

## Report for: **Cabinet**

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<b>Date of Meeting:</b>	10 March 2022
<b>Subject:</b>	Procurement of new contract for corporate IT software including Microsoft
<b>Key Decision:</b>	Yes - this is a key decision by virtue of Financial/Budget implications. The total value of this procurement is estimated to be up to £4.483m expenditure.
<b>Responsible Officer:</b>	Ben Goward - Director of ICT
<b>Portfolio Holder:</b>	Councillor Natasha Proctor - Deputy Leader and Portfolio Holder for Finance & Resources
<b>Exempt:</b>	Part Exempt - Appendix A is exempt from publication under paragraph 3 of Schedule 12A to the Local Government Act 1972 as it contains information relating to the financial and business affairs of the council and potential suppliers
<b>Decision subject to Call-in:</b>	Yes
<b>Wards affected:</b>	All Wards
<b>Enclosures:</b>	Appendix 1 (EXEMPT) – Harrow renewal indicative pricing

## **Section 1 – Summary and Recommendations**

This report details the proposed procurement approach for corporate Microsoft licensing, cloud services and other miscellaneous software and service requirements in readiness for the expiry of the existing contract

### **Recommendations:**

Cabinet is requested to:

1. Approve the commencement of a procurement for Microsoft licensing, cloud services and other miscellaneous software using the most appropriate procurement process and procedure.
2. Delegate authority to the Corporate Director of Resources following consultation with the Portfolio Holder for Finance and Resources to award a contract to the successful supplier following the procurement exercise for 3 years up to a total value of £4.483m.

**Reasons (for the recommendations):** Endorsing the approach will ensure the most appropriate method of procurement is adopted and the contract for the successful supplier is awarded to enable the delivery of all Council services.

## **Section 2 – Report**

The Microsoft enterprise agreement, other miscellaneous software and service requirements are a complex set of license agreements currently procured through a third-party reseller, Bytes Ltd.

The contract with Bytes Ltd expires in June 2022 so re-procurement is required.

The software delivers collaboration tools for both internal teams and third parties, such as Microsoft Office and Teams as well as cloud datacentre services.

### **Options considered**

We want to consider more than one procurement route to ensure the chosen method is flexible and can deliver both current and future requirements.

### **Options for evaluation are:**

1. A competitive procurement procedure in accordance with the Public Contracts Regulations 2015
2. An award via a compliant framework agreement

## **Background**

Harrow Council uses a third-party reseller to procure a variety of software licences and services as follows:

### Microsoft Enterprise Licence Agreement

In May 2019, Cabinet approval was granted for procurement of a three-year contract for the Council's Microsoft licensing requirements to a total value of £2m. The "Enterprise Agreement" subsequently awarded to Bytes Ltd for three years ending June 2022 covers our use of the following products:

- Office365 (Outlook, Teams Word, Excel, Powerpoint, etc)
- Enterprise Security and Compliance tools
- Additional client tools such as Visio and Project (where user need exists)
- Datacentre software (Windows and SQL Server licences)

These software solutions have been critical to the Council's response to the pandemic and the successful shift to agile working. Office365 with appropriate security add-ons remains the strategic collaboration platform for Harrow, in common with almost all UK Councils.

Due to fluctuations in the size of the Council's IT userbase, and the purchase of additional products (such as audio conferencing during the pandemic), charges for the final year of the current Enterprise licence agreement were £763,048 (June 2021).

Unit pricing for these products and services is fixed through national agreements between central Government (Crown Commercial Services) and Microsoft, offering set discounts for all public sector organisations. The most recent national agreement was in May 2021, which fixed the pricing we will pay throughout our proposed new three-year agreement (June 2022 – June 2025). Microsoft require that purchases are through a reseller, who will typically charge between 0% and 2% margin. At each anniversary of the agreement the Council can "true-up" or "true-down" the number of licences for each product which it requires.

Unit pricing under the new national May 2021 agreement is higher than our existing pricing, due to inflation and changes in IT pricing and US\$/GBP exchange rates. However, by closely managing our consumption, taking advantage of Academic discounts, and moving to a new "E5 Ramp" arrangement, we expect to be able to keep charges consistent with current spend levels. Adopting the "E5 Ramp" option also enables future "PowerBI" (Business Intelligence reporting/analytics) and Teams telephony options.

Indicative pricing for a new agreement (see Appendix 1) shows a total charge for the three years of £2,324,061. To allow for future growth (eg planned rollout of IT services to Frontline workers), we propose to allow a further 10% contingency.

