

<b>Local Members Interest</b>
N/A

## **Audit and Standards Committee - Tuesday 14 December 2021**

### **Future of Local Public Audit**

#### **Recommendation**

I recommend that:

- a. To recommend to Full Council to 'opt-in' to the Local Government Association Sector Led Body approach via Public Sector Audit Appointments Ltd for the procurement of the five-year External Audit contract for the financial year commencing April 2023.

#### **Report of the County Treasurer**

### **Report**

#### **Background**

1. 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. When those transitional arrangements ended on 31 March 2018 the Council was able to move to local appointment of the auditor. There were three broad options open to the Council under the Local Audit and Accountability Act 2014 (the Act); a) to make a stand-alone appointment; b) set up a Joint Auditor Panel/local joint procurement arrangement; or c) opt-in to a sector led body arrangement.
2. During July 2016 it was announced by the then DCLG that Public Sector Audit Appointments Ltd (PSAA) was named as a sector led body (SLB) authorised to make future audit appointments on behalf of principal local authorities in England. The first appointments made under the agreement commenced in relation to the financial year 2018/19.
3. The Council, via decisions taken by the Audit & Standards Committee and Full Council, decided to opt into the sector led body procurement process administered by PSAA in order to appoint its External Auditor for the 5-year period ending 31<sup>st</sup> March 2023. This role has been undertaken by EY during this period.

## **Options available from Financial Year 2023/24**

4. Once again there are three ways for a principal Local Government Body to appoint its auditor for the five financial years from 2023/24 namely:
  - a. Undertake an individual auditor procurement and appointment exercise as laid down in the Local Audit and Accountability Act 2014
  - b. Undertake a joint audit procurement and appointing exercise with other local bodies: or
  - c. Join the Public Sector Audit Appointment (PSAA) sector led body national scheme.
5. All of the three options require a local auditor to be appointed no later than the 31 December in the year preceding the financial year of the accounts to be audited. Therefore, this will be 31 December 2022 for the 2023/24 accounts.
6. At present there are resourcing difficulties within the External Audit market which have contributed to a number of problems being experienced relating to the timely completion of final account audits across the whole of the Public Sector.

### **Option a**

7. In order to make a stand-alone appointment the Council will 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. For this purpose, independent members are independent appointees, which excludes current and former elected members (or officers) and their close families and friends. This means that elected members will not have a majority input to assessing the bid submissions and determining which firm of accountants will be awarded the Councils external audit contract. A new independent auditor panel, established by the Council will fulfil this role. The ability to identify suitable potential candidates to sit on a panel may be a significant limiting factor for this option.
8. Setting up an auditor panel allows the Council to take maximum advantage of the new local appointment regime and have local input to the decision. The recruitment and servicing of the Auditor Panel, running the bidding exercise and negotiating the contract was estimated by the LGA for the first round of appointments to potentially cost approximately £15,000 plus on-going expenses and allowances. To date no indicative costs have been provided for this round. The Council would not be able to take advantage of reduced fees that have been achieved through joint or national procurement contracts and the assessment of bids and

decision on awarding contracts will be taken by independent appointees and not solely by elected members. Auditor independence requirements would be straight forward to manage and control.

### **Option b.**

9. The Act enables the Council to join with other authorities to establish a joint auditor panel. Again, this will need to be constituted of wholly or a majority of independent appointees. Detailed guidance regarding the exact constitution of such a panel having regard to the obligations of each Council under the Act has been produced by the Chartered Institute of Public Finance & Accountancy (CIPFA). The Council will need to liaise with other local authorities in order to assess the appetite for such an arrangement.
10. The costs of setting up the panel, running the bidding exercise and negotiating the contract would be shared across a number of authorities and provides greater opportunity for negotiating some economies of scale by being able to offer a larger combined contract value to firms.
11. 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. 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 firms 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 the Council then there will be a need to make a separate appointment with all the attendant costs and loss of economies possible through joint procurement.
12. To date there does not appear to be an appetite for this option within Staffordshire and feedback via the Staffordshire Finance Officers Group indicates a preference for option c.

### **Option c.**

13. Option c is the continuation of the Council's present arrangement to appoint its Auditor via PSAA. This route avoids the need to directly undertake an auditor procurement and ongoing contract management activities, together with the avoidance of the costs and logistics of establishing an Auditor Panel.

