

 <b>Brent</b>	<b>Decision of the Deputy Leader</b>
	<b>Report from the Strategic Director of Customer and Digital Services</b>
<b>AUTHORITY TO TERMINATE EXISTING CONTRACT AND AWARD CONTRACT FOR MICROSOFT LICENCES FOR THE LONDON BOROUGH OF BRENT</b>	

<b>Wards Affected:</b>	N/A
<b>Key or Non-Key Decision:</b>	Key Decision
<b>Open or Part/Fully Exempt:</b> <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small>	Open
<b>No. of Appendices:</b>	None
<b>Background Papers:</b>	None
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## 1.0 Purpose of the Report

- 1.1 This report concerns the termination of an existing contract for Microsoft Licences for the London Borough of Brent, and the award of a new three year contract. This report requests authority to terminate a contract and award a contract as required by Contract Standing Orders 113 and 88 respectively. This report summarises the process undertaken in procuring this contract and recommends to whom the contract should be awarded.

## 2.0 Recommendation(s)

That the Deputy Leader in consultation with the Leader:

- 2.1 Approves the termination of the existing contract with Bytes Software Services Ltd that includes E3 Microsoft Licences for the London Borough of Brent.
- 2.2 Approves the award of a new contract for a term of three years to include Microsoft E5 Licences for the London Borough of Brent to Bytes Software Services Ltd. in the sum of £3,100,184.

### **3.0 Detail**

- 3.1 Brent Council currently has a contract with Bytes Software Services Ltd for and is using Microsoft E3 licensing for all staff. This gives each staff member access to Outlook, Teams, Yammer, Word, Excel and Powerpoint as standard.
- 3.2 Brent is in the process of delivering an ambitious technology transformation portfolio, which will see the implementation of key projects including the move to Microsoft 365 (Exchange Online, SharePoint, OneDrive), further development of CRM with Dynamics 365, with a large increase in requests for the use of PowerBI and PowerApps, as well as Teams Telephony. In early 2023 Brent will be moving away from the current telephony model to use Teams telephony and a new E5 licence will be needed to make the technology work.
- 3.3 By moving to a different type of licensing, Microsoft E5, Brent will be able to leverage their commitment to Microsoft's services, allowing staff to access PowerBI, Teams Telephony and Audio Conferencing as part of their standard licensing, with no additional cost to business areas.
- 3.4 Microsoft has provided Brent with a promotion, known as 'E5 Ramp', providing a discount on the E5 licence cost of 44% in Year 1, 39% in Year 2, and 32% discount in Year 3. This allows Brent to move to E5 for a significantly reduced cost and removes the inefficiency of recharging elements such as PowerBI costs to business areas, as these will now be part of every user's licence.
- 3.5 As part of the 'E5 Ramp' promotion, Brent will have Audio Conferencing, Phone System and PowerBI free for all users. There are also additional Security, Compliance and Protection (SCP) products and features included.
- 3.6 By purchasing the Microsoft E5 bundle, the necessary cyber security tools required to ensure that we protect the council's IT systems from being breached will be included. E5 Security and Compliance protection allows Brent to further protect its directory services which manage the usernames and passwords for council staff, and it further improves the controls for applications in the cloud and endpoints such as laptops and mobile devices

- 3.7 The current contract for Microsoft Licensing has a three year term, from 01/06/20 to 31/05/23. This contract is with Bytes Software Services Ltd.
- 3.8 In order to be able to take advantage of the Microsoft 'E5 Ramp' offer, it will be necessary to commit to a three year term. Whilst there is a year remaining of the current agreement, a further two years is needed. It is therefore proposed that the current contract is terminated and a new three contract is entered into.

### **The Procurement Process**

- 3.9 It is proposed that the new contract is procured by making a direct award using the 'Y20011 KCS Professional Services Software Products and Associated Services 2' framework established by Kent County Council trading as KCS Professional Services (the "KCS Framework Agreement"), using the form of award and standard call off terms and conditions prescribed under the KCS Framework Agreement.
- 3.10 The KCS Framework permits a direct award provided that the Customer can meet any one of the following objective conditions:
- "Customer is satisfied that, following their own due diligence, they can identify the supplier that offers best value for their requirement
  - The supplier is able to supply the required goods/services within the customer's timescales
  - The supplier scored the highest mark for price/quality in the Framework Agreement evaluation
  - Goods/services required are unique/exclusive to one vendor/supplier
  - Continuity of existing goods/services from an awarded supplier"
- 3.11 It is proposed that the direct award is made to the current contractor, Bytes Software Services Ltd, on the basis, inter alia, that this will allow the continuity of existing goods/services, by terminating the existing contract with Bytes' consent, and entering into the new three year contract with them.
- 3.12 KCS have confirmed that awarding the new contract on this basis is a compliant use of the KCS Framework.
- 3.13 The new contract will commence on 1 June 2022, with the existing contract terminating on 31 May 2022.

