

# URGENT DECISIONS

Thursday, 15th June, 2023, 12.45 pm

**Members:** Councillor Dana Carlin

## 1. APOLOGIES FOR ABSENCE

To receive any apologies for absence.

## 2. DECLARATIONS 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. MICROSOFT ENTERPRISE AGREEMENT - CONTRACT VARIATION AND EXTENSION - FOR THE PROVISION OF MICROSOFT LICENSE SUBSCRIPTIONS, TO INCLUDE E5 (PAGES 1 - 18)

The Chair of Overview and Scrutiny has agreed that the decision is reasonable in all the circumstances and that it should be treated as a matter of urgency.

Please be advised that 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 the decision is time limited and constraints placed on the Council by Microsoft based on a commercial option they have provided

to the Council which is financially favourable and advantageous and will ensure value for money for our residents. 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.

**4. EXCLUSION OF THE PRESS AND PUBLIC**

Item 5 is exempt from publication as it contains exempt information as defined in Section 100a of the Local Government Act 1972 (as amended by Section 12A of the Local Government Act 1985); paras 3 and 5, namely information relating to the financial or business affairs of any particular person (including the authority holding that information) and information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

**5. EXEMPT - MICROSOFT ENTERPRISE AGREEMENT - CONTRACT VARIATION AND EXTENSION - FOR THE PROVISION OF MICROSOFT LICENSE SUBSCRIPTIONS, TO INCLUDE E5 (PAGES 19 - 24)**

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Wednesday, 14 June 2023

**Report for:** Cabinet Member Signing

**Title:** Microsoft Enterprise Agreement - Contract Variation and Extension  
- for the Provision of Microsoft License Subscriptions, to include E5

**Report authorised by :** Director Culture, Strategy and Engagement – **Jess Crowe**

**Lead Officer:** Assistant Director, Digital & Change - **Nathan Pierce**

**Ward(s) affected:** N/A

**Report for Key/**

**Non Key Decision:** Key Decision

## 1. Describe the issue under consideration

1.1 This report seeks Cabinet Member approval, under Contract Standing Order (CSO) 10.02.1b) to:

1.1.1 extend the Council's Microsoft (MS) Enterprise Agreement (EA) with MS Licensing Solution Partner, Bytes Software Services Ltd for the provision of MS licence subscriptions, by one additional year, taking the expiry date to 30th April 2026; and

1.1.2 to vary the EA to include the transition of the services to MS 365 E5 (E5), originally provided for within the specification of the EA, such amendments amounting to a revised maximum contract value of up to £6,750,000.00.

1.2 The report concerns the transition to E5, and the technology opportunities presented by such a move, including without limitation the required security improvements, and E5 Ramp discounts offered by MS (via Bytes) to the Council.

1.3 This is a time limited bespoke offer from Microsoft which requires a decision by the 16th June 2023 in order for the council to take advantage of an offer which expires on 30th June 2023. The steps required to formalise this offer means that it is not practicable to comply with the 28-day notice requirement in Part Four, Section D, Rule 13 of the constitution or the 5-day notice period required for key decisions.

1.4 A delay to the decision, would result in the council not being able to enrol to Microsoft E5 this year, which would significantly enhance the Council's Security response and posture; and fail to respond to the Council's Audit findings and recommendations in how to manage, transact and protect our IT assets and residents' data. Contracting under Digital Technology agreement (DTA) 21 provides the Council advantageous financial terms; DTA24 will realign with Microsoft pricing and reflect RPI (DTA 21 pricing is based on 2021 Public sector agreement).

