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| <h1>BRIEFING</h1> | TO: | SLT Gold |
| | DATE: | 26 June 2020 |
| | LEAD OFFICER: | Karen Middlebrook Head of Procurement Finance & Customer Services Graham Saxton Assistant Director – Financial Services Finance & Customer Services |
| | TITLE: | PPN/04 20 Supplier Relief (Recovery and Transition) |
| 1. Background | | |
| 1.1 | In April 2020, Cabinet Office released Procurement Policy Note (PPN) 02/20 providing guidance in relation to a range of measures for consideration around supplier relief with the aim of avoiding supply chain collapse or significant financial implications for suppliers as a result of the national emergency linked to Covid-19. | |
| 1.2 | <p>A briefing paper was presented to SLT Gold command with a range of recommendations approved; summarised below:</p> <ul style="list-style-type: none"> • All service areas to review their contract to identify at <i>risk</i> suppliers and feed this information to Procurement and Heads of Finance. • Approve the decision to make immediate payment to all suppliers on receipt of goods. • Grant permission for Procurement to enter receipts against orders on behalf of Services, where required, to ensure payments are processed promptly. • Service Areas are to work with Procurement to ensure disputed invoices are resolved as a matter of urgency. • Encourage Service Areas to discuss with their suppliers an increased frequency of invoicing. • Encourage Service Areas to consider their contracts and identify any that may benefit from variation and then to seek advice from Legal and Procurement. • Communicate any agreed action on the Council's website, financial support for businesses section, so that it's clear what steps the Council are taking. | |
| 1.3 | The recommendations were agreed and set out within a Delegated Decision taken by the Strategic Director – Finance & Customer Services. | |
| 1.4 | Where additional costs and/or variations have been required to support some of the Council's suppliers through supplier relief, these have been dealt with through separate reports / decisions. | |
| 1.5 | PPN 02/20 and the briefing paper approved supplier relief measures to the end of June 2020. | |

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| 1.6 | Cabinet Office have now released further guidance in the form of PPN 04/20 titled Recovery and Transition from COVID-19 , which considers extending supplier relief where needed, but developing transition plans to be implemented as soon as possible and before the end of October 2020. |
| 1.7 | It is important to note that the PPN is purely guidance, does not constitute a legislative requirement and suppliers are not automatically entitled to payments. The Council has discretion and the final decision on whether a supplier is deemed to be at risk and the form of any relief to be granted. Supplier relief payments are not intended to be an economic response to this emergency, nor to supplement or duplicate the wider support measures made available by the Government to UK businesses. The purpose of Supplier Relief payment is for the Council to have due regard to the cash flow position of the supply chain and support the continuity and retention of suppliers to ensure critical service delivery is maintained as far as possible during this period and as and when normal business resumes. |
| 2. Key Issues | |
| 2.1 | <p>It is clear that COVID-19 is not a short term crisis and the current guidance from Cabinet Office suggests that there is now a need to work in partnership with existing suppliers to plan an exit from any supplier relief granted and transition to a new, sustainable operating model by October 2020. PPN 04/20 states the following actions should be undertaken by Services:</p> <ol style="list-style-type: none"> 1. Review their contract portfolio, including where they are providing contractual relief due to COVID-19 and, if appropriate to maintain delivery of critical services, continue or commence measures in line with PPN 02/20. 2. Work in partnership with their suppliers and develop transition plans to exit from any relief as soon as reasonably possible. This should include agreeing contract variations if operational requirements have changed significantly. 3. Work in partnership with their suppliers, openly and pragmatically, during this transition to ensure contracts are still relevant and sustainable and deliver value for money over the medium to long term. 4. Continue to pay suppliers as quickly as possible, on receipt of invoices or in accordance with pre-agreed milestone dates, to maintain cash flow and protect jobs. |
| 2.2 | Services have already undertaken a review of their contract portfolios and arrangements have been made with some of the Council's suppliers to provide them with forms of supplier relief. |
| 2.3 | It is not felt that the Council needs to fully review this list again, but Services should be reminded to have an awareness of their supply chain, the impacts COVID-19 is presenting to them and any support measures that have already been or need considering to ensure the delivery of critical services can be maintained. |
| 2.4 | Where agreement has been made to provide Supplier Relief to allow continuity and retention within the supply chain, Services now need to work with those suppliers to develop transition plans to be implemented as soon as reasonably practical and before the end of October 2020. The transition plans need to be agreed by both parties (the Council and the Supplier) and it is recommended by Cabinet Office that they include the following: |

