

HAMPSHIRE COUNTY COUNCIL

Decision Report

Decision Maker:	Audit Committee
Date:	23 June 2016
Title:	Local Appointment of External Auditors - Update
Reference:	7585
Report From:	Director of Corporate Resources – Corporate Services

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1. Executive Summary

- 1.1. This report summarises the 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.
- 1.2. The Council will need to consider the options available and put in place new arrangements in time to make a first appointment by 31 December 2017.

2. Contextual information

- 2.1. 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 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.
- 2.2. The Council's current external auditor is Ernst & Young LLP, this appointment having been made under at 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 LGA with delegated authority from the Secretary of State CLG. Over recent years we have benefited from reduced fees (compared with historic levels) due to a combination of factors including new contracts negotiated nationally with the firms of accountants and savings from closure of the Audit Commission.

- 2.3. 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. 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.
- 2.4. The scope of the audit will continue to 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.

3. Options for local appointment of External Auditors

- 3.1. There are three broad options open to the Council under the Local Audit and Accountability Act 2014 (the Act):

Option 1 To make a stand-alone appointment

- 3.2. In order to make a stand-alone appointment the Council will need to set up an Auditor Panel.
- 3.3. An auditor panel must consist of at least a majority of independent members, and must be chaired by an independent members.
- 3.4. Independent members for this purpose are independent appointees, this excludes current and former elected members (or officers) and their close families and friends.
- 3.5. The auditor panel is in place to advise the relevant authority on maintaining an independent relationship with its auditor and on selection and appointment of its auditor. The Act requires the relevant authority to publish advice from its auditor panel.
- 3.6. The authority is required, on receiving a request from the auditor panel, to provide any information held by the authority that is of relevance to the auditor panel's work. The auditor panel may require a member or officer of a relevant authority to attend a meeting of the panel to answer questions.
- 3.7. A relevant authority must consult its auditor panel and take its views into account when selecting and appointing an auditor.
- 3.8. For local authorities operating executive arrangements the appointment of the auditor must be undertaken by Full Council and not the Executive.

- 3.9. To support transparency of the appointment, the relevant authority must publish a notice within 28 days of making the appointment that: states it has made the appointment; the term of that appointment; who the appointed auditor is; sets out the auditor panel's advice; and if that advice has not been followed, the relevant authority's reasons for not following it.
- 3.10. The constitution of an audit panel 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.

Advantages/benefit

- 3.11. 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

- 3.12. 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
- 3.13. The Council will not be able to take advantage of reduced fees that may be available through joint or national procurement contracts.
- 3.14. 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

- 3.15. 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 (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

- 3.16. The costs of setting up the panel, running the bidding exercise and negotiating the contract will be shared across a number of authorities.
- 3.17. 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

- 3.18. 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 possible only one elected member representing each Council, depending on the constitution agreed with the other bodies involved.
- 3.19. 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

3.20. In response to the consultation on the new arrangement 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, maximising the opportunities for the most economic and efficient approach to procurement of external audit on behalf of the whole sector.

Advantages/benefits

- 3.21. The costs of setting up the appointment arrangements and negotiating fees would be shared across all opt-in authorities
- 3.22. 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
- 3.23. Any conflicts at individual authorities would be managed by the SLB who would have a number of contracted firms to call upon.
- 3.24. 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. The LGA are considering setting up such a body utilising the knowledge and experience acquired through the setting up of the transitional arrangements.

Disadvantages/risks

- 3.25. Individual elected members will have less opportunity for direct involvement in the appointment process other than through the LGA and/or stakeholder representative groups.
- 3.26. 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 final contract prices are known.

4. The way forward

- 4.1. The Council have 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.
- 4.2. The LGA are working on developing a Sector Led Body. Greatest economies of scale will come from the maximum number of councils acting collectively and opting-in to a SLB. In order to the strengthen the LGA's negotiating position and enable it to more accurately evaluate the offering the Council

responded positively when asked to consider whether it was interested in the option of opting in to a SLB. Such response was made without obligation and does not form a binding commitment. A formal decision to opt-in will be required at a later stage.

5. Risk Management

- 5.1. 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.

6. Legal implications

- 6.1. 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.
- 6.2. 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.
- 6.3. 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.

7. Financial Implications

- 7.1. Current external fees levels are likely to increase when the current contracts end in 2018.
- 7.2. The cost of establishing a local or joint Auditor Panel outlined in options 1 and 2 above will need to be estimated and included in the Council's budget for 2016/17 and 2017/18. This will include the cost of recruiting independent appointees (members), servicing the Panel, running a bidding and tender evaluation process, letting a contract and paying members fees and allowances.
- 7.3. Opting-in to a national SLB provides opportunity to limit increases by entering in to a large scale collective procurement arrangement and would remove the costs of establishing an auditor panel.

8. Conclusion and Next Steps

8.1. The Council will need to take action to implement new arrangements for the appointment of external auditors from April 2018. In order that more detailed proposals can be developed the Committee, in consideration of the professional view of officers is asked to give early consideration to the preferred approach.

9. Recommendations

9.1. Members, in consideration of officers opinion, are requested to consider their preferred approach of either:

- a) Supporting the Local Government Association (LGA) in setting up a national Sector Led Body
- b) Establishing a stand-alone Auditor Panel to make the appointment on behalf of the Council.
- c) Commencing work on exploring the establishment of local joint procurement arrangements with neighbouring authorities

CORPORATE OR LEGAL INFORMATION:

Links to the Corporate Strategy

This proposal does not link to the Corporate Strategy but, nevertheless, requires a decision because:

In accordance with the Local Audit & Accountability Act 2014 and the Accounts and Audit (England) Regulations 2015

Other Significant Links

Links to previous Member decisions:

<u>Title</u>	<u>Reference</u>	<u>Date</u>

Direct links to specific legislation or Government Directives

<u>Title</u>	<u>Date</u>
Local Audit & Accountability Act 2014	

Section 100 D - Local Government Act 1972 - background documents

The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report. (NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)

<u>Document</u>	<u>Location</u>
None	

IMPACT ASSESSMENTS:

1. Equality Duty

1.1. The County Council has a duty under Section 149 of the Equality Act 2010 ('the Act') to have due regard in the exercise of its functions to the need to:

- Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act;
- Advance equality of opportunity between persons who share a relevant protected characteristic (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation) and those who do not share it;
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Due regard in this context involves having due regard in particular to:

- a) The need to remove or minimise disadvantages suffered by persons sharing a relevant characteristic connected to that characteristic;
- b) Take steps to meet the needs of persons sharing a relevant protected characteristic different from the needs of persons who do not share it;
- c) Encourage persons sharing a relevant protected characteristic to participate in public life or in any other activity which participation by such persons is disproportionately low.

1.2. Equalities Impact Assessment:

Equality objectives are not considered to be adversely affected by the proposals within this report.

2. Impact on Crime and Disorder:

2.1. The proposals in this report are not considered to have any direct impact on the prevention of crime.

3. Climate Change:

a) How does what is being proposed impact on our carbon footprint / energy consumption?

No specific changes

b) How does what is being proposed consider the need to adapt to climate change, and be resilient to its longer term impacts?

No specific proposals affecting adaptation to climate change