

NOTICE OF MEETING

Leader of the Council Decision: Taken Under Special Urgency

Monday , 6th April, 2020, 4.00 pm - URGENT

Members: Councillor Joseph Ejiofor – Leader of the Council

Quorum: 1

1. APOLOGIES FOR ABSENCE

2. DECLARATION OF INTEREST

A member with a disclosable pecuniary interest or a prejudicial interest in a matter who attends a meeting of the authority at which the matter is considered:

- (i) must disclose the interest at the start of the meeting or when the interest becomes apparent, and
- (ii) may not participate in any discussion or vote on the matter and must withdraw from the meeting room.

A member who discloses at a meeting a disclosable pecuniary interest which is not registered in the Register of Members' Interests or the subject of a pending notification must notify the Monitoring Officer of the interest within 28 days of the disclosure.

Disclosable pecuniary interests, personal interests and prejudicial interests are defined at Paragraphs 5-7 and Appendix A of the Members' Code of Conduct

3. COVID-19 FINANCIAL INTERVENTION AND MEASURES (PAGES 1 - 48)

The Chair of Overview and Scrutiny has further agreed that the call-in procedure shall not apply to this urgent decision. This is because the decision is urgent and any delay in implementation caused by the call-in procedure would seriously prejudice the Council's or the public's interests due to the fact that this is a National emergency and the Council must ensure that it is in the best possible place to continue to provide services, particularly in relation to support to the vulnerable, address public health issues, and act as an agent for the Government. These decisions will ensure that funding and support gets to individuals and businesses in the most expedient way. Accordingly, the Chair of Overview and Scrutiny Committee has agreed that the decision is

both reasonable in all circumstances, and that it should be treated as a matter of urgency. This is in accordance with Part 4, Section H, and Paragraph 18 (a) and (b) of the Council Constitution.

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Friday, 03 April 2020

Report for: Leader Signing 6 April 2020

Title: COVID-19 Financial Intervention and Measures

Report

Authorised by: Jon Warlow – Director of Finance & Section 151 Officer

Lead Officers: Jon Warlow – Director of Finance & Section 151 Officer
Frances Palopoli – Head of Corporate Financial Strategy & Monitoring

Ward(s) Affected: N/A

**Report for Key/
Non Key Decision** Key

1. Introduction

- 1.1 The country is contending with a terrible health crisis in the form of Covid-19. The government is issuing measures on a daily basis which set out how the NHS, local authorities, businesses and the public are expected to play their role and the support that they will receive to do so, being a vital part of this, the Council has and will undertake its part to the full, providing essential support and urgent services to our citizens and communities, our business and suppliers and our staff.
- 1.2 This report provides details of the financial implications of our response roles, recognising that these are still becoming clear, and provides the necessary financial decision making framework.

2. Recommendations

The Leader is recommended to:

- 2.1. Note the interim reporting here on the financial implications to date of the Covid-19 crisis.
- 2.2. Note the receipt of £8.094m Covid-19 Government emergency response grant.
- 2.3. Approve that this grant funding be used to establish an Emergency Response Contingency in the Council's General Fund budget, and that authorisation process for its application be as proposed in para 6.3.2.
- 2.4. Note that the financial impact of the crisis on the Council's net expenditure, as described in para 6.3.4, is expected to be considerably higher than this initial Government emergency grant funding.
- 2.5. Note, in light of the emergency situation, and the statement of assurance from Rt. Honourable Robert Jenrick (Secretary of State for Housing, Communities and Local Government), that the Council has, and will continue to, incur the additional emergency related essential expenditures required to fulfil its role.

- 2.6. Note that the additional emergency response costs will be reported to, monitored by and reported on by the Director of Finance and Lead Member for Finance and Strategic Regeneration.
- 2.7. Note that, notwithstanding the additional grant and the Secretary of State's statement regarding further government grant, Covid-19 must be expected to have a significant net financial impact on the Council in the short, medium and long term and that the Council will need to address these implications.
- 2.8. Approve the approach to both in year income collection and debt management as set out in sections 6.5 – 6.9 which balances the requirement for amounts due to be paid with an appropriate approach to collection during the period severely impacted by the Covid-19 virus.
- 2.9. Approve the proposed changes to the existing Policy for the Award of Discretionary Reductions in Council Tax Liability under Section 13A(1)(c) Local Government Finance Act 1992, as described in paras 6.9.15 – 6.9.23 and in Appendix 1.
- 2.10. Approve the establishment of a new Covid-19 response Capital Contingency (General Fund) budget via:
 - a virement of £1m from the approved capital programme contingency
 - £4m from various existing capital budgets under existing delegated powers (paras 6.11.3 – 6.22.4)
- 2.11. Note the risk that some or any use of the Covid-19 Capital Contingency budget may not be recoverable via government grants.
- 2.12. Approve that the Council provides an estimated £260k of additional financial support to Haringey schools to meet the costs of their providing free school vouchers, over and above that met by the specific government grant funding, for the period from their closure to the end of the Easter holidays as set out in para 6.13.14.
- 2.13. Approve that any costs associated with recommendation 2.12, not reimbursed, to be met from the Emergency Response Contingency funding or, if not available, from other General Fund Council resources.
- 2.14. Approve the expenditure of £681k, as outlined in paras 6.13.16 – 6.13.25, in relation to the provision of additional capacity for Mortality Planning and that the Council's share of the cost of the Coronal district's additional capacity be met from the Emergency Response Contingency.
- 2.15. Approve an allocation of £100k from the Emergency Response Contingency for provision of community support and food aid as outlined in para 6.13.26.
- 2.16. Approve the proposed temporary changes to the Council's procurement and supplier remuneration/support arrangements, which are considered to be in accordance with government Covid-19 related Procurement Policy Notes (PPN) 01 and 02 as set out in section 6.4.

- 2.17. Approve a Rent Holiday, estimated as less than £100k, for those Voluntary and Community sector organisations for which the Council is the landlord, as recommended in para 6.13.32.
- 2.18. Approve the delay to the implementation of the new model of home care support that had been agreed at the March 2020 Cabinet as set out in para 6.13.26.
- 2.19. Approve the offer of an honorarium type direct bonus payment to every frontline home support worker, as set out in para 6.13.27, for the period of 1 April 2020 to 30 June 2020.
- 2.20. Approve the award of a contract for the hire and operation of a temporary body storage facility to Number 8 Events Ltd for an initial period of 3 months with a value of £680,000 (including Council managed contingency), with an option to extend up to 12 months in accordance with Contract Standing Orders 9.07.1 d) and 9.01.2 g) and Procurement Policy Note (PPN) 01_20 allowing the use of Public Contract Regulation 32 in respect of Covid-19 related matters.

3. Reason for Decision

- 3.1 The coronavirus (COVID-19) is having a significant adverse effect on the economy and public finances, reducing demand and supply in the short and medium term, presenting individuals, businesses and organisations with unprecedented challenges. The medium to long-term impact is unknown and will be dependent on factors including the extent of lasting damage to the economy's supply capacity.
- 3.2 COVID-19 affects everything local authorities do – as community leaders, public health authorities, education authorities, employers, partners and service deliverers. The Leader, Cabinet and its officers are on a daily basis responding to the crisis. The Council has in place a number of key officer groups that meet frequently (some daily) to evaluate and respond to the latest COVID-19 developments. The proposals within this report address their implications.

4. Alternative Options Considered

- 4.1 This is a National Emergency and the Council must ensure that it is in the best possible place to continue to provide services, particularly in relation to support to the vulnerable, address public health issues, and act as an agent for the Government to ensure that funding and support gets to individuals and businesses in the most expedient fashion.
- 4.2 The proposals contained in this report are considered to be those most expedient to achieve this based on the information we have currently.
- 4.3 All proposals will be kept under review and updated as and when required.

5 March 2020 Budget and Subsequent Government Announcements

- 5.1 The Government's Budget of 11 March 2020 announced several measures and support packages to support the COVID-19 response. These are outlined below:

- a. £12 billion will be provided to alleviate the crisis, including a £5 billion emergency response fund for the NHS and Local Authorities. Local Authorities are receiving £1.6bn and **Haringey's** share of this is **£8.094m**
- b. A £500 million hardship fund to deliver relief to council tax payers for the 2020/21 financial year. Government's expectation is that the majority of this funding will be used to provide relief alongside existing local council tax support schemes. **Haringey's** share of this is **£3.644m**.
- c. Business Rates Relief - to support businesses affected by COVID-19 the following retail relief will be available in 2020/21. The Council's costs will be funded by S31 grant, with billing costs subject to new burdens funding:
 - those with a rateable value (RV) under £51k in the retail, leisure, and hospitality sectors being given 100% relief;
 - those eligible for Small Business Rates Relief (SBRR – where the RV is under £15k) or Rural Rate Relief will receive a grant of £3k; and
 - the discount extended to £5k for pubs with an RV under £100k.

5.2 Since 17 March 2020, the Government have made a number of further announcements impacting on funding for local government. These are outlined below:

- d. £3.2m support for rough sleepers or those at risk who need to self-isolate. The allocations have yet to be announced but, on a pro-rata approach, **Haringey's** share is estimated to be only **£25k**.
- e. Business Rates Relief – retail relief of 100% extended to cover all premises in the sector, regardless of rateable value. Businesses in the leisure and hospitality sectors, estate agents, letting agencies and bingo halls will also all now receive 100% relief. Non-local authority nurseries to receive 100% relief in 2020/21. Local authorities will be compensated via S31 grant.
- f. Grants to Businesses - £10k grant for those claiming small business rate relief (SBRR); Retail, Hospitality and Leisure businesses with RV under £15k will receive a £10k grant or £25k for those with RV £15k-£51k. Businesses can only claim one grant per hereditament. Local authorities will be compensated via S31 grant.
- g. Schools – to remain open, including Easter holiday, for vulnerable children and children of key workers. Free school meals – schools can order vouchers from supermarkets / shops to be emailed/posted to families. Schools to be reimbursed for exceptional costs incurred.

5.3 Since 17 March 2020, Government have made a number of further announcements with measures directly supporting individuals and businesses. The more notable include:

- A three-month mortgage payment holiday for those who need it and new forms of employment support to be developed.

- £330bn of guarantees have been made available from the Government, to allow any business to borrow on favourable terms.
- Government to fund 80% of wages up to £2,500/month for employees of companies or organisations.
- Coronavirus Self-employment Income Support Scheme open to those trading in the last financial year, still trading and planning to continue to trade this financial year. Support will come via a taxable grant worth 80% of their profits up to £2,500/month. Initially available for three months in one lump-sum to be paid from the beginning of June.

6.0 The Council's COVID-19 Financial Intervention and Measures Policy

6.1 The Council recognises the unprecedented social and economic impact of COVID-19 on its residents and local businesses. It is therefore implementing a set of interventions that will support the borough through the immense challenges it faces. These are outlined in the sections below.

6.2 It should also be noted that, as the situation and Government advice evolves, these interventions will be reviewed and updated where necessary.

6.3 Expected Application of The Council's allocation of Emergency Response Funding

6.3.1 The Council's response to the Covid-19 crisis is broad and comprehensive. It will continue to develop and the financial implications of all these actions will not be clear until later.

