

**Agenda Item No:** 11  
**Report To:** Audit Committee  
**Date:** 1 December 2015  
**Report Title:** Procurement and Appointment of External Auditors – further update  
**Report Author:** Paul Naylor, Deputy Chief Executive



**Summary:** In June the committee received an information item updating members about the legal framework put in place and the options to become available to councils to appoint their external auditors at a point in the future that was then still to be determined. A copy of that main report is appended for ease of reference.

The Department of Communities and Local Government (CLG) has recently determined the timing by when councils must have newly procured external audit services in place. This report provides the further update.

**Key Decision:** Not applicable

**Affected Wards:** None specifically

**Recommendations:** **The Committee be asked to note the further update and agree that in the new year it should receive another report for the Committee to consider the options more fully, once further guidance is published by CIPFA.**

**Policy Overview:** External audit is a statutory requirement for all councils and forms an essential part of the council's governance framework. At the start of the previous coalition the government announced its intention to abolish the Audit Commission and legislate to permit councils to be able to procure their own external audit services, subject to councils observing a legislative framework and statutory guidance.

**Financial Implications:** None arise from this report. Significant savings in external audit costs have been secured through the programme of government outsourcing the former Audit Commission's work.

**Risk Assessment** Not applicable at this stage. A risk assessment will appear in a future report once CIPFA guidance is published to assist councils in their decision-making on the choice of options available.

**Equalities Impact Assessment** Not applicable at this time.

**Other Material  
Implications:**

None at this time

**Background  
Papers:**

None

**Contacts:**

[paul.naylor@ashford.gov.uk](mailto:paul.naylor@ashford.gov.uk) – Tel 01233 330436

## **Report Title: Procurement and Appointment of External Auditors – further update**

### **Purpose of the Report**

1. To advise the Committee of the CLG's announcement to extend the current external audit contracts for one further year, meaning councils now have a clear timetable for their procurement of external audit services

### **Background**

2. In June the committee received an information item updating members about the legal framework put in place and the options to become available to councils to appoint their external auditors at some point in the future. A copy of that report is appended for ease of reference.
3. The Department of Communities and Local Government (DCLG) has recently determined the timing by when councils must have newly procured external audit services in place.
4. For local authorities, police, fire authorities, clinical commissioning groups and health trusts that currently have external auditors appointed for them by the Audit Commission, the provisions of the Local Audit and Accountability Act 2014 will soon be coming into force.
5. The Audit Commission closed on 31 March 2015, but the current external audit contracts continue (for Ashford Borough Council the provider is Grant Thornton UK plc) and are managed by Public Sector Audit Appointments Ltd. This is a company established by the Local Government Association with staff previously employed by the Audit Commission transferred to the company to oversee the contracts.
6. The objective of the Act is to put in place new arrangements for the appointment of auditors, with local bodies having the opportunity to appoint their own. There are to be three options for councils.

### **Decisions taken by government departments**

7. The Department of Health has announced that health bodies will adopt the provisions of the Act with effect from the 2017/18 financial year. This means that external auditors for health bodies will need to be appointed by the end of December 2016 as the Act requires appointments to be in place three months before the start of the financial year.
8. The Department for Communities and Local Government (DCLG) has decided that existing audit contracts for principal authorities (including local authorities) can be extended by one year so that councils will need to be appoint their own auditors for 2018/19 financial year. This means that an external auditor must be appointed by the end of December 2017.

9. Depending on the option chosen by the council several months for a procurement could be needed.

### **Options for the appointment of external auditors**

10. There are three options the council will have:
  - a) To undertake for itself a procurement exercise using an 'auditor panel' to agree the process and the recommendation for an award of a contract to be made to the Full Council
  - b) To undertake in conjunction with other councils or bodies a procurement exercise, once again overseen by an 'auditor panel'.
  - c) To opt into a sector-led procurement. In this instance an 'auditor panel' will not be needed to oversee the procurement and make a recommendation on the appointment.
11. Various regulations have been issued under the Local Audit and Accountability Act 2014 that set the full statutory requirements for councils to appoint their external auditor. A summary of the main conditions is appended. The Committee will see the requirements are tightly drawn and place great emphasis on securing external audit that is independent of the audited body.
12. Whilst the decision on which option to adopt is for each council we can expect suggestions for consortium approaches to follow as councils start to consider these options next year. The third option above does not as yet have a designated body appointed by government, but this may be expected in the new year. The regulations for this option give the appearance of processes similar to those that applied to the former Audit Commission in terms of the process of appointing external auditors.