**2. Cabinet Member Introduction**

N/A

**3. Recommendations**

That the Cabinet Member for Finance and Local Investment:

- 3.1 Approves, under Contract Standing Order 10.02.1b), an extension to the Council's Microsoft Agreement with Bytes Software Services Ltd for a further 1 year to 30th April 2026 and a variation of the maximum contract value from £4,500,000.00 to up to a maximum of £6,750,000.00. Such amendment is considered to be in compliance with the Public Contracts Regulations 2015 (PCR 2015), in particular Regulation 72(1)(a) and/or Regulation 72(1)(e) of PCR 2015.
- 3.2 Notes that the recommendation in section 3.1 supports the Council's adoption of E5, stipulated within the original award document (see appendices 1) which was noted in section 2.2 of the recommendations, and which was provided for within the originally awarded contract specification: A further report be brought to Cabinet with a business case and funding for the approval of additional functionality licenses MS 365 E5 referred to in Paragraphs 5.13. to 5.15. of the original award report as approved by Cabinet.

**4. Reasons for decision**

- 4.1 An opportunity has been presented by MS for the Council to transition its existing MS Enterprise Agreement to an E5 offer. This covers all MS products, in particular, MS 365 (e.g. Word, Excel, Outlook, Teams and OneDrive).
- 4.2 This is a unique and bespoke offer that reflects Haringey's and MS's ongoing relationship and an understanding of the Council's strategic technical roadmap. It should be noted that this requirement was already provided for within the specification of the originally awarded contract and does not extend the scope of the original contract, but utilises an option with the contract for the transition to E5 and takes advantage of a reduction in the rates afforded to such transition.
- 4.3 Due to the unique nature of the offer, there are some extremely tight timelines in exercising the option to transition under the contract. Failure to meet the timelines will mean that the Council will need to wait until the next renewal date which will result in higher costs being incurred (approximately 15% to 20%), but more importantly, a prolonged period of lower security software.
- 4.4 The security products within E5 are fundamental to ensuring that the Council adequately protect its infrastructure. This provides additional security controls and capability around user accounts, email content, file data, OneDrive and SharePoint.
- 4.5 By adopting the E5 ramp offer, the Council is able to improve its security baseline in a holistic manner. While there are several 3<sup>rd</sup> party products that provide similar security features, these can be expensive and do not provide any of the transformational and data analysis benefits.

**5. Alternative options considered**

- 5.1 Take no action – The Council’s current E3 contract expires in April 2025. The Council could continue to operate the existing contract and accept the risks in not responding to the Council’s security threats. If the Council were to take up this option, it would not be able to benefit from the enhancements that support the organisation’s transformation agenda.
- 5.2 Implement a 3rd party security product – MS’s E5 product offering is one of the clear market leaders, as determined by Gartner, a provider of research and consulting services for businesses in the IT sector, working with organisations to develop technology strategies, plans and budgets, as well as select the right technologies for their operations. E5 has been adopted by a number of London Boroughs. As previously noted, 3<sup>rd</sup> party security products, while providing best of breed functionality, do not enable any other transformation features. Adopting a 3<sup>rd</sup> party solution would then raise the total cloud product spend.

## 6. Background information

- 6.1 The Council procured the current MS EA through Crown Commercial Services (CCS) framework RM 6068 and awarded the contract for MS licence subscriptions to MS Licencing Solution Partner, Bytes Software Services Ltd.
- 6.2 In 2021, Cabinet approved the contract award for a term of 3 years, from 1<sup>st</sup> May 2021 to 30<sup>th</sup> April 2024, with an option to extend 1 year, for a maximum contract value of £4,500,000.00. Approval is requested to extend the contract by an additional year to 30<sup>th</sup> April 2026 with a variation of the contract value by 50% to a maximum value of £6,750,000.00. This is permissible under CSO 10.02.1 b) as well as Regulation 72(1)(a) and/or Regulation 72(1)(e).
- 6.3 The MS EA with Bytes Software Services Ltd covered MS 365 E3 (E3) subscriptions for all Council staff, providing access to Outlook, Teams, Word, Excel and PowerPoint as standard.
- 6.4 The Microsoft E5 product provides significant improvements and enhancements over the E3 offer which can be categorised into four main areas:

### **Security**

- With the ever-increasing threat landscape, E3 cannot provide sufficient protection. While some organisations will look at supplementing E3 with external products, these are often very expensive and outside of their niche area and provide no additional benefits. E5 provides a comprehensive set of security products that vastly improve our security baseline. While there are no guarantees with security, moving to E5 would allow the Council to better detect and respond to cyber threats.