6.3.2 In the light of this, it is proposed to establish an Emergency Response Contingency in the Council's General Fund budget. This will initially hold the full £8.1m emergency response funding and will be subject to approval from the Council's Finance Director (Section 151 Officer) unless above delegated limits.

6.3.3 The many financial implications of both the Council's response to addressing the crisis, and its impact on the Council's own position include:

- a) Meeting the increased demand for adult social care and enable the Council to provide additional support to social care providers
- b) Support CCGs in discharging and keeping people out of hospital
- c) Meet the cost of extra demand and higher 'business as usual' costs of providing children's social care
- d) Providing additional support for the homeless and rough sleepers
- e) Meeting additional costs in providing Public Health services, including costs associated with mortality planning
- f) Additional capacity to process increased Benefit / Hardship claims
- g) Food/ other deliveries to the vulnerable
- h) Digital connectivity for residents
- i) Free school meals
- j) Mitigating the impact of income loss including Council Tax, Business Rates and Parking

- k) Enforcement duties
- l) The inability to deliver planned transformation and other service changes, with the consequent non-delivery or shortfall in budget savings

6.3.4 It should be noted that the final financial impact of the crisis on the Council's net expenditure is expected to be considerably higher than the initial Government emergency grant funding. In light of the emergency situation, local authorities are presently relying on the statement from Rt. Honourable Robert Jenrick (Secretary of State for Housing, Communities and Local Government) of 16 March 2020 which said "the government stands ready to do whatever is necessary to support councils in their response to coronavirus" as their basis for incurring the essential crisis response expenditures required to fulfil their role.

6.3.5 However, Members should note that, notwithstanding the additional grant and the Secretary of State's statement regarding further government grant being released, Covid-19 must be expected to have a significant net financial impact on the Council in the short, medium and long term and that the Council will need to address these implications during and throughout the course of the current financial year.

6.4 Procurement

6.4.1 During these unprecedented times of managing the Coronavirus (Covid-19) outbreak, the Council recognises the substantial impact this will have on businesses and local communities. The Cabinet Office has recently released two Procurement Policy Notes (PPN) as guidance to Public Sector organisations in relation to navigating through the Public Contract Regulations (PCR) and securing sustainability in supply chains. It should be noted these PPN's are a guide for organisations and are not mandatory. Both PPN's have been appended as Appendices 2 and 3.

6.4.2 PPN 01_20 primarily re-enforces provisions already in the Public Contract Regulation that could be used in respect of the Coronavirus crisis, to ensure efficient procurement processes.

6.4.3 PPN 02_20 refers to sustainability in the supply chain and interventions that could be adopted to support supply chains during this crisis. The guidance is complex in parts, as highlighted by the number of subsequent clarifications sought by Public Sector organisations. In response to this guidance, it is proposed that the Council introduces a number of measures and interventions that will assist securing the sustainability of its supply chain, local businesses and communities.

6.4.4 This section outlines the key interventions that the Council proposes to put into effect in line with PPN 02, recognising additional interventions may become available from Central Government over the coming weeks, and that these will be considered as information becomes available.

6.4.5 Whilst it is important for the Council to control spending, the most immediate risk is the Council's inability to provide critical services both directly and indirectly as a commissioner of services. The proposals set out in this report look to put in place a suite of financial interventions, which look to minimise the risk and provide financial support to businesses with which the Council directly contracts.

- 6.4.6 Of the proposal here, the more complex interventions will be assessed on a case by case basis, depending upon the criticality of the service and the individual circumstances relating to the supplier. The Council will put in place policies and processes to ensure these interventions are proportionate and necessary to maintain continuity and sustainability of critical services, having due heed to the potential financial consequences to the Council of providing such support.
- 6.4.7 It is proposed that these interventions will be in place until the end of June and the position reviewed again at that time.

Supply Chain Financial Intervention Measures

Cash Flow

- 6.4.8 Cash flow is critical to maintaining the sustainability of any business; therefore, the Council has already implemented:
- Immediate payment terms for the majority of suppliers, on delivery of the contracted goods and services;
 - Daily payment runs;
 - Extended use of P- Cards
- 6.4.9 Where the Council has confidence that it will be in full receipt of the goods, works or services, in line with government guidance, it will consider advance interim payments (usually 1-3 months) and potentially other mechanisms.

Business Continuity Measures

- 6.4.10 The guidance published by the Cabinet Office describes how authorities might provide other forms of business continuity aid to those suppliers who are at risk and in need of temporary support. This may include measures that provide temporary financial support, regardless of whether they are able to fulfil their contractual obligations or not. The local authority sector is still working on how best to interpret this guidance (see appendices 2 and 3) and subsequent clarifications issued by government. As such and given the need to balance the benefits to business with the interests of the authority, the applicability of this will be kept under close review.
- 6.4.11 Any such business continuity aid will be considered on a case by case basis, with reference to what is understood will be met by Government grant and will be subject to approval from the Council's Finance Director (Section 151 Officer) unless above delegated limits.

Contractual Relief

- 6.4.12 Again, in line with the guidance, the Council will adopt a pragmatic approach during the time affected by the Covid-19 crisis in relation to suppliers' ability to perform to the standards stated within their contracts. This may include relief against key performance indicators, specific performance requirements, timescales, temporarily pausing services and works etc.

6.4.13 In delivering these measures the Council will continue to operate to ensure effective and efficient use of public monies. It will ensure that a robust financial framework and processes are in place which will stand up to financial scrutiny at later date.

6.5 Collection of Income – Business Rates, Council Tax and Other Debtors

6.6 Even in these circumstance, the Council must still look to bill and collect the income that it is due to receive, in order to fulfil its statutory obligations and, most importantly, provide the funding for the crucial services that it delivers, both during this crisis and normal times.

6.7 However, for the people, companies and other organisations that we must look to for payment, these are not normal times. In recognition of this the Council will take a balanced approach. On issuing our bills, there will be people and organisations that can and will pay as normal. There will be others who are finding that more difficult due to the Covid-19 crisis. For these there are a number of forms of financial support, some of which are described in this report, and many advisory bodies. We will take into account particular circumstances and balance the requirement for amounts to be paid with an appropriate approach to collection, one which is founded on clear reminders without proceeding to court-based recovery actions, for the period to the end of June.

6.8 These measures will be kept under review and, depending on the situation, if further decisions/ changes are required, they will be made via the appropriate authorisation routes.

Our General Approach to Income Collection for April – June 2020

6.9 The table below summarises the Council’s support for any customers who contact the Council with financial hardship or problems in relation to paying invoices due.

Table 1: General Measures to Support Debtors

Steps	Summary of steps	
1.	Debt Advice	<p>Debtors who are experiencing difficulties paying their charges relating to Invoices for Revenue Services, Corporate Debt Recovery, and Homes for Haringey and Parking, will be signposted to our debt/care partners.</p> <p>All Council Recovery services will endeavour to ensure all residents who are identified with vulnerabilities/debtor issues are sign posted to the correct internal/external help. The vulnerability sign posting process is completed alongside the work being carried out by internal Social Care (Safeguarding), Step Change, Civil Legal Advice, National Debt line, Advice UK, Christians Against Poverty and the Citizens Advice Bureau.</p>

2.	Review Instalment Arrangements	<p>This could either reduce immediate payments due or move these to later in the financial year.</p> <p>If Council Tax and Business Rates payers are currently on a ten month instalment plan the Council can offer to extend from 10 -12 months.</p> <p>Revised plans can also be agreed which cover reduced instalments for a short period or, for specific cases, place a hold on instalment plans for a short period (payment break).</p> <p>These arrangements will still require payment within the financial year.</p>
3.	Recovery Actions	<p>The Council has a Statutory duty to collect any outstanding monies owed. However, during this time of financial uncertainty in which the coronavirus (COVID-19) has already had a significant negative impact on the economy, we need to ensure we balance our need to fulfil our statutory duties, whilst also taking into account the challenges that are facing our residents/ businesses in this time of hardship.</p> <p>The Council can hold or suspend recovery action for cases for as long as it is deemed necessary. This will be assessed on a case by case basis.</p> <p>In cases of financial hardship the Council will not use external enforcement agents, including bailiffs, to pursue any debt. The Council will continue to issue reminders for payment but will not take any court action for a period of 3 months. (Apr – Jun 2020).</p>
4.	Hardships	<p>Where customers are experiencing hardship, information will be provided to ensure they are in receipt of all benefits and/or reliefs that may be applicable to them.</p> <p>For Business Rates this will be to review of all reliefs given to them.</p> <p>For Council Tax this will be to ensure that they are aware of the Council Tax Reduction scheme and signpost them to the application process.</p> <p>In severe cases there are legislative hardship schemes which may be utilised subject to the relevant criteria being satisfied</p>

Business Rates

6.9.1 The March Budget and the subsequent Government announcements has provided significant support for local businesses through new or enhanced reliefs set out in Table 2 below.

Table 2 – Business Reliefs

Measure	Details	Haringey Appox. Financial Value
Retail Relief	Relief of 100% for all qualifying retail, leisure and hospitality properties including public house.	Approx. £10.0m for Retail Relief cases
Small Business Grant	Businesses who qualify for Small Business Rate Relief (many of whom already have no rates liability) will now get a grant of £10k per property	Approx £26.2m cash grant
Retail Property Grant	The properties already identified as being in receipt of Retail Relief will receive a grant payment of £25k.	Approx £30.1m cash grant
Nursery Relief	Relief of 100% for all registered nurseries.	Value in Haringey currently not available

6.9.2 Most of these are targeted at low value rateable value (RV) and properties in the retail, leisure and hospitality sector. The majority of the Council's businesses fall into the lower bracket as can be seen from the table below.

Table 3: Analysis of Business Rates Properties in Haringey

TIER	RV RANGE	NUMBER OF PROPERTIES	TOTAL RV PAYABLE
0	0	31	NIL
1	£1 - £50,999	6282	£83,018,039
2	£51,000 - £99,999	458	£30,242,400
3	£100,00 - £999,999	321	£66,692,000
4	£1m PLUS	6	£20,490,000

6.9.3 Upon suitable evidence of hardship and where necessary, the Council will provide businesses who do not qualify for rate relief in tiers 1 and 2 with the following:

- An option of a payment break (e.g. deferral in payment plans) up to a maximum of three months.
- The suspension of recovery action for a similar period after the Council has obtained a Liability Order to secure the debt where this is deemed necessary. Customers will have the process explained to them.

Council Tax Covid-19 Hardship Funding

6.9.4 Background / Government Guidance

6.9.5 The Government has stated that it “expects billing authorities to use the majority of the funding (this is £3.664m for Haringey) to provide relief to individual council taxpayers, alongside existing working age local council tax support schemes. This will help to provide additional support to those households most likely to be economically vulnerable to the impacts of COVID-19.”

6.9.6 The Government’s strong expectation is that billing authorities will provide all recipients of working age local council tax support (‘LCTS’) during the financial year 2020-21 with a further reduction in their annual council tax bill of £150. Where a taxpayer’s liability for 2020-21 is, following the application of council tax support, less than £150, then their liability would be reduced to nil. Where a taxpayer’s liability for 2020-21 is nil, no reduction to the council tax bill will be available.

