

COUNCIL**7 December 2016**

Is the final decision on the recommendations in this report to be made at this meeting?

Yes**EXTERNAL AUDIT PROCUREMENT**

Final Decision-Maker	Council
Lead Head of Service	Mark Green, Director of Finance and Business Improvement
Lead Officer and Report Author	Mark Green, Director of Finance and Business Improvement
Classification	Public
Wards affected	All

This report makes the following recommendations to Council:

1. That Council accepts Public Sector Audit Appointments' (PSAA) invitation to opt in to the sector led option for appointment of external auditors for five financial years starting 1 April 2018.
2. That Council approves the Director of Finance & Business Improvement to liaise with PSAA and respond to its consultations on specific proposals as they come forward.

This report relates to the following corporate priorities:

- Keeping Maidstone Borough an attractive place for all
- Securing a successful economy for Maidstone Borough

Timetable

Meeting	Date
Audit, Governance and Standards Committee	19 September 2016
Council	7 December 2016

EXTERNAL AUDIT PROCUREMENT

1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 This report sets out proposals for appointing the Council's external auditor for the 2018/19 accounts and beyond. The current arrangements, which expire following audit of the 2017/18 accounts, are that Grant Thornton are the Council's external auditors working to a contract originally let by the Audit Commission in 2013. Following the Audit Commission's closure in 2015, that contract novated to Public Sector Audit Appointments Limited (PSAA), a subsidiary of the Local Government Association (LGA).
 - 1.2 The Council's Audit, Governance & Standards Committee considered the various alternatives for appointing an external auditor at its meeting on 19 September 2016 and have recommended to the Council that it appoints auditors through a sector led body. As a subsidiary of the LGA, PSAA is a sector led body.
 - 1.3 Under the Local Audit and Accountability Act 2014, the Council as a whole must decide whether to accept an invitation to opt-in to a sector led approach. The Council received that invitation on 27 October 2016. To take advantage of PSAA's proposed national scheme for appointing auditors the Council must take the decision at this meeting. The Council must then communicate the decision by early March 2017 in line with PSAA's request.
-

2. INTRODUCTION AND BACKGROUND

- 2.1 The Local Audit and Accountability Act 2014 (the Act) brought a close to the Audit Commission. The Act also created transitional arrangements for appointing external auditors and setting audit fees in local government. On 5 October 2015 the Secretary of State for Communities and Local Government (CLG) decided to extend these transitional arrangements for one year. The arrangements will now end following the audit of accounts for 2017/18.
- 2.2 The Act also set out arrangements for appointing auditors after the transitional arrangements end. This includes the opportunity for authorities to make their own decisions on auditor appointments. Regulations made under the Act also allow authorities to opt in to have their auditor appointed for them by an appointing person.
- 2.3 In July 2016 PSAA the Secretary of State named PSAA as an appointing person under regulation 3 of the Local Audit (Appointing Person) Regulations 2015. PSAA as an appointing person (also known as the sector led body) has wide support across local government. The LGA originally set up PSAA to oversee the transitional arrangements following the closure of the Audit Commission under powers delegate by the Secretary of State. PSAA is an independent, not for profit company set up by the LGA.

- 2.4 PSAA has invited the Council, and all other authorities, to opt in to its national scheme. PSAA would then enter contracts with properly qualified audit firms and appoint a suitable firm to be the Council's auditor.
 - 2.5 The Council's current auditor is Grant Thornton, under a contract let by the Audit Commission in 2013. Following closure of the Audit Commission in 2015 the contract was novated to PSAA. Since then PSAA have shown capacity and capability to manage audit quality and contracts.
 - 2.6 In recent years, the Council has seen a steep decline in its audit fee from £123k in 2009/10 to £50k in 2015/16. This has been the result of a combination of causes including new contracts negotiated nationally with the audit firms, changes to the scope of auditors work and savings from closure of the Audit Commission.
 - 2.7 We cannot know proposed fees for future years until the procurement is completed. The costs will depend on proposals from the audit firms.
 - 2.8 However the Council appoints its auditor, the scope of the audit will be set nationally. The National Audit Office (NAO) is responsible for writing the Code of Audit Practice which all firms appointed must follow. Not all audit firms will be eligible to compete for work, as they will need to prove they have the necessary skills and experience. They must also be registered with a Registered Supervisory Body approved by the Financial Reporting Council.
 - 2.9 Currently there are nine providers eligible to audit local authorities; all of these being firms with a national presence and including the Council's current auditors, Grant Thornton. This means that any local procurement exercise would be seeking tenders from these same firms, subject to the need to manage local independence issues. Small local firms could not be invited to bid.
-

3. AVAILABLE OPTIONS

- 3.1 Following the recommendation of the Audit, Governance & Standards Committee the preferred option is to accept PSAA's invitation and opt in to the national arrangements.
- 3.2 If the Council did not opt in it would need to set up an independent auditor panel. The panel must have a majority of independent members. The Act defines independent members as independent appointees, excluding current and former elected members (or officers) and their close families and friends. This means that elected members will not have a majority on the panel assessing bids and choosing which audit firm to recommend to the Council for appointment as the Council's external auditor.
- 3.3 Alternatively, the Act allows the Council to join with other authorities to set up a joint auditor panel. Again this would need a majority of independent appointees (members). This option also depends on there being other councils to join with. Research undertaken by the Head of Audit Partnership failed to identify any

other authorities considering this method of appointment to whom this Council could look to partner.