### **Guidance available**

13. The DCLG commissioned CIPFA to write guidance on the appointment of auditor panels. This is currently being finalised with the DCLG and will be available soon. Training will also be available in 2016 on establishing auditor panels.

### **Steps to take reasonably soon**

14. Although decisions do not have to be taken straight away it is important to start the evaluation of options soon. Plenty of time is required to plan a procurement, including giving consideration to the governance implications of auditor panels, their make-up and relationship to the Audit Committee.
15. It will not be possible for the Audit Committee to take on the role of an 'audit panel' unless the council were to decide to change the constitution of the

Committee and change its membership to consist of a majority of unelected independent persons and chaired by one such person.

16. Auditor Panels would be restricted to the role of recommending and overseeing an external auditor appointment process, and periodically monitoring the effectiveness of its external auditor once appointed. In all other respects the Audit Committee would continue with its current remit.
17. It is expected the CIPFA guidance will contain detailed advice on these matters.
18. The third option of procuring and appointing external audit services through a sector led body would not require an auditor panel. It is possible a large number of councils will choose this route. There will be advantages and some disadvantages to this option that will need to be considered by members. However, at the present time DCLG has not made any announcement about the identity of a sector led body. It remains the LGA's preference that its current specialist company is designated for this purpose.
19. The second option of a consortium approach will also need to be considered. There would be some advantages of scale and possibly economy. A consortium approach could be adopted purely to increase opportunities to attract better offers than procuring alone, or could be approached as an extension of a consortium that exists for wider purposes across a group of councils. For example councils working together on shared services may look a little more closely at this option.
20. It is therefore suggested that a further report be considered by the Committee once the CIPFA guidance is published (there is no date fixed for this as yet).
21. It should be noted that it would be necessary for the Committee's conclusion to be considered by the Full Council, and it would be advisable for its recommendation to be considered by the Cabinet. In terms of timing it seems likely that conclusions will need to be determined by the summer of 2016.

**Contact:**

Email: [paul.naylor@ashford.gov.uk](mailto:paul.naylor@ashford.gov.uk)

## **Auditor Panels - summary of relevant legislation**

### **Local Audit (Auditor Panel) Regulations 2014 in conjunction with the Local Audit and Accountability Act 2014 and other regulations**

The Act and associated regulations provide the legislative conditions for the construct and function of auditor panels. The main points are as follows:

#### **a. Auditor Panels:**

- i. must have three or more members, with a majority of non-elected independent members one of which must be the chair
- ii. the decision to appoint a panel is not an executive/cabinet decision
- iii. the term of office must be determined by council
- iv. qualifying conditions apply
- v. allowances may be paid
- vi. quorum is three with a majority on independent members present

#### **b. Functions of a Panel**

- i. Advisory only
- ii. to advise on the maintenance of an independent relationship between the auditor and the council
- iii. advise on the selection and appointment of an auditor
- iv. must advise as the auditor panel considers appropriate and at other times if asked by the council
- v. must advise, if asked, on any proposal to limit the liability of an auditor
- vi. Secretary of State may vary the functions
- vii. auditor panel advice must be published, subject to certain conditions
- viii. panels must take account of any relevant Secretary of State guidance
- ix. panels can call members and officers to meetings and for any documents in aid of its functions
- x. panels must inform the Secretary of State if a council fails to appoint an auditor

#### **c. Meaning of 'independent'**

- i. not been a councillor or officer of the council for at least five years (from the start of contract)
- ii. not been connected with the council for at least five years including not being a member or employee of a connected body/company
- iii. not a relative or close friend of any serving councillor or officer
- iv. not having any beneficial interests
- v. not a current or prospective auditor of the council or an employee/member of an auditor of the council for the past five years

**d. The Appointed Persons option (this does not need an auditor panel)**

- i. designated by the Secretary of State (no designation as yet)
- ii. must invite councils to participate (opt-in)
- iii. must appoint an auditor(s)
- iv. must design and implement systems to oversee auditor independence, monitor compliance and resolve disputes
- v. must agree and consult on fee scales

**Agenda Item No:**

**Report To:                   AUDIT COMMITTEE**

**Date:                           30 June 2015**

**Report Title:               Future of local public audit – Update (for information)**

**Report Authors:           Paul Naylor, Deputy Chief Executive**



**Summary:**

On 31 March the Audit Commission closed and its remaining functions transferred to a number of other bodies. Closure was originally signalled in an announcement by the former Coalition Government in 2010 when it announced its intention to introduce legislation to close the Commission with the eventual transfer of responsibility for local public audit procurement to councils and other audited bodies. This information report provides further background to the Council's responsibilities to procure local public audit services when the current audit contract with Grant Thornton UK expires. A further and more comprehensive report will be presented to the September meeting of the Audit Committee.