The Council’s Response

6.9.7 The Council already prioritises this kind of support to its taxpayers. From the start of 2018/19 it broadened its local scheme, including increasing the maximum Council Tax Relief that working families with children could receive up to 100% (this had to be funded from the Council’s own resources). It therefore intends to use this new additional funding to further improve upon relief provided, in keeping with Government’s expectations

6.9.8 A further reduction of £150 on the annual tax bill will be given to all who are currently within Haringey’s Council Tax Reduction Scheme (CTRS). Where a taxpayer’s liability for 2020-21 is, following the application of council tax support, less than £150 then their liability will be reduced to nil. Where a taxpayer’s liability for 2020-21 is nil, no reduction to the council tax bill will be available. The Council intends to implement these adjustments as soon as practically possible.

6.9.9 The same reductions will be applied to anyone moving into the CTRS during 2020/21. Any subsequent changes to a taxpayer’s individual circumstances, which means they no longer qualify for the CTRS, will have this additional reduction adjusted pro-rata to the number of days they were eligible for CTRS. This is in line with current practice.

- 6.9.10 There will be no need for any existing Haringey recipient of CTRS to make a separate claim for a reduction under this new scheme.
- 6.9.11 The mechanism to award up to the £150 by way of grant is being developed by our software supplier and a method of doing this and the subsequent rebilling of these customers is expected imminently.
- 6.9.12 These new reductions to council tax bills will be awarded through our existing policy for the “Award of Discretionary Reductions in Council Tax Liability under Section 13A (1)(c) Local Government Finance Act 1992”, although modifications will need to be made to this policy in order for the council to award these new reductions. This discretionary policy is legally distinct from the Council’s CTRS.
- 6.9.13 The estimated cost of providing the Council Tax reductions described above is £1.365m based on current CTRS claimants numbers. This would leave a balance of £2.299m from the Council’s Hardship fund allocation (Table 4 below).

Table 4: Estimated cost of providing initial reductions to Council Tax bills

	Number	Bill Total	Cost of £150 (or less) award
Council Tax Reduction recipients with a bill of NIL for 2020/21	15432	£0	£0
Council Tax Reduction recipients with a bill of less than £150 for 2020/21	670	£44,747.20	£44,747.20
Council Tax Reduction recipients with a bill of more than £150 for 2020/21	8801	£4,863,355.67	£1,320,150.00
Total			£1,364,897
Remaining balance of COVID-19 Hardship fund of £3,663,666			£2,298,768.80

- 6.9.14 Any remaining grant will go towards funding the expected increase in CTRS claimants as a consequence of the Covid crisis and the award of any other discretionary reductions in council tax liability as allowed under the revised policy for the Award of Discretionary Reductions in Council Tax Liability under Section 13A(1)(c) Local Government Finance Act 1992.

Proposed Changes to the Policy

- 6.9.15 It is proposed that a new section is inserted as **section 2.1** proposing that:
- 6.9.16 *“All recipients of working age council tax reduction scheme (CTRS) during the financial year 2020-21 will receive a further reduction in their annual council tax bill of £150. Where a taxpayer’s liability for 2020-21 is, following the application of council tax support, less than £150, then their liability would be reduced to nil. Where a taxpayer’s*

liability for 2020-21 is nil, no reduction to the council tax bill will be available. No application for this award shall be necessary”.

6.9.17 For the policy relating to 2020/21, in order to allow homeowners to access the Government Hardship funding, it is proposed that the existing **section in 4.1** is removed:

6.9.18 *“The council tax payer(s) occupies rented accommodation, is not a home-owner and has no access to other assets that could be used to pay council tax”.*

6.9.19 For the policy relating to 2020/21, in order to allow for a relaxation on evidence requirements, the following paragraph is inserted into **section 4.1**:

6.9.20 *“Where an application cannot be fully supported by evidence or meet these conditions in full, specifically due to the impact of the government decision in relation to the Covid-19 epidemic, local policy may apply easements to the conditions identified in 4.1 of this policy”.*

6.9.21 For the policy relating to 2020/21, **sections 4.3 and 7.1** requiring the consideration by service managers and authority of the Head of Service to award Discretionary Reductions in Council Tax Liability are reworded to:

6.9.22 *“Applications will be considered by service officers within Revenues, Benefits and Customer Services and recommendations submitted to the Head of Service or delegated officers for authorisation within 21 days of receipt of all information. Once approved, the council tax payer(s) will be notified of the decision within 14 days. An application submitted is not an entitlement to withhold payment of council tax”.*

6.9.23 The existing Policy for the Award of Discretionary Reductions in Council Tax Liability under Section 13A(1)(c) Local Government Finance Act 1992 is attached as Appendix 1 with the above proposed changes shown in tracked changes.

6.9.24 It is not yet clear as to what the additional call for council tax support will be as a consequence of Covid-19 and the position will be kept under review however it should be noted that there are currently circa 9,774 working age residents in receipt of CTRS at an estimated cost of £18.3m. Should the claimant numbers increase significantly, the initial grant of £3.664m may be insufficient.

Commercial Tenants' Rent

6.9.25 The Council will offer a rent deferral, initially up to three months, on request from the tenant, to be considered and agreed by the Property Unit on a case by case basis. The Council reserves its position on how the deferral will be recovered in the longer term.

Loan Repayments

Opportunity Investment Fund (OIF) / Productive Valley Fund (PVF)

6.9.26 The Council will offer a repayment deferral for OIF/PVF recipients of up to three months, on request from the recipient, to be considered and agreed by the Regeneration & Economic Development team on a case by case basis. This would effectively mean a complete pause on the loan process, with no interest accrued during the holiday period, with the balance of the loan remaining due. The arrangement for the phased recovery of the deferred amount would be reviewed at the end of the initial deferral period.

6.9.27 Any arrangement for a PVF loan recipient would need to be agreed with our partner boroughs (Waltham Forest and Enfield).

Fusion Lifestyle

6.9.28 The loan arrangement in place with Fusion operates on the basis of an annual loan repayment of £1.53m; the loan repayment for 2019/20 is shortly due. Fusion have made approaches to the council for financial support, as a consequence of the leisure centres being currently closed. It is proposed that any appropriate decision(s) regarding the deferral of this loan repayment and any financial payments to Fusion in respect of their responsibilities and on-going sustainability during the closure period be made by the Director of Finance under their delegations, having consulted with the Lead member for Finance & Strategic Regeneration.

Alexandra Park & Palace Charitable Trust (APPCT)

6.9.29 Alexandra Palace has been closed to the public as a consequence of the Covid-19 crisis and this will clearly have a profound effect on the finances of both the APPCT and the Alexandra Park Trading Limited (APTL). It is proposed that any arrangements to reschedule repayment of the outstanding loan debt (total £414k) be decided by the Director of Finance under their delegations, having consulted with the Leader.

Housing Rents

6.9.30 The general measures outlined in Table 1 above will apply to those in Council rented homes. The Government has implemented a number of measures to directly support individuals who have lost or might lose their jobs or regular source of income, as set out in para 5.3 of this report. All evictions from Council homes managed by Homes for Haringey solely due to rent arrears have been cancelled; legal action against any of our tenants falling into rent arrears is not being taken during this time. The main priority now is to maximise tenants' income. Income management services has been adjusted to increase the number of income management staff able to assist tenants claiming Universal Credit or needing welfare benefit advice and reduce those officers concentrating solely on arrears collection.

Adult Social Care

6.9.31 The Council's first priority in this crisis is to play its role in protecting its residents and ensuring that they have the critical support services that they need. Central to this are our responsibilities in the provision of Adult social care, including for those who are now being discharged earlier from hospital.

The Government has stated:

“During the emergency period you will also no longer have a duty to carry out formal assessments, including financial assessments, in accordance with the Care Act. We hope that this will permit you to provide urgent care to individuals without a full Care Act assessment and, therefore, to prioritise the provision of care and support as discussed above. The changes we are making also allow that, if you have not charged an individual for their care during the emergency period, you are able to do so retrospectively after the conclusion of the emergency (subject to financial assessment).”

- 6.9.32 The new easement powers under the Coronavirus Act 2020 enables local authorities to meet people’s care and support needs without a financial assessment of their means. Authorities are able to a conduct a financial assessment at a later date and to retrospectively charge for meeting needs but must inform people about the likelihood of charge at the time or before the service is carried out. Deferred payments agreements (DPAs) will still be made available for eligible people once the financial assessment is completed at a later date.
- 6.9.33 During this difficult time, the Council, will actively promote the take up for ‘Deferred Payment Agreements’ for all full costed clients and where possible extend this offer to partially funded clients who have fallen behind on payment.
- 6.9.34 Deferred payment arrangements will alleviate the current financial pressures on our full/partial costed client base and provide security to the Council in terms of monies owed.

Corporate / Sundry Debt Recovery

- 6.9.35 The Corporate Debt Recovery Team are responsible for the collection of all outstanding Sundry Debtor Invoices within the Council.
- 6.9.36 Consistent with the general approach to debt collection set out above, the Corporate Debt Team will maintain an active engagement with all Invoiced Debtors.
- 6.9.37 The Corporate Debt Team will focus on completing affordable and appropriate arrangements following financial assessment and ensuring cases of hardship/vulnerability are actively signposted to our partners and will not pursue Court recovery action over the period.

6.10 Grants to Businesses

- 6.10.1 In response to the Coronavirus, Covid–19, the Government announced that there would be specific support for small businesses, and businesses in the retail, hospitality and leisure sectors. This support includes two grant funding schemes, the Small Business Grant Fund and the Retail, Hospitality and Leisure Grant Fund. Local Authorities will be responsible for delivering the funding to eligible businesses.

- 6.10.2 Since the initial announcement was made at least three versions of guidance have been issued to local authorities as to how they should manage the passporting of these vital grant monies. The amounts to be paid to businesses are as outlined in para 5.2 (f). The government has provided the funding to local authorities in advance of them passing on to eligible businesses. The Council has received £56.3m for this purpose and officers are working to make payments at the earliest opportunity whilst complying with the complex requirements set out in the Government's scheme.
- 6.10.3 A limited number of grant payments were made on 1 April 2020 in accordance with a very demanding government expectation. Officers will look to progress this as quickly as possible.

6.11 Capital Expenditure in Response to COVID-19

- 6.11.1 The expenditure on the Council's current capital programme will inevitably slow down as companies' existing building sites are closed down and companies are unable to tender for works as they face a depleted workforce and/or disruption to their supply chains. At the same time there is the potential for additional calls on capital resources in areas which were not envisaged when the capital programme was set.
- 6.11.2 Currently the Council's approved 2020/21 General Fund capital programme is budgeted at £217.762m. Of this £57m is wholly funded by borrowing. The other schemes are either: a) funded wholly through external resources; b) funded jointly through external resources and the Council resources; and c) those schemes that are self-financing.
- 6.11.3 In order to respond to the potential call on capital resources, it is proposed to create a **COVID-19 capital contingency** budget of **£5m**. This is an integral part of the Council creating financial capacity to respond to the current situation. This corporate budget will be created by transferring £1m from the existing approved capital programme contingency to this new contingency. The balance of £4m will be vired from existing budgets that are not contractually committed and are wholly funded by the Council.
- 6.11.4 The individual budget virements that comprise this £4m are all expected to be within officer delegation limits. It is important to note that this is a contingency budget and may not be called upon. Should the contingency be called upon every effort will be made to recover the costs incurred but it needs to be recognised that there is a risk that this cost recovery may not be successful.

