

ARUN DISTRICT COUNCIL

REPORT TO AND DECISION OF CORPORATE SUPPORT COMMITTEE ON 10 JUNE 2021

SUBJECT:

Officer Decision in Relation to the Renewal of a three-year Microsoft Licence Subscription using the Kent Commercial Services Framework.

REPORT AUTHOR: Nigel Lynn – Chief Executive

DATE: 1 June 2021

EXTN: 01903 737585

AREA: Corporate Support

EXECUTIVE SUMMARY:

This report provides an update to the Committee on the decision taken by the Chief Executive to renew the Microsoft Licenses for three years.

RECOMMENDATIONS:

That the Corporate Support Committee ratifies the decision taken by the Chief Executive in consultation with Group Leaders.

1. BACKGROUND:

The Council purchases its Microsoft licences on a subscription model, and this is due to be renewed at the end of June 2021 as discussed with the Arun Improvement Programme Board (AIP), the cost is approximately £157,000 per year and is built into the budget. The licence period is for a three-year term and attracts a large Government discount of between 40-60% depending on the particular licence.

A report was due to go to Cabinet on the 17 May 2021 for approval at pre-contract stage with agreement for the S151 Officer to sign electronically, this meeting was cancelled following a change in administration brought about by the two District By-Elections held on 6 May 2021.

To be confident the licences will be renewed in time, it has been necessary for the Chief Executive to make this Officer decision which he has done so in consultation with the Group Leaders and the Chair and Vice-Chair of this Committee. This is so that the Council can place the order within the first few days of June 2021. This is important due to the impact of the pandemic on Microsoft resources meaning they are no longer committing to service levels for licence renewals, and also taking into consideration that June is a busy period for license renewals nationally. If we do not have licences, then effectively we

would have to turn off all our computers.

These licences are integral to the operation of the Council's IT systems including desktops, servers, databases and security, they are used in many of our departmental systems for automation and to maximise staff efficiency.

Consideration was given to using alternative products however this would be expensive, disruptive to services and risky; a business case cannot be made for it.

Renewing the licences will continue to support the Council progressing its adopted ICT Strategy and cloud first approach, we will continue to use open source development and operate a mixed software environment.

The Contract value requires the ratification of this decision by Committee.

2. PROPOSAL(S):

The Corporate Support Committee is being asked to note this report.

3. OPTIONS:

There are no other options available.

4. CONSULTATION:

Has consultation been undertaken with:	YES	NO
Relevant Town/Parish Council		X
Relevant District Ward Councillors		X
Other groups/persons (please specify)	ICT Finance Legal Procurement Group Leaders	

5. ARE THERE ANY IMPLICATIONS IN RELATION TO THE FOLLOWING COUNCIL POLICIES: (Explain in more detail at 6 below)	YES	NO
Financial		X
Legal	X	
Human Rights/Equality Impact Assessment		X
Community Safety including Section 17 of Crime & Disorder Act		X
Sustainability		X
Asset Management/Property/Land		X
Technology		X

Other (please explain)		X
------------------------	--	---

6. IMPLICATIONS:

Usage of Microsoft products is conditional on having a licence agreement in place; if we did not renew the licences by end of June 2021 then we would not be able to use any Council computers or back-office systems.

Legal

This is a report relating to the renewal of a licence to use Microsoft products for three years at an annual value of £157,000 (total value of £471,000 over three years). As the value is above GPA threshold (previously EU threshold), Procurement Rule 4.2 applies which requires the formal tender of this Contract or use of an appropriate framework. The appropriate framework in this case is the Kent Commercial Services Framework which has been through a tendering process.

The renewal was to have been approved at Cabinet on 17 May 2021. With the change in administration, some Members of the Council have raised doubts as to whether the continued use of the Microsoft licence provides value for money. That is a separate question as to whether the Microsoft Licence should be renewed. If the market was to be tested in order to see if the Council can obtain better value for money, this market testing decision would have been taken earlier in order to allow time to tender or implement some other form of market testing for seeking alternative licences before the current Microsoft Licence expired at the end of June 2021. It should be noted that the Arun Improvement Board did not ask for the market to be tested and it is now (1 June 2021) too late to commence a market testing process. Failure to extend/renew the licences would require the Council to cease using Microsoft products or to use them without permission and this would expose the Council to legal action for breach of intellectual property rights.

