



Decision of the Deputy Leader
17 June 2019

**Report from the Interim Strategic
Director of Customer and Digital
Services**

Authority To Vary Contract For Microsoft Licences

Wards Affected:	All
Key or Non-Key Decision:	Key
Open or Part/Fully Exempt: <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small>	Part Exempt – Appendix 1 is exempt as it contains the following category of exempt information as specified in Paragraph 3, Schedule 12A of the Local Government Act 1972, namely: "Information relating to the financial or business affairs of any particular person (including the authority holding that information)"
No. of Appendices:	One
Background Papers:	None
Contact Officer(s): <small>(Name, Title, Contact Details)</small>	Jon Babb, Head of Projects, Programmes and Budget Responsibility Tel: 020 8937 6191

1.0 Purpose of the Report

- 1.1 This report requests individual Cabinet Member approval to vary the Council's Microsoft Licensing Agreement in order to increase the volume of licences and revise the licensing model. This request is made in accordance with paragraph 13 of Part 3 of the Constitution.

2.0 Recommendation(s)

That the Deputy Leader, in consultation with the Leader:

- 2.1 Approves the variation of the contract with Bytes Software Services Limited for Microsoft Licensing by increasing the volume of licences and revising the licensing model by up to £1.4 million.

3.0 Detail

- 3.1 Brent Council has a three-year agreement with Bytes Software Services Limited (“Bytes”) for its Microsoft Licences, which commenced on 1 June 2017. This agreement includes Windows, Office, and Server Licences, and the council’s Azure Cloud Subscription.
- 3.2 A variation is required to increase the volume of licences and limited revisions to the licensing model not just for Brent Council but also for Lewisham and Southwark Councils. This is due to an audited over consumption of licences and services across the Shared Services organisations. Further details concerning the background to this are included in Appendix 1.
- 3.3 Microsoft licences can only be purchased through an authorised reseller. Brent and Lewisham use Bytes, Southwark use Trustmarque. Shared ICT Service (SICTS) acquired 3 quotes and selected Bytes as the cheapest quote.
- 3.4 The individual Cabinet Member is asked, following consultation with the Leader, to give its approval to these proposals as set out in the Recommendations and in accordance with the Constitution.

4.0 Financial Implications

- 4.1 The Council’s Contract Standing Orders state that variations to contracts for services exceeding £1 million shall be referred to Individual Cabinet Members, in consultation with the Leader, for approval of the variation.
- 4.2 The estimated value of this contract variation is £1.371m. Please see Appendix 1 for further details. However, it should be noted that there are minor fluctuations in the Microsoft pricing and as a result authority is sought to vary the contract by up to £1.4 million.
- 4.3 It is anticipated that the cost of this contract will be funded from the Shared ICT Service budget, apportioned between Brent, Lewisham & Southwark, who have agreed to the increased costs.

5.0 Legal Implications

- 5.1 Under section 3(b) of the table at paragraph 9.5 of Part 3 of the Constitution, Chief Officers are able to vary contracts and agreements without the need for Cabinet approval, provided that:
- (a) the extension, variation, renegotiation, novation or assignment would not be in breach of the European Procurement Legislation.
 - (b) the extension, variation, renegotiation, novation or assignment does not substantially alter the terms and conditions of the contract.
 - (c) there is sufficient existing budgetary provision.

(d) provided that in the case of any variation (other than an extension):

- (i) the total value of the variation is less than £1 million; and
- (ii) if the total value of the variation is more than £50k it is not more than 50% of the original contract value (calculated over the life of the contract including any extensions or possible extensions and adjusted in accordance with any price review mechanism provided for in the contract).

5.2 With regard to (a) above, the existing contract with Bytes was awarded under a Crown Commercial Services Framework RM3733. This contract allows for variation to the volume of licences and other revisions to which no limit is applied. In the circumstances it is not considered that the variation would breach European Procurement Legislation.

5.3 With regard to (b) above, apart from the number of licences and limited revisions to the licensing model as detailed in paragraph 3.2, no other changes are proposed.

5.4 With regard to (c) above, paragraph 4.3 indicates that it is anticipated that the cost of this contract will be funded from the Shared ICT Service budget.

5.5 With regard to (d) above, it will be noted that the proposed value of the variation is in excess of £1 million. As a result, a Chief Officer is not able to agree the variation but paragraph 13 of Part 3 of the Constitution provides that an individual Cabinet Member may in consultation with the Leader, take the following decisions:

Agreement of contract extension, variation or termination where the decision is excluded from officer delegated powers because:

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(d) in the case of any variation (other than an extension):

- (i) the total value of the variation is £1 million or more; and
- (ii) the total value of the variation is more than £50k and is more than 50% of the original contract value (calculated over the life of the contract including any extensions or possible extensions and adjusted in accordance with any price review mechanism provided for in the contract).

5.6 In view of the above, the individual Cabinet Member is permitted to agree the variation.

6.0 Equality Implications

6.1 The proposals in this report have been subject to screening and officers believe that there are no equality implications.

7.0 Consultation with Ward Members and Stakeholders

7.1 There has been consultation with the SICTS Joint Management Board

8.0 Human Resources/Property Implications (if appropriate)

8.1 There are no implications for staff or property arising from this variation.

Report sign off:

PETER GADSDON
Interim Strategic Director Customer
and Digital