NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

EXECUTIVE MANAGEMENT TEAM'S
REPORT TO THE CABINET

Cabinet
18 April 2023

Report Title: **Renewal of Microsoft Enterprise Subscription Agreement**

Submitted by: **Head of IT & Digital**

Portfolios: **One Council, People & Partnerships**

Ward(s) affected: **N/A**

Purpose of the Report

To seek approval to renew the Council's Microsoft Enterprise Subscription Agreement.

Recommendation

That Cabinet:
   1- **approves renewal of the Microsoft Enterprise Subscription Agreement for a further period of three years, following the completion of due diligence and a procurement exercise, delegating authority to enter into a contract to the Chief Executive in consultation with the Leader of the Council.**
   2- **Notes the savings of c.£200,000.**

Reasons

The Council's existing Microsoft Enterprise Subscription Agreement expires in May 2023. The procurement exercise will help to ensure the Council achieves best value amongst its Large Account Resellers. Delegating authority to the Chief Executive in conjunction with the Leader will ensure the Council can react quickly to any opportunities which avoid increased costs, whilst still operating in a transparent and safeguarded way.

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1.   **Background**

   1.1 At present, the Council's Digital and IT service supports over 400 active users, including staff, Councillors, partner organisations and suppliers. The service manages and maintains over 800 digital devices (laptops, thin clients, mobiles/tablets, meeting room equipment etc.), two data centres and 150 servers, providing around the clock access to services which are core to the day-to-day business of the Authority.

   1.2 Microsoft services and products underpin and provide the backbone for our technology provision.

   1.3 All Council owned laptop computers and the majority of the Council's servers use the Microsoft operating system, Windows.

1.4 In order to legally use Microsoft products, the Council must ensure that it has the correct types and number of licenses in place. To ensure compliance with licencing requirements, the Council purchases and maintains its Microsoft obligations through an Enterprise Subscription Agreement, provided by a certified Microsoft Reseller. The agreements are typically procured through Crown Commercial Services, which allows the Council to access software at discounted rates.

1.5 The Council's current Enterprise Subscription Agreement expires in May 2023 and this report outlines the options available to the Council to procure a suitable replacement.

2. **Issues**

2.1 Our Microsoft Enterprise Subscription Agreement (ESA) expires on 30 May 2023. As a result, when the agreement expires, we will no longer be able to legally use the associated applications, systems and services as provided by Microsoft. There are therefore limited options available to the Council without inflicting serious disruption to services.

2.2 A number of applications and systems require the Microsoft environment and systems to operate correctly. If the Council were to opt to move away from the Microsoft 'ecosystem' then a considerable discovery exercise would be required to understand the full impact of this change.

2.3 The Council operates a heavily virtualised environment, meaning a small number of physical machines run a much larger number of virtual machines. Our ESA provides 'maximisation rights' which allow the Council to run as many virtual servers and databases as required, simply by licensing the underlying physical infrastructure. To do this without an ESA would be extremely expensive, as each virtual server would require separate licensing arrangements.

2.4 When the Council last renewed its ESA in 2019, we were able to 'lock' pricing for the period of the agreement. This is standard practice as part of an ESA. However, as this agreement has now expired, the pricing of Microsoft services has increased. Alongside this, there is a 9% increase on all Microsoft services as of 1 April 2023.

2.5 For a number of years, Microsoft have been pushing its customers towards cloud-based provisions. The Council's digital strategy now reaffirms this focus and direction. Our previous ESA agreements have not been cloud-optimised which has presented some challenges in our ability to make full use of Microsoft cloud solutions and applications i.e. PowerBi.

2.6 ESA agreements allow for the in-term addition of licences and software. However, this flexibility also makes it easy to miss-licence by using 'add-on' products, rather than making use of a higher level of licencing.

2.7 An example of this is the Microsoft 365 E3 licence which is currently used for Staff accounts. During our last ESA, there were requirements for PowerBi and additional security features for which the relevant 'add-on' products were purchased alongside the E3 licence.

2.8 As the requirements develop, there becomes an economic 'tipping point' for cost efficiency where a series of add-on style products are no longer economically beneficial as compared to purchasing the higher level of licence (i.e. E5).

