

## **COPORATE COMMITTEE 27 JANUARY 2022**

## **FULL COUNCIL 02 MARCH 2022**

**Report title:** External Audit Appointment 2023/24 to 2027/28

**Wards:** All

**Portfolio:** Cabinet Member for Finance and Performance: Councillor Andy Wilson

**Report Authorised by:** Fiona McDermott: Strategic Director for Finance and Investment

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### **REPORT SUMMARY**

The current external auditor appointment arrangements cover the period up to and including the audit of the 2022/23 accounts. The Council opted into the 'appointing person' national auditor appointment arrangements established by the Public Sector Audit Appointment (PSAA) for the period covering the accounts for 2018/19 to 2022/23.

The PSAA is now undertaking a procurement for the next appointing period, covering audits for 2023/24 to 2027/28. This report considers the options available to the council and recommends that the Council should elect to opt-in to the procurement conducted by the PSAA. .

### **FINANCE SUMMARY**

The budget for the External Auditor fees is held within the Finance and Property Divisional budgets.

### **RECOMMENDATIONS**

#### **Corporate**

1. Corporate Committee considers the report and options appraisal for the procurement of external auditors set out in the report and recommend the proposed procurement route to Full Council.
2. Corporate Committee recommends to Council to delegate authority to the Director of Finance and Property to respond to the invitation from the PSAA and take the necessary steps to finalise the appointment itself following the PSAA procurement Process.

#### **Full Council**

1. That the Council accepts the Public Sector Audit Appointments' Ltd invitation to opt into the sector-led procurement for the appointment of external auditors for the five financial years starting from 1 April 2023.
2. That Council delegates authority to the Director of Finance and Property to respond to the invitation from the PSAA and take the necessary steps to finalise the appointment itself following the PSAA procurement Process.

## **1. CONTEXT**

- 1.1 Under the Local Government Audit & Accountability Act 2014 (“the Act”), the council is required to appoint an auditor to audit its accounts for each financial year. The current external auditor appointment arrangements cover the period up to and including the audit of the 2022/23 accounts. The Council opted into the ‘appointing person’ national auditor appointment arrangements established by the Public Sector Audit Appointment (PSAA) for the period covering the accounts for 2018/19 to 2022/23.
- 1.2 The auditor appointed at the end of a procurement process will undertake the statutory audit of accounts and Best Value assessment of the council in each financial year, in accordance with all relevant codes of practice and guidance. The appointed auditor is also responsible for investigating questions raised by electors and has powers and responsibilities in relation to Public Interest Reports and statutory recommendations.
- 1.3 The auditor must act independently of the council and the main purpose of the procurement legislation is to ensure that the appointed auditor is sufficiently qualified and independent.
- 1.4 The auditor must be registered to undertake local audits by the Financial Reporting Council (FRC) employ authorised Key Audit Partners to oversee the work. As the report below sets out there is a currently a shortage of registered firms and Key Audit Partners.
- 1.5 Auditors are regulated by the FRC, which will be replaced by a new body with wider powers, the Audit, Reporting and Governance Authority (ARGA) during the course of the next audit contract.
- 1.6 Councils therefore have very limited influence over the nature of the audit services they are procuring, the nature and quality of which are determined or overseen by third parties
- 1.7 The current external auditor appointment arrangements cover the period up to and including the audit of the 2022/23 accounts. The Council opted into the ‘appointing person’ national auditor appointment arrangements established by the Public Sector Audit Appointment (PSAA) for the period covering the accounts for 2018/19 to 2022/23.
- 1.8 The council has experienced a decrease in quality provided by the current contract when compared to previous audit contracts. This has been the experience of the majority of councils during this period. Many of these issues were considered by Sir Tony Redmond in his review sponsored by the MHCLG and carried out between 2018 and 2019 and published in September 2020. This was responded to by the government in December 2020 and the recommendations made went some way to responding to the concerns of local Government in its auditors.
- 1.9 The PSAA have also engaged with councils, prior to the deadline for deciding upon a procurement route, to explore their concerns and consider the options to address the issues around the market, quality and price.

