



**Open Report on behalf of Andrew Crookham,
Executive Director - Resources**

Report to:	County Council
Date:	18 February 2022
Subject:	Opt into National Scheme for Auditor Appointments

Summary:

The Council is required to appoint an auditor to audit its financial accounts for each financial year. The Council is currently opted into the 'appointing person' national auditor appointment arrangements established by Public Sector Audit Appointments (PSAA) for the period ending March 2023.

The Council can choose to appoint its own auditor, but must follow the regulations laid out in the Local Government Audit & Accountability Act 2014 to do this.

Alternatively, the Council can accept the invitation from PSAA to continue to opt into the national auditor arrangements. This acceptance must be received by PSAA by no later than 11th March 2022.

Auditors must act independently of the Council and are regulated by the FRC. Councils therefore have very limited influence over the nature of the audit services they are procuring, the nature and quality of which are determined or overseen by third parties.

Given the current instability in the audit market, the challenges set out in this report, and the limited influence the Council can have in the procurement it would be beneficial to the council to accept the invitation from PSAA to opt into the national auditor procurement arrangements.

Recommendation(s):

That the Council accepts Public Sector Audit Appointments' invitation to opt into the sector-led option for the appointment of external auditors to principal local government and police bodies for the five financial years from 1 April 2023.

1. Background

The Legal Framework and Requirements

Under the Local Government Audit & Accountability Act 2014 (“the Act”), the council is required to appoint an auditor to audit its accounts for each financial year. The council has three options;

- a) To appoint its own auditor, which requires it to follow the procedure set out in the Act.
- b) To act jointly with other authorities to procure an auditor following the procedures in the Act.
- c) To opt in to the national auditor appointment scheme administered by a body designated by the Secretary of State as the ‘appointing person’. The body currently designated for this role is Public Sector Audit Appointments Limited (PSAA).

To appoint its own auditor (option a) or to act jointly with other authorities (option b) the Council would be required to establish an independent auditor panel to make a stand-alone appointment. Members of the panel must be wholly or a majority of independent members as defined by the Act. Independent members for this purpose are independent appointees, excluding current and former elected members (or officers) and their close families and friends. The decision to appoint remains with the Council but the Council must consult and take into account the advice of the auditor panel on the selection and appointment of its auditor. The contract must also be managed by the council and overseen by the auditor panel.

In order to opt in to the national scheme (option c), a council must make a decision at a meeting of the Full Council. The close of the opt-in period to respond formally to the PSAA invitation is 11th March 2022.

Auditors must act independently of the Council and are regulated by the Financial Reporting Council (FRC), which will be replaced by a new body with wider powers, the Audit, Reporting and Governance Authority (ARGA) during the course of the next audit contract.

Councils therefore have very limited influence over the nature of the audit services they are procuring, the nature and quality of which are determined or overseen by third parties.

The national auditor appointment scheme

PSAA is specified as the ‘appointing person’ for principal local government under the provisions of the Act and the Local Audit (Appointing Person) Regulations 2015. PSAA let five-year audit services contracts in 2017 for the first appointing period, covering audits of the accounts from 2018/19 to 2022/23. It is now undertaking the work needed to invite eligible bodies to opt in for the next appointing period, from the 2023/24 audit onwards, and to complete a procurement for audit services. PSAA is a not-for-profit organisation

whose costs are around 4% of the scheme with any surplus distributed back to scheme members.

In summary the national opt-in scheme provides the following:

- the appointment of a suitably qualified audit firm to conduct audits for each of the five financial years commencing 1 April 2023;
- appointing the same auditor to other opted-in bodies that are involved in formal collaboration or joint working initiatives to the extent this is possible with other constraints;
- managing the procurement process to ensure both quality and price criteria are satisfied. PSAA has sought views from the sector to help inform its detailed procurement strategy;
- ensuring suitable independence of the auditors from the bodies they audit and managing any potential conflicts as they arise during the appointment period;
- minimising the scheme management costs and returning any surpluses to scheme members;
- consulting with authorities on auditor appointments, giving the Council the opportunity to influence which auditor is appointed;
- consulting with authorities on the scale of audit fees and ensuring these reflect scale, complexity, and audit risk; and
- ongoing contract and performance management of the contracts once these have been let.