### **Compliance**

- With the transformational work under way and potential initiatives being discussed, the ability to ensure data is accurately classified, retained and managed is fundamental to the Council’s obligations as a public body. E5 provides automation tools that assist in this process.

### **Voice**

- While MS Teams has become the collaboration tool of choice, E5 enhances Teams with external voice capability. This will lead to the development of a corporate communications roadmap leading to potential cost savings by aligning the Council's voice platform.

### **Analytics**

- E5 provides reporting tools (Power BI) that are available to all users and allows for a rich set of modern and powerful data query and analysis tools. These tools could replace legacy reporting tools and provide a singular reporting platform leading to potential costs savings. These tools also allow for very close integration with automation tools leading to efficiencies in process.
- 6.5 While section 6.4 above details some compelling reasons to move to E5, the security rationale is the prime reason 50% of all London boroughs have moved to E5. While E3 has some security elements, the jump to E5 elevates the Council's security posture greatly.

Whilst the Council has not been directly attacked, the recent successful attack against a Council school and 3<sup>rd</sup> party supply chain compromises have helped to reinforce to all senior stakeholders in the Council the real implications should the Council be compromised. Haringey has worked closely with Microsoft to develop an implementation and deployment strategy for E5 thereby ensuring that benefits are achieved and maximised in the shortest possible time frame. Approval in principle was supported and minuted for a move to E5 at the Haringey Security forum, which comprises stakeholders across the Council.

- 6.6 The MS E5 platform will be key in delivering the transformation of the Council's digital landscape. Increased functionality, analytics and security will present opportunities to move existing systems and contracts to the MS platform. Throughout the proposed extended EA term, Digital Services will operate a continuous improvement programme where existing systems and services will be retired to the MS model, offsetting costs whenever possible.
- 6.7 Adoption of E5 within Public Sector organisations has continued to increase over recent years. Many London Boroughs have transitioned to E5 with over 50% of local authorities in the UK having moved fully to the E5 model.
- 6.8 Costs over the 5-year EA are detailed within the exempt report, section 2.1
- 6.9 A contract value of £6,750,000.00 over a 5-year term will facilitate continual service development, improvement and enhancement as technologies and opportunities develop. Whenever possible subscription costs will be kept to a minimum, through regular software licence audits and the 'true-up' or 'down' process available at each anniversary.
- 6.10 The contract term approved by the original Cabinet award was for the current EA 3-year term, from 1<sup>st</sup> May 2021 to 30<sup>th</sup> April 2024, with an option to extend by an additional year, as the expectation was to move to E5 on the second anniversary of the EA's start-up and extend the agreement for 1 year. However, the move to E5 did not happen as expected. Therefore, MS have agreed a year 2 extension to the EA term to 30<sup>th</sup> April 2026, to move to E5, effectively changing the EA contract from 3 + 1 years to 5 years.

- 6.11 The current contract benefits from framework discounts for MS licence subscriptions, referred to as the Digital Transformation Agreement 21 (DTA21), negotiated by CCS on behalf of the Public Sector. DTA21 is due to expire on 30<sup>th</sup> April 2024. If the Council do not extend the current EA and instead procure a new 3-year EA contract in 2024, DTA21 discounts will not be available and more importantly, there will be a delay in security protection.
- 6.12 The Council's current EA includes provision for Haringey's server licences under the MS Server and Cloud Enrolment (SCE) programme. The current SCE term is 3 years, from 1<sup>st</sup> May 2021 to 30<sup>th</sup> April 2024. MS will not include the SCE element within the extended EA proposal. Haringey will need to procure a new SCE contract in 2024 for its server licence provision via the new DTA24 framework.

