



## Notice of KEY Executive Decision

<b>Subject Heading</b>	Procurement route and award of a new Microsoft Enterprise Agreement
<b>Decision Maker:</b>	Kathy Freeman - Strategic Director Resources and s151 Officer
<b>Cabinet Member</b>	Councillor Paul Middleton - Cabinet Member for Digital, Transformation and Customer Services
<b>ELT Lead</b>	Kathy Freeman - Strategic Director Resources
<b>Report Author and contact details:</b>	Zak Durrani - Strategic Procurement Manager <a href="mailto:Zak.Durrani@havering.gov.uk">Zak.Durrani@havering.gov.uk</a>
<b>Policy context:</b>	Corporate plan priority – To manage our systems and data well and be a data driven organisation.
<b>Financial summary:</b>	Expenditure of the estimated maximum of c.£1.217m per annum over a three-year period (Total contract value c.£3.651m)
<b>Reason Decision is Key</b>	Indicate grounds for decision being Key: (a) Expenditure or saving (including anticipated income) of £500,000 or more
<b>Date notice given of intended decision:</b>	22/5/24
<b>Relevant Overview &amp; Scrutiny Committee:</b>	Resources Overview and Scrutiny Sub Committee
<b>Is it an urgent decision?</b>	Yes
<b>Is this decision exempt from being called-in?</b>	No
<b>The subject matter of this report deals with the following Council Objectives</b>	
People - Things that matter for residents	X
Place - A great place to live, work and enjoy	X
Resources - A well run Council that delivers for People and Place.	X

### Part A – Report seeking decision

## **DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION**

The current shared Microsoft Software Enterprise Licensing Agreement (MSELA) expires on 31 March 2025. This report recommends proceeding with a Procurement for a new Enterprise Agreement operated and led by the Crown Commercial Services (CCS) via their Winter Aggregation route. The aggregation route allows all Councils to benefit from aggregate pricing. We will need to submit our requirements to the CCS by the 6 September 2024 for enrolments between 31 December 2024 and 1 April 2025.

The Strategic Director of Resources has delegated approval for this Procurement as stated in the "ICT Decoupling" Cabinet Report, approved in March 2024 (please see "Authority under which decision is made" section for this wording).

**For the reasons set out in this report, the Corporate Director of Resources, s.151 Officer is recommended to approve:**

- A. The pre and post procurement activities in scoping our requirements, the commencement of the procurement exercise and the award of a three-year best value contract for Microsoft Enterprise Licence Agreements through the "Crown Commercial Service (CCS) Technology Products & Associated Services 2 Lot 3 (Software)" for a period of three years at an estimated cost of circa £1.217m/annum, totalling c£3.561m.
- B. Approval to award and implement the contract following completion of the further competition including authorisation of any budgetary change variances (price increases and expenditure) over the contractual period.

## **AUTHORITY UNDER WHICH DECISION IS MADE**

The Authority for this decision is derived from the Cabinet meeting on 13 March 2024, in which it was agreed:

That the s.151 Officer, in consultation with the Chief Executive, to make all necessary arrangements to give effect to the authorisation, including but not limited to:

- a) Implementing the HR and other operational processes to give effect to the recommendations.
- b) Agreeing the dates for the withdrawal of the joint ICT service.
- c) Agreeing, amending and finalising any variation or variations to the Agreement and the delegations contained therein as necessary to give effect to 2.1 above, and thereafter to sign and complete any variation on behalf of LBH.
- d) Making arrangements to receive staff into LBH as a result of the amendments to the Agreement.
- e) Making arrangements to allow LBH to share some of the proposed withdrawn services for a transitional period beyond the agreed date of implementation whilst permanent arrangements are put in place within LBH.

- f) Making arrangements to provide a support service to the retained One Source services.
- g) To prepare and/or receive and thereafter agree and set the investment case for the ICT function.
- h) To delegate the authority to conduct procurement, award, and enter into contracts associated with the recommendations in this report in coordination with the Portfolio Lead for Resources.

## **STATEMENT OF THE REASONS FOR THE DECISION**

### **Background & Supporting Information**

1. The Council uses Microsoft Software extensively across the IT infrastructure, including server and desktop-based productivity tools. These products include Windows operating systems running our laptop devices, Microsoft 365; productivity (Outlook, Word, Excel etc) and collaborative tools (OneDrive, SharePoint, Teams), Microsoft SQL; supporting database services.

Our current Enterprise Agreement (MSELSA), which allows the Council to legally access all the licensed software and products, comes to an end in 2025. Procurement of a new Enterprise Agreement (MSELA) is essential to ensure ongoing and uninterrupted Council-wide operations and to support the creation of the Havering Sovereign IT Service.

