

Briefing note to PCC re: the appointment of external auditors

Recommendation

That the Commissioner seeks the views of his JASC members prior to a formal decision, but supports the recommendation of the Treasurer that Warwickshire Office of the Police and Crime Commissioner opt-in to the sector-led body procurement, conducted by Public Sector Audit Appointments Limited (PSAA), for the appointment of the Authority's external auditors from April 2023. Any decision for external audit provision from April 2023 will also cover the external audit arrangements for the Chief Constable.

1. Purpose of the Report

- 1.1. Under the Local Government Audit and Accountability Act 2014 the PCC is required to appoint an auditor to audit its (and the Chief Constables) accounts each financial year. Our current auditor appointment covers the period up to and including the audit of the 2022/23 accounts.
- 1.2. This report sets out proposals for appointing the external auditor to the OPCC, which will also include the external audit arrangements for the Chief Constable for the accounts for the five-year period from 2023/24. It concludes with a recommendation to opt-in to a sector-led approach and outlines the next steps for the Authority in implementing the agreed approach.
- 1.3. The decision on the appointment of the auditor is one that must be taken by the PCC.

2. Background and Summary

- 2.1. The current auditor appointment arrangements were agreed in 2016 and cover the 5 years up to and including the audit of the 2022/23 accounts. To make the appointment the PCC opted into the 'appointing person' national auditor appointment arrangements established by Public Sector Audit Appointments Limited (PSAA).
- 2.2. Under the Local Government Audit and Accountability Act 2014, the PCC is required to appoint an auditor to audit its accounts and those of the Chief Constable, being part of the group accounts for each financial year. Our statutory requirement is to have an auditor appointment in place by 31 December of the year preceding the start of the contract i.e. by 31 December

2022. The time needed to run an effective procurement process means that the PCC needs to decide how he wishes to undertake the process. The options are:

- To arrange our own procurement and make the appointment ourselves;
- To arrange procurement in conjunction with other bodies; or
- Once again take advantage of the national collective scheme administered by PSAA.

2.3. The view of the Treasurer, in consultation with the Director of Finance in the force recommends that the sector-wide procurement conducted by PSAA will produce better outcomes and will be less burdensome for the OPCC and force than a procurement undertaken locally because:

- Collective procurement reduces costs for the sector and for individual organisations compared to a multiplicity of smaller local procurements;
- If it does not use the national appointment arrangements, the PCC will need to establish its own Auditor Panel with an independent chair and independent members to oversee a local auditor procurement and ongoing management of an audit contract. This is something entirely separate to the Joint Audit and Standards committee that currently exists, and is solely in place to oversee the local auditor procurement and the ongoing management of the contract for its entire term;
- It is the best opportunity to secure the appointment of a qualified, registered auditor - there are only nine accredited local audit firms, and a local procurement would be drawing from the same limited supply of auditor resources as PSAA's national procurement; and
- Supporting the sector-led body offers the best way of ensuring there is a continuing and sustainable public audit market into the medium and long term.

2.4. If the PCC accepts this recommendation and decides to take advantage of the national auditor appointment arrangements and opt into the national scheme, he needs to communicate this to PSAA during the opt-in period which closes on 11 March 2022.

3. The Appointed Auditor

3.1. The auditor appointed at the end of the procurement process will undertake the statutory audit of accounts and value for money assessment of the PCC and Chief Constable accounts 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.

- 3.2. The auditor must act independently of the PCC and Chief Constable and the main purpose of the procurement legislation is to ensure that the appointed auditor is sufficiently qualified and independent.
- 3.3. The auditor must be registered to undertake local audits by the Financial Reporting Council (FRC) and employ authorised Key Audit Partners to oversee the work. There is currently a shortage of registered firms (9) and Key Audit Partners.
- 3.4. 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 (specified by the Chartered Institute of Public Finance and Accountancy) and the application of auditing standards is currently regulated by the FRC.
- 3.5. These factors apply to all local audits. PCC's therefore have very limited influence over the nature of the audit services they are procuring, as do Local Authorities and other public bodies regarding the nature and quality of which are determined or overseen by third parties.