### **4.0 Financial Implications**

- 4.1 The Council's Contract Standing Orders state that contracts for services / supplies exceeding £2 million but not exceeding £5 million shall be referred to the individual Cabinet Member for approval of the award of the contract.

4.2 The estimated value of this contract is £3.1 million over three years. This is a total uplift of £1.2m over the 3 years.

4.3 The annual costs are as follows:

Year	Licences	Cost	Uplift
2021/2022	Current E3 costs (without E5 Ramp)	£631,670	
2022/2023	E5 Ramp Y1	£939,933	£308,263
2023/2024	E5 Ramp Y2	£1,028,487	£396,817
2024/2025	E5 Ramp Y3	£1,131,764	£500,094
3 Year Totals		£3,100,184	£1,205,174

4.4 The cost of this contract will be funded from the existing revenue budget and the additional cost will be funded from reserves.

## **5.0 Legal Implications**

5.1 It is proposed to terminate the existing contract for Microsoft Licences with Bytes Software Services Ltd. This termination of the existing contract is agreed with Bytes Software Services Ltd. The value of the current contract is less than £5 million and pursuant to paragraph 13 of Part 3 of the Constitution, the Deputy Leader has authority to terminate this contract in consultation with the Leader.

5.2 The estimated value of the proposed call off contract for Microsoft Licences is above the threshold for Supplies/Services under the Public Procurement Regulations 2015 (the "PCR 2015") and the procurement is therefore governed by the PCR 2015.

5.3 Officers recommend the use of a framework to procure the Microsoft Licences. The PCR 2015 allow the use of framework agreements and prescribe rules and controls for their procurement. Contracts may then be called off under such framework agreements without the need for them to be separately advertised and procured through a full procurement process. Call offs under the framework need to be carried out in accordance with the framework rules, to include using evaluation criteria specified in the framework and utilising the terms and conditions set out in the framework. Officers have indicated in paragraphs 3.9 – 3.12 inclusive that direct award is in accordance with KCS framework rules and will use the form of award and standard call off terms and conditions prescribed.

5.4 The Council's Contract Standing Orders state that no formal tendering procedures apply where contracts are called off under a framework agreement established by another contracting authority, where call off under the framework agreement is approved by Cabinet or an individual Cabinet

Member and provided that the Director of Legal, HR, Audit and Investigations has advised that participation in the framework is legally permissible. The Director of Legal, HR, Audit and Investigations confirmed that participation in the KCS Framework Agreement is legally permissible.

5.5 The procurement is subject to the Council's own Standing Orders in respect of High Value Contracts and Financial Regulations given the procurement has an estimated value of more than £2 million. The estimated value of this contract is £3,100,184 over three years and as it is less than £5 million, the Deputy Leader has authority pursuant to paragraph 13 of Part 3 of the Constitution to award the contract in consultation with the Leader.

5.6 As the procurement of Microsoft Licences is from a framework, there is no requirement for the Council to observe a 10 day standstill period under the PCR 2015 although the award of the contract will be subject to the council's usual call-in process.

## **6.0 Equality Implications**

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

## **7.0 Consultation with Ward Members and Stakeholders**

7.1 The relevant Shared Service Borough stakeholders have been consulted in relation to this procurement.

## **8.0 Human Resources/Property Implications (if appropriate)**

8.1 This service is currently provided by an external contractor and there are no implications for Council staff arising from retendering the contract.

## **9.0 Public Services (Social Value) Act 2012**

9.1 The Council is under duty pursuant to the Public Services (Social Value) Act 2012 ("the Social Value Act") to consider how services being procured might improve the economic, social and environmental well-being of its area; how, in conducting the procurement process, the Council might act with a view to securing that improvement; and whether the Council should undertake consultation. Officers have had regard to considerations contained in the Social Value Act in relation to the procurement.

**Report sign off:**

**PETER GADSDON**

Strategic Director of Customer and Digital Services