6.12 Impact of COVID-19 on the Council's Cash Flow & Financial Sustainability

- 6.12.1 The Council is likely to experience increased volatility in its cash flows as a direct impact of Coronavirus: income and expenditure streams will differ in quantum and profile, and there may be little notice of changes to cashflows given the pace of change in relation to the Coronavirus measures which continue to evolve.
- 6.12.2 With this in mind, the Council will ensure it maintains higher than usual levels of liquid cash resources that can be accessed at short notice to deal with any potential large outflows of cash when these are required. It is anticipated that any changes in treasury

activity resulting from Coronavirus activity will be implemented within the existing strategy.

6.12.3 To mitigate cash flow difficulties in local authorities, Government made some payments on Friday 27 March 2020. This equated to £14.8m for Haringey and covers its share of the £1.6bn emergency response fund (£8.094m) plus £6.7m in relation to 2020/21 S31 grants to compensate for mandatory business rates reliefs. This is normally paid in 12 instalments across the year, but to mitigate cash flow difficulties in local authorities, the Government has paid the full sum now.

6.13 Current and Forecast Application of the £1.6bn Emergency Response Fund

6.13.1 Section 6.3.3 outlines a high level list of some of the service areas which are expected to be impacted by the current Covid-19 crisis and where, as an organisation, we are likely to need to allocate the emergency response funding.

6.13.2 There are at this point a number of specific issues which need addressing here, along with proposals as to how to proceed.

Free School Meals Provision During School Closures

6.13.3 Schools provide free school meals to eligible pupils during term time. Eligible pupils are all infants (reception, year 1 and year 2) and pupils from assessed families receiving universal credit. The existing arrangement is that Government funds meals at a rate of £2.30 per pupil per day. This is £437 per year per pupil. There are around 6,600 eligible pupils and the council passports c.£2.9m grant to the schools.

6.13.4 The Council receives the Universal Infant Free School Meals (UIFSM) grant for reception, years 1 & 2 pupils and Free School Meal Supplement (FSMS) grant for older eligible pupils. The Council passports 100% of this grant to the schools.

6.13.5 Haringey schools either use an external contractor for catering or provide an in-house catering service. With school closures the schools will have on-going contractual payments or staffing costs to meet, but the eligible pupils will not receive the free school meal in the usual way.

6.13.6 To help stop the spread of Covid-19 the Government announced the closure of schools from Monday 23rd March. On Thursday 19th March the government issued guidance for Free School Meals (FSM) during school closures.

6.13.7 The 19th March guidance enabled schools to provide food vouchers for those eligible pupils whilst they are self-isolating or schools are closed. The Government said "schools will have their costs covered by the Department of Education". However, the details of the Government's assistance were not released until 31st March. The Government confirmed assistance would be provided for schools ordering vouchers through the Government portal. This is limited to term time only, limited to benefit related free school meals and does not cover Universal Infant Free School Meals unless

the infants qualify for benefit related free meals. The Government funding scheme will start after the Easter holidays.

- 6.13.8 Haringey schools started providing vouchers to their eligible pupils on 23rd March. Whilst schools can provide bulk meals on school premises for £2.30 a day, the cost of average supermarket meal deals starts at £3.00. The daily amount of this new voucher provision now being provided by schools ranges from £3/day for primary pupils to £4/day for secondary pupils. The Government funding only provides for £3/day.
- 6.13.9 The Council has a role in passporting the Government grant onto schools for school meals, including any additional subsidy for vouchers.
- 6.13.10 Schools therefore will have two outlays: (i) there are the existing catering contractual and staffing costs which still need to be met by the school, and (ii) now also the cost of the provision of vouchers.
- 6.13.11 Schools will already be receiving subsidy towards their costs and now it would appear that they will also receive a second subsidy towards the cost of the vouchers (for eligible pupils).
- 6.13.12 Schools have already commenced voucher provision since 23 March. It is not yet clear to what extent schools are considering continuing this provision during the Easter holiday though the Government will only fund vouchers for term time only.
- 6.13.13 The Council therefore could choose to purely passport on the Government grant it knows it will receive (the level of which has yet to be notified) or it could provide financial support to the schools for the other costs that they are incurring as a consequence of how they are implementing the voucher scheme. These are:
- Paying £4/day instead of the Government capped daily allowance at £3/day for 2,600 secondary pupils would cost the Council £13,000 per week which is £26,000 for the two weeks up to the Easter break.
 - Notwithstanding the latest Government definition of periods covered, which excludes school holidays, some Haringey schools have already put arrangements in place to provide vouchers over the Easter break. The costs to schools of this could be up to £224,000
- 6.13.14 In summary, if the Council is minded to support the schools for each of these additional cost circumstances to the end of the Easter break, on the basis that the specific Government funding is not by then known, the total cost to the Council might be up to £260,000. As it stands (and this and other authorities are making representations to Government) this cost would not be specifically reimbursed by grant. Instead it would fall upon the Council to meet it from its general Covid-19 grant allocation. As recognised elsewhere in this report, other costs will exceed this and if Government is not minded to recognise these costs as meriting further grant assistance, they will fall on the General Fund.
- 6.13.15 After the Easter break schools can access the Government voucher scheme for eligible pupils at no cost to the school or Council. Should schools decide to provide

any additional level of support over and above that after the Easter break (eg higher value vouchers) then that support would need to be met from the schools' existing DSG budgets.

Mortality Planning

- 6.13.16 The London Mortality Planning Group (LMPG) has been mobilised under the London Resilience Strategic Coordination Group and they are looking to expand mortuary capacity by up to 10,000 additional spaces across London which would include temporary capacity for around 6 months. Westminster have been asked to assist in the organisation and delivery of this.
- 6.13.17 In response to building this capacity, the Council has reviewed its current mortuary capacity and predicts that, during the peak period for fatalities caused by Coronavirus, there will be a shortage of storage space for bodies prior to burial or cremation.
- 6.13.18 The anticipated shortage of capacity is based upon the projected number of deaths provided by the London Mortality Planning Group which will peak during the month of May across the Northern Coroners District of Greater London.
- 6.13.19 Coronial areas have been requested to make provision for an additional 5,000 body storage capacity within their jurisdiction.
- 6.13.20 The availability of the specialist storage facilities and resources is in high demand and the Council needed to act with speed to secure what was available in the market. The Council has a responsibility to support the needs of its community and ensure that Public Health is maintained. Approval of the proposed recommendations will enable the Council to meet this responsibility.
- 6.13.21 In response, the Council approached companies in the market to identify who had capacity and capability to meet the immediate needs of the Council in establishing and operating temporary body storage facilities. Only one organisation (Number 8 Events Limited) were able to meet the immediate needs of the Council. Due to the rapidly growing demand in the market for these services, the Council needed to act swiftly to secure these services or lose the opportunity to other Authorities seeking to secure similar services. The Council has therefore awarded a contract to Number 8 Events Limited effective from 27th March 2020 and has secured the provision of temporary storage facilities to accommodate 180 bodies initially for the next 3 months at a total cost of £680,000 in accordance with the Public Contract Regulations 32 (Negotiated Procedure Without Notice). This temporary hire facility has been established at the Marsh Land Depot; with the contractor also providing additional operational and support resources including racking, bespoke body boards and Security staff 24/7, all included in this cost.
- 6.13.22 The contract allows for a rolling extension up to a maximum period of 12 months, should this capacity be required beyond 3 months. It is also possible to scale up this site, which LMPG may require us to enact. Any required extension or upscaling may require a further key decision.

6.13.23 The total estimated cost for 3 months of set-up and hire of a temporary mortuary is £680,994; with a further 3 months estimated at £573,297. This is set out in the table below.

Item	Description	Unit cost	Total cost
1	Initial set up and 3 months initial hire	£530,994	£530,994
2	Estimate diesel use for 3 months	£50,000	£150,000
Estimated cost for first 3 months for approval		£580,994	£680,994
3	On-going Monthly hire costs	£141,099	£423,297
4	On-going Est. Monthly diesel costs	£50,000	£150,000
Estimated cost for further 3 months		£191,099	£573,297

6.13.24 The total North London additional mortuary costs (including the Marsh Lane costs) will be shared across the boroughs and set off against the emergency funding that they get. In the normal course of coroner and mortuary provision these costs are allocated on the basis of population.

6.13.25 London Mortality Planning Group have confirmed that MHCLG have indicated that currently there will be no further Government funding beyond the £8.1m already awarded to the Council to mitigate the impact of COVID-19, with all associated costs looking to be contained within this allocation.

London Living Wage for Care Services

6.13.26 At March 2020 Cabinet the Council agreed to a new model of home care support and a fee rate which would enable payment of the London Living Wage for home support workers in line with the Ethical Care Charter and its Manifesto commitments. In light of the significant increase in demand for home care due to Covid-19, it is not considered advisable to proceed with implementation of the new model at this time and it is recommended to delay mobilisation for the period of the Covid-19 outbreak. However, the Council recognises the critical and valuable role home support plays in addressing the challenges of the outbreak and specifically in reducing the burden on the NHS, thereby saving lives and improving outcomes for local residents.

6.13.27 It is proposed, therefore, to offer an honorarium type direct bonus payment to every frontline home support worker playing their part in meeting the needs of Haringey residents, payable at the end of a three month period through each provider. The

three months will start from 1 April and run to 30 June, at which point the position will be reviewed. The amount will be in proportion to the number of hours delivered by the home care worker, but for a full time care worker this will equate to approximately £1,000.

- 6.13.28 The Council remains committed to mobilising the new home support model in the future, when the impacts of the outbreak have receded and there is capacity across the care system to implement the outcomes based approach articulated in the March Cabinet paper.
- 6.13.29 The Council's budget provides for the implementation of the LLW, but there will a delay due to these circumstances in the achievement of the planned cost mitigations, and these implications will form part of the Council's claim for response funding.

Voluntary and community sector

- 6.13.30 Like other sectors, the Covid-19 outbreak has had a significant impact on the Voluntary and Community Sector (VCS) within the Council's area. This comprises hundreds of organisations – of different sizes and remits – playing many roles, all of which are integral to the wellbeing of residents in Haringey, particularly at this time of crisis and uncertainty. The work the sector does, including working directly with residents in communities and strengthening community capacity and resilience is critical to ensuring the community is able to respond to this crisis and continue to work with people's strengths and qualities.
- 6.13.31 However, the closure of community settings and the discontinuation of a number of projects has had a profound impact on the voluntary and community sector infrastructure, not just in Haringey but nationwide. An announcement from Central Government setting out a package of support for the sector is widely anticipated, but has not been forthcoming.
- 6.13.32 In the absence of such an announcement, and in recognition of its support for the sector, it is proposed that the Council confirms a Rent Holiday (estimated as less than £100k) for those organisations for which it is the landlord, for a period of three months, at which point there will be review of any ongoing rent relief. The Council will also act flexibly and reasonably where its commissioned service delivery is affected by the outbreak and not seek to maintain existing targets and milestones where these are not deliverable.
- 6.13.33 The Council is also mindful of the wider impacts for the sector of the current outbreak, including the detrimental effects on the income streams of organisations, on their ability to meet grant conditions and milestones, on meeting day to day running costs, and on continued payment for their workforce. It is noted that the Government is expected to make a statement on the support provided to the voluntary sector. It is proposed that agreement to the Council's urgent response to these needs be formulated with reference to this guidance (or in its absence if not issued). This will be subject to approval from the Council's Finance Director (Section 151 Officer) unless above delegated limits.

