



**Pay.UK's tranche 1
(question 5) follow-up
response to the PSR's
consultation on delivery
and regulation of the New
Payments Architecture**

May 2021

EXECUTIVE SUMMARY

1. In our August 2020 application to the PSR, Pay.UK argued for a direct award for the procurement of the NPA central infrastructure. This was primarily on the grounds of minimising overall programme risk, but also as it could be quicker than continuing with the competitive award approach. In light of changes since making that application, and in particular the narrower initial procurement scope proposed in the PSR's consultation document, we have again considered the most suitable procurement approach for delivering the NPA.
2. [REDACTED]¹. We have now completed this work which included a comparative assessment of the options against key criteria relating to Robustness and Resilience; Service User Benefits (including speed to market); and Competition and Innovation (including procurement considerations).
3. On the basis of this analysis and, in light of developments since August 2020, we have concluded that on balance **the optimal approach is for Pay.UK to restart the existing competitive procurement process**. There are a number of factors in support of this position, including that:
 - i. [REDACTED]
 - ii. The proposed revised (and narrower) scope of the initial NPA procurement de-risks the programme to a level that is currently within Pay.UK risk appetite, and more likely to remain so as the programme progresses. Given the potential service user impact, transition risk will remain a critical concern for Pay.UK, participants and end users. All bidders will need to be assessed on this, to ensure they are capable of managing transition in a way that doesn't unduly risk the stability of live services. How this can be assessed – and sufficiently mitigated – is something that we now judge can best be explored with the bidders through the competitive procurement process and will be weighted accordingly. We consider the parties who remain in the current competitive tender process are credible and have the relevant experience to support a thorough exploration of this.
 - iii. Our view is that there is now more uncertainty attached to direct award compared with restarting the existing competitive procurement process. This uncertainty is due in particular to the further work that the PSR has indicated would be required to develop and implement a suitable regulatory regime in response to a direct award. This creates doubt as to whether a direct award could save meaningful time in terms of delivery (and could actually take longer given uncertainty over the regulatory framework). In addition, effective delivery of the programme needs a clear and certain timetable that stakeholders can plan against.
 - iv. We continue to consider that the timely delivery of the NPA core will enable wide and significant ecosystem benefits to be delivered. Delay to delivery is therefore detrimental to services users.
4. In addition, following our August application, we have continued to improve the programme by enhancing our capability, developing the specificity of our requirements and having a greater understanding of the overall programme plan. This has been supported by the PSR's s.82 review and the steps we have taken – and are continuing to take – to remediate the

¹ [REDACTED]

findings of the review. All of this work provides us with increased confidence in our ability to execute the recommended competitive process in good time and to a high standard.

5. Given these factors, the previous core rationale for Pay.UK's preference for direct award has changed as a result of the new context. [X]
6. As such, and given the changed risk profile and the levels of certainty attached to respective procurement options, we see competitive procurement (via a restart of the current procurement, rather than an entirely new process) as providing the most certainty on timetable and also of course providing wider benefits in terms of negotiating leverage. We want to reiterate that: (i) this position is intrinsically linked to a reduced initial procurement scope (and therefore conditional upon that change); and (ii) the vendor's ability to demonstrate effective mitigation of transition risk in a real-time payment system will be a key consideration in the selection of a prime supplier.
7. In coming to this position, we note that an entirely new procurement process would be a sub-optimal outcome. [X] A new process would also lead to a delay to delivery of benefits to customers and increase overall programme cost [X]. The decision of our Board, and the recommendation of the Strategic Participant Group (SPG), was based specifically around restarting the existing procurement and we cannot be entirely confident that the same consensus would exist around starting a new procurement.
8. In taking this step, we are of course open to all outcomes being delivered through a competitive process and recognise the need for the process to be – and be perceived to be – fair and transparent, underpinned by a robust assessment of all parties' ability to meet our requirements for the NPA. We expect that our service users will continue to inform and make recommendations on the programme based on their needs, including in areas like overall requirements, business case validity, procurement criteria, and aspects of vendor assessment via SPG (and other stakeholder fora).
9. The position explained in this paper has been arrived at following thorough analysis, stakeholder engagement, and governance oversight and challenge.² The Pay.UK project team presented its recommendation to restart a competitive procurement with supporting analysis to the SPG. Based on this analysis, SPG was asked to provide any update to its previous recommendation on NPA procurement to the Pay.UK Board.³ A significant majority of the SPG members involved in these discussions ultimately supported the programme recommendation of pursuing competitive procurement (based on a range of different reasons). However, as per their May 2020 recommendation, the SPG was clear that the continued stability of the systems Pay.UK operates is of primary importance – whoever the selected vendor might be. This is consistent with the objectives of Pay.UK and our regulators. SPG also noted that it considers this recommendation to provide the quickest route to deliver benefits for users to market.
10. We believe this approach, alongside the reduced scope we set out in our tranche 1 response, will achieve the necessary industry consensus to enable Pay.UK to focus on progressing the design and implementation of the NPA. As our regulators are aware, there is a strong industry desire for safe but prompt progress on the programme, and for Pay.UK to produce a schedule that they can plan around.
11. In support of this we also hope that this procurement approach would make it easier to move to a point where there can be certainty on the wider issues that the PSR identified in its NPA

