

ARUN DISTRICT COUNCIL

REPORT TO AND DECISION OF AUDIT AND GOVERNANCE COMMITTEE ON 16 NOVEMBER 2021

SUBJECT: Arrangements for Appointment of External Auditor

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DATE: September 2021

EXTN: 37568

AREA: Corporate Support

EXECUTIVE SUMMARY:

This report presents the options for the future arrangements for the appointment of external auditors with effect from the 2023/24 financial year, in accordance with the relevant legislation, for a decision to be taken by Full Council. The current contract procured through Public Sector Audit Appointments Ltd (PSAA Ltd), undertaken by Ernst & Young LLP is due to end and the Council must consider its options and make a decision on its future arrangements.

RECOMMENDATIONS:

Audit & Governance Committee is requested to recommend to Full Council that:

- 1) Opting-in to the Sector Led Body for the procurement and appointment of external auditors with effect from 2023/24 be approved; and
- 2) The responsible Officers be authorised to opt-in to the Sector Led Body for the procurement and appointment of external auditors with effect from 2023/24.

1. BACKGROUND:

On 29 September 2016, Audit and Governance Committee considered a report 'Changes to arrangements for appointment of External Auditors.' This outlined the changes to appointing arrangements following the closure of the Audit Commission and advised that the Council needed to consider the options available and put in place new arrangements in time to make a first appointment by 31 December 2017. Following due consideration and discussion with other Councils in West Sussex, the Council confirmed its preferred approach of opting in to the sector led body, PSAA Ltd. PSAA Ltd undertook a national procurement exercise and as a result appointed Ernst and Young LLP as the Council's External Auditor for a period of 5 years and this arrangement is now due for renewal. (The

same company was also appointed as external auditor for other councils in West Sussex). The Council has been formally advised of the requirement to review its arrangements and this report is part of that process and makes a recommendation as to the Council's preferred approach.

In reaching a decision, the Committee should be aware that there are currently only a small number of accountancy companies which are appropriately licensed and able to be appointed as a registered local auditor under the Local Audit & Accountability Act 2014.

It should also be noted that the results of the Redmond 'Independent Review into the Oversight of Local Audit and the Transparency of Local Authority Financial Reporting were published in 2020. This raised a number of issues relating to market fragility (e.g. current fee structures and the limited number of currently-approved providers), as well as possible changes to reporting requirements and timescales. The Ministry of Housing, Communities and Local Government has considered the recommendations and issued a response to the Review, indicating that they are generally in agreement and will work with the relevant bodies to progress these in the coming years.

2. PROPOSAL(S):

PSAA Ltd has issued its prospectus 2023 and beyond and invited the Council to again opt into the national scheme for auditor appointments from April 2023. Should the Council wish to opt in, a formal decision of Full Council to do so is required by the deadline of 11 March 2022. Assuming Audit and Governance Committee confirm opting in as the preferred approach, the recommendation will be made to Full Council on 12 January 2022 to opt in to the sector led procurement.

As in 2016, there are other options available to the Council to procure its External Auditor. These are:

- To make a stand alone appointment;
- Set up a Joint Auditor Panel/ local joint procurement arrangement.

All of the options available have advantages and probable risks, which are similar to those identified in 2016. These are not relisted in full here; the most relevant ones are listed for information:

Stand-alone appointment

The Council would make its own External Auditor appointment. In doing so it would be required to set up an Independent Audit Panel.

Advantages

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.

Risks

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, with an independent Chairman. 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 would 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 established by

the Council would then be responsible for selecting the auditor. Recruitment and servicing of the Panel, running the bidding exercise and negotiating the contract would incur significant cost plus ongoing expenses and allowances. The scope and content of any contract will be overwhelmingly set by the NAOs Code of Practice.

The Council would not be able to take advantage of reduced fees that may be available through the economies of scale likely from joint or national procurement contracts. The 2016 exercise realised significantly reduced fees. It is acknowledged audit costs have risen in recent years. It is however considered likely that a stand alone appointment would not be attractive to bidders and would result in higher bids if any were made.

The assessment of bids and decision on awarding contracts would be taken by (a majority of) independent appointees and not solely by elected members.

Set up a Joint Auditor Panel/local joint procurement arrangement

Under this option, the Council would join with other local authorities to establish a joint auditor panel. As with a stand-alone appointment 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.

Advantages

The costs of setting up the panel, running the bidding exercise and negotiating the contract would 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.

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 possible 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. This 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 one or more of the Councils involved then those Councils may still need to make a separate appointment with all the attendant costs and loss of economies possible through joint procurement.