## **7. Contribution to strategic outcomes**

- 7.1 The MS technologies used within the Council are vital in the fulfilment of the Corporate Delivery Plan. The platform which MS subscriptions provide is fundamental in the successful delivery of critical services and outcomes for our residents and is an essential part of realising the digital roadmap for the Council.

## **8. Statutory Officers comments (Chief Finance Officer (including procurement), Head of Legal and Governance & Monitoring Officer, Equalities)**

### **8.1 Finance**

- 8.1.1 The move from E3 to E5 will increase the costs of the Council's Microsoft Enterprise Service Agreement by c.£0.5m p.a. with the final annual figure dependent on a reconciliation of actual subscription volumes. This increase needs to be set against (i) the cost of purchasing a stand-alone 3<sup>rd</sup> party security product which, although initially cheaper, does not enable any other transformation features and hence would not provide better value for money over the medium term, and (ii) the additional MS cost increases (estimated to be 15%-20%) that will be applied to any new EA contract in 2024.

- 8.1.2 The Year 1 step up in cost will be funded from a combination of one-off flexible capital receipts (£0.3m) and a contribution from the corporate non-pay inflation budget (£0.2m). In Years 2 and 3 the HRA will be recharged an appropriate increased sum to reflect its share of the additional costs (£0.1m); Further funding will come from pre-identified savings from the rationalisation of existing digital applications as a direct result of this additional investment (£0.05m). The remaining funding gap, currently estimated to be £0.15m, will be included as part of the MTFS 24/25 budget proposals.

- 8.1.3 As set out above, the move to E5 provides further opportunities for future cost savings from the retirement of existing systems and services, and aligning E5 with the Council's voice platform. This cannot be quantified at this stage but further supports the financial case for moving to E5 now.

### **8.2 Procurement**



- 8.2.1 CSO 10.02.1 b) permits the Cabinet to authorise an extension or variation to a contract subject to the provisions of Regulation 72 of PCR 2015.
- 8.2.2 CSO 16.02 permits the Leader or allocate the decision to the Cabinet Member with the relevant portfolio responsibilities to make such decision between meetings whether the decision is urgent or not.
- 8.2.3 The requirements of Regulation 72 of PCR 2015 have been met.
- 8.2.4 Strategic Procurement support the recommendations in section 3 of the report.

### **8.3 Legal**

- 8.3.1 The Head of Legal and Governance (Monitoring Officer) has been consulted in the preparation of this report.
- 8.3.2 The services described in this report are above the threshold where the tendering requirements set out in the Public Contracts Regulations 2015 (PCR 2015) apply. Legal Services has been advised that the Council has procured the MS Enterprise Agreement with a Licensing Solutions Partner via a Framework Agreement. Framework Agreements are an approved method of procurement under the PCR 2015 (see Reg 33).
- 8.3.3 The recommended approval of the extension and variation of the MS Enterprise Agreement is a key decision as it involves expenditure of more than £500,000. Contract Standing Order 3.01 (c) requires Cabinet approval for any variation or extension valued at £500,000 or more whether or not such variation or extension was included in the original award of the contract. However, Contract Standing Order 16.01 provides that where action needs to be taken between meetings of the Cabinet or in cases of urgency the Leader may allocate such decisions whether urgent or not, to the Cabinet Member having the relevant portfolio responsibilities.
- 8.3.4 The Head of Legal and Governance (Monitoring Officer) confirms that there are no legal reasons preventing Members approving the recommendations in this report.

### **8.4 Equality**

- 8.4.1 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 protected characteristics and people who do not
  - Foster good relations between people who share those characteristics and people who do not.
- 8.4.2 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.



8.4.3 Although it is not enforced in legislation as a protected characteristic, Haringey Council treats socioeconomic status as a local protected characteristic.

8.4.4 The proposals within this report take account of these needs and the associated statutory duties and good practice guidelines.

## **9. Use of Appendices**

Appendix 1, Original Cabinet Report - Microsoft Enterprise Contract - Award of Contract under CSO 3.01 b, for the Provision of Microsoft License Subscriptions.