14. During 2021 PSAA undertook a consultation exercise with Local Authority Bodies in order to determine what changes were needed in order to address the difficulties experienced with the 2018 contracts. The results of the exercise were as follows:
  - a. the procurement arrangements are to have a strong focus on market sustainability and consideration of its proposal regarding social value.
  - b. Consideration to be given to the setting of a minimum audit fee, the rationale, and arrangements behind this would be contained within the procurement documentation.
  - c. A call for audit deadlines to be realistic for the complexity of the accounts and modern audit requirements.
  - d. Capacity concerns to be included within the quality evaluation exercises undertaken by PSAA. Concerns regarding capacity will be taken up with the Financial Reporting Council on behalf of the sector as a whole.
  - e. Specific benefits of the national scheme were also noted, in that the scheme was simpler to administer and more likely to deliver lower fees than achievable through a local procurement with less administrative cost and effort.
  
15. The latest information available from PSAA Ltd, outlines a number of benefits from the 2023 national scheme for participating bodies as detailed below.
  - a. transparent and independent auditor appointment via a third party,
  - b. the best opportunity to secure the appointment of qualified, registered auditor,
  - c. appointment, if possible, of the same auditors to bodies involved in significant collaboration/joint working initiatives, if the parties believe that it will enhance efficiency,
  - d. on-going management of any independence issues which may arise,
  - e. access to a specialist PSAA team with significant experience of working within the context of the relevant regulations to appoint auditors, managing contracts with audit firms, and setting and determining audit fees,
  - f. a value for money offer based on minimising PSAA costs and distribution of any surpluses to scheme members (in 2019 £3.5 million was returned to relevant bodies and in August 2021 it was announced a further £5.6m was to be distributed.)
  - g. collective efficiency savings for the sector through undertaking one major procurement as opposed to a multiplicity of smaller procurements,
  - h. avoids the necessity for local bodies to establish an auditor panel and undertake an auditor procurement, enabling time and resources to be deployed elsewhere.

- i. updates from PSAA to Section 151 officers and Audit Committee Chairs on a range of local audit related matters to inform and support effective auditor-audited body relationships, and ,
  - j. concerted efforts to work with other stakeholders to develop a more sustainable local audit market.
16. Individual elected members will have less opportunity for direct involvement in the appointment process other than through the LGA and/or stakeholder representative groups. PSAA has indicated that the procurement of audit services will be completed around August 2022. The appointment process will then take place as follows,
- a. The process for making individual auditor appointments for opted-in bodies will be published during spring/summer 2022,
  - b. PSAA will consult with opted-in bodies on the proposed auditor appointment during the late summer/autumn 2022 and.
  - c. Auditor appointments will be confirmed by 31 December 2022 thereby meeting all of the required deadlines.
17. Regulation 19 of the Local Audit (Appointing Person) Regulations 2015 states that a principal authority may only decide to accept an invitation from PSAA Ltd to opt-in 'by the members of the authority meeting as a whole'

### **The way forward**

18. The Council has until December 2022 to make an appointment. In practical terms this means that one of the options outlined in this report will need to be agreed by Members as the preferred route, in order for the procurement process to commence. The analysis undertaken in this paper concludes that option c i.e., to participate in the PSAA Ltd led procurement initiative will offer the best value for money. In order to accept the option to opt into the 2023 procurement exercise being undertaken by PSAA, the Council must formally accept the invitation by 11 March 2022 following approval by Full Council at its February 2022 meeting.

### **Equalities Implications**

19. There are no direct equalities implications arising from this report.

### **Legal Implications**

20. Section 7 of the Local Audit and Accountability Act 2014 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 the authority must

consult and take account of the advice of its auditor panel on the selection and appointment of a local auditor.

21. 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.
22. 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) Regulation 2015 (SI 192) and this gives the Secretary of State the ability to enable a sector led body to become the appointing person.

### **Resource and Value for Money Implications**

23. Opting-in to a national SLB (i.e., PSAA Ltd) provides maximum opportunity to limit the extent of any increase in fees by entering into a large-scale collective procurement arrangement and would remove the costs of establishing an auditor panel

### **Risk Implications**

24. 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. Failure to meet the closing date for acceptance of PSAA invitation to opt-in to the sector led procurement exercise will result in the Council having to create its own Auditor Panel and incur any associated procurement costs solely.
25. There is a financial risk that the current base fees may increase when the present External Audit contract ends in March 2023. However, given the level of additional fees incurred since the 19/20 financial year it is anticipated that this will be broadly in line with actual payments made.

### **Climate Change Implications**

26. There are no direct climate change implications within the report.

## Contact Details

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