

Report of the Deputy Chief Executive/Director of Customer & Corporate Services

Appointment of External Auditors

Summary

1. The purpose of this report is to present the changes to the arrangements for appointing External Auditors following the end of the current transitional arrangements on completion of the 2017/18 audit and set out the options for future appointment available to the Council.
2. The Council will need to consider the options available and put in place arrangements by 31 December 2017 in time to appoint an auditor for the 2018/19 audit.
3. Given the challenges of local appointment and costs associated as set out in this report, the preferred option is the sector-led appointment.

Background

4. The Local Audit and Accountability Act 2014 brought to a close the Audit Commission and established transitional arrangements for the appointment of external auditors and the setting of audit fees for all local government and NHS bodies in England. On 5 October 2015 the Secretary of State Communities and Local Government (CLG) determined that the transitional arrangements for local government bodies would be extended by one year to also include the audit of the accounts for 2017/18.
5. The Council's current Auditor is Mazars, this appointment having been made under a contract let by the Audit Commission. Following closure of the Audit Commission the contract is currently managed by Public Sector Audit Appointments Limited (PSAA), the transitional body set up by the Local Government Association (LGA) with delegated authority from the Secretary of State

Communities & Local Government (CLG). Over recent years we have benefited from reduction in fees in the order of 50% compared with historic levels. This has been the result of a combination of factors including new contracts negotiated nationally with the firms of accountants and savings from closure of the Audit Commission. The Council's current external audit fees are £113k per annum.

6. The scope of the audit will still be specified nationally, the National Audit Office (NAO) is responsible for writing the Code of Audit Practice which all firms appointed to carry out the Council's audit must follow. Not all accounting firms will be eligible to compete for the work, they will need to demonstrate that they have the required skills and experience and be registered with a Registered Supervising Body approved by the Financial Reporting Council. The registration process has not yet commenced and so the number of firms is not known but it is reasonable to expect that the list of eligible firms may include the top 10 or 12 firms in the country, including our current auditor. It is unlikely that small local independent firms will meet the eligibility criteria.

Analysis

7. There are three broad options open to the Council for appointing External Auditors in the future:
 - 1) To make a stand alone appointment
 - 2) Set up joint Auditor panel/ local procurement arrangements
 - 3) Opt-in to a sector led body
8. The preferred approach considering the advantages/disadvantages of each option as set out below is for the Council to opt-in to a sector led body.
9. The Department for Communities and Local Government has now specified Public Sector Audit Appointments Ltd (PSSA) as the Appointing Person, establishing it as a sector led body. If the Council opt-in to the sector led body approach this arrangement can be used and will deliver economic and efficiency benefits
10. The Local Government Association is supporting this sector led approach in order to secure the benefits of economies of scale and savings in terms of the administrative burden on Councils and other local government sector bodies. These benefits include:

- Purchasing power to negotiate competitive audit fees worth an estimated £30m annually.
 - Savings on the costs of Invitation to Tender exercises at some 470 local government sector bodies alone.
 - Savings on the costs of bid appraisal, contract specification and negotiation
 - Economies of scale to be achieved from collective procurement, enabling the firms to plan and resource audits more efficiently and effectively.
 - Quality monitoring and other information sharing across contracts (subject to protections over confidentiality).
 - Sensible distribution of audit appointments taking into consideration joint working between individual Councils and other public bodies, managing rotations where conflicts of interest arise
11. The Council has until December 2017 to make an appointment. In practical terms however if the Council decides to opt-in to the SLB route, formal notice of acceptance of the invitation to opt in as approved by Council will have to be made to the PSAA by 9 March 2017
12. The Local Audit (Appointing Person) Regulations 2015 ('the Regulations') require that a decision to opt in must be made by a meeting of the Council (meeting as a whole). If the Sector Led body route is accepted, the Council then needs to formally respond to PSAA's invitation in the form specified by PSAA.
13. As set out at Annex A PSAA would commence the formal procurement process after acceptance of the invitation. It expects to award contracts in summer 2017 and consult with authorities on the appointment of auditors so that it can make an appointment by the statutory deadline of December 2017

Options for Appointment of External Auditors

14. There are three broad options open to the Council under the Local Audit & Accountability Act 2014 (The Act):

Option 1 – To make a stand-alone appointment

15. In order to make a stand-alone appointment the Council would need to set up an Auditor Panel. The members of the panel must

be wholly or a majority independent members as defined by the Act. Independent Members for this purpose are independent appointees – this excludes current and former elected members (or officers) and their close families or friends. This means that elected members would not have a majority input to assessing bids and choosing which firm of accountants to award a contract for the Councils external audit. A new independent auditor panel established by the Council would be responsible for selecting the Auditor.