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| | <ul style="list-style-type: none"> • A planned exit date for when any supplier relief will end, which should be kept under review to reflect the changing situation, e.g. local restrictions being reintroduced. • If advanced payments have been made, the parties should agree if and when any outstanding goods or services are to be delivered. • The process for reconciling payments made against actual costs. • An assessment of any costs associated with implementing Public Health England guidance specifically in relation to delivering the contract. • As assessment as to whether, as a result of COVID-19, the contract is still operationally relevant and viable, and if not proposals for variation or termination. |
| 2.5 | In instances where an existing arrangement is no longer operationally relevant and viable, advice must be sought from legal, procurement and finance before any decision is taken. |
| 2.6 | Any decision to extend Supplier Relief will be subject to their own individual decision papers. |
| 2.7 | <p>There is still an expectation that the Council adopts an ethical and responsible approach to working with suppliers and being reasonable and proportionate in the way contracts are managed; particularly where genuine issues have been experienced as a result of COVID-19. It is also expected that any organisation in receipt of public funds through Supplier Relief collaborates with the Council on an open-book basis to demonstrate that the payments made to the supplier have been used in the manner intended i.e.</p> <ul style="list-style-type: none"> • Staff have been paid the right amount and on time • Cash continues to flow through the supply chain. |
| 2.8 | PPN 04/20 provides a clear position that suppliers should not make profit on elements of a contract that are undelivered, and that the Council should seek to recover payments made where a supplier has failed in their duty to act transparently and with integrity. The PPN also makes clearer that suppliers must not be in receipt of multiple, duplicative relief either through PPN 02/20, PPN 04/20 and the Coronavirus Job Retention Scheme (CJRS). This means if suppliers are in receipt of supplier relief payment, suppliers must have ensured that all of the parts of the workforce identified to deliver the contract were not furloughed during this period (under CJRS). However, it is permissible for a supplier to receive partial payments for non-labour related costs and claim the labour elements through the CJRS. |
| 2.9 | As identified at paragraph 1.2, a range of recommendations were approved in terms of ensuring payment is made to suppliers as quickly as possible to support cash flow. There is still an expectation that these practices remain – and therefore those recommendations previously agreed are extended to the end of October 2020 and be reviewed again at this time. The key requirement for Services to undertake now is working with suppliers on transition plans as set out in Paragraph 2.4. |
| 3. Key Actions and Timelines | |
| 3.1 | Agreement required to enable a delegated decision to be made to take effect from 1 July 2020. |
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4. Cabinet Member and Leader Comments

4.1 The paper was discussed with the Leader and with the Cabinet Member for Corporate Services and Finance at their finance briefings on 25 June and they are both supportive of the recommendations.

5. Recommendations

5.1 Services continue to consider their contracted suppliers that may be at risk as a result of COVID-19.

5.2 Where Supplier Relief has been / is to be granted, Services to work with the supplier to determine the transition plan from support as soon as reasonably practical and by the end of October 2020 and ensure that any extension to relief is subject to its own individual decision.

5.3 Agree to continue the measures previously approved in relation to the immediate payment of invoices (including receipting, dealing with disputes and invoice frequency) to the end of October 2020.

6. Briefing consultation / sign off

6.1 Has the above information been considered by:

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| Legal | Officer: Stuart Fletcher | Date: 23/06/2020 | Comments: The recommendations are in accordance with PPN04/20 and are therefore appropriate and lawful. Where necessary contract variations have been agreed and this will continue. |
| HR | Officer: Theresa Caswell | Date: 23/06/2020 | Comments: No HR implications. |
| Finance | Officer: Rob Mahon | Date: 24/06/2020 | Comments: The financial implications stemming from this report will need to be assessed and worked through as part of a review of all supplier relief proposals that have been put in place by the services. The Heads of Finance will |

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| | | | | work with services to begin the phasing out of relief where applicable and review any potential duplicated relief as referenced in section 2.8. |
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