## **10. Local Government (Access to Information) Act 1985**

10.1. This report contains exempt and non-exempt information. The exempt Information is contained in the exempt report and is not for publication.

The exempt information is under the following category (identified in amended schedule 12A of the Local Government Act 1972 (3) and (5):

Information relating to the financial or business affairs of any particular person (including the authority holding that information).

Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

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**Appendix 1 - Original Cabinet Award - Microsoft Enterprise Contract - Award of Contract under CSO 3.01 b, for the Provision of Microsoft License Subscriptions**

**DECISION MAKING REPORT**

**Report for:** Cabinet – 16/03/2021

**Item number:** N/A

**Title:** **Microsoft Enterprise Contract - Award of Contract under CSO 3.01 b, for the Provision of Microsoft License Subscriptions**

**Report authorised by:** Richard Grice Customer, Transformation and Resources

**Lead Officers:** **Paul Dooley & Matthew Middup**

**Ward(s) affected:** N/A

**Report for Key/**

**Non Key Decision:** Key Decision set out in the Council's Constitution

**1. Describe the issue under consideration**

**1.1.** This report seeks Cabinet approval under CSO 3.01 b, which provides that contracts valued at £500,000.00 (five hundred thousand pounds) or more may only be awarded by the Cabinet. To award a contract for the provision of the Council's Microsoft (MS) license subscriptions, through a MS Enterprise Agreement, to a MS Licencing Solution Partner (LSP), for a 4-year term from 01/05/2021 to 30/04/2025.

**1.2.** There is currently a new Public Sector (PS), Memorandum of Understanding (MoU), being negotiated by Crown Commercial Services (CCS) and MS to provide discounted pricing on the range of MS products required by the council. To access these discounts, the council is required to contract with a MS Licencing Solution Partner.

**1.3.** Strategic Procurement has undertaken a compliant procurement to select a MS Licencing Solution Partner, using a further competition under the CCS Framework Agreement RM 6068, lot 3, which has 29 suppliers. The winning bidder is selected based on 20% quality scored, on service levels, and added value, and 80% price scored based on the supplier price uplift margins on the CCS MS Enterprise licencing discounted price.

**2. Recommendations**

It is recommended that:

**2.1.** Cabinet approves the contract award to the supplier identified within the exempt report (paragraph 1) for a MS Licensing Solution Partner, for the provision of MS license subscriptions, for Haringey Council and Homes for Haringey, for a term of 4-years from 01/05/2021 to 30/04/2025, at a contract value of up to £4,500,000.00.

**2.2.** A further report be brought to Cabinet with a business case and funding for the approval of additional functionality licenses MS 365 E5 referred to in Paragraphs 5.13. to 5.15. of this report.

### **3. Reasons for decision**

**3.1.** Haringey Council and Homes for Haringey's current MS Enterprise Agreement contract, for the provision of all MS software and technology subscriptions, expires on 30/04/2021, with no option to extend. Without a new contract in place, the council will no longer be able to use any of its MS subscriptions to deliver essential services within the borough.

**3.2.** MS products and services affected should a new contract not be awarded.

- MS Servers, Active Directory, Windows 10 Laptops (including remote working), MS Office Applications, Office 365 (Outlook, One Note, Teams, Collaboration, SharePoint, Security), email on mobile phones, hosting of any application or database system
- Build and security patch management
- External services provided to the council

**3.3.** MS software is in strategic alignment to the Council's Digital Roadmap and is a key enabler in delivering essential services to our citizens. Operating without a MS Enterprise Agreement in place would be unmanageable as the council requires active subscriptions to use all applications and services listed above, as well as ensuring all MS products are licensed in a compliant and legal way.

### **4. Alternative options considered**

**4.1. No action** – Do not award a contract and allow the existing service to end (do not re-commission). Not an option as the council would no longer be able to deliver essential services to our citizens and be non-compliant in terms of software license agreements. Critical systems would be impacted as a direct consequence and we would be unsupported by MS and be unable to deliver security updates, leaving the council vulnerable.