Community Support and Food Aid

- 6.13.34 Alongside access to treatment and care, access to food has become one of the priorities of our response to the Coronavirus outbreak. It is evident from other countries worldwide, that continued food insecurity and the uncertainty it generates can be damaging to civil cohesion and to the ability of people to follow Government guidance which has remained consistent: Stay At Home where you can, Avoid unnecessary travel and Follow Social Distancing Rules. Failure to implement Government guidance could in turn lead to increased risks of transmission, continuing to place more vulnerable residents at risk of infection and harm.
- 6.13.35 From work carried out in Haringey before the Coronavirus outbreak, it is clear that there is significant pre-existing food poverty. Haringey is the 4th most deprived borough in London, with 34% of residents and 40% of children living below the poverty line. Food Poverty is aligned with the wider drivers of poverty, including employment and income, access to secure and affordable housing and fuel costs. A number of factors during the outbreak have exacerbated food insecurity in Haringey, including panic buying and unusually high demand causing supermarkets to run out of food faster than they can replenish their shelves and affecting their home delivery capacity; schools closing means that children who previously received free school meals will have to access them through alternative means (e.g. voucher schemes); users of emergency food provisions in the borough unable to access places of food distribution due to self-isolation requirements; food banks, soup kitchens and other sources of emergency food running out of supply and unable to meet demand; people becoming suddenly unemployed with an immediate impact on their income and their ability to buy even basic goods.
- 6.13.36 The Council, working with partners across the system, has stepped in to support residents needing to access food reliably and sustainably when self-isolating or who are vulnerable due to one or more of the factors outlined above. Food supplies have largely been sourced charitably and from the retail sector, but there is likely to be a cost to the Council, as yet not clear, in ensuring residents can have basic food supplies and a hot meal where that is required. It is proposed that a budget allocation of £100k from the Emergency Response Contingency is made for community support and food aid during the period April to June 2020.

7.0 Contributions to Strategic Outcomes

- 7.1 The interventions proposed in this paper will help preserve the safety and well-being of our communities and help maintain a sustainable local economy.

8.0 Statutory Officers Comments

Finance

- 8.1 This is a report of the Director of Finance and therefore the financial implications have been highlighted in the body of the report.
- 8.2 However, given the uncertainty around the ultimate financial impact, it is important that the Leader has particular regard to the following.
- 8.3 The magnitude of costs that the Council may have to incur in responding to the Covid-19 crisis is not possible to quantify with any certainty at this point. Work is underway, and will continue, to refine estimates but they will inevitably change. However, as underlined in para 7.3.4 the ultimate financial impact of the crisis on the Council's net expenditure is expected to be considerably higher than the initial government emergency grant funding. In light of the emergency situation, local authorities are relying on the statement from Rt. Honourable Robert Jenrick (Secretary of State for Housing, Communities and Local Government) of 16 March 2020 which said "the government stands ready to do whatever is necessary to support councils in their response to coronavirus" for approval to incur the essential expenditures required to fulfil their role. Whilst accepting that this is a very general, unspecific commitment by a Government Minister, it is critical that as an organisation, we clearly understand, monitor and record expenditure incurred in response to this crisis in order for us to submit required claims and evidence to Government for reimbursement of expenditure.
- 8.4 Inevitably in the discharge of our roles there is a real and substantial risk as to whether Government funding will be adequate or framed such that it covers all local authority response expenditures. The Council must therefore be minded to balance its objectives of supporting and protecting its communities and businesses with the legal obligation upon it to maintain its balanced financial status.
- 8.5 Also, the Leader should note that, notwithstanding the Secretary of State's statement regarding further Government grant being released, Covid-19 must be expected to have a significant net financial impact on the Council in the short, medium and long term and the Council will need to start to address this as soon as the time is right. The crisis is impacting some key income streams and will also severely hinder the delivery of the 2020/21 savings programme as originally planned. Again, it is unclear what, if any, support the Council will receive from Government to recompense this. Furthermore, the ability for the Council to focus on developing the 2021/22 budget and MTFS refresh has been severely compromised and this will have a detrimental impact on finances beyond 2019/20 and 2020/21.

Strategic Procurement:

- 8.6 Strategic Procurement fully supports the recommendations in this report. The impact on our supply chain is unprecedented and without these interventions it is likely we will lose a significant amount of our supply chain, placing many critical services at risk.
- 8.7 Strategic Procurement has been working with Finance and Legal colleagues to follow guidelines issued by the Cabinet Office to establish interventions that remain within the confines of the Public Contract Regulations (PCR) and the Council's responsibility to maintain value for money.

Mortality Planning Specific Procurement Comments

- 8.8 The Cabinet Office released Procurement Policy Note 01/20 that confirmed Coronavirus falls within 'reasons brought about by events unforeseeable by the contracting authority' under Reg.32 (2)(c) of PCR 2015.

Strategic Procurement confirms the award of a contract to Number 8 Events as referenced in the Recommendations at 2.20 in compliance Contract Standing Orders 9.07.1 d) and 9.01.2 g) and Procurement Policy Note (PPN) 01_20 allowing the use of Public Contract Regulation 32 in respect of Covid-19 related matters.

Due to the urgent nature of the services and the extremely limited capacity in the market, the Council had no opportunity but to act extremely quickly in securing these services. The Council had already experienced not being able to secure similar services, whereby another Authority stepped in and secured these whilst the Council considered the proposal.

Legal

- 8.9 The Assistant Director of Corporate Governance has been consulted on this report.
- 8.10 The Council is able to rely on a number of powers as the bases for taking the proposed decisions. These include, in particular, the 'general power of competence' conferred by Section 1 of the Localism Act 2011. This is a very broad based power which allows local authorities to do anything that an individual generally may do. The power is subject to exceptions and limitations but officers do not consider that they impact on what is proposed.
- 8.11 The Council has a discrete power under Section 13A(1)(c) Local Government Act 1992 to reduce the amount of council tax which a person is liable to pay in respect of a chargeable dwelling to such extent as it thinks fit. This is additional to any reductions made in its Council Tax Reduction Scheme.
- 8.12 The Council is required to comply with its 'public sector equality duty' under section 149 Equality Act 2010. This requires it to have due regard to the need to: (a) eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act; (b) advance equality of opportunity between people who share protected characteristics and people who do not; and (c) foster good relations between people who share protected characteristics and people who do not. The three parts of the duty apply to the following protected characteristics: age, disability, gender reassignment, pregnancy/maternity, race, religion/faith, sex and sexual orientation. Marriage and civil partnership status applies to the first part of the duty. This duty is owed by the decision-maker, i.e. the Leader.
- 8.13 In normal circumstances, and prior to taking some of these decisions, the Council would probably engage in consultation with affected stakeholders. However, these are exceptional circumstances where speed of decision making and implementation are key. Even short-form and incomplete consultation is not feasible. The Council is entitled, rationally, not to consult on any of the emergency measures proposed.

- 8.14 The procedure to be followed before a key decision is taken is set out in rule 13 within Section D of Part 4 to the Council's Rules of Procedure. Rule 13 is subject to Rule 16 (general exception) and Rule 17 (special urgency). Rule 16 applies where it is impracticable to give 28 days' notice of intention of a proposed key decision, but the procedure still requires that 5 clear days' notice is given of the decision to be made. Rule 17 applies where compliance with Rule 16 is impracticable (i.e. the decision must be taken before the expiry of 5 clear days). In such cases, the decision can only be made with the agreement of the Chair of the relevant Overview and Scrutiny Committee that the taking of the decision is urgent and cannot reasonably be deferred.
- 8.15 The Leader is empowered by the Local Government Act 2000 and the Constitution to take any executive decision himself even if it is a decision which he might ordinarily expect to be taken by Cabinet. This includes taking urgent key decisions himself.
- 8.16 The use of the special urgency procedure under Rule 17 is manifestly justified in the instant case because of the unprecedented nature of the Covid-19 emergency and the urgent need for the proposed decisions to be taken without further delay and then implemented for the benefit of the Council's residents businesses and charge payers.
- 8.17 The proposed temporary changes to the Council's procurement and supplier remuneration/support arrangements are consistent with the Public Contracts Regulations 2015 (as amended) ("PCR"). The award of contracts and contract variations should be considered on a case by case basis. Therefore, Officers are advised to seek advice from Strategic Procurement and Legal Services when awarding contracts or contract variations.

Specific Legal Comments

- 8.18 Pursuant to Regulation 32(2)(c) of the PCR a contracting authority may award contracts procured through negotiation without prior publication insofar as is strictly necessary, where for reasons of extreme urgency brought about by events unforeseeable by the contracting authority, the time limits for the open or restricted procedure or competitive procedures with negotiation cannot be complied with. The award of contract to Number 8 Events Ltd is in accordance with Regulation 32(2)(c).

Equalities

- 8.19 The Council has a Public Sector Equality Duty under the Equality Act (2010) to have due regard to the need to:
- Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act
 - Advance equality of opportunity between people who share those protected characteristics and people who do not
 - Foster good relations between people who share those characteristics and people who do not.
- 8.20 The three parts of the duty applies to the following protected characteristics: age, disability, gender reassignment, pregnancy/maternity, race, religion/faith, sex and sexual orientation. Marriage and civil partnership status applies to the first part of the duty.

- 8.21 The proposed decisions in the report relate to the receipt and expenditure of funds to mitigate the impact of the Covid-19 crisis on Haringey's services and communities. While the Covid-19 crisis can be expected to have a severe impact on Haringey and a disproportionate impact on vulnerable residents, this report demonstrates that the Council will use the resources at its disposal to protect the most vulnerable members of the community.
- 8.22 Government data indicates that those most vulnerable to the Covid-19 virus are older people and people with serious health conditions. There are also known risks for other groups including pregnant women. By using government funding to implement a robust response to the Covid-19 crisis the Council will be taking steps to safeguard the health and wellbeing of these groups of vulnerable residents and mitigate the unequal impacts of the virus.
- 8.23 The report sets out specific interventions and workstreams that will mitigate the various effects of the Covid-19 crisis. These have equality implications, as follows:

Meeting increased demand for adult social care

- This represents a step to mitigate the disproportionate impact that the Covid-19 virus is likely to have on older people and people with serious health conditions. The Council will therefore be acting in accordance with its Public Sector Equality Duty by addressing a known inequality that will affect people who share the protected characteristics of age and disability.