2. The MS suite of products enables the council to be efficient and effective in its functions. An Enterprise Agreement will ensure continued access to our current applications and any new applications and initiatives that Microsoft make available.
3. Direct award is allowable under the Framework however the recommended approach is to continue externally procure the service and obtain best value via a mini-competition call-off contract pursuant to Crown Commercial Service (CCS) Technology Products & Associated Services 2 RM6098.
4. The CCS framework offers compliant awards and heavy discounts are offered to public sector organisations. The CCS uses aggregation to bring together customers with similar needs and get savings and favourable terms through their increased buying power.
5. The CCS will run the further competition on our behalf (without charge) and will manage the procurement through call-off competition, implementing a 90% Price and 10% Quality ratio. This will free up resource and will access benefits such relating to setting fixed costs, increased purchasing power, further discounts, legal compliance and process familiarity and lower operational bidding costs for the council and the reseller.

We will set out our requirements and volumes and we will seek to award a contract following conclusion of this exercise. Resellers will need to meet the Statement of Requirements set out by the CCS so Suppliers can participate in the public sector buyer process.

6. Procuring the MSELA ensures best value in assessing cost of licences and requisite support plus a significant reduction on a standard Microsoft pricing model as per a Memorandum of Understanding with the Crown Commercial Service and the access agreement. Going outside of this arrangement would mean bespoke transactional licensing and this may not support best value and lose the c1-3.5% saving, and therefore we recommend we proceed with a 3-year contract.
7. As part of the procurement, resellers must demonstrate wider benefits regarding social value to cover Societal, Economic and Environmental benefits within the sphere of their operations. The reseller will need to demonstrate, support and provide examples to show how they would;
  - Create, promote employment, and develop skills offerings and activities through provision of local initiatives applicable to any Buyer in aggregate (including but not limited to apprenticeships and/or work experience, participation in careers fairs and supporting Subject Matter Expertise)
  - Approach Supply Chain collaboration - showing an even (equal) and responsible approach to working with supply chain partners in contract delivery.
  - Drive opportunities for innovation and greater use of disruptive technologies, green technologies, efficiency and quality innovation, either throughout the supply chain or for Buyers, to deliver lower cost and/or higher quality goods and services
8. Whilst this is a software licensing agreement, part of the service delivery includes cloud-based services from Microsoft. Microsoft made an environmental commitment in 2020 to being Carbon 'negative' by 2030 and by 2050 to remove all the carbon the organisation has emitted since it was founded in 1975. Resellers on both the CCS Framework are committed to carbon reduction plans.

### **Costs**

1. The current agreed annual cost of the products listed is **c.£3.1m** per year for both Havering and Newham. The costs are charged to the OneSource ICT shared revenue budgets and are split between Newham and Havering 52/48 through the year end cost-sharing model. Havering's calculated share of these costs is therefore currently **c.£1.488m**.
2. Indicative quotes for the same list of products suggest they are likely to cost in the region of £3.043m for both authorities. The cost to Havering will be approx. £1.217m per year (a reduction for Havering of £0.271k). This figure has been calculated by applying a c.60/40 split (although it is expected that usage is closer to 35% and that there will be a further reduction in costs).

3. The full three-year contract value would total to c.£3.651m.
4. As the procurement progresses a more refined understanding of the likely costs will be achieved and presented back to the delegated s151 Officer as part of the relevant decision-making processes prior to contract award.
5. The service will have the opportunity to 'true up/true down' on the number of actual active licence being utilised and paid for each year.

**High-level view of costs.**

Current EA cost	Future EA cost	Anticipated saving
c.£1.488m/annum	c.£1.217m/annum	c.£0.271m/annum

**OTHER OPTIONS CONSIDERED AND REJECTED**

If this agreement is not renewed, the Council will then need to relinquish the rights to use all Microsoft software.

Alternative product suites are available (e.g., Google suite), however, the cost and time of change, transition effort and implementation would have a significant impact and capital investment on service delivery across the council (such as staff training, integration with other systems). Moving to Google G-Suite product set as a replacement is currently not recommended.

**PRE-DECISION CONSULTATION**

**N/A**

**NAME AND JOB TITLE OF STAFF MEMBER ADVISING THE DECISION-MAKER**

Name: Julia Blow / Zak Durrani

Designation: Head of PMO / Strategic Procurement Manager

Signature: Julia Blow / Zak Durrani

Date:19.7.24

**Part B - Assessment of implications and risks**

**LEGAL IMPLICATIONS AND RISKS**

The Council has a general power of competence under Section 1 of the Localism Act 2011 to do anything an individual can do, subject to any statutory constraints on the Council's powers. The recommendations sought in this report are in accordance with these powers.

The Council is a contracting authority for the purpose of the Public Contracts Regulations 2015 (as amended) (PCR). The total value of each contract exceeds the threshold for services and the 2015 Regulations therefore apply in full.

