

## BABERGH DISTRICT COUNCIL and MID SUFFOLK DISTRICT COUNCIL

<b>From: Assistant Director – Corporate Resources</b>	<b>Report Number: JAC85</b>
<b>To: Joint Audit and Standards Committee</b>	<b>Date of meeting: 12 September 2016</b>

### CHANGES TO ARRANGEMENTS FOR APPOINTMENT OF EXTERNAL AUDITORS

#### 1. Purpose of Report

- 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 Councils' 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. Recommendation to Council

- 2.1 That the arrangements for appointing External Auditors at the end of the 2017/18 audit be noted.
- 2.2 That the Council opts-in to the Local Government Association (LGA) sector led body (Public Sector Audit Appointments Ltd (PSAA)) for the independent appointment of the Councils' External Auditor, beginning with responsibilities for the financial year 2018/19.

#### 3. Financial Implications

- 3.1 External audit fee levels are likely to increase when the current contracts end in 2018.
- 3.2 There are some costs associated with the procurement, regardless of the route chosen, but it is reasonable to assume that these will be lower under the LGA Sector Led Body (SLB) approach. The cost of establishing a local or joint Auditor Panel 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.
- 3.3 Opting-in to a national SLB provides maximum opportunity to limit the extent of any increases in audit fees by entering in to a large scale collective procurement arrangement and would remove the costs of establishing an Auditor Panel.

#### 4. Legal Implications

- 4.1 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.

- 4.2 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 7 and Schedule 3 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.
- 4.3 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.
- 4.4 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.

## **5. Risk Management**

- 5.1 There is no immediate risk to the Councils, however, early consideration by the Councils 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.
- 5.2 Providing the LGA with a decision will enable the LGA to invest, or not, in developing appropriate arrangements to support the Councils.
- 5.3 The disadvantages/risks of each option are described within the report.

## **6. Consultations**

- 6.1 The Section 151 Officers and Heads of Audit across the Suffolk authorities recently met with a representative from the LGA to discuss the three options.

## **7. Equality Analysis**

- 7.1 There are no equality implications associated with this report.

## **8. Shared Service / Partnership Implications**

- 8.1 The Suffolk local authorities collectively expressed the desire to the LGA that the same auditor be appointed across the county under the SLB option to replicate the current position.

## **9. Links to Joint Strategic Plan**

- 9.1 The appointment of an External Auditor is a statutory requirement of the Councils and as such contributes towards the fitness for purpose of each Councils' governance arrangements under the Enabled and Efficient Organisation theme.

## **10. Key Information**

### **Background to the issue**

- 10.1 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<sup>th</sup> 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 include the audit of the accounts for 2017/18.
- 10.2 The Councils' current external auditor, Ernst & Young LLP was appointed under 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. Over recent years we have benefited from a reduction in fees in the order of 50% compared with historic levels. This has been the result of a combination of factors including new contracts negotiated nationally with the firms of auditors and savings from closure of the Audit Commission. The Council's current planned external audit fees, excluding claims and returns, for 2015/16 are £48,812 for Babergh and £43,425 for Mid Suffolk.
- 10.3 When the current transitional arrangements come to an end on 31<sup>st</sup> March 2018 the Councils' 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 discount 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 significant economies of scale.
- 10.4 The scope of the future audit requirements will be specified nationally. The National Audit Office (NAO) is responsible for writing the Code of Audit Practice which all firms appointed to carry out local government audits 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.

### **Options for local appointment of External Auditors**

- 10.5 There are three broad options open to the Councils under the Local Audit and Accountability Act 2014 (the Act):

## **Option 1 – To make a stand-alone appointment**

- 10.6 In order to make a stand-alone appointment the Councils would need to set up an Auditor Panel. The 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, 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 appointment panel established by the Council will be responsible for selecting the auditor.

### *Advantages/benefits*

- 10.7 Setting up an auditor panel allows the Councils to take maximum advantage of the new local appointment regime and have local input to the decision.

### *Disadvantages/risks*

- 10.8 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 £15,000 plus on going expenses and allowances. It is also unclear whether the Councils will be able to attract sufficient individuals with the required skills and experience to undertake the role.
- 10.9 The Councils will not be able to take advantage of reduced fees that may be available through joint or national procurement contracts.
- 10.10 The assessment of bids and decisions on awarding contracts will be taken by independent appointees and not solely by elected members.
- 10.11 Bids may not be received as the value of the contract will be insignificant compared to that of Option 3.

## **Option 2 – Set up a Joint Auditor Panel/local joint procurement arrangements**

- 10.12 The Act enables a 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 would need to liaise with other local authorities to assess the appetite for such an arrangement.

### *Advantages/benefits*

- 10.13 The costs of setting up the panel, running the bidding exercise and negotiating the contract will be shared across a number of authorities.
- 10.14 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*

- 10.15 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.
- 10.16 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 these Councils then the Councils may still need to make a separate appointment with all the attendant costs and loss of economies possible through joint procurement.
- 10.17 Bids may be limited as the value of the contract will be insignificant compared to that of Option 3.

### **Option 3 – Opt-in to a Sector Led Body**

- 10.18 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*

- 10.19 The costs of setting up the appointment arrangements and negotiating fees would be shared across all opt-in authorities.
- 10.20 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.
- 10.21 Any conflicts at individual authorities would be managed by the SLB who would have a number of contracted firms to call upon.
- 10.22 The appointment process would not be ceded to locally appointed independent members. Instead a separate body is 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. This therefore resolves the point about conflict and governance that arises from local appointment.

### *Disadvantages/risks*

- 10.23 Individual elected members will have less opportunity for direct involvement in the appointment process other than through the LGA and/or stakeholder representative groups.

10.24 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 and hence costs are known.

### **The way forward**

10.25 The Councils 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.

10.26 The LGA are working on developing a Sector Led Body and DCLG has recently approved the PSAA to become the SLB. In a recent survey, 58% of respondents expressed an interest in this option. Greatest economies of scale will come from the maximum number of councils acting collectively and opting-in to a SLB.

10.27 The Suffolk Councils' Section 151 Officers and Heads of Audit have already met with the LGA to discuss the advantages of the sector led approach. Collectively the officers would recommend this approach.

10.28 Joint Audit and Standards Committee is invited to consider the three options and to recommend to Council the preferred option to opt-in to the SLB (Option 3).

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