3. **Proposal**

3.1 It is proposed that the Microsoft Enterprise Subscription Agreement is renewed by undertaking the following steps:

3.2 Microsoft offers multiple types of volume licensing agreements, within which there are multiple license types and terms. Each of these agreements are tailored to meet a specific market and need and choosing the right combination can mean the difference between achieving best value and significantly overpaying for a prolonged period.

3.3 The Council's Large Account Reseller, Phoenix, as the authorised and accredited Microsoft licencing partner will ensure that our Microsoft ESA agreement is the most suitable agreement type for the Council's needs. This in line with Microsoft's recommendations and requirements as defined by the Council.

3.4 The value of the Council's Microsoft commitments is considerable. During the previous contract between 2020 and 2023, the Council spent in excess of £400,000 on Microsoft licencing.

3.5 To ensure compliance and economic best value, IT have undertaken a Crown Commercial Services procurement exercise under reference RM6068 and lot NFC157. The successful tenderer was Phoenix Software having been identified as most economically advantageous tender in accordance with the evaluation criteria, as set by CCS.

3.6 It is proposed that authority be delegated to Chief Executive to execute a contract with Phoenix Software, in consultation with the Leader of the Council.

4. **Reasons for Proposed Solution**

4.1 We are now at the economic 'tipping point' between the utilisation of base licencing supplemented by add-on products vs upgrading our per-user licencing to the higher level (i.e. E5). However, caution has been taken as to not over-licence users for products/features which are not required during the ESA term. Therefore, not all user accounts will require the highest level of licencing and can make use of a lower level of licencing type.

4.2 IT have undertaken a review of all user accounts active within our tenancy and reviewed the requirements of the user account. This exercise has allowed us to reduce our 'high level' licencing types, where instead we can make use of a lower licence type.

4.3 An example of this is frontline staff (Streetscene, Recycling) where they were previously issued with an E3 or E1 licence. Following discussions with our Microsoft partner, the proposed solution would be to move these users to an F3 licence. This is a licence designed specifically for frontline staff who utilise tablet or shared laptop/desktop devices.

4.4 This change would be a 'backend' change which will have limited impact on end-users, however, will provide considerable savings per user/year.

4.5 The feature set provided within the E5 style of licencing contains all 'add-on' products that the Council had purchased alongside our E3 licence, alongside a number of other key features that the Council will make use of over the term of the agreement.

   4.5.1 **Microsoft Intune** – As the Council continue to move towards cloud delivered services, we will make use of the latest technology for device management, Intune. The Council already make use of Intune for mobile device management and over the period of the next six months will look to make use of Intune. This will be in conjunction with a project to upgrade devices to Windows 11.

   4.5.2 **Defender** – The Council will look to migrate our anti-virus, email and device threat protection over to Microsoft Defender, away from our current provider, Sophos. At the end of the existing contract for Sophos, this will provide savings of around £16,000 per/annum.

   4.5.3 **Teams Telephony** – The E5 licence will provide the Council with the base licence for Teams telephony. Whilst this will need to be complimented with a call plan, this licence provides the Council with options towards migrating to a modern, unified-communications platform in the future.

   4.5.4 **PowerBI** – The E5 will provide access to PowerBi, Microsoft's Data and Analytics tool. The council currently makes limited use of this product, this is mainly due to the additional 'add-on' costs incurred as part of our current licencing.

   4.5.5 **Security** – The licence will allow the Council to make use of additional security toolsets, such as Application Guard, Safe Documents, Risk-based access control and zero trust security models. The setup and configuration of these toolsets will be part of future Capital projects.

   4.5.6 **Compliance** – The licence will allow the Council to make use of the full toolset for data compliance, including features such as sensitivity labels, information protection, retention, subject access requests etc. This will compliment future capital projects to migrate the Council's data into SharePoint.

4.6 To support organisations with their move to the Cloud and the higher level of user licencing, Microsoft makes available a 'RAMP'. The RAMP allows organisations from day one of their agreement to have access to the E5 feature and product set. However, Microsoft understands that many organisations will not be able to utilise this full feature set from day one and will therefore be unable to gain best value of the investment.