² Separate to this response, we are making available to the PSR the relevant Pay.UK Board material. We are also providing the PSR with advice provided by EUAC on wider matters relating to competition in the NPA.

³ The SPG met twice in late April to discuss Pay.UK analysis. This was after the point that some institutions had made their own individual responses to tranche 1 of the PSR's consultation.

consultation. We have set out our view on those issues in our separate tranche 2 response. Certainty on the regulatory regime will be essential to enabling good progress on a competitive procurement. We hope to work efficiently with the regulators on further work in this area.

12. In advance of the PSR confirming its positions on scope and procurement, we intend to ensure our plans reflect the revised scope and the revised competition approach making that our clear baselined position.

FINALISING PAY.UK'S POSITION ON PREFERRED PROCUREMENT APPROACH

13. As previously agreed with the PSR, our response to question 5 of the consultation paper was delayed to enable further analysis to be undertaken to inform our position on this question. We appreciate the flexibility that the PSR has shown. Our response is now set out below.

Consultation question #5

Which of the procurement options do you consider is the best way forward and why? Please explain if your view differs depending on the scope of the initial procurement.

14. In our August 2020 application to the PSR, Pay.UK argued for a direct award for the procurement of the NPA central infrastructure. This was primarily on the grounds of minimising overall programme risk, but also as it could be quicker than continuing with the competitive award approach. In light of changes since making that application, and in particular the narrower initial procurement scope proposed in the PSR's consultation document, we have again considered the most suitable procurement approach for delivering the NPA.
15. [REDACTED]⁴ We have now completed this work which included a comparative assessment of the options against key criteria relating to Robustness and Resilience; Service User Benefits (including speed to market); and Competition and Innovation (including procurement considerations).
16. On the basis of this analysis and, in light of developments since August 2020, we have concluded that on balance **the optimal approach is for Pay.UK to restart the existing competitive procurement process**. In this section we explain the considerations we have made in coming to this position. The response explains:
- i. [REDACTED]
 - ii. Other developments since the August 2020 application.
 - iii. A comparative assessment of the relative merits of direct award versus continuation of the competitive procurement.
 - iv. The reasons for our overall conclusion on the best way forward.

(i) [REDACTED]

17. [REDACTED]
18. [REDACTED]
19. [REDACTED]
20. [REDACTED]
21. [REDACTED]
22. [REDACTED]
23. [REDACTED]

⁴ [REDACTED]

(ii) Developments since August 2020 that have informed our reassessment of direct award versus competitive award

24. [§<] Pay.UK revisited what has changed since we made the SD2/3 application in August 2020. There have been three key developments which are summarised below.

PSR decision on exceptional event application

25. In January 2021, the PSR rejected Pay.UK's application (of August 2020) which sought exemption from SD2 and SD3 to enable Pay.UK to explore the possibility of a direct award with the incumbent central infrastructure provider. As documented in its decision notice, the PSR considered that exceptional circumstance cited in Pay.UK's application (the impact of Covid-19 on the totality of risk facing the NPA Programme) was not sufficient to justify the exemption.
26. However, the PSR agreed with Pay.UK that the NPA Programme needed to be de-risked to enable its successful delivery, and therefore determined to consult on options to achieve this.

The PSR consultation, narrower scope, and greater understanding of regulatory implications

27. The PSR consultation, published in February 2021, proposed de-risking the delivery of the NPA Programme by reducing the scope of the initial NPA procurement.
28. As communicated in our tranche 1 response to the consultation, Pay.UK's position on scope is broadly aligned with the PSR's position i.e. a narrowed scope for the initial procurement to prioritise the timely delivery of NPA functionality to replace FPS with the opportunity for a future Bacs migration to the NPA with a decision deferred, pending further analysis. In addition, Pay.UK proposed that the scope should also: (i) build flexibility into the core to de-risk a potential future Bacs migration; and (ii) include replacements for Direct Corporate Access (DCA) and File Input Module (FIM).
29. The consultation also discussed the PSR's indicative plans for the regulation of the NPA (we understand these are predicated on Pay.UK following a competitive procurement approach). Pay.UK understands that under a direct award approach, the regulatory approach of the PSR would need to be proportionate to the PSR's assessment of risk and would likely be more significant. At this stage there is not clarity on what measures would be put in place and it is quite possible that this could actually add time to the overall programme plan (relative to the competitive award approach).