Advantages/benefit

16. Setting up an auditor panel allows the Council to take maximum advantage of the new local appointment regime and have local input into the decision

Disadvantages/risks

17. Recruitment and servicing of the Auditor Panel, running the bidding exercise and negotiating the contract is estimated by the Local Government Association (LGA) to cost in the order of £15,000 plus on going expenses and allowances.
18. The Council would not be able to take advantage of reduced fees that may be available through joint or national procurement contracts.
19. The assessment of bids and decision on awarding contracts will be taken by independent appointees and not solely by elected members.

Option 2 – Set up a Joint Auditor Panel/ local procurement arrangements

20. The Act enables the Council to join with other authorities to establish a joint auditor panel. Again this would need to be constituted of wholly or a majority of independent appointees (members). Further legal advice would be required on the exact constitution of such a panel having regard to the obligations of each Council under the Act and the Council would need to liaise with other local authorities to assess the appetite for such an arrangement.

Advantages/benefits

21. The costs of setting up the panel, running the bidding exercise and negotiating the contract will be shared across a number of authorities.
22. There is a greater opportunity for negotiating some economies of scale by being able to offer a larger combined contract value to firms.

Disadvantages/risks

23. The decision making body will be further removed from local input, with potentially no input from elected members where a wholly independent auditor panel is used or possibly only one elected member representing each Council, depending on the constitution agreed with the other bodies involved.
24. The choice of auditor could be complicated where individual Councils have independence issues. An independence issue occurs where the auditor has recently or is currently carrying out work such as consultancy or advisory work for the Council. Where this occurs some auditors may be prevented from being appointed by the terms of their professional standards. There is a risk that if the joint auditor panel choose a firm that is conflicted for this council then the Council may still need to make a separate appointment with all the attendant costs and loss of economies possible through joint procurement.

Option 3 – Opt-in to a sector led body

25. In response to the consultation on the new arrangements the LGA successfully lobbied for Councils to be able to 'opt-in' to a Sector Led Body (SLB) appointed by the Secretary of State under the Act. An SLB would have the ability to negotiate contracts with the firms nationally, maximizing the opportunities for the most economic and efficient approach to the procurement of external audit on behalf of the whole sector.
26. As set out above the Secretary of State has now specified PSAA as the 'appointing person' under regulation 3 of the Local Audit (Appointing Person) regulations 2015. PSAA would therefore make auditor appointments to relevant local government bodies that

choose to opt –in to the national appointment arrangements from 2018/19

27. PSAA is an independent, not-for profit company limited by guarantee and established by the LGA. They were originally established to operate the transitional arrangements following the closure of the Audit Commission.
28. PSAA have indicated that they consider the optimal length of contract between PSSAA and firms as being 5 years.

Advantages/benefits

29. The costs of setting up the appointment arrangements and negotiating fees would be shared across all opt-in authorities
30. By offering large contract values the firms would be able to offer better rates and lower fees than are likely to result from local negotiation
31. Any conflicts at individual authorities would be managed by the SLB who would have a number of contracted firms to call upon.
32. The appointment process would not be ceded to locally appointed independent members. Instead a separate body set up to act in the collective interests of the 'opt-in' authorities.

Disadvantages/risks

33. Individual elected members will have less opportunity for direct involvement in the appointment process other than through the LGA/ and or stakeholder representative groups.
34. In order for the SLB to be viable and to be placed in the strongest possible negotiating position the SLB will need Councils to indicate their intention to opt-in before the final contract prices are known.

Consultation

35. The content of the report of the external auditor has been discussed with the relevant responsible officers. It is reported here for due consultation with those members charged with governance at the council.

