pure risk and reward basis with any further payments dependent on actual benefits being derived by the programme, with 40% of these then payable to Oxygen. Oxygen will not receive any other payments from the council for management of or contribution to the programme.
- 7.8 There is a financing cost to the council to fund the early payments under the programme, as the council will use its cash to pay suppliers at an earlier date meaning that it will be available for investment (on which the authority receives investment returns) for a shorter period of time. However this financing cost is minimal at the moment given the current climate of low interest rates which have prevailed for most of the last decade, and is manageable within the overall investment income budget for the council.
- 7.9 Although the introduction of the proposed supplier early payment programme does not form part of the Proud Programme, there are links between this proposal and the Third Party Spend and Income Generation and Cost Recovery Proud work streams – and the implementation of the early payment programme will therefore support the deliverables of those work streams.

## **8. Legal implications**

- 8.1 Subject to Cabinet approval of the recommendations set out in this report Cabinet should note that the council will be entering into a contract on Oldham MBC framework's terms and conditions of supply, rather than its own contractual terms and conditions.

- 8.2 Where council suppliers do chose to sign up to the early payment programme this will require a change to existing contractual terms and conditions, which will be accommodated through a contract amendment which records the terms of any discount that has been approved. The process to implement this contract amendment will be supported by Oxygen with any agreement then retained, with other contract documentation, by the council's procurement service.

## **9. Procurement Implications**

- 9.1 Subject to Cabinet approval of the recommendations set out in this report, the contract with Oxygen will be procured via a 5 year call-off contract through an existing framework with Oldham MBC.
- 9.2 Based on modelling undertaken with Oxygen, the contract value over a 5 year period is expected to be up to a value of £790k (40% of the potential gross total income attributable to the authority of £1.85m = £740k, plus an initial upfront contribution by the council to Oxygen of £50k).
- 9.3 To provide flexibility for additional suppliers to access the scheme over those assumed in the modelling undertaken with Oxygen it is therefore recommended that a contract with a total value of up to £1.5m over a 5 year period is put in place, whilst noting that, other than the initial £50k contribution, contract costs will only be payable based on 40% of the actual level of benefit achieved for the council.

## **10. Property implications**

- 10.1 None relating directly to this report.

## **11. Health and wellbeing implications**

- 11.1 The content of this report has taken into account the Marmot objectives and it is confirmed that the proposals have been tested against the relevant considerations in this respect which has found that there are no health and wellbeing implications.

## **12. Staffing implications**

- 12.1 There will be a small staffing resource / time requirement to support the implementation of the programme for a period of circa 3-4 months. This is estimated to be the equivalent of 1 FTE but split over 9 roles, therefore the impact on any one individual should be manageable within business as usual requirements.
- 12.2 In addition there will be an ongoing monthly performance meeting between the council and its partner to review compliance and performance and understand the reasons for any delays in payments to suppliers who have signed up to the scheme. This will ensure the authority is in a position to secure the best outcome from the programme, but will require relevant support and input from both corporate services (finance / accounts payable / procurement) and service area representatives who can feedback and embed any required changes that may be identified through the performance meetings.



### **13. Reducing Inequalities**

- 13.1 Implementing the programme would represent a genuine benefit for both the council and its suppliers as it presents opportunities for suppliers to gain improved liquidity and better cash flow certainty and to engage more strategically with suppliers who sign up; and for the council to contribute to development of the local economy through the earlier release of cash into the local economy.
- 13.2 There is no direct impact on protected groups from this proposal as it is not withdrawing, changing or reducing any service, and is simply seeking to put in place a system that allows faster payment to suppliers of council goods and services. As such an Equality Impact Assessment has not been completed.

### **14. Consultation**

- 14.1 As part of entering into contract with Oxygen, consultation will take place with the council's ICT department, to ensure that suitable technology arrangements are in place, and Information Governance department, to ensure that data protection requirements included within the contract are sufficient.
- 14.2 Consultation has also taken place with the Income Generational and Cost Recovery, and Third Party Spend Proud work stream leads to ensure that the implementation of the supplier early payment programme is aligned to support the delivery of those work streams.
- 14.3 Suppliers will not be required to take part in the programme, however consultation, via a variety of means (examples of which include face to face, digital and follow up engagement) will take place with suppliers to make them aware of this opportunity and support them to join the programme, where they make that decision, at the earliest opportunity.

### **15. Decide**

- 15.1 The option to proceed without a partner was considered and reviewed, and whilst this would remove the need to share any benefits with that partner, without this support it is considered highly unlikely that the council would have the technology and experience required to effectively implement an early payment system within its current capacity. Additional significant investment would therefore be required. The council is therefore proposing to proceed with the appointment of a partner to support the implementation of the programme.

### **16. Respond**

- 16.1 Subject to approval of the recommendations, the Executive Director for Resources and Transformation will ensure existing policies and practices (detailed in section 4.9 of the report) are amended and will, in consultation with the portfolio holder for finance, finalise and enter into contract with Oxygen as the service provider for the implementation and management of the early payment service for a term of 5 years by way of a call-off contract through the Oldham MBC framework agreement.
- 16.2 Following contract award to Oxygen, the process to implement the programme will proceed, with consultation with suppliers expected to begin from April 2020.

## 17. Review

- 17.1 Performance of the early payment programme will be monitored through a monthly performance meeting between the council and Oxygen, and regular updates on the progress and delivery of benefits will be provided to the portfolio holder for finance.
- 17.2 A full review of performance will take place and be reported to Cabinet prior to any extension / renewal of the contract.

### Author

Lloyd Haynes  
Deputy Head of Finance - Corporate  
☎ 01922 652340  
✉ [Lloyd.haynes@walsall.gov.uk](mailto:Lloyd.haynes@walsall.gov.uk)



James Walsh  
Executive Director  
18 December 2019



Councillor Bird  
Portfolio holder  
18 December 2019

## Illustrative Modelling Outcomes and Timeline

### How much could Walsall Council save?



Based on a procurement spend of **£230m** it is estimated that up to **£1.285m** of bottom line savings could be achieved for **Walsall Council** over a 5 year term.

#### Spend analysis (inc. VAT)

£230m total spend

£115m in-scope

£44.5m  
onboarded

X

Average discount at 20  
days acceleration 1%

=

Bottom line  
savings



£50k Implementation fee

£257k p.a (inc. VAT) / **£1.285m** net (inc. VAT) (5yr)

#### Client savings 60/40 basis