- 3.4 We recommend neither of these alternatives. Both would be more time and money intensive to do and without the bulk buying power of sector led procurement could result in a more costly service. There is also risk associated with management of audit quality and independence through local appointment.
- 3.5 The Act demands that councils appoint an external auditor through one of the defined routes by the end of December 2017. If the Council chooses not to act at all, then the Secretary of State holds reserve power to intervene. The Secretary of State could then appoint an auditor to the council directly and decide the fee the council must pay.
-

4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 4.1 The Council's Audit, Governance & Standards Committee considered the various alternatives for appointing an external auditor at its meeting on 19 September 2016. That Committee concluded:

That the Committee recommends to Council that it adopt the option of outsourced procurement as set out, ie through a sector led body.

- 4.2 Among the reasons given in discussion for the recommendation were:
- Without the national appointment, the Council would need to set up a separate independent auditor panel, which could be difficult, costly and time-consuming.
 - The audit costs may well be lower than if the Council sought to appoint locally, as national large-scale contracts may drive keener prices from the audit firms and spread costs incurred in bidding.
 - PSAA can ensure the appointed auditor meets and keeps to quality standards and can manage any conflicts of interest.
-

5. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

- 5.1 Members have previously been consulted on this matter through the Audit, Governance and Standards Committee] whose conclusions are summarised in this report. Then, the Council had not yet received the formal invitation to opt in to PSAA's arrangements. However, Committee Members have seen and commented on PSAA's prospectus (Appendix 2) and Frequently Asked Questions (Appendix 3).
-

6. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 6.1 PSAA has now formally invited the Council to opt in. Details about PSAA's invitation are in appendices to this report.
- 6.2 Regulation 19 of the Local Audit (Appointing Person) Regulations 2015 demands that a decision to opt in must be one of a meeting of the Council as a whole. The Council then needs to formally respond to PSAA's invitation in the form named by PSAA by 17 March 2017.
- 6.3 PSAA will begin the formal procurement after this date. It expects to award contracts in summer 2017 and consult with authorities to make the appointment by the statutory deadline of December 2017.

7. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off (name of officer and date)
Impact on Corporate Priorities	Effective external audit procurement will help to ensure value for money and maintain good governance.	Director of Finance and Business Improvement
Risk Management	The risks associated with this proposal, including the risks if the Council does not act as recommended, have been considered in line with the Council's Risk Management Policy.. We are satisfied that the risks associated are within the Council's risk appetite and will be managed as per the Policy.	Head of Audit Partnership
Financial	The Council must appoint an external auditor. Opting in to the national arrangement will allow PSAA to undertake a national procurement exercise that may result in lower fees through increased buying power than the Council could gain by local procurement. Opting in also avoids incurring the costs of creating and preserving a local auditor panel.	Director of Finance and Business Improvement
Staffing	External auditors cannot be employees of the authority they audit. So there are no staffing establishment issues for authority staff in this decision. When the Council's audit supplier moved	Director of Finance and Business Improvement

	<p>from the Audit Commission to Grant Thornton in 2013, the rules of TUPE (Transfer Under Protected Employment) applied and so the existing audit team largely transferred to Grant Thornton. TUPE will not apply if Grant Thornton do not succeed in bidding to PSAA.</p>	
Legal	<p>Section 7 of the Local Audit and Accountability Act 2014 demands 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.</p> <p>Section 8 governs the procedure for appointment including that the Council must consult and take account of the advice of its auditor panel on selecting and appointing a local auditor.</p> <p>Section 12 provides for the failure to appoint a local auditor. The authority must immediately tell the Secretary of State, who may direct the authority to appoint the auditor named in the direction or appoint a local auditor for the authority.</p> <p>Section 17 gives the Secretary of State the power to regulate for an 'appointing person'. The Secretary of State exercised this power in the Local Audit (Appointing Person) Regulations 2015 (SI 192). These give the Secretary of State the ability to enable a Sector Led Body to become the appointing person. In July 2016 the Secretary of State named PSAA as the appointing person. Regulation 19 states that the Council as a whole must take the decision to opt in to the arrangements.</p>	Interim Head of Legal Partnership
Equality Impact Needs Assessment	No detrimental impact on the protected characteristics of individuals identified.	Equalities and Corporate Policy Officer
Environmental / Sustainable Development	None.	
Community Safety	None.	
Human Rights Act	None.	

Procurement	Effective external audit procurement will help to ensure value for money.	Director of Finance and Business Improvement
Asset Management	None.	

8. REPORT APPENDICES

The following documents are to be published with this report and form part of the report:

- Appendix A: PSAA Formal Opt-In Invitation (generic version)
- Appendix B: PSAA Prospectus (July 2016)
- Appendix C: PSAA Frequently Asked Questions (November 2016)

9. BACKGROUND PAPERS

Local Audit and Accountability Act 2014

Local Audit (Auditor Panel) Regulations 2014

Local Audit (Appointing Persons) Regulations 2015

Further details on *Auditor Panels* are included in CIPFA's comprehensive guide produced with CLG and available for free download at <http://www.cipfa.org/policy-and-guidance/publications/g/guide-to-auditor-panels-pdf>.