**4.2. Non-MS software** - The council has a major investment in MS technologies which align to the Council's Digital Roadmap, moving to another platform, e.g., Google or Open Source, would require major rework of not only IT systems, but also business operational processes, and would be a major disruptor for the council. Delivering a new operating platform would take more than a year and has significant risks associated with the implementation. While non-MS software is technically an option, typically the reality is that moving away from MS is not being adopted by other councils.

**4.3. Tender for a new service without the new MoU discount** – The option to undertaking an open tender was rejected. This route offers no advantage over procurement via the CCS framework and would not allow us to access the new MoU discounts, therefore pay a higher cost per licence and extend the timeframe for the procurement process.

**4.4. Purchase from a framework agreement with the new MoU discount** – This is the recommended route to market, completing a competitive procurement tender using the PS discount pricing for the new contract award.

## **5. Background information**

**5.1.** Haringey Council's current contract, for the provision of MS license subscriptions will expire on the 30/04/2021. It is a 3-year contract with no option to extend and the current incumbent is Insight Direct UK Ltd.

**5.2.** The current contract was procured under Shared Digital tri-borough agreement, with cabinet approving delegated authority, assigned to the joint Shared Digital board. The contract is from a CCS Framework Agreement which benefits from a MoU, referred to as the Digital Transformation Agreement (DTA), offering discounts between 10% and 45% to the PS on MS subscriptions. The proposed new contract, for the provision of the MS subscriptions, will be sovereign to Haringey Council and benefit from the new MoU PS discounts. There will be no disadvantage to the council procuring the agreement as a sovereign borough.

**5.3.** CCS and MS are currently in negotiation to replace the existing MoU which is out of scope for this contact as it expires on the 30/04/2021. CCS are acting on behalf of central government, and all bodies across the PS, in negotiating the new MoU. The negotiations align with the Government's 'Cloud First' policy and the Council's Digital Roadmap, and offer the greatest discounts available on cloud subscriptions for the PS. The new MoU is expected to be finalised in March 2021.

**5.4.** Annual costs for the council's current MS Enterprise Subscriptions are shown below. Detailed figures showing approx. gross annual charge without the DTA

discount, approx. current DTA discount amount applied each year and actual annual charge are included within the exempt report (Paragraph 2).

Current Microsoft Enterprise Subscription - Annual costs with DTA discount		
Year	Months	Annual Charge (with DTA Discount)
2017/18	10	£ 485,549.61
2019/20	12	£ 801,794.87
2020/21	12	£ 878,161.22

**5.5.** The cost increase in the table over consecutive years is due to additional fundamental services and linked to the council's increasing digital workforce and adoption of those services. The significant increase from the first to second year is a result of the term length increasing from 10 months to 12 months and moving from unsupported perpetual licenses to a complete cloud subscription model.

**5.6.** During the term of the proposed MS Enterprise Agreement, MS products and services can be added and adjusted, and each anniversary allows the reconciliation of subscriptions through the true-up or true-down process. Annual audits are completed to ensure cost efficiency and legal compliance.

**5.7.** Subscription costs for MS products will increase on the new MoU, compared to the current DTA, this is down to currency alignment owing to the fall in value of sterling and price increases from MS on some of their products. These increases have resulted in a higher price point for subscriptions, so when the new MoU discount is applied, there is an overall cost increase.

**5.8.** The new MS Enterprise agreement will enable the council to lock in subscription costs with the LSP using the new MoU discounts. Subscription costs are locked for the 4-year term, enabling the council to budget accurately for the duration of the contract.

**5.9.** The value of the new contract is expected to increase to approximately £1.1M per year to meet current subscription usage and includes a £100K tolerance allowing for future demand and changing business requirements. Price modelling for the annual figure is based on the discounts MS have provided which are detailed in the exempt report (Paragraph 3).

