

MUNICIPAL YEAR 2016/2017 REPORT NO. 193

MEETING TITLE AND DATE:

Full Council, January 2017

REPORT OF:

Executive Director of Finance,
Resources and Customer Services

Contact officer and telephone number:

Asmat Hussain, Assistant Director of Legal
& Governance. Telephone: 202 8379
6438

Christine Webster, Head of Audit & Risk
Management, Telephone: 020 8379 5837

Agenda - Part:

Item: 11

Subject:

**Changes to arrangements for the
appointment of External Auditors**

Wards:

Cabinet Member consulted:

1. EXECUTIVE SUMMARY

- 1.1 This report summarises changes to the arrangements for appointing external auditors following the closure of the Audit Commission and the end of the transitional arrangements at the conclusion of the 2017/18 audits. The Council is required to consider the options available and put in place new arrangements in time to make a first appointment by 31 December 2017.
- 1.2 The Executive Director of Finance, Resources & Customer Services has already consulted CMB and the Leader, and has advised that the Council should opt for the sector led body approach, whereby the external auditor for the Council and pension fund from 2018/19 will be appointed by Public Sector Audit Appointments Ltd.

2. RECOMMENDATIONS

Full Council is asked to:

- 2.1 Note the options appraisal set out in this report for appointing the external auditor by 31 December 2017.
- 2.2 Agree with the recommendation of the Executive Director of Finance, Resources and Customer Services that the Council should opt in to the sector led body approach, and that the external auditor for the Council and for the pension fund from 2018/19 should be appointed by Public Sector Audit Appointments Ltd.

3. BACKGROUND

- 3.1 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. On 5 October 2015 the Secretary of State for 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. The Act also provides for the appointment by the secretary of state of a 'sector led body' to be an appointing person. This body would provide the option of a managed appointment process for those who wished to select it. Public Sector Audit Appointments Ltd (PSAA) has now been approved by the Department for CLG to be a sector led body for principal authorities – councils, police and fire bodies.
- 3.2 Under Regulation 19 of the Local Audit (Appointing Person) Regulations 2015, the decision for the Council to appoint its own external auditors itself or to join the sector led approach must be made by Full Council and cannot be delegated.
- 3.3 The Council's current external auditor is BDO, who were appointed under a contract let by the Audit Commission in 2014/15. Following closure of the Audit Commission the contract is currently managed by PSAA, the transitional body set up by the Local Government Association (LGA) with delegated authority from the Secretary of State for CLG.

Proposal and reasons

- 3.4 When the current transitional arrangements come to an end on 31 March 2018 the Council will be able to move to local appointment of the auditor for a period of up to five years. There are a number of routes by which this can be achieved, each with varying risks and opportunities. Current fees are based on discounted rates offered by the firms in return for substantial market share. When the contracts were last negotiated nationally by the Audit Commission they covered NHS and local government bodies and offered maximum economies of scale.
- 3.5 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 Local Audit Register maintained by the Institute for Charter Accountants (England and Wales) currently contains nine firms, including our current auditor.

Options for appointing the external auditor

- 3.6 There are three broad options open to the Council under the Local Audit and Accountability Act 2014 (the Act) which are set out below, along with consideration of the advantages and risks for each option:

Option 1: Make a stand-alone appointment

3.7 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. Independent members for this purpose are independent appointees, this 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 bids and choosing which firm of accountants to award a contract for the Council's external audit. A new independent auditor panel would need to be established by the Council. The Panel would be responsible for selecting the auditor and recommending their appointment to Full Council.

Advantages/benefits

- 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.

Disadvantages/risks

- Recruitment and servicing of the Auditor Panel, running the bidding exercise and negotiating the contract is estimated by the LGA to cost in the order of £15,000 plus on going expenses and allowances.
- The Council will not be able to take advantage of reduced fees that may be available through joint or national procurement contracts.
- 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 joint procurement arrangements

3.8 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 (non-elected members). Further legal advice will be required on the exact constitution of such a panel having regard to the obligations of each Council under the Act and the Council need to liaise with other local authorities to assess the appetite for such an arrangement.

Advantages/benefits

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

Disadvantages/risks

- 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 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 (SLB)

- 3.9 To follow a sector led approach by which an ‘appointing person’ operates a nationwide, EU compliant procurement and appoints on the Council’s behalf, maximising the opportunities for the most economic and efficient approach to procurement of external audit on behalf of the whole sector. PSAA was confirmed as an appointing person by the Secretary of State in July 2016. PSAA is a subsidiary of the Improvement and Development Agency (IDeA) which is wholly owned by the LGA.