Promotion of deferred payment agreements for adult social care clients

- This measure will help to ensure that those who need adult social care services are able to receive them, thereby mitigating the potential impact of the Covid-19 virus on older people and people with disabilities and health conditions.

Meeting increased demand for children's social care

- This measure will help to ensure that children are safe and looked after through the period of the Covid-19 crisis and will therefore prevent inequalities.

Support for people sleeping rough who need to self-isolate

- People sleeping rough in Haringey are known to be disproportionately from BAME communities, and most notably Eastern European communities, and are known to disproportionately experience health conditions. This measure therefore represents a measure to prevent an inequality that would disproportionately affect people who share protected characteristics.

Free School Meals provision during school closures

- It is estimated that 40% of children in Haringey live below the poverty line. Free School Meals represent an essential means of preventing hunger and malnutrition for children from low income households, but they will not be available while schools remain closed. The decision to approve funding for Free School Meals vouchers will help to prevent the negative impacts on the health and wellbeing of children that would otherwise result from not being able to access enough nutritious food.

Food Aid

- We know that BAME communities, children, people with disabilities and health conditions, and people from minority faith communities are overrepresented among the 34% of Haringey residents living below the poverty line. These people would be likely to experience increased food insecurity during the Covid-19 crisis. Allocation of funding for food aid will help to meet the needs of all households

living below the poverty line and the needs of these groups in particular. The Council will take care to provide appropriate food for the needs of households.

Mortality Planning

- Expanding mortuary capacity represents a measure to maintain public health and can therefore be expected to benefit all Haringey residents. Operationally, this will have due regard for the needs of the protected groups.

Measures to support debtors

- Low income households are most likely to be affected by debt. It is notable that BAME communities, those with dependent children, and those with disabilities and health conditions are overrepresented among low income households locally. Measures to support debtors set out in this report will therefore help to lessen burdens on these households in particular during this time of crisis and therefore lead to more equitable outcomes.

Hardship Fund & Council Tax Relief

- Allocation of the Hardship Fund to those who are currently within Haringey's Council Tax Reduction Scheme represents a measure to provide financial support to low income households, thereby helping to mitigate the financial impact of the Covid-19 crisis.
- **Voluntary Sector Support**
 - A rent holiday for those organisations for which the Council is landlord will likely have a long-term positive impact on BAME communities by helping to ensure that communities continue to have access to physical space to meet after the Covid-19 crisis.

8.24 The Council will remain mindful of its Public Sector Equality Duty as the Covid-19 crisis continues and will bring forward additional measures as may be necessary or desirable in order to address identified inequalities or impacts on groups who share the protected characteristics.

8.25 It is notable that the Council will contract a number of organisations to deliver these interventions on its behalf. As bodies carrying out public functions on behalf of a public body, these organisations will be obliged to have due regard for the need to achieve the three aims of the Public Sector Equality Duty noted above.

9.0 Use of Appendices

Appendix 1 – Policy for the Award of Discretionary Reductions in Council Tax Liability under Section 13A(1)(c) Local Government Finance Act 1992

Appendix 2 – PPN-01 2020 Responding to Covid-19

Appendix 3 – PPN-02 2020 Supplier Relief

10.0 Local Government (Access to Information) Act 1985

10.1 For access to the background papers or any further information, please contact Frances Palopoli – Head of Corporate Financial Strategy & Monitoring extn 3896

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Policy for the Award of Discretionary Reductions in Council Tax Liability under Section 13A(1)(c) Local Government Finance Act 1992

1. Introduction

- 1.1 Section 13a(1)(c) of the Local Government Finance Act 1992 allows the Council to reduce the amount of council tax that a person is liable to pay to such an extent as it thinks fit, or if the amount has already been reduced under the Haringey Council Tax Reduction Scheme, by such further extent as it thinks fit. This includes the power to reduce the amount to nil.
- 1.2 This relief is discretionary. The Council has not specified any class of case in which liability is to be reduced. However, it will consider claims on an individual basis.

2. Scope and Definition

2.1 [All recipients of working age council tax reduction scheme \(CTRS\) during the financial year 2020-21 will receive a further reduction in their annual council tax bill of £150. Where a taxpayer's liability for 2020-21 is, following the application of council tax support, less than £150, then their liability would be reduced to nil. Where a taxpayer's liability for 2020-21 is nil, no reduction to the council tax bill will be available. No application for this award shall be necessary.](#)

~~2.12.2~~ A reduction under section 13A(1)(c) may be awarded to council tax payers who are experiencing financial hardship due to extenuating circumstances. As a discretionary reduction each case will be assessed on its individual merits.

~~2.22.3~~ The cost of section 13A(1)(c) reductions is met in its entirety by Haringey Council and therefore Haringey council tax payers. The granting of such reductions must therefore be considered against their financial impact to residents and will only be granted in exceptional circumstances.

3. How to apply for a discretionary reduction

- 3.1 An application must be submitted in writing by the council tax payer(s) or his/her representative. Applications should be submitted to Revenues, Benefits and Customer Services Division and clearly marked **Council Tax Discretionary Reduction**.
- 3.2 Applications must be supported by evidence to support the claim. The maximum award that may be applied for is the council tax owed for one financial year. The Council can only assess an application on the basis of the evidence before it. Where evidence is weak or insufficient it is likely that an application will be refused.

4. How claims for a discretionary reduction will be assessed

- 4.1 The Council will consider each application for a discretionary reduction on its merits. However, some or all of the following criteria should be met in each case:

- Evidence of financial hardship or exceptional personal circumstances.
- Details of how the council tax payer(s) has attempted to meet council tax payments prior to application.
- An application under the Haringey Council Tax Reduction Scheme has been made and assessed.
- All other eligible reductions, discounts and relief in respect of council tax have been considered and where applicable awarded.
- ~~The council tax payer(s) occupies rented accommodation, is not a home-owner and has no access to other assets that could be used to pay council tax.~~
- The Council can meet the financial cost of the award.
- The amount outstanding must not be the result of wilful refusal or culpable neglect.
- Where an application cannot be fully supported by evidence or meet these conditions in full, specifically due to the impact of the government decision in relation to the Covid-19 epidemic, local policy may apply easements to the conditions identified in 4.1 of this policy.
-

4.2 Written applications will be assessed together with all supporting evidence. A reduction may be awarded in respect of council tax liability from 1st April 2013, and may only be applied in respect of the financial year in which it is made or to which it pertains. Any reduction awarded may meet part or all of the council tax liability for that financial year.

4.3 Applications will be considered by service ~~officers~~ ~~managers~~ within Revenues, Benefits and Customer Services and recommendations submitted to the Head of Service or delegated officers for authorisation within 21 days of receipt of all information. Once approved, the council tax payer(s) will be notified of the decision within 14 days. An application submitted is not an entitlement to withhold payment of council tax.

5. Review of Decision

5.1 Under the Local Government Finance Act 1992, there is no right of appeal against the Council's use of discretionary powers. However, the Council will accept a resident's written request for a further review of its decision if it is supported by further information or evidence and is made within one calendar month of the decision.

5.2 Any review will be carried out by a different person from the person who made the decision to which the review relates and shall normally be completed within 28 days from the date the review is received by the Council.

6. Ending or Cancelling the Reduction

6.1 In all cases the reduction will end either; at the end of the financial year or; on the same day as the closing of the council tax payer's account or; where information indicates the council tax payer's circumstances have changed; on the date of the change.

6.2 Where it transpires that a reduction has been awarded based on false information or evidence the decision will be revoked and the Council reserves the right to recover any council tax already remitted.

7. Decision Making

7.1 The levels of decision making are outlined in the table below. In addition the annual audit of council tax will encompass the application and award of reductions.

<u>Service Officers Service Manager</u>	Assistant Head	Head of Service <u>or delegated officers</u>
To review and consider applications in accordance with guidelines recommending approved cases and level of award to Head of Service	To review and consider applications in accordance with guidelines recommending approved cases and level of award to Head of Service	To authorise or reject cases submitted.
To reject any case which does not meet guidelines set.	To reject any case which does not meet guidelines set.	
	To review any re-applications.	
	To monitor and ensure compliance with policy.	
	To review and control expenditure.	

8. Equalities and Diversity

8.1 This policy is discretionary and therefore all council tax payers will be eligible to apply for reductions. The policy has been written with due regard for those council tax payers who are affected by the changes as a result of the introduction of the council tax reduction scheme.

9. Review of Policy

9.1 This policy will be monitored any revisions necessary will be brought back to Cabinet at a future date.



Cabinet Office

Procurement Policy Note - Responding to COVID-19

Information Note PPN 01/20

March 2020

Issue

1. This Procurement Policy Note (PPN) sets out information and associated guidance on the public procurement regulations and responding to the current coronavirus, COVID-19, outbreak. The exact response to COVID-19 will be tailored to the nature, scale and location of the threat in the UK, as our understanding develops. However, it is already clear that in these exceptional circumstances, authorities may need to procure goods, services and works with extreme urgency. Authorities are permitted to do this using regulation 32(2)(c) under the Public Contract Regulations 2015.

Dissemination and Scope

2. This PPN is applicable to all contracting authorities, including central government departments, executive agencies, non-departmental public bodies, local authorities, NHS bodies and the wider public sector. Together these are referred to in this PPN as 'contracting authorities.'

3. Please circulate this PPN across your organisation and to other relevant organisations that you are responsible for, drawing it to the specific attention of those with a commercial and procurement role.

Timing

4. With immediate effect.

Background

5. There will be a range of commercial actions that must be considered by contracting authorities in responding to the impact of COVID-19. In such exceptional circumstances, authorities may need to procure goods, services and works with extreme urgency. This is permissible under current public procurement regulations using regulation 32(2)(c).

6. This PPN and associated guidance covers options that may be considered in relation to procurements under the Public Contract Regulations 2015 (for the current financial thresholds, see PPN 06/19):

- direct award due to extreme urgency (regulation 32(2)(c));
- direct award due to absence of competition or protection of exclusive rights;
- call off from an existing framework agreement or dynamic purchasing system;

- call for competition using a standard procedure with accelerated timescales;
- extending or modifying a contract during its term.

7. Contracting authorities procuring under the Defence and Security Public Contracts Regulations 2011, the Utilities Contracts Regulations 2016 and the Concession Contracts Regulations 2016 will need to check similar provisions in those regulations

8. The COVID-19 outbreak is likely to give rise to supply chain disruption and contracting authorities may need to take action in response to supplier claims of 'force majeure' or contract 'frustration'. These and other issues will be covered in future PPNs.

Contact

9. Further guidance on COVID-19 for individuals, employers and organisations is available on GOV.UK.

10. Enquiries about this PPN should be directed to the Crown Commercial Service Helpdesk on 0345 410 2222 or info@crowncommercial.gov.uk.

PUBLIC CONTRACT REGULATIONS - RESPONDING TO COVID-19

Introduction

There will be a range of commercial actions that need to be considered by contracting authorities in responding to the impact of COVID-19. In such exceptional circumstances, authorities may need to procure goods, services and works with extreme urgency. This is permissible under current public procurement regulations.