4. Options for Appointing the Auditor

- 4.1. The PCC has three options for appointing the auditor:
 - **Option 1:** To appoint its own auditor, which requires it to follow the procedure set out in the Act;
 - **Option 2:** To act jointly with other authorities/PCC's to procure an auditor following the procedures in the Act; and
 - **Option 3:** To opt-in to 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).

The remainder of this section considers the advantages/benefits and disadvantages/risks of each of these options.

4.2. Option 1: Appointment by the PCC himself

The PCC may elect to appoint its own external auditor under the Act, which would require the PCC to:

- Establish an independent Auditor Panel to make a stand-alone appointment. The Auditor Panel would need to be set up by the PCC,

and the members of the panel must be wholly, or have a majority of, independent members as defined by the Act. Independent members for this purpose are truly independent appointees, excluding anyone who has a current or former link to Warwickshire police so that an independent appointment of the contract for the Authority's external audit, can be achieved.

- Manage the contract for its duration, overseen by the Auditor Panel.

Advantages/benefits

- Setting up an Auditor Panel allows the PCC to take maximum advantage of the local appointment regime and have some local input to the decision, but the pool of potential bidders responding to the local procurement will be limited (9 organisations) to those suitably meeting the criteria.

Disadvantages/risks

- Recruitment and servicing of the Auditor Panel, running the bidding exercise and negotiating the contract could be significant and estimates range up to £50,000 plus on-going expenses and allowances.
- The Council will not be able to take advantage of reduced fees that may be available through joint or national procurement contracts.
- The assessment of bids and the awarding of contracts will be resource intensive on the OPCC and force finance and procurement staff, but they will only have limited influence due to the independent nature of the appointment, and the statutory role of the auditor panel.
- It may be more difficult to manage quality and independence requirements through a local appointment process, again this would have to be fed through the auditor panel. For example, the PCC and his staff would be unable to influence the scope of the audit and the regulatory regime inhibits the ability to affect quality.
- The local procurement exercise would be seeking tenders from the same firms as the national procurement exercise. Local firms cannot be invited to bid.

4.3. Option 2: Set up a Joint Auditor Panel to undertake local joint procurement arrangements

Alternatively, the Act enables the PCC to join with other PCC's or public bodies to establish a joint Auditor Panel. Again, this will need to be constituted of independent appointees. Further legal advice would be required on the exact constitution of such a panel, if this included Local Authorities as there would need to have regard to the obligations of each Council under the Act. Based on discussions a recent discussion with Warwickshire finance officers, there is no appetite for such an approach in Warwickshire. Warwickshire County Council are seeking to opt in to the PSAA arrangement, as are other Districts across

Warwickshire. Discussion at recent PACCTS meetings has indicated some interest for joint panels in Essex, while other PCC's have yet to firm up their plans, but are widely expected to opt into the national procurement approach. Equally there has been no appetite regionally to adopt a joint approach amongst finance officers.

Advantages/benefits

- The costs of setting up the Panel, running the bidding exercise and negotiating the contract will be shared across a number of PCC's/Local Authorities.
- Greater opportunity for negotiating some economies of scale by being able to offer a larger combined contract.

Disadvantages/risks

- The decision-making body will be further removed from the PCC, depending on the constitution agreed with the other bodies involved.
- The choice of auditor could be complicated where individual PCC's or councils have independence issues. An independence issue could occur where the auditor has recently or is currently carrying out consultancy or advisory work for a specific PCC/council. Where this occurs, some auditors may be prevented from being appointed by the terms of their professional standards or a PCC may be excluded from the appointment by the Auditor Panel and need to make their own arrangements.
- The PCC is unable to influence the scope of the audit and the regulatory regime inhibits the ability to affect quality, and it would be challenging to manage quality and independence requirements through a joint appointment process.
- The joint procurement exercise would be seeking tenders from the same firms as the national procurement exercise. Local firms cannot be invited to bid.