Advantages/benefits

- The costs of setting up the appointment arrangements and negotiating fees would be shared across all opt-in authorities.
- 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.
- Any conflicts at individual authorities would be managed by the SLB who would have a number of contracted firms to call upon.
- Opting into the appointing person scheme removes the need to set up a separate independent auditor panel, comprising a majority of independent (non-elected) members.

Disadvantages/risks

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

Preferred option

- 3.10 As all external auditors will be required to meet common standards and codes, all three options for appointment are likely to deliver the same quality of service. Auditor costs are likely to be the same, irrespective of the route of appointment, with PSAA potentially able to negotiate cheaper rates due to bulk discount rates. If necessary, members will be able to influence the appointment retrospectively through PSAA, should there be any concerns or performance issues identified after the event. For these and the reasons set out above, it is recommended that Option 3, the sector led approach, is the most appropriate option and therefore, the Council should opt in to appointing person arrangements.

- 3.11 CMB and the Leader have been consulted, along with colleagues in professional networks, prior to drafting this report. In addition, this paper has been shared with Members of the Audit & Risk Management Committee, who were content with the recommendation.

Next steps

- 3.12 The Council has until December 2017 to make an appointment. In practical terms, this means one of the options outlined in this report will need to be in place by spring 2017 in order that the contract negotiation process can be carried out during 2017.
- 3.13 Following the appointment of PSAA in July 2016 the Council received an invitation to opt in to the Sector Led Body. Under the Regulations, a decision to opt in has to be approved by Full Council and cannot be delegated. It is proposed that the options set out above are considered and that the favoured option is approved by Full Council at the January 2017 meeting. This will enable the Council to respond to the invitation to opt in within the required timescale.

4. ALTERNATIVE OPTIONS CONSIDERED

- 4.1 The options available have been set out in Section 3 of this report.

5. REASONS FOR RECOMMENDATIONS

- 5.1 These items are being brought to the attention of Full Council, in line with the requirements of Regulation 19 of the Local Audit (Appointing Person) Regulations 2015.

6. COMMENTS OF THE EXECUTIVE DIRECTOR OF FINANCE, RESOURCES AND CUSTOMER SERVICES AND OTHER DEPARTMENTS

6.1 Financial Implications

The cost of establishing a local or Joint Auditor Panel outlined in options 1 and 2 above have not been included in the Council's budget for 2015/16 and would need to be estimated and included in the Council's budget for 2017/18 if either of these options were recommended to Council. This would include the cost of recruiting independent appointees (members), servicing the independent Panel, running a bidding and tender evaluation process, letting a contract and paying independent members' fees and allowances.

If options 1 or 2 are pursued this would involve an OJEU compliant exercise being conducted by officers. If option 3 is recommended then all procurement activity would be undertaken by the PSAA on the Council's behalf, in compliance with EU procurement rules.

Opting-in to a national sector led body provides maximum opportunity to limit the extent of any cost increases by entering in to a large scale collective

procurement arrangement and would remove the costs of establishing an independent auditor panel.

6.2 Legal Implications

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;

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.

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.

Regulation 19 of the Local Audit (Appointing Person) Regulations 2015 states that the decision for the Council to appoint its own external auditors, including opting in to the sector led approach, must be made by Full Council.

6.3 Property Implications

There are no property implications.

7. KEY RISKS

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.

Opting in to the PSAA arrangement when the invitation to do so is received, which indications suggest is the approach likely to be taken by most local authorities, will enable the PSAA to obtain greatest economies of scale through competition and to invest in developing appropriate arrangements to support the Council through the management of these contracts and future procurement of contracts when they are due for renewal.

8. IMPACT ON COUNCIL PRIORITIES

8.1 Fairness for All

An effective external audit service helps to ensure proper governance of financial affairs to support the delivery of high quality, affordable, accessible services to all residents.

8.2 Growth and Sustainability

An effective external audit service will help the Council achieve its objectives in the area of growth and sustainability.

8.3 Strong Communities

An effective external audit service will help the Council achieve its objectives in the area of strong communities.

9. EQUALITIES IMPACT IMPLICATIONS

Corporate advice has been sought in regard to equalities and an agreement has been reached that it is not relevant or proportionate to carry out an equalities impact assessment/analysis for this report.

10. PERFORMANCE MANAGEMENT IMPLICATIONS

An effective external audit service is an essential part of the performance management of the Council's services and activities.

11. HEALTH AND SAFETY IMPLICATIONS

There are no direct health and safety implications arising directly from this report.

12. HR IMPLICATIONS

There are no direct HR implications arising from this report.

13. PUBLIC HEALTH IMPLICATIONS

Items summarised in this report do not have a direct impact on the health and well-being of the public in Enfield.

Background Papers

None