**5.10.** Costs for the new MS Enterprise contract have been estimated and are based on the council's current subscription usage, figures are included within the exempt report (Paragraph 4). The table shows; year, approx. gross annual charge without the MS discount, approx. MS discount, 100K tolerance, approx. annual subscription charge with MS discount applied for all subscriptions currently used within the council.



**5.11.** The new MoU is yet to be announced so approximate costs are based on discounts MS have provided to the Council which are the minimum expected through the new MoU. MS have agreed to honour the discounts should they offer greater cost savings compared to the new MoU which is expected to be announced in March 2021. The MS discounts are detailed within the exempt report (paragraph 3).

**5.12.** There is an increase in subscription costs compared to the current Enterprise Agreement and funding has been identified within existing Digital Services budgets up to approx. £1.15M to cover the estimated annual subscription charges and future demand. The contract value over the 4-year term is approx. £4.5M. Budget funding for the future demand annual tolerance, of approx. £100K, will be identified on a case-by-case basis and may not derive from Digital Services funds. Additional adoption of subscriptions and technologies will be driven by changing business requirements that require a business case for evaluation and sign off at director level. If additional services are implemented the reconciliation of existing contracts is applied wherever possible.

**5.13.** The discounts MS have provided offer the opportunity to enhance our current subscriptions to include increased functionality for security, compliance, voice and analytics. The subscriptions offering additional functionality are a suite of licenses referred to as MS 365 E5. While there is a cost increase associated with the adoption of MS 365 E5, the additional functionality provided will enable the retirement of existing contracts, so any additional uplift in cost is expected to be met from savings achieved by reconciling existing contracts to the MS Enterprise model.

**5.14.** The adoption of MS 365 E5 will require a comprehensive business case for evaluation, with budgets being identified through cost savings to meet increased charges and sign off by Cabinet. If adopted it will be an ongoing strategy that will take several years to implement, with the uptake of MS 365 E5 subscriptions aligned to the retirement of existing systems and contracts.

**5.15.** The discounts for MS 365 E5 decrease over the contract term so funding will align to the discount structure. If adopted, the move to MS 365 E5 will not start until the 1<sup>st</sup> year anniversary of the new MS Enterprise agreement. Additional costs for MS 365 E5 are estimated to be up to approx. £1.1M over the contract term, increasing the total MS Enterprise contract value up to approx. £5.6M. A table showing the cost breakdown for each year is included within the exempt report (Paragraph 5). The table shows; year, approx. annual subscription charge with the MS discount applied, 100K tolerance, approx. annual charge for subscriptions and tolerance.

**5.16.** There is concern over the extremely challenging timeframes associated with this award and the following key milestones should be noted.

- MoU yet to be published, expected March 2021
- The current MS Enterprise Subscription Agreement does not allow for an extension to the contract past 30/04/2021

- MS require 30 days to transition the council's current Enterprise Agreement to the new supplier. The deadline for the council to confirm with MS the new contract award, to ensure transition of the MS Enterprise Agreement, is the 01/04/2021
- Fixed date of 01/05/2021 to commence new MS Enterprise Agreement
- Critical impact to the council's IT systems should the 01/05/2021 deadline not be met. MS have confirmed there is no option to extend the current contract.
- Pre-election purdah, no Cabinet meetings from April to June

5.17. There are no identified negative equality implications. This is a renewal of an estate of existing software subscriptions.

## 6. Contribution to strategic outcomes

6.1. The MS technologies used within the council are vital in the fulfilment of the borough plan and align to each of the priorities. The platform which MS subscriptions provide is fundamental in the successful delivery of critical services and outcomes for our residents and is an essential part of realising the digital roadmap for the council.

## 7. Statutory Officers comments (Chief Finance Officer (including procurement), Assistant Director of Corporate Governance, Equalities)

### Finance

7.1. The costs of the new MS Enterprise Agreement have not been finalised due to ongoing discount negotiations between Microsoft and the Crown Commercial Service. The annual figures set out in the tables above have been modelled based on a minimum discount commitment from Microsoft (detailed in the Exempt Report) and therefore represent a worst-case scenario.