Additionally, the Council's Contract Procedure Rule 20.4 state that where a framework agreement is operational, all subsequent purchases under the framework shall either not require further competition (if a single supplier) or, if there are two or more suppliers for those goods or services on the framework, follow the express framework provisions for choosing a supplier. The express framework provisions for further competition are already set out in the body of the report.

The CCS will be conducting a further competition against a 90% Price and 10% Quality ratio/weighting. Whilst this is a departure from the Council's predetermined 70:30 Price: Quality ratio, it is noted that CPR 18.5 permits a contract to be awarded on different weightings based on Framework prescription.

## **FINANCIAL IMPLICATIONS AND RISKS**

The current annual cost of ME licences is £3.1m per year; this is the cost for both Havering and Newham. The costs are charged to the oneSource ICT shared revenue budgets and are currently split between Newham and Havering 52/48 through the year end cost-sharing model. Havering's share of these costs is therefore currently £1.488m.

Indicative quotes for the same list of products suggest they are likely to cost in the region of **£3.043m** for both authorities. On the basis that the new contract will be procured solely for Havering, it is estimated that the cost will be approx. **£1.217m** per year (a decrease for Havering of **£0.271m**). This figure has been calculated by applying a 60/40 split to the indicative quotes; this figure is prudent as recent data suggests Havering accounts for 35% of usage currently which would give rise to an estimated contract cost of **£1.065m**. Up to date licence numbers will be confirmed as part of the procurement exercise.

The anticipated decrease in cost is the net effect of an increase in unit costs which is more than offset by a decrease in the number of licences being paid for (i.e. only those used by Havering instead of a share of the joint contract with Newham). As the procurement processes progresses a more refined understanding of the likely costs will be achieved and presented back to the authority/S151 as part of the relevant processes prior to contract award.

Theoretically the Council could opt not to purchase these licences in order to save £1.217m per year, however, this would result in the widespread loss of basic ICT functionality.

ICT will have the opportunity to true up/down the number of licences being paid for each year to ensure only those licences being actively used are being paid for. The annual cost will ultimately depend on the number of licences used.  
The figures cited above do not include inflation over the three years as this is provided for corporately as part of budget setting each year.

### **HUMAN RESOURCES IMPLICATIONS AND RISKS (AND ACCOMMODATION IMPLICATIONS WHERE RELEVANT)**

There are no HR implications or risks arising directly that impact on the Councils workforce from this report. TUPE will not apply to this procurement.

### **EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS**

The Public Sector Equality Duty (PSED) under section 149 of the Equality Act 2010 requires the Council, when exercising its functions, to have 'due regard' to:

- (i.) The need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- (ii.) The need to advance equality of opportunity between persons who share protected characteristics and those who do not, and;
- (iii.) Foster good relations between those who have protected characteristics and those who do not.

Note: 'Protected characteristics' are age, disability, gender reassignment, marriage and civil partnerships, pregnancy and maternity, race, religion or belief, sex/gender, and sexual orientation.

The Council is committed to all of the above in the provision, procurement and commissioning of its services, and the employment of its workforce. In addition, the Council is also committed to improving the quality of life and wellbeing for all Havering residents in respect of socio-economics and health determinants.

Any decisions which need to be taken in furtherance of the IT service decoupling will be undertaken in accordance with the duty set out in Section 149 of the Equality Act 2010 and where appropriate full Equality Assessments will be undertaken and form part of the decision-making process.

### **HEALTH AND WELLBEING IMPLICATIONS AND RISKS**

The Microsoft EA procurement is not considered to have any health and wellbeing implications and risk in the context.

### **ENVIRONMENTAL AND CLIMATE CHANGE IMPLICATIONS AND RISKS**

Moving our systems to cloud-based solutions will help Havering towards the goal of becoming carbon neutral by 2040.

Microsoft made an environmental commitment in 2020 to being Carbon 'negative' by 2030 and by 2050 to remove all the carbon the organisation has emitted since it was founded in 1975. Resellers on both the CCS Framework are committed to carbon reduction plans.

### **BACKGROUND PAPERS**

Disaggregation paper– Decoupling of One Source Services:

[Decision - OneSource ICT Decoupling and creation of a Sovereign IT Service for Havering | The London Borough Of Havering](#)

### **APPENDICES**

None



**Part C – Record of decision**

I have made this executive decision in accordance with authority delegated to me by the Leader of the Council and in compliance with the requirements of the Constitution.

**Decision**

Proposal agreed

*Delete as applicable*

Proposal NOT agreed because

**Details of decision maker**

Signed

Name:

Cabinet Portfolio held:

CMT Member title:

Head of Service title

Other manager title:

Date:

**Lodging this notice**

The signed decision notice must be delivered to Committee Services, in the Town Hall.

<p><b>For use by Committee Administration</b></p> <p>This notice was lodged with me on _____</p> <p>Signed _____</p>
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