4.7 Microsoft therefore provides a ramped approach to licencing costs where in years one and two the costs are heavily discounted in line with organisations beginning to make use of the available features. This provides a more cost-effective way of upgrading to the higher licencing model.

4.8 The user account review has enabled the Council to perform a comprehensive review of our licencing estate, this combined with the availability of the RAMP will allow us to make a level of cost-saving. The estimated value of the ESA prior to the user review, licence upgrade and RAMP was £202,532.35 (year 1) then £210,125.43 (years 2 and 3).

4.9 Due to the value of the Contact the Council's standing orders mandate conducting a procurement exercise. The Crown Commercial Services framework RM6068, lot NFC157 has allowed the Council to undertake a competitive tendering exercise and maximise our value for money return.

5. **Options Considered**

Option 1: Do Nothing

5.1 The Council could allow its ESA to lapse but this would mean the authority would no longer be able to use its ICT. Our laptop, server and systems infrastructure are underpinned by Microsoft products. Without these systems, the Council would not be able to conduct its day-to-day business for any significant length of time.

5.2 If the Council were to continue using its ICT infrastructure unlicensed, it would be subject to significant legal action. Representatives of the Federation against Software Theft (FAST) would also be entitled to remove any (and all) unlicensed equipment from the organisation, resulting in further costs, loss of data and significant reputational damage.

Option 2: Renew ESA

5.3 The adoption of Cloud services across both the public and private sectors have rapidly accelerated. As part of our Cloud First strategy and the One-Council programme, we are actively migrating services and applications to the 'Cloud' to realise efficiencies.

5.4 However, due to the current licencing method (existing ESA and Microsoft Product set available at the time), maximising the use of any new Microsoft cloud technologies (PowerBi, Project, Remote Access, Security, Compliance etc) is proving to be a costly exercise. This is because the licence available at the time is now deemed to be a base-level product which requires 'add-ons' in order to gain access to additional features and technologies.

5.5 As part of our renewal, we have worked with our Microsoft licencing partner to ensure that our new licencing provides us with a platform to consolidate tools and maximise the use of the Microsoft product set, with limited requirements for additional costly 'add-ons'. This will also allow for the realisation of cost-savings and time efficiencies, alongside maximisation of the toolset through full product and feature utilisation.

5.6 It is worth noting that moving our services to the cloud is not an alternative to holding an ESA. Cloud systems and infrastructure still require the Council to obtain and license Microsoft products and cloud productivity software. For example, a Microsoft licence will be required for the laptop computer to access the cloud applications, as

well as emails and Microsoft Teams. As such, cloud services must be considered as a complement to our ESA, not a replacement.

Option 3: Move to Open Source

5.7 For many years, open-source software has promised an alternative to the effective monopolies of major software providers such as Microsoft and Oracle. In some spaces this has been extremely successful, particularly new, "as-a-service" cloud systems that have been designed from the ground up to use open-source solutions such as Linux, Apache and MySQL (to name but a few).

5.8 The Council uses open-source software wherever possible but the vast majority of our line of business applications (including cloud systems and applications) still require Microsoft products to function effectively and efficiently. Where systems are integrated with productivity tools, these are typically Microsoft Office products.

5.9 The migration to open-source solutions would encounter significant costs, as replacements would need to be sources for communication (emails, telephony, internal comms), resources (file storage, sharing), security (anti-virus, phishing, threat protection and reporting) and applications (replacement of line of business applications that require Microsoft servers, operating systems and services to function).

6. **Legal and Statutory Implications**

6.1 Data Protection Legislation requires the Council to take every reasonable technical precaution to protect the personal information that it processes. Keeping software up to date is a well-recognised and accepted method of reducing the risk of a cyber-related incident and a key activity identified by the National Centre for Cyber Security.

6.2 Having a valid ESA in place will ensure that the Council continues to have access to the latest Microsoft software and security updates, which is essential given that the majority of the world's malware targets Microsoft based products. This trend is not because Microsoft make inherently insecure products, it's simply because of numbers; more of the world's computers run Microsoft software than anything else.