Bidder interest

30. In considering the feasibility of continuing with the competitive procurement approach, Pay.UK is encouraged that the bidders [§<] have confirmed their continued appetite to deliver the NPA.

(iii) Relative merits of direct award versus competitive award

31. These developments have implications for the overall risk position of the NPA Programme. Pay.UK has revisited its risk assessment which had, in contributing to the August 2020 application, concluded that moving forward with a competitive procurement for the original scope of the NPA (which included plans to migrate both FPS and Bacs to the NPA) was outside of Pay.UK's risk appetite for the programme. Accounting for the narrower scope of

the initial procurement, Pay.UK now concludes that the delivery of the NPA would be within risk appetite regardless of whether it was delivered via a direct award or via a competitive approach. In light of this, Pay.UK has revisited the merits of the two procurement approaches against some key assessment criteria. For the avoidance of doubt, we use competitive procurement to mean the un-pausing and continuation of the existing Pay.UK NPA procurement process.

Robustness and resilience

32. Under both procurement approaches, Pay.UK would expect to deliver a robust and resilient NPA payment system at the completion of the programme. The main risk to robustness and resilience arises from the transition.
33. As Pay.UK discussed in detail in its SD2/SD3 application, transitioning to a new infrastructure is an inherently risky endeavour, and there is greater risk attached when a new supplier is introduced. This additional risk would only arise under a competitive award approach (although not necessarily and this depends on the outcome of the tender).
34. However, as discussed above, this is an area where there have been significant developments since our SD2/3 application. First, the narrower NPA initial procurement scope lowers the overall level of risk that the programme faces. Second, the PSR's decision notice on Pay.UK's SD2/SD3 application noted that Pay.UK was under no obligation to select a bidder following a competitive award process that did not satisfy the technical, operational, financial, and resilience criteria that Pay.UK is free to set. This provides Pay.UK with greater confidence that transition risk can be mitigated through a competitive procurement approach.
35. In addition, the additional commercial leverage available under a competitive procurement approach (relative to a direct award approach) could be expected to support negotiation of stronger SLAs with the core infrastructure supplier, thereby enabling robustness and resilience.
36. In the context of a narrower scope, and considering the benefits of greater negotiating leverage on resilience protections versus the potential for needing to manage two suppliers during a transition, Pay.UK now considers the two procurement approaches to be broadly evenly balanced from a robustness and resilience perspective.

Service user benefits (including speed to market assessment)

37. Given the requirements that Pay.UK has for the NPA, both procurement approaches would deliver the end-user benefits envisaged (including ISO 20022 messaging). Our previous assessment (which fed into the August 2020 SD2/SD3 application), however, concluded that NPA benefits would be delivered more quickly under a direct award approach.
38. While the overall timeline could potentially be slightly quicker (c. three months) under direct award, this would be dependent on a number of assumptions, some of which have significant uncertainty attached to them. For example, the level of regulatory uncertainty attached to a direct award approach is high and could actually lead to a longer timeline (relative to the competitive procurement approach).
39. Given the need for as much certainty as possible to enable robust programme planning, Pay.UK views the competitive award approach as the better way forward for delivering service user benefits in a timely fashion. However, we want to reiterate that an entirely new procurement process would be a sub-optimal outcome from a service user perspective, as this would lead to delay to delivery of wider NPA ecosystem benefits to customers. [3<]

Competition and innovation (and procurement considerations)

40. An effective procurement process, providing strong negotiating leverage, supports Pay.UK's competition and innovation agenda for the NPA in the following ways:
 - i. It can help drive innovation in the solution that is provided.
 - ii. It can help ensure costs and commercial/contractual terms are reasonable.
 - iii. It can enable certain competition risks to be managed through the contract that is negotiated with the central infrastructure supplier.
41. Pay.UK has always understood that commercial leverage can be maximised through a competitive procurement approach. [§<]
42. While there are ways to maximise negotiating leverage under a direct award approach (and Pay.UK began discussing these in its August 2020 application), we have always considered that that these weigh less favourably when compared with the advantages of a competitive procurement.
43. The effectiveness of a competitive procurement is in the process having delivered the desired outcome (i.e. a prime supplier *capable* of successfully delivering a credible NPA solution and service outcomes within the required timeframe and cost envelope) and negotiation levers are in place to secure Pay.UK its preferred terms and positions.
44. [§<]