## **2. PROPOSAL AND REASONS**

- 2.1 The council has three options
  - To appoint its own auditor, which requires it to follow the procedure set out in the Act.
  - To act jointly with other authorities to procure an auditor following the procedures in the Act

- To opt into the national auditor appointment scheme administered by a body designated by the Secretary of State as the 'appointing person'. The body currently designated for this role is Public Sector Audit Appointments Limited (PSAA).
- 2.2 In order to opt into the national scheme, the Council must make a decision at a meeting of the Full Council. In order to meet the deadline for the PSAA this decision has to be made before 14 March 2022.
- 2.3 Appointment by the council itself or jointly**
- 2.4 The Council may elect to appoint its own external auditor under the Act, which would require the council to
- Establish an independent auditor panel to make a stand-alone appointment. The auditor panel would need to be set up by the Council itself, and 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, excluding 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 to which audit firm to award a contract for the Council's external audit.
  - Manage the contract for its duration, overseen by the Auditor Panel.
- 2.5 Alternatively, 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. 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 and the Council would need to liaise with other local authorities to assess the appetite for such an arrangement.
- 2.6 Either of these options would involve a great deal of time and effort on behalf of officers. Councils that expressed a wish to go down this rite for the next 5 year period have identified a lack of interest in the market and a considerable increase in price compared to the current contract.
- 2.7 The scope of a local audit is fixed. It is determined by the Code of Audit Practice (currently published by the National Audit Office), the format of the financial statements as specified by the Chartered Institute of Public Finance and Accountancy (CIPFA) and the application of auditing standards regulated by the FRC. These factors apply to all local audits irrespective of whether an eligible body decides to opt into PSAA's national scheme or chooses to make its own separate arrangements. The requirements are mandatory; they shape the work auditors undertake and have a bearing on the actual fees required.
- 2.8 There are currently nine audit providers eligible to audit local authorities and other relevant bodies under local audit legislation. This means that a local procurement exercise would seek tenders from the same firms as the national procurement exercise, subject to the need to manage any local independence issues. Local firms cannot be invited to bid. Local procurements must deliver the same audit scope and requirements as a national procurement, reflecting the auditor's statutory responsibilities.
- 2.9 The national auditor appointment scheme**
- 2.10 PSAA is specified as the 'appointing person' for principal local government under the provisions of the Act and the Local Audit (Appointing Person) Regulations 2015. PSAA let five-year audit services contracts in 2017 for the first appointing period, covering audits of the accounts from 2018/19 to 2022/23. It is now undertaking the work needed to invite eligible bodies to opt in for the

next appointing period, from the 2023/24 audit onwards, and to complete a procurement for audit services. PSAA is a not-for-profit organisation whose costs are around 4% of the scheme with any surplus distributed back to scheme members.

2.11 In summary the national opt-in scheme provides the following:

- the appointment of a suitably qualified audit firm to conduct audits for each of the five financial years commencing 1 April 2023.
- appointing the same auditor to other opted-in bodies that are involved in formal collaboration or joint working initiatives to the extent this is possible with other constraints.
- managing the procurement process to ensure both quality and price criteria are satisfied. PSAA has sought views from the sector to help inform its detailed procurement strategy.
- ensuring suitable independence of the auditors from the bodies they audit and managing any potential conflicts as they arise during the appointment period.
- minimising the scheme management costs and returning any surpluses to scheme members.
- consulting with authorities on auditor appointments, giving the Council the opportunity to influence which auditor is appointed.
- consulting with authorities on the scale of audit fees and ensuring these reflect scale, complexity, and audit risk; and
- ongoing contract and performance management of the contracts once these have been let.

2.12 PSAA is now inviting the Council to opt in for the second appointing period, for 2023/24 to 2027/28, along with all other eligible authorities. Based on the level of opt-ins it will enter into contracts with appropriately qualified audit firms and appoint a suitable firm to be the Council's auditor.

### 2.13 **2022 Audit Procurement**

2.14 The prices submitted by bidders through the procurement will be the key determinant of the value of audit fees paid by opted-in bodies. PSAA have stated that they will:

- seek to encourage realistic fee levels and to benefit from the economies of scale associated with procuring on behalf of a significant number of bodies.
- continue to pool scheme costs and charge fees to opted-in bodies in accordance with the published fee scale as amended following consultations with scheme members and other interested parties (pooling means that everyone within the scheme will benefit from the prices secured via a competitive procurement process – a key tenet of the national collective scheme).
- continue to minimise its own costs, around 4% of scheme costs, and as a not-for-profit company will return any surplus funds to scheme members. In 2019 it returned a total £3.5million to relevant bodies and in 2021 a further £5.6million was returned.