Pressures in the current local audit market

Much has changed in the local audit market since audit contracts were last awarded in 2017. At that time the audit market was relatively stable, there had been few changes in audit requirements, and local audit fees had been reducing over a long period. 98% of those bodies eligible opted into the national scheme and attracted very competitive bids from audit firms. The resulting audit contracts took effect from 1 April 2018.

During 2018 a series of financial crises and failures in the private sector year led to questioning about the role of auditors and the focus and value of their work. Four independent reviews were commissioned by Government and the recommendations are now under consideration by Government, with the clear implication that significant reforms will follow. A new audit regulator (ARGA) is to be established, and arrangements for system leadership in local audit are to be introduced.

What has become clear is that the local audit market has become unstable and there is a need to revise the current fee structure. This situation has been compounded by growing auditor recruitment and retention challenges, the complexity of local government financial statements and increasing levels of technical challenges. These challenges have increased in subsequent audit years, with Covid-19 creating further significant pressure for finance and audit teams.

None of these problems are unique to local government audit. Similar challenges have played out in other sectors, where increased fees and disappointing responses to tender invitations have been experienced during the past two years.

The next audit procurement for opted in bodies

The prices submitted by bidders through the procurement will determine the value of audit fees paid by opted-in bodies. PSAA will:

- seek to encourage realistic fee levels and to benefit from the economies of scale associated with procuring on behalf of a significant number of bodies;
- continue to pool scheme costs and charge fees to opted-in bodies in accordance with the published fee scale as amended following consultations with scheme members and other interested parties (pooling means that everyone within the scheme will benefit from the prices secured via a competitive procurement process – a key tenet of the national collective scheme);
- continue to minimise its own costs, around 4% of scheme costs, and as a not-for-profit company will return any surplus funds to scheme members. In 2019 it returned a total £3.5million to relevant bodies and in 2021 a further £5.6million was returned.

PSAA will seek to encourage market sustainability in its procurement. Firms will be able to bid for a variety of differently sized contracts so that they can match their available resources and risk appetite to the contract for which they bid. They will be required to meet appropriate quality standards and to reflect realistic market prices in their tenders, informed by the scale fees and the supporting information provided about each audit. Where regulatory changes are in train which affect the amount of audit work suppliers must undertake, firms will be informed as to which developments should be priced into their bids.

The scope of a local audit is fixed. It is determined by the Code of Audit Practice (currently published by the National Audit Office)¹, the format of the financial statements (specified by CIPFA/LASAAC) and the application of auditing standards regulated by the FRC. These factors apply to all local audits irrespective of whether an eligible body decides to opt into PSAA's national scheme or chooses to make its own separate arrangements. The requirements are mandatory; they shape the work auditors undertake and have a bearing on the actual fees required.

There are currently nine audit providers eligible to audit local authorities and other relevant bodies under local audit legislation. This means that a local procurement exercise would seek tenders from the same firms as the national procurement exercise, subject to the need to manage any local independence issues. Local firms cannot be invited to bid. Local procurements must deliver the same audit scope and requirements as a national procurement, reflecting the auditor's statutory responsibilities.

¹ MHCLG's Spring statement proposes that overarching responsibility for Code will in due course transfer to the system leader, namely ARGA, the new regulator being established to replace the FRC.

2. Legal Issues:

Equality Act 2010

Under section 149 of the Equality Act 2010, the Council must, in the exercise of its functions, have due regard to the need to:

- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The relevant protected characteristics are age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; and sexual orientation.

Having due regard to the need to advance equality of opportunity involves having due regard, in particular, to the need to:

- remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
- take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it; and
- encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.

Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to tackle prejudice, and promote understanding. Compliance with the duties in section 149 may involve treating some persons more favourably than others.

The duty cannot be delegated and must be discharged by the decision-maker. To discharge the statutory duty the decision-maker must analyse all the relevant material with the specific statutory obligations in mind. If a risk of adverse impact is identified consideration must be given to measures to avoid that impact as part of the decision making process.

There are no implications under the Equality Act 2010 arising from the decision to opt into the sector-led appointment of external auditors for the five financial years from April 2023.