(iv) Conclusion

45. The analysis explained above demonstrates to Pay.UK that – in light of developments since August 2020 – on balance **the optimal approach is for Pay.UK to restart the existing competitive procurement process**. There are a number of factors in support of this position, including that:
 - i. [§<]
 - ii. The proposed revised (and narrower) scope of the initial NPA procurement de-risks the programme to a level that is currently within Pay.UK risk appetite, and more likely to remain so as the programme progresses. Given the potential service user impact, transition risk will remain a critical concern for Pay.UK, participants and end users. All bidders will need to be assessed on this, to ensure they are capable of managing transition in a way that doesn't unduly risk the stability of live services. How this can be assessed – and sufficiently mitigated – is something that we now judge can best be explored with the bidders through the competitive procurement process and will be weighted accordingly. We consider the parties who remain in the current competitive tender process are credible and have the relevant experience to support a thorough exploration of this.
 - iii. Our view is that there is now more uncertainty attached to direct award compared with restarting the existing competitive procurement process. This uncertainty is due in particular to the further work that the PSR has indicated would be required to develop and implement a suitable regulatory regime in response to a direct award. This creates doubt as to whether a direct award could save meaningful time in terms of delivery (and could actually take longer given uncertainty over the regulatory framework). In addition,

effective delivery of the programme needs a clear and certain timetable that stakeholders can plan against.

- iv. We continue to consider that the timely delivery of the NPA core will enable wide and significant ecosystem benefits to be delivered. Delay to delivery is therefore detrimental to services users.
46. In addition, following our August application, we have continued to improve the programme by enhancing our capability, developing the specificity of our requirements and having a greater understanding of the overall programme plan. This has been supported by the PSR's s.82 review and the steps we have taken – and are continuing to take – to remediate the findings of the review. All of this work provides us with increased confidence in our ability to execute the recommended competitive process in good time and to a high standard.
47. Given these factors, the previous core rationale for Pay.UK's preference for direct award has changed as a result of the new context. [REDACTED]
48. As such, and given the changed risk profile and the levels of certainty attached to respective procurement options, we see competitive procurement (via a restart of the current procurement, rather than an entirely new process) as providing the most certainty on timetable and also of course providing wider benefits in terms of negotiating leverage. We want to reiterate that: (i) this position is intrinsically linked to a reduced initial procurement scope (and therefore conditional upon that change); and (ii) the vendor's ability to demonstrate effective mitigation of transition risk in a real-time payment system will be a key consideration in the selection of a prime supplier.
49. In coming to this position, we note that an entirely new procurement process would be a sub-optimal outcome. [REDACTED] A new process would also lead to a delay to delivery of benefits to customers and increase overall programme cost [REDACTED]. The decision of our Board, and the recommendation of the SPG, was based specifically around restarting the existing procurement and we cannot be entirely confident that the same consensus would exist around starting a new procurement.
50. In taking this step, we are of course open to all outcomes being delivered through a competitive process and recognise the need for the process to be – and be perceived to be – fair and transparent, underpinned by a robust assessment of all parties' ability to meet our requirements for the NPA. We expect that our service users will continue to inform and make recommendations on the programme based on their needs, including in areas like overall requirements, business case validity, procurement criteria, and aspects of vendor assessment via SPG (and other stakeholder fora).
51. The position explained in this paper has been arrived at following thorough analysis, stakeholder engagement, and governance oversight and challenge.⁵ The Pay.UK project team presented its recommendation to restart a competitive procurement with supporting analysis to the SPG. Based on this analysis, SPG was asked to provide any update to its previous recommendation on NPA procurement to the Pay.UK Board.⁶ A significant majority of the SPG members involved in these discussions ultimately supported the programme recommendation of pursuing competitive procurement (based on a range of different reasons). However, as per their May 2020 recommendation, the SPG was clear that the continued stability of the systems Pay.UK operates is of primary importance – whoever the selected vendor might be. This is consistent with the objectives of Pay.UK and our regulators.

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SPG also noted that it considers this recommendation to provide the quickest route to deliver benefits for users to market.

52. We believe this approach, alongside the reduced scope we set out in our tranche 1 response, will achieve the necessary industry consensus to enable Pay.UK to focus on progressing the design and implementation of the NPA. As our regulators are aware, there is a strong industry desire for safe but prompt progress on the programme, and for Pay.UK to produce a schedule that they can plan around.
53. In support of this we also hope that this procurement approach would make it easier to move to a point where there can be certainty on the wider issues that the PSR identified in its NPA consultation. We have set out our view on those issues in our separate tranche 2 response. Certainty on the regulatory regime will be essential to enabling good progress on a competitive procurement. We hope to work efficiently with the regulators on further work in this area.
54. In advance of the PSR confirming its positions on scope and procurement, we intend to ensure our plans reflect the revised scope and the revised competition approach making that our clear baselined position.