2.15 PSAA will seek to encourage market sustainability in its procurement. Firms will be able to bid for a variety of differently sized contracts so that they can match their available resources and risk appetite to the contract for which they bid. They will be required to meet appropriate quality standards and to reflect realistic market prices in their tenders, informed by the scale fees and the supporting information provided about each audit. Where regulatory changes are in train which affect the amount of audit work suppliers must undertake, firms will be informed as to which developments should be priced into their bids.

- 2.16 The national offer provides the appointment of an independent auditor with limited administrative cost to the council. By joining the scheme, the council would be acting with other councils to optimise the opportunity to influence the market that a national procurement provides.
- 2.17 The recommended approach is therefore to opt into the national auditor appointment scheme. Regulation 19 of the Local Audit (Appointing Person) Regulations 2015 requires that a decision to opt in to the PSAA national scheme or to appoint auditors directly must be made by a meeting of the Council as a whole. Furthermore, the Council needs to respond formally to PSAA's invitation in the form specified by PSAA by the close of the opt-in period (11 March 2022). It is recommended that authority is delegated to the Director of Finance and Property to respond to the invitation and take the necessary steps to finalise the appointment itself following the PSAA procurement process.
- 2.18 Contract and performance management of the contracts will be provided by the PSAA.

### **3. FINANCE**

- 3.1 There is a risk that current external audit fee levels could increase when the current contracts end. It is clear that the scope of audit has increased, requiring more audit work. There are also concerns about capacity and sustainability in the local audit market.
- 3.2 The agreed scale fee for 2021/22 audit is £160,038 for the Council and £17,170 for the Pension Fund.
- 3.3 Opting into a national scheme provides maximum opportunity to ensure fees are as realistic as possible, while ensuring the quality of audit is maintained, by entering into a large scale collective procurement arrangement.
- 3.4 If the national scheme is not used some additional resource may be needed to establish an auditor panel and conduct a local procurement.
- 3.5 Until a procurement exercise is completed it is not possible to state what, if any additional resource may be required for audit fees from 2023/24.
- 3.6 Funding for the External Auditor fees is budgeted for within the Finance and Property Division.

### **4. LEGAL AND DEMOCRACY**

- 4.1 Section 7 of the Local Audit and Accountability Act 2014 requires a relevant Council 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 Council 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 Council is a local Council operating executive arrangements, the function of appointing a local auditor to audit its accounts is not the responsibility of an executive of the Council under those arrangements.
- 4.3 Section 12 makes provision for the failure to appoint a local auditor. The Council must immediately inform the Secretary of State, who may direct the Council to appoint the auditor named in the direction or appoint a local auditor on behalf of the Council.

- 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. In July 2016 the Secretary of State specified PSAA as the appointing person.
- 4.5 Regulation 19 of the Local Audit (Appointing Person) Regulations 2015 requires that a decision to opt in must be made by a meeting of the Council (meeting as a whole) and cannot be delegated, except where the authority is a corporation sole.
- 4.6 The Council then needs to respond formally to PSAA’s invitation in the form specified by PSAA by the close of the opt-in period (11 March 2022).
- 4.7 There were no further comments from Democratic Services.

## 5. CONSULTATION AND CO-PRODUCTION

- 5.1 The procurement is supported by the Local Government Association and the Department for Levelling up, Housing and Communities
- 5.2 In June 2021 the PSAA issued a draft prospectus and invited views and comments on their early thinking on the development of the national scheme for the next period. Feedback from the sector and the market has been extremely helpful and has enabled the PSAA to refine their proposals which are now set out in the scheme prospectus and procurement strategy. Both documents contain information that you may find helpful.
- 5.3 Officers provided feedback and we shared our views on the current arrangements and challenges including performance and quality issues.

## 6. RISK MANAGEMENT

- 6.1 The principal risks are that the Council/Authority:
- fails to appoint an auditor in accordance with the requirements and timing specified in local audit legislation; or
  - does not opt into the national procurement, but wishes to proceed with own arrangements
  - does not achieve value for money in the appointment process.