Joint Strategic Needs Analysis (JSNA and the Joint Health and Wellbeing Strategy (JHWS)

The Council must have regard to the Joint Strategic Needs Assessment (JSNA) and the Joint Health & Well Being Strategy (JHWS) in coming to a decision.

There are no implications for the JSNA of JHWS arising from the decision to opt into the sector-led appointment of external auditors for the five financial years from April 2023.

Crime and Disorder

Under section 17 of the Crime and Disorder Act 1998, the Council must exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment), the misuse of drugs, alcohol and other substances in its area and re-offending in its area.

There are no implications in relation to Crime and Disorder arising from the decision to opt into the sector-led appointment of external auditors for the five financial years from April 2023..

3. Conclusion

The current auditor appointment arrangements cover the period up to and including the audit of the 2022/23 accounts. The Council opted into the 'appointing person' national auditor appointment arrangements established by Public Sector Audit Appointments (PSAA) for this period.

PSAA is now undertaking a procurement for the next appointing period, covering audits for 2023/24 to 2027/28. The Council is required to decide on our external audit arrangements from 2023/24. The Council has the options to arrange their own procurement and make the appointment themselves or in conjunction with other bodies, or they can join and take advantage of the national collective scheme administered by PSAA.

The report concludes that the sector-wide procurement conducted by PSAA will produce better outcomes and will be less burdensome for the Council than a procurement undertaken locally because:

- collective procurement reduces costs for the sector and for individual authorities compared to a multiplicity of smaller local procurements;
- if it does not use the national appointment arrangements, the Council/Authority will need to establish its own auditor panel with an independent chair and independent members to oversee a local auditor procurement and ongoing management of an audit contract;
- it is the best opportunity to secure the appointment of a qualified, registered auditor - there are only nine accredited local audit firms, and a local procurement would be drawing from the same limited supply of auditor resources as PSAA's national procurement; and

- supporting the sector-led body offers the best way of ensuring there is a continuing and sustainable public audit market into the medium and long term.

If the Council wishes to take advantage of the national auditor appointment arrangements we must confirm our decision to opt in to PSAA no later than 11 March 2022.

4. Legal Comments:

Section 7 of the Local Audit and Accountability Act 2014 requires a relevant Council/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 Council/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 Council/Authority is a local Council/Authority operating executive arrangements, the function of appointing a local auditor to audit its accounts is not the responsibility of an executive of the Council/Authority under those arrangements.

Section 12 makes provision for the failure to appoint a local auditor. The Council/Authority must immediately inform the Secretary of State, who may direct the Council/Authority to appoint the auditor named in the direction or appoint a local auditor on behalf of the Council/Authority.

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. In July 2016 the Secretary of State specified PSAA as the appointing person.

The recommendation that the Full Council accepts Public Sector Audit Appointments' invitation to opt into the sector-led option for the appointment of external auditors to principal local government and police bodies for the five financial years from 1 April 2023 is within the provisions of the Local Audit and Accountability Act 2014 , as set out above

5. Resource Comments:

Accepting the invitation from PSAA to opt into the national procurement of external audit from 2023/24 will not have a direct impact on the budgets of the council.

At this time it is not known whether there will be any increase in the audit fees following the letting of the new contracts from 2023/24, but these increases should be less significant by being part of the national procurement.

5. Consultation

a) Has Local Member Been Consulted?

No

b) Has Executive Councillor Been Consulted?

Yes

c) Scrutiny Comments

The option to opt into the national auditor appointment was reviewed by Audit Committee on the 15th November 2021. The recommendation in the report to accept the invitation was supported by the committee.

d) Risks and Impact Analysis

The principal risks are that the Council:

- fails to appoint an auditor in accordance with the requirements and timing specified in local audit legislation; or
- does not achieve value for money in the appointment process.

6. Appendices

These are listed below and attached at the back of the report	
Appendix A	PSAA Invitation to opt into national auditor appointment

7. Background Papers

The following background papers as defined in the Local Government Act 1972 were relied upon in the writing of this report.

Document title	Where the document can be viewed
Audit Committee Report - 15 November 2021. Appointment of External Auditor	Agenda for Audit Committee on Monday, 15th November, 2021, 10.00 am (modern.gov.co.uk)

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