### Microsoft Cloud Hosting (Azure) Agreement

During 2021, the Council’s IT team migrated a range of critical applications (including Revs and Bens, Housing, Planning etc) from the old Civic datacentre to the Microsoft “Azure” cloud. This was necessary prior to decommission of the Civic site but also offered a range of additional resilience and security benefits.

Microsoft Azure pricing is also fixed across the public sector and charged monthly on a “pay-as-you-go” basis. Charges are currently £40k pcm, and whilst some further growth is expected before final closure of the Civic centre in October 2022, tight management of demand including through “reserved instances” (pre-payments) mean we expect to remain within current spend levels for the term, with 10% contingency.

This growth in expenditure on cloud services has been offset against reductions in spend on support of on-premises datacentre services (formerly through Sopra Steria Ltd and Version 1) as these have been decommissioned. As a result, there is no need for budget growth.

Microsoft also typically require that Azure is purchased through a reseller. It is efficient to utilise the same partner as we are using for the Enterprise Agreement as they will provide tools and support to help manage demand across the Council.

#### Other Miscellaneous Software Products

Other standard software products also require purchase through a reseller and would fall within the scope of this procurement. At present these are as follows:

- Adobe Acrobat Pro
- McAfee AntiVirus Software
- Legacy datacentre software – Citrix, Redhat Linux, JBoss, Veritas

The total cost of these in 2021/22 was £103,696.

#### Summary

Estimated maximum spend over the full contract term can be summarised as follows.

<b>Purchase type</b>	<b>Annual forecast inc 10% contingency</b>	<b>Three year contract term</b>
Microsoft Enterprise Licence Agreement	£852,156	£2,556,468
Microsoft Cloud Hosting (Azure) Agreement	£528,000	£1,584,000
Other Miscellaneous Software Products	£114,066	£342,198
<b>Total</b>	<b>£1,494,222</b>	<b>£4,482,666</b>

This expenditure will be met from existing IT revenue budgets, as at present.

Prior to contract the Council will undertake a baseline review of license requirements, to ensure expenditure is minimised whilst remain compliant with licensing terms.

## **Implications of the Recommendation**

### **Resources, costs**

The recommendations within this report are not anticipated to have an impact on existing resources or budget.

### **Staffing/workforce**

The recommendations within this report will continue to support and enhance flexible and agile working, and ensure staff have access to modern, industry standard collaborative productivity tools.

### **Ward Councillors' comments**

N/A

### **Performance Issues**

The recommendations within this report support the Council in achievement of its priorities and outcomes, by ensuring officers have the tools needed to do their jobs in the most cost-effective manner.

The licence renewal is a legal construct that provides the Council with the ability to use the vendor's software and services. Holding the appropriate licences ensures the Council's contractual compliance and assures continued vendor support with security patches, functional updates and support.

Failure to renew these licences will result in cessation of key services, and generate compliance issues, with associated financial, reputational and legal risks.

### **Environmental Implications**

The recommendations within this report support the Council's carbon emission reduction targets through continued access to the Microsoft cloud environments.

Microsoft Azure datacentre services operate at a scale far greater than on-premises solutions, consolidating electricity demand and utilising green energy sources which are not available locally.

### **Data Protection Implications**

There are no new data protection implications arising from the recommendations set out within this report. Microsoft cloud services offer a range of Cybersecurity and Data Loss Prevention capabilities which help the Council maintain compliance.

## **Risk Management Implications**

Risks included on corporate or directorate risk register? **No**

Separate risk register in place? **Yes**

The software and cloud services covered by this procurement are already in place for Harrow – we are using Microsoft365 productivity tools and the Azure cloud datacentre for a range of critical Council services.

The wider operational and security risks associated with such software and cloud services, including resilience and license compliance, are captured within the existing IT service risk register.

The following key risks should be taken into account when agreeing the recommendations in this report:

Risk Description	Mitigations	RAG Status
Procurement does not result in best value pricing for the Council	<ul style="list-style-type: none"> <li>▪ Utilise national “DTA” pricing agreement for Microsoft software and cloud services, which fixes unit pricing</li> <li>▪ Run competitive procurement of reseller to ensure additional margin is as small as possible</li> </ul>	Amber
Procurement does not comply with Public Contracts Regulations 2015/ Council’s Contract Procedure Rules	<ul style="list-style-type: none"> <li>▪ Either a competitive procurement procedure in accordance with the Public Contracts Regulations 2015/CPRs or an award via a compliant framework</li> <li>▪ The Council’s Procurement Team will provide guidance and assist with the procurement</li> </ul>	Green
Software and cloud services products are procured in excess of requirements	<ul style="list-style-type: none"> <li>▪ Rebaseline requirements prior to procurement</li> <li>▪ Maximise compliant use of lower cost licence types – Academic, Frontline worker, etc</li> <li>▪ Maximise use of Azure “reserved instances” to reduce costs</li> <li>▪ Maintain detailed reports on software usage and true-down at contract anniversaries where possible</li> </ul>	Amber