These risks are considered best mitigated by opting into the sector-led approach through PSAA.

- 6.2 The main risks that impede on the successful delivery are:

**Table 1 – Risk Register**

Item	Risk	Likelihood	Impact	Score	Control Measures
1	Not opting into the national procurement	1	4	4	Will need to put in place alternative procurement plans
2	Failure to appointment external auditor through local procurement in time	3	8	24	Procurement to commence in March 2022

## Key

<b>Likelihood</b>	Very Likely = 4	Likely = 3	Unlikely = 2	Very Unlikely = 1
<b>Impact</b>	Major = 8	Serious = 4	Significant = 2	Minor = 1

## 7. EQUALITIES IMPACT ASSESSMENT

7.1 No impact is expected. An EIA has been prepared and submitted for consideration by the Panel and the results will be included in the final version of the report. .

## 8. COMMUNITY SAFETY

8.1 Not applicable

## 9. ORGANISATIONAL IMPLICATIONS

### Environmental

9.1 Not applicable.

### Health

9.2 Not applicable.

### Corporate Parenting

9.3 Not applicable.

### Staffing and accommodation

9.4 None.

### Responsible Procurement

#### *Good Quality Jobs with Fair Pay and Decent Working Conditions*

9.5 Not applicable

#### *Quality Apprenticeships, targeted Employment for Lambeth residents and Lambeth Priority Group*

9.6 Not applicable

#### *Reduce Emissions: Lambeth Council has a commitment to being Zero Carbon by 2030*

9.7 Not applicable

#### *Single Use Plastics*

9.8 Not applicable

#### *Positive Health and Wellbeing*

9.9 Not applicable

#### *Other*

9.10 The PSAA will determine 5% of the bidders tender evaluation score by the additional social value that they will deliver from the contact. The scope will include sustainability and environmental concerns; equality, diversity and inclusion; alongside apprenticeships and long term development opportunities. The intention is to ask bidders to describe how their delivery of social value will be measured and evidenced to the PSAA so that it will form part of the contract management arrangements.

## 10. TIMETABLE FOR IMPLEMENTATION

- 10.1 If the Council chooses to opt into the national procurement scheme, it has to confirm before 22 March 2022 using the 'Form of Notice of Acceptance' provided by the PSAA.
- 10.2 PSAA will commence the formal procurement process in early February 2022. It expects to award contracts in August 2022 and will then consult with authorities on the appointment of auditors so that it can make appointments by the statutory deadline of 31 December 2022.
- 10.3 The new arrangement will take effect from 1<sup>st</sup> April 2023.

<b>Activity</b>	<b>Proposed Date</b>
Corporate Committee	27.01.2022
Full Council	02.03.2022
Appointment confirmation	31.12.2022
Commencement of Contract	01.04.2023

## AUDIT TRAIL

Name and Position/Title	Lambeth Directorate	Date Sent	Date Received	Comments in paragraph:
Councillor Andy Wilson	Cabinet Member for Finance and Performance	05.01.22	10.01.22	
Christina Thompson, Director	Finance and Property	19.12.21	12.01.22	Throughout
Andrew Pavlou, Principal Lawyer	Legal and Governance	19.12.21	21.12.21	
Chloe Morris, Democratic Services	Legal and Governance	04.01.22	04.01.22	

## REPORT HISTORY

<b>Original discussion with Cabinet Member</b>	10.01.22
<b>Report deadline</b>	14.01.22
<b>Date final report sent</b>	12.01.22
<b>Part II Exempt from Disclosure/confidential accompanying report?</b>	No
<b>Key decision report</b>	No
<b>Date first appeared on forward plan</b>	N/A
<b>Key decision reasons</b>	Not applicable
<b>Background information</b>	<a href="#">PSAA Auditor Procurement Strategy 2022</a> <a href="#">PSAA Procurement Prospectus</a> <a href="#">Consultation and Engagement</a> <a href="#">Local authority financial reporting and external audit: independent review - GOV.UK (www.gov.uk)</a> <a href="#">Local authority financial reporting and external audit: government response to the Redmond review - GOV.UK (www.gov.uk)</a>
<b>Appendices</b>	N/A