If you have an urgent requirement for goods, services or works due to COVID-19, and you need to procure this under the Public Contract Regulations 2015 (PCRs), there are various options available. These include:

- direct award due to extreme urgency;
- direct award due to absence of competition or protection of exclusive rights;
- call off from an existing framework agreement or dynamic purchasing system;
- call for competition using a standard procedure with accelerated timescales;
- extending or modifying a contract during its term.

Depending on the specific nature of your requirement there may be further options under the PCRs, such as the additional delivery of supplies from an existing supplier (regulation 32(5)), additional similar works or services from an existing supplier (regulation 32(9)), or using the services of a subsidiary of another contracting authority (regulation 12). These are not covered in this guidance and do have their own specific requirements.

You should ensure you keep proper records of decisions and actions on individual contracts, as this could mitigate against the risk of a successful legal challenge. If you make a direct award, you should publish a contract award notice (regulation 50) within 30 days of awarding the contract.

Direct award due to reasons of extreme urgency

COVID-19 is serious and its consequences pose a risk to life. Regulation 32(2)(c) of the PCRs is designed to deal with this sort of situation.

Regulation 32(2) sets out the following:

The negotiated procedure without prior publication may be used for public works contracts, public supply contracts and public service contracts in any of the following cases: ...

(c) insofar as is strictly necessary where, for reasons of extreme urgency brought about by events unforeseeable by the contracting authority, the time limits for the open or restricted procedures or competitive procedures with negotiation cannot be complied with.

... the circumstances invoked to justify extreme urgency must not in any event be attributable to the contracting authority.

Therefore, in responding to COVID-19, contracting authorities may enter into contracts without competing or advertising the requirement so long as they are able to demonstrate the following tests have all been met:

- 1) There are genuine reasons for extreme urgency, eg:

- you need to respond to the COVID-19 consequences immediately because of public health risks, loss of existing provision at short notice, etc;
 - you are reacting to a current situation that is a genuine emergency - not planning for one.
- 2) The events that have led to the need for extreme urgency were unforeseeable, eg:
- the COVID-19 situation is so novel that the consequences are not something you should have predicted.
- 3) It is impossible to comply with the usual timescales in the PCRs, eg:
- there is no time to run an accelerated procurement under the open or restricted procedures or competitive procedures with negotiation;
 - there is no time to place a call off contract under an existing commercial agreement such as a framework or dynamic purchasing system.
- 4) The situation is not attributable to the contracting authority, eg:
- you have not done anything to cause or contribute to the need for extreme urgency.

Contracting authorities should keep a written justification that satisfies these tests. You should carry out a separate assessment of the tests before undertaking any subsequent or additional procurement to ensure that they are all still met, particularly to ensure that the events are still unforeseeable. For example, as time goes on, what might amount to unforeseeable now, may not do so in future.

You should limit your requirements to only what is absolutely necessary both in terms of what you are procuring and the length of contract.

Delaying or failing to do something in time does not make a situation qualify as extremely urgent, unforeseeable or not attributable to the contracting authority. This is because:

- the PCRs expect a contracting authority to plan its time efficiently so that it is able to use a competitive procedure;
- competitive alternatives (eg. an accelerated open procedure) can be completed quickly;
- case law has held that knowing that something needs to be done means it is foreseeable;
- a contracting authority's delay or failure to do something is likely to mean that the situation is attributable to the contracting authority.

It is important that contracting authorities continue to achieve value for money and use good commercial judgement during any direct award. Whilst prices may be higher than would be expected in a regular market, any abnormally high pricing should be approved by the appropriate commercial director. Additionally, contracting authorities are encouraged to consider contractual mechanisms to ensure that they have the ability to secure pricing reductions through the life of the contract. Where this is not possible, it is recommended a log should be kept and reasoning provided for future auditing.

Direct award due to absence of competition or protection of exclusive rights

Regulation 32(2) of the PCRs also sets out that the negotiated procedure without prior publication may be used:

(b) where the works, supplies or services can be supplied only by a particular economic operator for any of the following reasons: ...

(ii) competition is absent for technical reasons,

(iii) the protection of exclusive rights, including intellectual property rights,

... but only where no reasonable alternative or substitute exists and the absence of competition is not the result of an artificial narrowing down of the parameters of the procurement.

Therefore, a contracting authority may make a direct award where the works, goods or services needed to respond to COVID-19 can only be supplied by a particular supplier because:

- competition is absent for technical reasons eg there is only one supplier with the expertise to do the work, produce the product or with capacity to complete on the scale required; or
- the protection of exclusive rights, including intellectual property rights eg:
 - the supplier owns those rights (including intellectual property rights);
 - it has the exclusive right to exploit intellectual property rights.

But this is only when:

- there is no reasonable alternative or substitute available; and
- the contracting authority is not doing something which artificially narrows down the scope of the procurement eg by over-specifying the requirement.

Contracting authorities should keep a written justification that satisfies these tests. You should carry out a separate assessment of the tests before undertaking any repeat procurement to ensure these tests have been met.

Call off from an existing framework agreement or dynamic purchasing system

Central purchasing bodies, such as the Crown Commercial Service, offer public bodies access to a range of commercial agreements including framework agreements and dynamic purchasing systems (DPS).

It is possible to use one of these commercial agreements as long as:

- your contracting authority was clearly identified as a permitted customer in the original OJEU notice or the invitation to confirm interest;
- the goods, services or works to be procured fall within the scope of those covered by the contract, framework agreement or DPS;
- the contract, framework agreement or DPS was procured in accordance with the PCRs;
- the terms of the contract, framework agreement or DPS are suitable and meet your requirements without the need for significant changes.

A framework agreement will provide for direct awards, mini-competitions or both. You must follow the procedure for awarding a call off contract set out in the framework agreement. An award under a DPS has to be by mini-competition and the minimum time for receipt of tenders is 10 days.

Using a standard procedure with accelerated timescales due to urgency

Contracting authorities can reduce the minimum timescales for the open procedure, the restricted procedure and the competitive procedure with negotiation if a state of urgency renders the standard timescales impracticable. The minimum time limits vary (see regulations 27(5), 28(10) and 29(10) respectively). For procurements under the open procedure, timescales can be reduced to 15 days for receipt of tenders plus the minimum 10 days for the standstill period.

There is no express requirement for the situation to be unforeseeable or not attributable to the contracting authority but you should set out in your OJEU notice a clear justification eg:

“The COVID-19 outbreak has given rise to an urgent need for the supply of [description of what is being procured] because [explanation of urgency]. This does not give [name of contracting authority] sufficient time to comply with the standard [open procedure / restricted procedure / competitive procedure with negotiation] timescales for this procurement. [Contracting authority] considers this to be a state of urgency which it has duly substantiated. Accordingly, [contracting authority] is using the accelerated time limits permitted under the Public Contract Regulations 2015 (regulation [27(5) for the open procedure / 28(10) for the restricted procedure / 29(10) for the competitive procedure with negotiation]) in respect of this procurement”.

Contracting Authorities can also consider the use of the Light Touch Regime for specific health and social care related services (see regulation 74-77). While contracting authorities are required to advertise contracts in OJEU and publish contract award notices, you are free to use any process or procedure you choose to run and are not required to use the standard procurement procedures (open, restricted etc). You are also free to set your own timescales as long as they are reasonable and proportionate.

Extending or modifying a contract during its term

Regulation 72(1) sets out the following:

Contracts ... may be modified without a new procurement procedure ... in any of the following cases:

(c) where all of the following conditions are fulfilled:

- (i) the need for modification has been brought about by circumstances which a diligent contracting authority could not have foreseen;*
- (ii) the modification does not alter the overall nature of the contract;*
- (iii) any increase in price does not exceed 50% of the value of the original contract or framework agreement.*

Contracting authorities should keep a written justification that satisfies these conditions, including limiting any extension or other modification to what is absolutely necessary to address the unforeseeable circumstance. This justification should demonstrate that your decision to extend or modify the particular contract(s) was related to the COVID-19 outbreak with reference to specific facts, eg your staff are diverted by procuring urgent requirements to deal with COVID-19 consequences, or your staff are off sick so they cannot complete a new procurement exercise. You should publish the modification by way of an OJEU notice to say you have relied on regulation 72(1)(c).

Multiple modifications are permissible, however each one should not exceed the 50% of the original contract value. You should also consider limiting the duration and/or scope of the modification and running a procurement for longer-term/wider scope requirements alongside it.

There are other grounds available under regulation 72 for extending contracts, including: if the proposed variation has been specifically provided for in the contract (regulation 72(1)(a)); where a change of contractor cannot be made for economic or technical reasons (regulation 72(1)(b)), and where the modifications are not substantial (regulation 72(1)(e))

If more than one ground is applicable this may lower the legal risk and therefore you should ensure all relevant grounds are included in your written justification.

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Cabinet Office

Procurement Policy Note - Supplier relief due to COVID-19

Action Note PPN 02/20

March 2020

Issue

1. This Procurement Policy Note (PPN) sets out information and guidance for public bodies on payment of their suppliers to ensure service continuity during and after the current coronavirus, COVID-19, outbreak. Contracting authorities must act now to ensure suppliers at risk are in a position to resume normal contract delivery once the outbreak is over.

Action

2. All contracting authorities should:
- Urgently review their contract portfolio and inform suppliers who they believe are at risk that they will continue to be paid as normal (even if service delivery is disrupted or temporarily suspended) until at least the end of June.
 - Put in place the most appropriate payment measures to support supplier cash flow; this might include a range of approaches such as forward ordering, payment in advance/pre-payment, interim payments and payment on order (not receipt).
 - If the contract involves payment by results then payment should be on the basis of previous invoices, for example the average monthly payment over the previous three months.
 - To qualify, suppliers should agree to act on an open book basis and make cost data available to the contracting authority during this period. They should continue to pay employees and flow down funding to their subcontractors.
 - Ensure invoices submitted by suppliers are paid immediately on receipt (reconciliation can take place in slower time) in order to maintain cash flow in the supply chain and protect jobs.

Dissemination and Scope

3. This PPN is applicable to all contracting authorities, including central government departments, executive agencies, non-departmental public bodies, local authorities, NHS bodies and the wider public sector (excluding Devolved Administrations). Together these are referred to in this PPN as 'contracting authorities'. This PPN covers goods, services and works contracts being delivered in the UK.

4. Please circulate this PPN across your organisation and to other relevant organisations that you are responsible for, drawing it to the specific attention of those with a commercial and finance role.

Timing

5. With immediate effect until 30 June 2020.

Background

6. The current outbreak of COVID-19 is unprecedented and will have a significant impact on businesses of all sizes. Many suppliers to public bodies will struggle to meet their contractual obligations and this will put their financial viability, ability to retain staff and their supply chains at risk. Contracting authorities should act now to support suppliers at risk so they are better able to cope with the current crises and to resume normal service delivery and fulfil their contractual obligations when the outbreak is over.

7. It is vital that contracting authorities pay all suppliers as quickly as possible to maintain cash flow and protect jobs. Contracting authorities should also take action to continue to pay suppliers at risk due to COVID-19 on a continuity and retention basis. Contracting authorities can consider making advance payments to suppliers if necessary.

