

Nottingham City Council Delegated Decision



Nottingham
City Council

Reference Number:	5145
Author:	Paul J. Burrows
Department:	Finance and Resources
Contact:	Paul J. Burrows (Job Title: IT Change, Projects & Strategy Manager, Email: paul.burrows@nottinghamcity.gov.uk, Phone: 01158763153)
Subject:	Purchase of Microsoft software and services 2022-25
Total Value:	£550,000 (Type: Revenue)
Decision Being Taken:	1. To note the approval of the S151 Officer to allow an an additional spend on Microsoft software and services to the value of £550,000 (Spend Control ID: 4424). 2. To delegate authority to the Head of the IT Service to enter into purchase of additional licences and services under contract RM60668 with CDW and also with Microsoft for Unified Support services.
Reasons for the Decision(s)	In November 2021 Commissioning & Procurement Sub-Committee approved an expenditure of an estimated £4,500,000 over 3 years for the Council's use of Microsoft licences and associated services. These products are used across the Council by multiple services and enable service delivery, transformation and hybrid working. In the course of delivery of services since the decision was made the estimated value has been found to be an underestimate of what has been required by approximately 12%, £550,000, of the required value. As such authorisation is sought to increase the approval of expenditure by this amount. The funding for Microsoft licensing is made from the IT Investment Fund, a revenue reserve budget. The principal areas of additional expenditure that have been encountered are:- An increase in demand for cloud based processing.- An increase in the cost of the Unified Support Service purchased from Microsoft.- Continuing demand for licensing of software products to support colleagues' work activities. Software licences and cloud services were purchased through an aggregated procurement process organised by Crown Commercial Services using their terms and conditions. In addition the Council purchases directly from Microsoft 'Unified Support'. This is a set of technical services, advice and support akin to an IT service desk to enable the Council to get best use from the purchased licences and to provide support in the event of the Council encountering problems in operations.
Other Options Considered:	Reduce consumption of Microsoft products to match the allocated funding. This is not considered feasible as colleagues depend upon access to the products used to deliver services.

Background Papers:

Published Works:

KD - Purchase of Corporate software licences and services for Microsoft products, Commissioning and Procurement Sub-Committee - 9 Nov. 2021

Affected Wards:

Citywide

Colleague / Councillor Interests:

Consultations:

Those not consulted are not directly affected by the decision.

Crime and Disorder Implications:

There are no Crime and Disorder Implications associated with this decision.

Equality:

EIA not required. Reasons: The proposal considered is an extension of use of products already in use by the Council.

Social Value Considerations:

There are no social value considerations associated with this decision.

Any implications affecting IT:

Yes

Decision Type:

Portfolio Holder

Subject to Call In:

Yes

Call In Expiry date:

19/07/2024

Advice Sought:

Legal, Finance, Procurement, IT

Commissioner Comments:

Commissioners have approved this delegated decision.

Legal Advice:

The report seek formal approval to increase expenditure on contractual services to the value of £550,000, with the identified funding coming from the IT Investment Fund, a revenue reserve budget. However, no Officer, Councillor, committee or board can approve spend without the prior approval of the Section 151 Officer through the Spend Control Board. It is understood that the required Microsoft licensed services and expenditure on them would be provided under an existing contract with CDW Ltd called off under Lot 3 a framework agreement for Microsoft Software and Associated Services, and also with Microsoft, which was by way of a direct award granted in May 2023 through to 2025, for Unified Support Services, involves a contract modification. Appropriate approval for the initial contract was obtained from CPEC 9th November 2021. No new contract variation or extension can be approved that incurs additional cost without Spend Control Board approval for the spend. This includes extensions that have been included as part of the original contract.

It is therefore recommended that the decision to be taken wording is amended accordingly, to reflect the true nature of the decision and that it is subject to such prior approval.

It is understood that call off contract RM60668 is an extant contract within its initial 3 years duration and that the contract provides at clause 24 for the possibility of a variation. Under the clause any request for increase to the services must be done by way of a variation and communicated in writing to the provider. A public service contract modification would be lawful and permissible under the Public Contracts Regulation 72 (1) (c), where the modifications, has been brought about by circumstances which a diligent contracting authority could not have foreseen; and the modification does not alter the overall nature of the contract; and any increase in price does not exceed 50% of the value of the original contract or framework agreement. On the basis of the information provided regarding the existing clause in the CDW contract a modification of the contract would be permissible. As the Microsoft unified support services was via a direct award which covers the period in question this is permissible under the PCR.

For contract management purposes, any modification must be appended to the existing contract for the sake of clarity, accountability and record keeping purposes.

Providing the report author obtains the relevant Section 151 Officer approvals and complies with the Council's Constitution requirements and Public Contracts Rules 2015, the proposal raises no significant legal concerns.

Advice provided by: Vendie Charles (Contracts and Commercial Solicitor) Dated: 24/05/2024

Finance Advice:

This report seeks approval to delegate authority to the IT Head of Service to enter into contracts for the purchase of additional Microsoft software licenses and services. Total value of this decision is £550k. This request is for additional expenditure on top of a previously approved expenditure in 2001 for an estimated £4.5m over 3 years (2022-23 to 2024-25), for the council's Microsoft software licenses and services. Funding will be provided in full from the IT Investment Fund (ITIF).

The breakdown of the estimated cost for 2024-25 and associated shortfall is detailed in the attached table. The revised total cost is £5.05m.

The profiling of the above costs have been considered in the ITIF forward plan where applicable which aligns with the current MTFP. The ITIF currently has a balance of £5.5m against which capital spend of £2.3m and revenue spend (including Microsoft software licenses and services) of £2.5m have been projected in 2024-25. As most of the profiled costs are based on estimates, regular review of the ITIF is required to ensure there is no financial pressure or risk of overspend.

The IT service should make every attempt to ensure value for money principles are followed to reduce financial risk, considering the constrained financial environment NCC is operating in.

Alfred Ansong, Strategic Finance Business Partner, 29/05/2024

Advice provided by Alfred Ansong (Interim Strategic Business Partner) on 05/06/2024.

Advice documents: Microsoft lic comments 24-25 - May 24.docx

Procurement Advice:

Procurement support this request for additional spend on Microsoft software and services. The procurement of Microsoft Licences will be carried out by process of variation with the existing provider, CDW, which was a contract set-up on the back of a CCS aggregation exercise on a national scale to achieve economies of scale. The additional spend is within the limits of the variation spend allowed under the PCR 2015 Regulation 72(1)(c). The requirement to buy Unified Support is done so via direct award to Microsoft. An exemption to direct award to Microsoft for this product was granted in May 2023. There are no procurement concerns. Advice provided by Louise Dobson (Lead Procurement Officer) on 16/05/2024.

IT Advice:

IT support the proposed increase in expenditure related to Microsoft software in order to continue to provide core productivity services to the Council.

Simon Salmon 7/06/2024

Signatures

Linda Woodings as Portfolio Holder (Executive Member - Finance and Resources)

SIGNED and Dated: 11/07/2024

Ross Brown (Corporate Director of Finance & Resources)

SIGNED and Dated: 10/07/2024