Options

36. The options available to the Council under the new arrangements are set out in the body of the report above.

Corporate Priorities

37. The appointment of the External Auditors ensures that the Council's financial statements are true and fair and that the Council has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources. This ensures the Council's service requirements are met and contributes to the achievement of Corporate Priorities.

Implications

38. There are no financial, HR, equalities, legal, crime and disorder, IT or property implications arising from this report

Legal

39. Section 7 of the Local Audit and Accountability Act 2014 (the Act) requires a relevant authority to appoint a local auditor to audit its accounts for a financial year not later than 31 December in the preceding year. Section 8 governs the procedure for appointment including that the authority must consult and take account of the advice of its auditor panel on the selection and appointment of a local auditor. Section 8 provides that where a relevant authority is a local authority operating executive arrangements, the function of appointing a local auditor to audit its accounts is not the responsibility of an executive of the authority under those arrangements;
40. Section 12 makes provision for the failure to appoint a local auditor: the authority must immediately inform the Secretary of State, who may direct the authority to appoint the auditor named in the direction or appoint a local auditor on behalf of the authority.
41. Section 17 gives the Secretary of State the power to make regulations in relation to an 'appointing person' specified by the Secretary of State. This power has been exercised in the Local Audit (Appointing Person) Regulations 2015 (SI 192) and this gives the Secretary of State the ability to enable a Sector Led Body to become the appointing person.

Financial

42. The current External Audit Fees are likely to increase when the contract ends in 2018.
43. Should the Council wish to consider appointing either a local or joint Auditor Panel, as set out under Options 1 and 2 above, the costs of establishing such a Panel would need to be estimated and included in the Councils budget for 2017/18. This would include the costs of recruiting independent appointees (members), servicing the Panel, running a bidding and tender evaluation process, letting a contract and paying member fees and allowances.
44. By selecting option 3 and opting in to a national sector led body, this provides maximum opportunity to limit the extent of any increases in audit fee levels by entering into a large scale collective procurement arrangement that would remove the costs associated with establishing an auditor panel
45. The proposed fees for the subsequent years cannot be known until the procurement process has been completed, as the costs will depend on proposals from the audit firms however opting-in to a national scheme will provide maximum opportunity to ensure fees are as low as possible, whilst ensuring the quality of audit is maintained by entering in to a large scale collective procurement arrangement
46. The audit fee under the sector led arrangement will reflect the size, audit risk and complexity of the work required. PSAA is to establish a system for setting the fee which is fair to all opted-in bodies noting that, as a not-for profit organisation, PSAA will be able to return any surpluses to participating bodies after all costs have been met.

Risk Management

47. There is no immediate risk to the Council, however, early consideration by the Council of its preferred approach will enable detailed planning to take place so as to achieve successful transition to the new arrangement in a timely and efficient manner.
48. Providing the LGA with a realistic assessment of our likely way forward will enable the LGA to invest in developing appropriate arrangements to support the Council.

Recommendations

49. Members are asked to

- (a) Consider and recommend to Council to Opt-in to the approved sector led body, Public Sector Audit Appointments Ltd (PSAA), to act as the Appointing person for the appointment of External Auditors for the Council for five years commencing 1 April 2018.

Reasons

Whilst the Council has until December 2017 to appoint its' external auditors, PSAA has formally invited the Council to opt in to the national sector led body. Details relating to PSAA's invitation are provided in Appendices 1 and 2 of this report. If the Council is to take advantage of this national scheme for appointing external auditors then it needs to take the decision to enable it accept the invitation by early March 2017.

The Local Audit (Appointing Person) Regulations 2015 ('the Regulations') require that a decision to opt in must be made by a meeting of the Council (meeting as a whole). The Council then needs to formally respond to PSAA's invitation in the form specified by PSAA.

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Wards Affected: All				
For further information please contact the author of the report				

Background Papers:

Local Audit & Accountability Act 2014 (The Act)

Annex:

A - PSAA invitation – York

B - Form of notice of acceptance to opt in

Abbreviations:

CLG – Communities and Local Government

LGA – Local Government Association

NAO – National Audit Office

PSAA – Public Sector Audit Appointments

SLB – Sector Led Body