The issue here is purely whether and how the licence is to be renewed/extended. Contract Standing Orders provide that the renewal of an existing contract requires a waiver of contract standing orders except where the modification or variation is provided for within the existing contract. As the extension is provided for within the existing contract and there is a budget for it, Cabinet [and now Committee] can award the contract without further process. However, the Chief Executive, in consultation, with Group Leaders has now taken the decision in order to secure value for money and to prevent licensing from lapsing and so the Committee is asked to ratify the decision.

7. REASON FOR THE DECISION:

Due to the operational risk of not having Microsoft licences and with potential delays in securing these the Chief Executive in consultation with Group Leaders and the Chair and Vice-Chair of the Corporate Support Committee has dealt with this matter as an urgent decision.

The Corporate Support Committee is being asked to ratify this decision.

8. BACKGROUND PAPERS:

Original Cabinet Report – published for 17 May 2021 which was cancelled is attached.

ARUN DISTRICT COUNCIL

REPORT TO AND DECISION OF CABINET ON 17 MAY 2021

SUBJECT:

Procurement of a three-year Microsoft Licence Agreement using the Kent Commercial Services Framework.

REPORT AUTHOR: Paul Symes, Head of Technology & Digital

DATE: 22 March 2021

EXTN: 01903 737585

PORTFOLIO AREA: Corporate Support

EXECUTIVE SUMMARY:

The Council uses Microsoft products to provide services to the desktop and also for its back-office databases/servers. The products are licenced on a three-year agreement and the current agreement expires at the end of June 2021.

We are looking to procure the next three-year licence through an EU compliant framework. The value of the contract is above the EU threshold and requires Cabinet approval at the pre-award stage.

RECOMMENDATIONS:

- i. Cabinet approves the purchase of a three-year Microsoft Licence Agreement with Trustmarque through the Kent Commercial Services Framework
- ii. Delegates authority to the Section 151 Officer to execute the contract under hand.

1. BACKGROUND:

The Council uses Microsoft products to provide services to the desktop and also for its back-office servers and databases.

Consideration was given to using alternative products for some of the licenced components however this is not felt to be practical, costs effective and cause considerable disruption of service.

The products are licenced on a three-year agreement and the current agreement expires at the end of June 2021.

As part of our five-year ICT Strategy we are transitioning services to the Cloud, Trustmarque (our existing licence supplier) are providing expertise and support to help us with this work and as a Microsoft Gold Partner have secured additional Microsoft migration

investment for us.

A three-year licence will allow us to continue with the transition work already started and after that we plan to do a review of the market and products to meet our future needs.

It is not possible to buy these licences directly from Microsoft and we wish to let the contract as a direct award with Trustmarque using the EU (OJEU) complaint Kent Commercial Services Framework.

Microsoft update their prices monthly and when the renewal is taken out the price is locked in for the whole licence period, we estimate the annual licence cost to be approximately £157,000 this will be funded by the existing IT budget and any increase will be covered from existing resources.

The Council will enter into the contract by signing the framework call-off agreement. To comply with Contract Standing Orders, a contract of this value should be executed as a deed under seal. Authority is sought to allow the call-off contract to be executed under hand by the Section 151 Officer.

2. PROPOSAL(S):

Purchase a three-year Microsoft Licence Agreement with Trustmarque using the Kent Commercial Services Framework and gives the Section 151 Officer authority to execute the contract under hand.

3. OPTIONS:

- i. Procure a three-year Microsoft Licence Agreement via the Kent Commercial Services Framework.
- ii. Look at replacing some Microsoft products with alternative products.
- iii. Not procure a new Microsoft Licence Agreement and stop using Microsoft products.

4. CONSULTATION:

Has consultation been undertaken with:	YES	NO
Relevant Town/Parish Council		X
Relevant District Ward Councillors		X
Other groups/persons (please specify)	ICT Finance Legal Procurement	

5. ARE THERE ANY IMPLICATIONS IN RELATION TO THE FOLLOWING COUNCIL POLICIES: (Explain in more detail at 6 below)	YES	NO
Financial		X
Legal		X
Human Rights/Equality Impact Assessment		X

Community Safety including Section 17 of Crime & Disorder Act		X
Sustainability		X
Asset Management/Property/Land		X
Technology		X
Other (please explain)		X

6. IMPLICATIONS:

Usage of Microsoft products is conditional on having a licence agreement in place; if we do not renew the licences by end of June 2021 then we will not be able to use any council desktop computers or back-office systems.

7. REASON FOR THE DECISION:

To allow the purchase of a three-year Microsoft Licencing Agreement from Trustmarque via the Kent Commercial Services Framework and provide continuity of service.

8. BACKGROUND PAPERS:

None