

# East Herts Council Report

## Audit & Governance Committee

**Date of meeting: 9 November 2021**

**Report by: Councillor Geoffrey Williamson, Deputy Leader and Executive Member for Financial Sustainability**

**Report title: External Audit National Procurement Opt in**

**Ward(s) affected: All**

**Summary** – The Council will need to consider the options available and put in place new arrangements in time to make the appointment of the external auditor by 31 December 2022 for the five financial years beginning April 2023. The Council can opt into the national procurement process run by Public Sector Audit Appointments Limited (PSAA) or undertake its own procurement and risk no suitable firm bidding or higher audit fees than can be gained via the national procurement process.

### **RECOMMENDATIONS FOR AUDIT & GOVERNANCE COMMITTEE:**

- a)** To advise the Executive Member to **recommend to Full Council** that, under Regulation 19 of the Local Audit (Appointing Person) Regulations 2015, East Hertfordshire District Council opts into the sector led body for audit appointments provided by Public Sector Audit Appointments Limited.

## 1.0 Proposal(s)

- 1.1 There are three broad options open to the Council under the Local Audit and Accountability Act 2014 (the Act) to appoint an external auditor:
  - 1.1.1 To make a stand-alone appointment;
  - 1.1.2 Set up a Joint Auditor Panel/local joint procurement arrangements; or
  - 1.1.3 Opt-in to a sector led body.
- 1.2 **Stand-alone appointment:** 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 excludes current and former elected members (or officers) and their close families and friends. Fuller information on Audit Panels is included in a guide available on the web by clicking [here](#).
- 1.3 The new independent auditor panel established by the Council would be responsible for selecting the auditor and 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.
- 1.4 Appointments can only be made from firms who can demonstrate that they have the required skills and experience and be registered with a Registered Supervising Body approved by the Financial Reporting Council – The Institute of Chartered Accountants in England and Wales and the Institute of Chartered Accountants in Scotland. This means big accounting firms such as Grant Thornton, EY, PwC, KPMG etc. Small local firms are unlikely to qualify. There is also the risk that an audit procurement run by the Council, which will

- take 6 months in compliance with the Public Procurement Regulations will get no bids or that higher fees would be charged than through the national procurement process.
- 1.5 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.
  - 1.6 **Set up a Joint Auditor Panel/local joint procurement arrangements:** 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). Again, there would need to be a full procurement exercise in line with the Public Procurement Regulations.
  - 1.7 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. Initial indications are that neighbouring authorities are minded to join the sector-led body.
  - 1.8 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.
  - 1.9 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.

1.10 **Opt-in to a sector led body:** Public Sector Audit

Appointments Limited (PSAA) has been specified as the sector-led appointing body under the Local Audit (Appointing Person) Regulations 2015. Regulation 19 of the Local Audit (Appointing Person) Regulations 2015 requires that the decision to opt-in must be made by the authority meeting as a whole, i.e. Full Council. Therefore the Executive Member would need to make a recommendation to Full Council to opt in if this option is chosen.

1.11 The PSAA letter inviting the council to opt in and some frequently asked questions are included at Appendix A.

1.12 The advantages of opting in are:

- Assured appointment of a qualified, registered, independent auditor.
- Appointment, if possible, of the same auditors to bodies involved in significant collaboration/joint working initiatives or combined authorities, if the parties believe that it will enhance efficiency and value for money.
- On-going management of independence and conflict of independence issues.
- Securing highly competitive prices from audit firms and minimising procurement and overhead costs.
- High probability of cost avoidance from one major procurement as opposed to small local procurements.
- Distribution of surpluses to participating bodies from PSAA Limited if it retains too much from fees for running costs.
- A scale of fees which reflects size, complexity and audit risk providing certainty and avoiding local negotiation.

- A strong focus on audit quality to help develop and maintain the market for the sector.
- Avoiding the necessity for the Council to establish an auditor panel and to undertake a full auditor procurement.

1.13 The disadvantages of opting in are:

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

1.14 Given the very clear advantages in terms of reduced costs, keeping audit fees low and the clear advantages to corporate governance from an independent appointment that a Sector Led Body gives, this report recommends that the Council should opt to have audit appointments made by a Sector Led Body and that the Committee advise the Executive Member to recommend to Full Council to opt into the Sector Led Body appointment process led by PSAA limited.

## **2.0 Reason(s)**

2.1 To benefit from joint procurement economies of scale, retain audit appointment independence and avoid the need to establish a local independent auditor panel.

## **3.0 Options**

3.1 Join the PSAA national procurement.

3.2 Set up an Auditor Panel and undertake a local procurement.

## **4.0 Risks**

4.1 There is a risk that local audit procurement may not result in many or any bids if there is a substantial package of work on offer from a sector led body.

- 4.2 There is a risk that fees will increase substantially if the Council is outside a sector led body.

## **5.0 Implications/Consultations**

### **Community Safety**

No

### **Data Protection**

No

### **Equalities**

No

### **Environmental Sustainability**

No

### **Financial**

Yes

Current external fees levels are likely to increase when the current contracts end.

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 2022/23. 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.

Opting-in to a national sector led body provides maximum opportunity to limit the extent of any audit fee increases by entering in to a large scale collective procurement arrangement and would remove the costs of establishing an auditor panel.

### **Health and Safety**

No

### **Human Resources**

Yes

Should the Council choose to make a local or joint appointment then there will be a requirement to recruit suitably qualified Independent Members for the Audit Panel. Officers will need to be identified to support the work of the local or joint Audit Panel and to undertake the procurement exercise. Given the independence issues, it may not be deemed to be appropriate for those officers to come from Finance.

## **Human Rights**

No

## **Legal**

Yes

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, i.e. Executive cannot appoint the external auditor.

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 and this gives the Secretary of State the ability to enable a Sector Led Body to become the appointing person. 45. Regulation 19 of the Local Audit (Appointing Person) Regulations 2015 requires that the decision to opt-in must be made by the authority meeting as a whole i.e. Full Council.

## **Specific Wards**

No

## **6.0 Background papers, appendices and other relevant material**

Appendix A – PSAA Letter inviting East Herts Council to opt into the national procurement exercise.

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