4.4. Option 3: The national auditor appointment scheme

PSAA is the sector-led body appointed by the Secretary of State specified as the 'appointing person' for PCC's and local government under the provisions of the Local Government Audit and Accountability Act 2014 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, costs are generally well managed, with any surplus distributed back to scheme members. The PCC and force have both received redistributed funds as a result of recent suprluses.

Advantages/benefits

- PSAA will manage the procurement process to ensure both quality and price criteria are satisfied.
- The costs of setting up the appointment arrangements and negotiating fees would be shared across all opt-in authorities.
- The suitable independence of the auditors from the bodies they audit and managing any potential conflicts as they arise during the appointment period will be ensured.
- PSSA would undertake ongoing contract and performance management of the contracts once these have been let.
- By offering large contract values the accredited firms should be able to offer better rates and lower fees than are likely to result from local negotiation.
- Any conflicts at individual PCC level would be managed by PSAA that would have a number of contracted firms to call upon.

Disadvantages/risks

- The PCC and his representatives would have less opportunity for direct involvement, other than through stakeholder representative groups for example PACCTS.
- In order for PSAA to remain viable and to be placed in the strongest negotiating position they will need PCC's to indicate their intention to opt-in before final contract prices are known.

4.5. Conclusion on the options available

The national offer provides the appointment of an independent auditor with limited administrative cost to the PCC. By joining the scheme, the PCC would be acting with other PCC's and councils to optimise the opportunity to influence the market that a national procurement provides. The Treasurer and Director of Finance's recommended approach is therefore to opt-in to the national auditor appointment scheme, subject to receiving any other feedback from the Chief Constable and Joint Audit and Standards Committee.

5. Next Steps

- 5.1. PSAA is now inviting Authorities to opt in for the second appointing period, for 2023/24 to 2027/28. 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 Authority's auditor.
- 5.2. Regulation 19 of the Local Audit (Appointing Person) Regulations 2015 requires that a formal decision to opt-in must be made by the PCC. It is recommended that the Joint Audit and Standards Committee feedback their thoughts to the

PCC on the recommendation to opt in to the PSAA national procurement process, before he makes a final decision. The views of the Chief Constable should also be considered prior to a formal decision being taken by the PCC.

- 5.3. Assuming the recommendation to opt-in to the national auditor appointment scheme is made, the PCC will then need to respond formally to PSAA's invitation by the close of the opt-in period on 11 March 2022.
- 5.4. PSAA will commence the formal procurement process in early February 2022. It expects to award contracts in August 2022 and will then consult with PCC's on the appointment of auditors so that it can make appointments by the statutory deadline of 31 December 2022.

6. Risk Management

- 6.1. The principal risks are that the PCC:
 - Fails to appoint an auditor in accordance with the requirements and timing specified in local audit legislation; or
 - Does not achieve value for money in the appointment process.
- 6.2. These risks are considered best mitigated by opting into the sector-led approach through PSAA.

7. Legal implications

- 7.1. Section 7 of the Local Audit and Accountability Act 2014 requires a PCC or relevant Authority to appoint a local auditor to audit its accounts for a financial year not later than 31 December in the preceding year.
- 7.2. Section 8 governs the procedure for appointment including that the PCC must consult and take account of the advice of its auditor panel on the selection and appointment of a local auditor.
- 7.3. 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 PCC to appoint the auditor named in the direction or appoint a local auditor on behalf of the PCC. This may carry a considerable cost risk.
- 7.4. 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.

8. Financial Implications

- 8.1. The PCC and forces current total external audit fees are approximately £55,800 a year, £37,900 for the PCC and £17,900 for the force.
- 8.2. There have been significant increases in fees over recent years due to the complexity of the work and the problems with supply/capacity in the market outlined above as well as increases in the scope of audit, requiring more audit work. It is widely expected that fees will increase further when the current contracts end, and cost pressures will be built into the budget as necessary.
- 8.3. The concerns about capacity and sustainability in the local audit market also mean 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.
- 8.4. If the national scheme is not used further additional resource will be needed locally in the OPCC, to establish and maintain an Auditor Panel and conduct a local procurement.

Sara Ansell,
Treasurer