8. Central Government organisations should note that Managing Public Money prohibits payment in advance of need in absence of Treasury consent as this is always novel contentious and repercussive. However, in the circumstances Treasury consent is granted for payments in advance of need where the Accounting Officer is satisfied that a value for money case is made by virtue of securing continuity of supply of critical services in the medium and long term. This consent is capped at 25% of the value of the contract and applies until the end of June 2020. HM Treasury will review in mid-June whether this consent needs to be extended for a further period. Consent for payment in advance of need in excess of this amount should be sought from HMT in the usual way. This consent does not alleviate Accounting Officers their usual duties to ensure that spending is regular, proper and value for money or for other contracting authorities to conduct appropriate and proportionate due diligence to ensure such payments are necessary for continuity of supply of critical services.

9. Contracting authorities should aim to work with suppliers and, if appropriate, provide relief against their current contractual terms (for example relief on KPIs and service credits) to maintain business and service continuity rather than accept claims for other forms of contractual relief, such as force majeure.

10. Continuing to make payments to at risk suppliers will present risks including that, despite these exceptional actions, a supplier may still become insolvent. These risks will need to be managed by contracting authorities on a case by case basis.

Contact

11. Further guidance on COVID-19 for individuals, employers and organisations is available on GOV.UK.

12. Enquiries about this PPN should be directed to the helpdesk at info@crowncommercial.gov.uk.

SUPPLIER RELIEF DUE TO COVID-19

INTRODUCTION

The public sector must act quickly and take immediate steps to pay all suppliers as a matter of urgency to support their survival over the coming months.

Where goods and services are either reduced or paused temporarily, authorities should continue to pay at risk suppliers to ensure cash flow and supplier survival. This could include, for example situations where:

- Services are cut short / reduced at short notice due to the impact of COVID-19 and non-payment could result in supply chains collapsing and/or significant financial implications for the supplier.
- It would be value for money and important to business continuity to continue to pay suppliers in the short term (regardless of whether you are able to reconcile at a later stage). This would ensure continuity of services when services can resume.

PPN 01/20 sets out how contracting authorities can amend contracts under Regulation 72 of the Public Contracts Regulations 2015¹. Changes should be captured in contract variation or change note, and make clear that the changes relate only to the COVID-19 situation, include a review provision or time limit, and that it is the authority's decision when things should return to normal.

PAYMENT TO MAINTAIN BUSINESS CONTINUITY

Contracting authorities should confirm with their at risk suppliers that they will continue to pay until at least the end of June, to ensure business and service continuity. Contracting can define their 'at risk suppliers' according to need. In general, this should override provisions in contracts that might require contracting authorities to pay suppliers on a decreasing scale as a result of, for example performance, force majeure or business continuity clauses.

There are a range of ways to support suppliers in maintaining cash flow during this period. Contracting authorities can continue to pay at usual contractual rates, or consider other options such as payment against revised/extended milestones or timescales, interim payments, forward ordering, payment on order or payment in advance/prepayment. Risks associated with advance or pre payment should be carefully considered and documented.

Where contracts operate 'payment by result' or are 'output / outcome' based, payments to suppliers should be made on the basis of a calculation of the average of the last three months invoices. Where possible, any payments made to suppliers during this emergency period should be adjusted to ensure profit margin is not payable on any undelivered aspects of the contract, however this should not delay payments being made.

Suppliers should identify in their invoices which elements of the invoiced amount relates to services they are continuing to supply (i.e. business as usual) and which amounts are attributable to the impact of COVID-19.

Payments should not be made to suppliers where there is no contractual volume commitment to supply, and contracting authorities should carefully consider the extent of payments to be made to suppliers who are underperforming and subject to an existing improvement plan.

¹ Or equivalent procurement regulations

Transparency

Contracting authorities and suppliers should work collaboratively to ensure there is transparency during this period. Suppliers in receipt of public funds on this basis during this period must agree to operate on an 'open book' basis. This means they must make available to the contracting authority any data, including from ledgers, cash-flow forecasts, balance sheets, and profit and loss accounts, as required and requested to demonstrate the payments made to the supplier under contract have been used in the manner intended.

For example, this might include evidence that staff have been paid the right amount and on time, and that cash continues to flow through the supply chain as quickly as possible. Contracting authorities should keep records of decisions and agreements made, and ensure suppliers maintain records to enable future reconciliation if necessary.

Suppliers should not expect to make profits on elements of a contract that are undelivered during this period and all suppliers are expected to operate with integrity. Suppliers should be made aware that in cases where they are found to be taking undue advantage, or failing in their duty to act transparently and with integrity, contracting authorities will take action to recover payments made.

Supplier capacity

Many suppliers will not be able to fulfil their contracts due to action taken elsewhere in the public sector. For example, transport services for school children, due to the closure of schools. Wherever possible, contracting authorities should seek to re-deploy the capacity of those suppliers to other areas of need; this can be implemented via a time-bound variation to the original contract under regulation 72 of the Public Contract Regulations (see PPN 01/20).

OTHER CONTRACTUAL RELIEF

Contracting authorities should work with all suppliers to ensure business continuity is maintained wherever possible and that business continuity plans are robust and are enacted.

If a supplier seeks to invoke a clause relating to a form of contractual relief that would allow them to suspend performance, such as force majeure, contracting authorities should first work with the supplier to amend or vary contracts instead. These variations could include changes to contract requirements, delivery locations, frequency and timing of delivery, targets and performance indicators etc. Changes to the original terms should be limited to the specific circumstances of the situation, and considered on a case by case basis.

Other reliefs sought by a supplier could relate to any contractual obligation but usually takes the form of one, or both, of the following:

- an extension of time for contract performance (eg revised milestones dates or delivery dates, etc);
- a waiver or delay in the ability of the contracting authority to exercise a right and/or remedy (eg to claim liquidated and ascertained damages, service credits or terminate the contract)

Each claim for relief should be considered on a case by case basis, according to the nature of the goods/services/works being supplied, the challenges being faced, the contract terms and the constraints of any statutory requirements, for example the PCR to above-threshold contracts. You should seek specific legal advice as required.

Contracting authorities should take a pragmatic approach. These discussions and any temporary changes agreed should be recorded. The contract should return to its original terms as soon as the impact of the COVID-19 outbreak on the relevant contract is over.

Contracting authorities should not accept claims from suppliers who were already struggling to meet their contractual obligations prior to the COVID-19 outbreak.

Force Majeure

Force majeure is a contractual term which may, (depending on the specific terms of the contract) allow one or both of the parties, when a specified event or events occurs beyond their control:

- to terminate the contract; or
- to be excused from performance of the contract, in whole or in part; or
- to be entitled to suspend performance for the period the event is continuing or to claim an extension of time for performance

It is important that force majeure clauses is not considered in isolation given its impact on other clauses such as exclusivity, liability, liquidated damages and termination rights. It may also be relevant to consider the governing law and jurisdiction clause as contracts subject to foreign law may be interpreted differently by the courts. It may also be an exclusion clause, which is subject to the Unfair Contract Terms Act 1977.

Contracting authorities are not bound to accept a supplier's claim for force majeure and can resist it. You should seek legal advice when dealing with a claim and continue to work with the supplier to maintain service continuity as far as possible. An attempt by a supplier to invoke a force majeure clause without valid cause may mean that the supplier is in breach of contract.

Force majeure clauses do not automatically entitle either party to claim relief. In some cases, a contract will not allow termination at all due to force majeure, and it cannot be forced.

Frustration

It is unlikely a supplier will seek to frustrate a contract if they continue to be paid. However, unlike force majeure, frustration is rarely included as a provision in the contract. Instead, frustration arises where an event, for which the contract makes no sufficient provision, renders performance of the contract impossible or radically changes a party's principal reason for entering into the contract.

If a contract has been frustrated, it terminates automatically and the parties are excused from their future obligations. Any contractual obligations incurred before the time of frustration, such as for the contracting authority to pay outstanding charges to a supplier, remain enforceable. As neither party is at fault in respect of the frustration, neither may claim damages from the other for non-performance after the contract is declared frustrated.

However, the threshold for a contract being declared 'frustrated' is high and the fact that the contract will merely be more expensive to perform, or that the provider will have to perform the contract in a different way as a result of COVID-19 and/or its impact, are highly unlikely to constitute grounds for frustration in itself. You should seek legal advice if a supplier claims 'frustration'.

Excusing Causes, Relief Events and other options

If included in a contract, excusing cause and relief event provisions generally give a supplier

relief from its contractual obligations, which contracting authorities may be able to use to provide relief, for example, to change the KPI regime, payment mechanism or reduce service level requirements. Some contracts may have other relief mechanisms. Whatever the regime, contracting authorities should maximising any commercial flexibilities within the contract, including agreeing new measures such as on meeting lead times, waiving or delaying exercising the authority's rights and/or remedies (e.g. to claim liquidated and ascertained damages, service credits or terminate the contract), revising milestones or delivery dates. In these circumstances, if there is one, use the contract change control procedure to keep records of any changes made and the decision making behind each one. If not, keep your own records.

ACCELERATING PAYMENT OF INVOICES

Contracting authorities should pay suppliers as quickly as possible to maintain cash flow and protect jobs. The public sector must pay suppliers within 30 days under the Public Contracts Regulations 2015 but contracting authorities now need to accelerate their payment practice.

Contracting authorities should act now to ensure payment is made as quickly as possible to their suppliers, including:

- Targeting high value invoices where a prime is reliant on a supply chain to deliver the contract.
- Resolving disputed invoices as a matter of urgency; consider paying immediately and reconciling at a later date in critical situations.
- Take a risk based approach as to whether 2-way matching is always needed (rather than adopt regular 3-way matching against receipt and Purchase Order)
- Encourage suppliers to invoice on a more regular basis to help cash flow (eg every week rather than monthly)

Contracting authorities should consider the following additional contingency measures during the COVID-19 outbreak

Contingency measures - delegated authority to ensure invoices are not delayed

With significant levels of staff absence possible, ensure you have appropriate contingencies in place including sufficient numbers of staff with delegated authority to promptly receipt / authorise an amount due for payment in business units as well as finance teams.

Contract Managers and Business Units

Receipt for goods promptly, do not delay and ensure there is a contingency in place for delegated authority to approve in the event of staff shortages. Monitor flow down to ensure payment is cascading down the supply chain.

Verifying invoices as quickly as possible

Verify an invoice as quickly as possible and do not send invoices back for minor administrative errors and risk causing delay in payment. Continue to undertake necessary checks, however, look to resolve any issues as a matter of urgency and reconcile any minor discrepancies in information at a later stage.

Payment Card Solutions

Use of procurement/payment cards where possible to ensure businesses are paid as quickly as possible. Consider increasing the upper limit of spend, open up categories and ensure an appropriate number of staff have the authority to use.

Invoicing procedures clearly set out for your suppliers

Be clear where suppliers should send their invoice, including email address and the process required. This should be clear on the authority's website. This will minimise the number of invoices with incorrect information and/or being issued to the wrong address. Issue a reminder to all your suppliers to help them best prepare and ask for invoices to be sent in electronically to avoid hard copies sitting in office buildings potentially unattended.

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