6.3 The use of the stated frameworks is a complaint procurement solution.

7. **Equality Impact Assessment**

7.1 No adverse impact has been identified as a result of delivering this proposal.

8. **Financial and Resource Implications**

8.1 The costs below outline how much the authority would be required to pay to renew its ESA under the Microsoft RAMP. The table also sets out the non-ramp and 'as-is' renewal costings for comparison.

RAMP

ITEM	Year 1	Year 2	Year 3	
MICROSOFT 365 E5	£83,019.69	£92,075.36	£102,649.68	
MICROSOFT 365 F3	£7,209.00	£7,489.80	£7,489.80	
MICROSOFT PROJECT	£2,699.40	£2,699.40	£2,699.40	
MICROSOFT VISIO	£417.84	£417.84	£417.84	
MICROSOFT REMOTE ACCESS	£1,012.52	£999.94	£999.94	
MICROSOFT SQL SERVER	£49,737.38	£50,445.14	£50,445.14	
				Total Cost of ESA
YEAR TOTAL (WITH RAMP)	**£144,095.83**	**£154,127.48**	**£164,701.80**	**£462,925.10**
YEAR TOTAL (WITHOUT RAMP)	**£166,847.71**	**£168,088.90**	**£168,088.90**	£503,025.51
YEAR TOTAL (RENEW ESA AS PER LAST AGREEMENT)	**£202,532.25**	**£210,125.43**	**£210,125.43**	£622,783.10
SOPHOS ANTI-VIRUS CLIENT (SAVING UPON NON-RENEWAL)	**£16,000.00**	**£16,000.00**	**£16,000.00**	
				Total Saving
COST-SAVING (RAMP VS LAST ESA+SOPHOS)	**£74,436.43**	**£71,997.95**	**£61,423.63**	£207,858.00

8.2 The costs shown above are per year. The total value of the ESA over its term is estimated to be over £460,000.

8.3 The ESA costs are covered from ICT's main revenue budget.

8.4 An ESA is a three-year commitment, however at each anniversary point (every 12 months) there is an opportunity to review the current licencing requirements in line with organisational requirements.

8.5 It will be noted that the availability of the RAMP and the user account and licencing review has presented the Council with a level of cost-saving, particularly within years one and two.

8.6 It is recommended that this cost-saving be used to offset the procurement of the additional cyber security software and monitoring solutions to support the security and resilience of the Council. Alongside this, in order for the council to make full use of the toolset available within the E5 licence, there will be elements of third-party configuration and support which could attract costs. Both of which will be presented by way of a paper to ensure the full range of options have been considered.

9. **Major Risks**

9.1 A risk profile has been completed with documented consequences and control measures (Appendix 1).

9.2 The main risks identified include:

- Failure to renew our ESA resulting in legal action by Microsoft and significant operational disruption
- Limitations on the Council's virtual server infrastructure and additional expense caused by lapsed software assurance
- Inability to utilise new technology and applications, undermining the Council's Digital Strategy

10. **UN Sustainable Development Goals (UNSDG)**

10.1 It is considered that the proposal will contribute towards the following UNSDGs
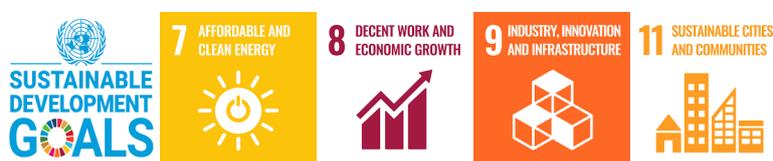
11. **Key Decision Information**

11.1 The overall contract value will be a revenue commitment in excess of £100,000 and as such is considered as a key decision

12. **Earlier Cabinet/Committee Resolutions**

12.1 January 2019 – Cabinet – Renewal of Microsoft Enterprise Agreement

12.2 March 2017, Cabinet – Renewal Options for Microsoft Enterprise Agreement

12.3 March 2014, Cabinet – Renewal of Microsoft Software Licensing Agreement

13. **List of Appendices**

13.1 Appendix 1 – Microsoft Enterprise Agreement Risk Profile.

14. **Background Papers**

14.1 None