

# Westmorland and Furness Shadow Council Meeting

**Date: 28 September 2022**

**Title: Appointment of External Auditor**

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**Report from:** Andrew Jarvis, Portfolio Holder Finance

**Report Author:** Helen Smith, Interim s151 Officer

**Wards:** All

**Key Decision:** No

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## **1.0 Purpose/Summary of report**

- 1.1. This report sets out the options around the appointment of external auditors from 1 April 2023 to ensure statutory requirements are met.

## **2.0 Recommendation**

### **2.1 It is recommended that Shadow Council:-**

- (1) Notes the decision by the Interim S151 Officer to opt-in to the Public Sector Audit Appointment national scheme for the appointment of external auditors for the 2022/23 financial year; and**
- (2) Accept Public Sector Audit Appointments' invitation to opt into the sector-led option for the appointment of external auditors to principal local government and police bodies for five financial years from 1 April 2023.**

## **3.0 Background and Proposals**

### Background

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

- 3.2 PSAA is now undertaking a procurement for the next appointing period, covering audits for 2023/24 to 2027/28. During autumn 2021 all local government bodies were asked to decide about their external audit arrangements from 2023/24. They have options to arrange their own procurement and make the appointment themselves or in conjunction with other bodies, or they can join and take advantage of the national collective scheme administered by PSAA.
- 3.3 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 Council has three options;
- a) To appoint its own auditor, which requires it to follow the procedure set out in the Act.
  - b) To act jointly with other authorities to procure an auditor following the procedures in the Act.
  - c) 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).

In order to opt into the national scheme, a council must make a decision at a meeting of the Full Council.

- 3.4 It was advised that all councils undergoing reorganisation opt-in under this invitation to ensure continuity of external audit cover if, for some reason, the implementation of the new unitary authorities is delayed. Each existing authority in Cumbria has duly opted-in to the invitation.
- 3.5 It is also necessary to ensure there is an external auditor for 2022/23: however, as Westmorland and Furness are still in shadow and have no turnover the appointment of auditor for 2022/23 is a decision of the Interim S151 Officer who can opt-in to existing arrangements for the audit of small bodies.

### **The Appointed Auditor**

- 3.6 The auditor appointed at the end of the 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.

- 3.7 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. 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. As the report below sets out, there is a currently a shortage of registered firms and Key Audit Partners. 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.
- 3.8 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.

### **Appointment by the Council itself or jointly**

- 3.9 The Council may elect to appoint its own external auditor under the Act, which would require the Council to;
- a) 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 would not have a majority input to assessing bids and choosing to which audit firm to award a contract for the Council's external audit.
  - b) Manage the contract for its duration, overseen by the Auditor Panel.

Alternatively, the Act enables the Council to join with other authorities to establish a joint auditor panel. Again, this would 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.

## **The national auditor appointment scheme**

3.10 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.

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

- a) the appointment of a suitably qualified audit firm to conduct audits for each of the five financial years commencing 1 April 2023;
- b) 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;
- c) 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;
- d) ensuring suitable independence of the auditors from the bodies they audit and managing any potential conflicts as they arise during the appointment period;
- e) minimising the scheme management costs and returning any surpluses to scheme members;
- f) consulting with authorities on auditor appointments, giving the Council the opportunity to influence which auditor is appointed;
- g) consulting with authorities on the scale of audit fees and ensuring these reflect scale, complexity, and audit risk; and
- h) ongoing contract and performance management of the contracts once these have been let.

## **Pressures in the current local audit market and delays in issuing opinions**

3.12 Much has changed in the local audit market since audit contracts were last awarded in 2017. At that time the audit market was relatively stable, there had been few changes in audit requirements, and local audit fees had been reducing over a long period. 98% of those bodies eligible opted into the national scheme and attracted very competitive bids from audit firms. The resulting audit contracts took effect from 1 April 2018.

- 3.13 During 2018 a series of financial crises and failures in the private sector led to questioning about the role of auditors and the focus and value of their work. Four independent reviews were commissioned by Government: Sir John Kingman's review of the Financial Reporting Council (FRC), the audit regulator; the Competition and Markets Authority review of the audit market; Sir Donald Brydon's review of the quality and effectiveness of audit; and Sir Tony Redmond's review of local authority financial reporting and external audit. The recommendations are now under consideration by Government, with the clear implication that significant reforms will follow. A new audit regulator (ARGA) is to be established, and arrangements for system leadership in local audit are to be introduced. Further change will follow as other recommendations are implemented.
- 3.14 The Kingman review has led to an urgent drive for the FRC to deliver rapid, measurable improvements in audit quality. This has created a major pressure for audit firms to ensure full compliance with regulatory requirements and expectations in every audit they undertake. By the time firms were conducting 2018/19 local audits during 2019, the measures they were putting in place to respond to a more focused regulator were clearly visible. To deliver the necessary improvements in audit quality, firms were requiring their audit teams to undertake additional work to gain deeper levels of assurance. However, additional work requires more time, posing a threat to the firms' ability to complete all their audits by the target date for publication of audited accounts. Delayed opinions are not the only consequence of the FRC's drive to improve audit quality. Additional audit work must also be paid for. As a result, many more fee variation claims have been needed than in prior years.
- 3.15 This situation has been accentuated by growing auditor recruitment and retention challenges, the complexity of local government financial statements and increasing levels of technical challenges as bodies explore innovative ways of developing new or enhanced income streams to help fund services for local people. These challenges have increased in subsequent audit years, with Covid-19 creating further significant pressure for finance and audit teams.
- 3.16 None of these problems is unique to local government audit. Similar challenges have played out in other sectors, where increased fees and disappointing responses to tender invitations have been experienced during the past two years.