Opt in to the Sector Led Body

This is the current arrangement where the procurement is undertaken by the sector led body and an auditor appointed for the Council over a specified contract duration.

Advantages

The costs of setting up the appointment arrangements and negotiating fees would be shared across all opt-in authorities. 98% of Councils in England chose this option in 2016 and it is expected a similar amount will again.

By offering large contract values the firms would be able to offer better rates and lower

fees than are likely to result from local procurement.

Any conflicts at individual authorities would be managed by the PSAA who have a number of contracted firms available. Those firms on PSAA list are known to have the expertise to undertake local government audit.

Risks

Elected Members will have less opportunity for direct involvement in the appointment process, other than through the LGA and/or stakeholder representative groups.

Recommended Approach

This matter was discussed by West Sussex Chief Finance Officers and there is some interest in undertaking a local joint procurement arrangement in other local Councils. However, officers are clear that the most secure way for the Council to procure its external auditor is to again opt for the sector led body approach.

It is considered unlikely that a stand-alone approach will attract bids from suitably qualified firms. If bids are received, these are unlikely to be at a reduced cost. The approach could involve extra costs to the Council which may well be abortive. In addition, difficulties are anticipated in forming an independent audit panel. The Council has had difficulty in attracting suitably qualified individuals for other panels in the recent past.

A joint procurement does ameliorate some of the risks of a stand-alone approach. At the present time, there is no certainty of success and firms may well not bother to bid and focus on the sector led body contracts. The risks of conflict are also considered to be prohibitive. The risks of setting up a panel are significant with this approach. Both approaches give no likelihood of financial savings and provide no guarantee of procuring a suitably qualified external auditor. Should this occur, the Council can apply to re-join the sector led approach and this would be treated as a one off exercise by PSAA Ltd, potentially incurring further costs and a higher external audit cost than using PSAA from the outset.

For security and stability, this report recommends that Audit and Governance Committee recommend that the Council again opts in to the sector led body approach to procure its External Auditor from 1 April 2023.

3. OPTIONS:

The options are outlined above and are:

- To make a stand-alone appointment;
- Set up a Joint Auditor Panel/local joint procurement arrangements;
- Opt in to the sector led body.

4. CONSULTATION:

Has consultation been undertaken with:	YES	NO
Relevant Town/Parish Council		✓
Relevant District Ward Councillors		✓
Other groups/persons (please specify)		✓

5. ARE THERE ANY IMPLICATIONS IN RELATION TO THE FOLLOWING COUNCIL POLICIES:

	YES	NO
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(Explain in more detail at 6 below)		
Financial	✓	
Legal	✓	
Human Rights/Equality Impact Assessment		✓
Community Safety including Section 17 of Crime & Disorder Act		✓
Sustainability		✓
Asset Management/Property/Land		✓
Technology		✓
Other (please explain)		✓

6. IMPLICATIONS:

Legal implications

Section 7 of the Local Audit and Accountability Act 2014 (the Act) requires a relevant authority to locally appoint an external 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 independent auditor panel on the local selection and appointment of an external auditor.

Section 12 makes provision for the failure to appoint an external 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 an external 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 (SLB) to become the appointing person.

If the preferred option is to opt-in to the SLB, Full Council approval of the decision is required under Regulation 19 of the Local Audit (Appointing Person) Regulations 2015. If agreed, this will be recommended to Full Council on 12 January 2022.

Financial Implications

PSAA Ltd accept that external fees levels are likely to increase from when the current contracts were procured. It is expected that PSAA will secure the lowest contract cost for the replacement contracts.

The cost of establishing a local or joint Auditor Panel outlined above would need to be estimated and included in the Council's future budgets. This would include the cost of recruiting independent appointees (members), servicing the Panel, running a bidding and tender evaluation process, letting a contract and paying fees and allowances to the panel's independent members. These are all avoided under the sector led body approach.

Opting-in to the national SLB again provides maximum opportunity to limit the extent of any increase in external audit fees for the Council by entering in to a large scale collective procurement arrangement and would remove the costs of establishing and maintaining an independent auditor panel.

7. REASON FOR THE DECISION:

To secure an External Auditor appointment at the most competitive and secure arrangements for the Council from 2023 onwards.

8. BACKGROUND PAPERS:

Changes to arrangements for appointment of External Auditors report to Audit and Governance Committee 29 September 2016;

PSAA invitation to Arun District Council;

PSAA Prospectus 2023 and Beyond.