

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 3rd 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, 3rd party security products, while providing best of breed functionality, do not enable any other transformation features. Adopting a 3rd 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 1st May 2021 to 30th 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 30th 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 3rd 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 1st May 2021 to 30th 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 30th 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 30th 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 1st May 2021 to 30th 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 3rd 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.