Risk Description	Mitigations	RAG Status
Failure to renew these licences will result in cessation of key services, and generate compliance issues, with associated financial, reputational and legal risks.	<ul style="list-style-type: none"> <li>▪ Approval for the commencement of procurement as outline in the main body of the report to enable the award of a contract to the successful supplier following the procurement exercise for 3 years</li> </ul>	Green
Inability of the Council to achieve its priorities and outcomes, as officers will not have the tools needed to do their jobs in the most cost effective manner.	<ul style="list-style-type: none"> <li>▪ Approval for the commencement of procurement as outline in the main body of the report to enable the award of a contract to the successful supplier following the procurement exercise for 3 years</li> </ul>	Green

## Procurement Implications

As the value of the services is above the financial threshold, the council will need to follow one of the following procurement procedures compliantly and in accordance with the PCRs 2015 (as amended)

- A competitive procurement procedure in accordance with the Public Contracts Regulations 2015
- An award via a compliant framework agreement

At this stage commissioners are still carrying out soft market testing and therefore the above procurement routes would be the most suitable once decided.

The preferred option would be to access a reseller via the KCS Framework which is fully compliant with the PCRs

The Council must also follow the Contract Procedure Rules and be authorised to do so in accordance with the Council's scheme of delegation contained within the Constitution.

## Legal Implications

The proposed contract is a public services contract above the financial threshold requiring the Council to conduct a regulated procurement under the Public Contracts Regulations 2015 (PCR).

The Council can procure the contract by conducting a competitive tendering exercise in compliance with one of the prescribed procedures set out in the PCR, or through a Framework Agreement established in compliance with the PCR.

If the Council chooses to procure the contract through a Framework Agreement, it must comply with the rules set out in the Framework Agreement, including in relation to selection and evaluation, and direct award.

The Council must also follow the Contract Procedure Rules and Financial Regulations set out in the Council's Constitution.

## **Financial Implications**

The annual cost of this contract is £1.494m, with a maximum three-year cost estimated to be £4.483m as set out above. Contingency for future additional requirements (e.g rollout of IT to frontline workers) has been factored into the maximum contract value through the 10% contingency allowance.

In terms of the largest element of the contract (the Microsoft Enterprise licencing agreement), although the unit pricing under the new national May 2019 is higher than our existing pricing, it is anticipated that charges can be kept consistent with current spend levels by closely managing consumption, taking advantage of Academic discounts, and moving to a new "E5 Ramp" arrangement.

The cost of this contract will be met from the existing revenue budget within IT Operations.

## **Equalities implications / Public Sector Equality Duty**

There are no direct equalities implications arising from this report

## **Council Priorities**

The decision sought will facilitate continuity of Council services which in turn supports the corporate priorities.

- 1. Improving the environment and addressing climate change**
- 2. Tackling poverty and inequality**
- 3. Building homes and infrastructure**
- 4. Addressing health and social care inequality**
- 5. Thriving economy**

## **Section 3 - Statutory Officer Clearance**

**Statutory Officer: Sharon Daniels**

Signed on behalf of the Chief Financial Officer

**Date: 25/02/2022**

**Statutory Officer: Stephen Dorrian**

Signed on behalf of the Monitoring Officer

**Date: 25/02/2022**

**Chief Officer: Charlie Stewart**

Signed by the Corporate Director

**Date: 28/02/2022**

**Statutory Officer: Lisa Taylor**

Signed on behalf of the Head of Procurement

**Date: 24/02/2022**

**Head of Internal Audit: Susan Dixon**

Signed by the Head of Internal Audit

**Date: 25/02/2022**

## **Mandatory Checks**

**Ward Councillors notified: NO, as it impacts on all Wards**

**EqIA carried out: NO**

This is a 'like for like' renewal of a license agreement. There are no direct equalities implications arising from this report

**EqIA cleared by: N/A**

## **Section 4 - Contact Details and Background Papers**

**Contact:** Catherine Little, Head of IT Operations,

[Catherine.little@harrow.gov.uk](mailto:Catherine.little@harrow.gov.uk) tel. 07860 827310

**Background Papers:**

1. Harrow Cabinet Decision 30/05/19 - [Authority to Procure a Renewal of the Council's Microsoft Licences \(30/11/19\)](#)

2. Harrow Cabinet Decision 12/09/19 - [The Re-commissioning and Re-procurement of the ICT Support Services Contract](#)

**Call-in waived by the Chair of Overview and Scrutiny Committee**

NO