7.2. The estimated cost of the new MS Enterprise Subscription Agreement (i.e., without transitioning to the MS 365 E5) based on current subscription levels is £1.015m pa which represents an increase of £0.137m on the current cost. The service has estimated a further £0.1m may be required for increased demand from subscription growth within services and/or new technologies giving a total cost of £1.115m pa (c.£4.5m over the period of the contract award). A review of the 2021/22 Digital Service budget has identified sufficient headroom from previously realised contract savings to meet this higher cost although it is expected the increase in

demand will be largely mitigated by specific service funding for new user growth supported by business case and savings from retiring existing technologies where applicable.

**7.3.** Funding for a move to MS 365 E5 has not been identified within the 2021-2026 Medium Term Financial Strategy (approved by Full Council on 1<sup>st</sup> March 2021). As set out above the decision to move to MS 365 E5 will require a comprehensive business case including details of realisable cost savings from retiring existing technologies that are being replaced by E5 licenses. The full financial implications will be addressed in the decision report presented to Cabinet at that time.

### **Strategic Procurement**

**7.4.** CSO 9.07.1d) permits that contracts with a value at £500,000 or more may be awarded by the Cabinet. CSO 9.01.2 f) permits that a contract may be awarded based on a framework agreement. The further competition was conducted under the rules of the CCS framework and the winning bidder selected in accordance with the framework rules

**7.5.** Strategic Procurement support the contract award as it provides the best value for money.

### **Legal**

**7.6.** The Head of Legal and Governance (Monitoring Officer) has been consulted in the preparation of this report.

**7.7.** The services described in this report are above the threshold where the tendering requirements set out in the Public Contracts Regulations 2015 (PCR 2015) apply. Legal Services has been advised that the Council has procured for the MS Licensing Solutions Partner via a Framework Agreement. Framework Agreements are an approved method of procurement under the PCR 2015 (see Reg 33).

**7.8.** The award of this contract is a Key Decision as it involves expenditure of more than £500,000. The Council must therefore comply with its governance requirements in respect of Key Decisions including publication in the Forward Plan (see CSO 3.01 (d)).

**7.9.** The Cabinet has power to approve the award under CSO 3.01 (b) (award of contracts over £500,000).

**7.10.** The Head of Legal and Governance (Monitoring Officer) notes the recommendation in Paragraph 2.2 that a further report may be brought to Cabinet once a business case has been made and funding identified for additional functionality licences.

**7.11.** The Head of Legal and Governance (Monitoring Officer) confirms that there are no legal reasons preventing Members approving the recommendations in this report.

## **Equality**

**7.12.** 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 protected characteristics and people who do not
- Foster good relations between people who share those characteristics and people who do not.

**7.13.** 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. The first part of the duty applies to marriage and civil partnership status only.

**7.14.** The proposed decision is to approve an award of contract with Microsoft Enterprise Subscription Agreement. This will affect all Haringey residents, with those who are particularly reliant on the council for essential services particularly impacted, amongst whom there are a disproportionate number of people with protected characteristics.

**7.15.** The objective of the proposed decision is to ensure continuity of digital service and support the Council's Digital Roadmap. This proposal will enable the council to continue to deliver essential services for all residents. Without this continuity, it is likely that those with protected characteristics or on low incomes would be particularly negatively impacted by the subsequent disruption to council operations. This proposal will also enable the council to continue its digital uplift, which is essential for the delivery of the Borough Plan, in which reducing inequality amongst residents is a central objective. As such, this proposal stands to positively impact those with protected characteristics.

**7.16.** As an organisation carrying out a public function on behalf of a public body, Microsoft will be obliged to have due regard for the need to achieve the three aims of the Public Sector Equality Duty as stated above. Appropriate contract management arrangements will be established to ensure that the delivery of the service does not result in any preventable or disproportionate inequality.

**8. Use of Appendices / background documents N/A**

**9. Local Government (Access to Information) Act 1985 N/A**







By virtue of paragraph(s) 3, 5 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

Document is exempt

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