## **The invitation**

3.17 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.

## **The next audit procurement**

3.18 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 will:

- a) 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;
- b) 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);
- c) 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 £3.5m to relevant bodies and in 2021 a further £5.6m was returned.

3.19 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.

3.20 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 CIPFA/LASAAC) 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.

- 3.21 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.
- 3.22 PSAA's current procurement of local audit services is about to enter a concluding stage. The initial process has secured 96.5% of the capacity required to enable auditor appointments to all the bodies that have opted into PSAA's national scheme. A rapid supplementary procurement of four small-sized Lots will now take place to seek to secure the remaining outstanding capacity needed. The supplementary procurement will be launched on 25 August 2022. The nine registered suppliers that completed pre-qualification earlier this year will be invited to submit their responses by 13 September.

### **Assessment of options**

- 3.23 If the Council did not opt in there would be a need 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 would not have a majority input to assessing bids and choosing to which audit firm to award a contract for the Council's external audit.
- 3.24 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.
- 3.25 These would be more resource-intensive processes to implement for the Council, and without the bulk buying power of the sector-led procurement would be likely to result in a more costly service. It

would also be more difficult to manage quality and independence requirements through a local appointment process. The Council is unable to influence the scope of the audit and the regulatory regime inhibits the Council's ability to affect quality.

- 3.26 Opting-into 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.
- 3.27 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). 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). 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.

#### **4.0 Consultation**

- 4.1 Cumbria Chief Finance Officers considered the advice from PSAA that all existing Councils should consider opt-in to this exercise as a contingency against delay in creating the new unitary authorities for Cumbria and have all opted-in.

#### **5.0 Alternative Options**

- 5.1 There are no practical alternative options.

#### **6.0 Implications**

##### **Financial, Resources and Procurement**

- 6.1.1 It is likely that current external audit fee levels for Councils nationally will increase when the current contracts end as it is clear that the scope of audit has increased, requiring more audit work. The duty to specify scales of fees is one of PSAA's statutory functions as the appointing person. Before setting a scale of fees, they are required to consult with opted-in authorities, relevant representative associations of local authorities and relevant bodies of accountants.
- 6.1.2 The scale fees for individual opted-in authorities are normally based on the scale fee for the previous year, reflecting the auditor's assessment of audit risk and complexity. PSAA approve proposed variations to the scale fee for an individual opted-in



authority, to reflect changes in circumstances. Scale fees assume that audited bodies are able to provide the auditor with complete and materially accurate financial statements, with supporting working papers, within agreed timeframes.

6.1.3 PSAA will charge fees for considering objections from the point at which auditors accept an objection as valid, or any special investigations such as those arising from disclosures under the Public Interest Disclosure Act 1998, as a variation to the scale fee.

6.1.4 The fees for 2021/22 (the latest year published by PSAA) are:

<b>Organisation</b>	<b>Sector Type</b>	<b>2021/22 Scale Fee</b>
Allerdale Borough Council	District Council	40,059
Barrow-in-Furness Borough Council	District Council	42,362
Carlisle City Council	District Council	44,033
Copeland Borough Council	District Council	41,324
Cumbria County Council	County Council	89,254
Cumbria Pension Fund	Pension Fund audit	20,457
Eden District Council	District Council	38,796
South Lakeland District Council	District Council	46,005
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		362,290

6.1.5 There are also concerns about capacity and sustainability in the local (external) audit market. 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.

6.1.6 If the national scheme is not used, additional resource would be needed to establish an auditor panel and conduct a local procurement.

## **Human Resources**

6.2 There are no direct implications associated with this report.

## **Legal**

6.3.1 The relevant legislation is the Local Audit and Accountability Act 2014 and the subordinate Local Audit (Appointing Person) Regulations 2015. Under the provisions the Council is obliged to:

- appoint a local auditor to audit its accounts for a financial year not later than 31 December in the preceding year
- follow the process contained therein
- allocate the appointment as a function of Council

Through the Act and the Regulations, the Secretary of State has appointed PSAA as the appointing person for the purposes of the audit function. Through the proposal to accept Public Sector Audit Appointments' invitation to opt into the sector-led option for the appointment of external auditors, the Council will be meeting its legal requirement with regards to the appointment of a local auditor as a result of the above legal framework.

6.3.2 The process detailed within the report that will be taken by PSAA to appoint the provider will comply with the procurement requirements and is therefore considered a compliant route of appointment in procurement terms.

### **Health and Sustainability Impact Assessment**

6.4 Have you completed a Health and Sustainability Impact Assessment?  
No

6.5 If you have not completed an Impact Assessment, please explain your reasons: There are no direct implications arising from this report.

### **Equality and Diversity**

6.6 Have you completed an Equality Impact Analysis? No

6.7 If you have not completed an Impact Analysis, please explain your reasons: There are no direct implications arising from this report.

<b>Risk Management</b>	<b>Consequence</b>	<b>Controls required</b>
That the Council fails to appoint an auditor in accordance with the requirements and timing specified in local audit legislation	Reputational damage and additional costs to carry out separate exercise	To opt-in to the sector-led approach through PSAA
That the Council fails to achieve value for money in the appointing process	Additional expenses incurred	

### **Contact Officers**

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## Appendices Attached to this Report

Appendix No.	Name of Appendix
None	

## Background Documents Available

Name of Background document	Where it is available
PSAA Appointing Person Information: Appointing period 2023/24 – 2027/28	<u><a href="#">PSAA appointing-person-information</a></u>