**Key Decision:**               Not applicable

**Affected Wards:**           None specifically

**Recommendations:**       **The Committee is asked to note the report for information.**

**Contacts:**                    [paul.naylor@ashford.gov.uk](mailto:paul.naylor@ashford.gov.uk) - Tel: (01233) 330436



## Future of local public audit – update INFORMATION ITEM

1. On 31 March the Audit Commission closed and its remaining functions transferred to a number of other bodies. Closure was originally signalled in an announcement by the former Coalition Government in 2010 when it announced its intention to introduce legislation to close the Commission with the eventual transfer of responsibility for local public audit procurement to councils and other audited bodies.
2. The Commission has since outsourced its audit work totally. This led to the Commission appointing Grant Thornton UK as our external auditor for a five-year period as part of a contract covering the south east region. This and the other outsourced contracts secured significant cost reductions for councils, with costs fixed for five years (contracts expire at the end of the 2016/2017 financial audit, so in the autumn of 2017). However, an option to extend for a further two years on similar terms is available to government. If contracts are not extended the council would have to decide on its procurement and award a contract by December 2016. In practice this would mean commencing a procurement by Spring 2016 at the latest.
3. The scope of external audit work under these contracts is limited to cover councils' financial audits (including public inspection rights), grant certification, and providing a value for money opinion. This more limited scope partly accounts for the cost reduction.
4. A decision on whether to extend the contracts or not will be taken by the Secretary of State for Communities and Local Government possibly by the end of this calendar year, and it is hoped will be made following consultation with local government.
5. The Local Audit and Accountability Act 2014, formally enabled final closure of the Commission, and sets out the requirement for councils to create audit panels that would be responsible for recommending a procurement process, and recommending the appointment of an external auditor to their full council for decision.
6. As the Commission was responsible for appointing and monitoring auditors, and setting scale fees etc., government has transferred this responsibility until the end of the current contracts to Public Services Audit Appointments, a subsidiary company of the Local Government Association.
7. Audit panels must be chaired by and have a majority of non-elected independent persons. Audit panels would also be responsible for advising the full council on the 'maintenance of an independent relationship with the appointed auditor', and advising on 'any proposal to enter into an agreement limiting the liability of its auditor'.
8. Originally the government proposed that Audit Committees should possibly perform this role but then be mandated to be constituted with a majority of non-elected representatives. Following considerable opposition to this proposal from local government members and the Local Government Association the proposal was removed, but the requirement for audit panels remained.
9. The Act, supplemented by a subsequent set of regulations ((the Local Audit (Appointing Persons) Regulations 2015)) allows councils to procure audit services in a number of ways:
  - a) Individually and hence an individual council would create its own audit panel, or

- b) Jointly through a consortium approach for a contract to cover two or more councils, reflecting shared approaches to service delivery. In this case councils could create a single joint audit panel, or
- c) Through a government approved Specified Person who would appoint an auditor on behalf of those authorities that choose this option. A decision to select this option would be one for full council and would not require a recommendation from an audit panel. The Specified Person would take on other responsibilities of an audit panel. It is possible the LGA's company might be approved for this purpose.

- 10. There is no decision for councils at this time as the timing of the procurement need has not been determined. However a full report on this matter will be presented to the Audit Committee at its September meeting.
- 11. As further background two papers are attached. The first is a government summary of the bodies to whom the Audit Commission's residual functions have been transferred. The second is a recent Public Finance article written by the final controller of the Audit Commission that sets out a summary from her perspective of the key issues for councils.

FOR INFORMATION

Paul Naylor  
Deputy Chief Executive

June 2015

## Future of Local Audit

In August 2010, the Department for Communities and Local Government (DCLG) announced plans to put in place new arrangements for auditing England's local public bodies.

## Local Audit and Accountability Act 2014

The Act received Royal Assent on 30 January 2014. The Act makes it possible for the Audit Commission to close, in line with Government expectations, on 31 March 2015, 30 years after it was established.

Several of the Commission's functions will continue after its closure.

### **Management of audit contracts.**

An independent company created by the Local Government Association (Public Sector Audit Appointments Limited) will be responsible for overseeing the Commission's current external audit contracts with audit firms from 1 April 2015 until December 2017 or up to 2020. It will manage the contracts and exercise statutory powers to appoint auditors, set and determine fees, and to make arrangements for housing benefit subsidy certification.

The professional conduct of auditors will continue to be regulated by the professional accountancy bodies<sup>[1]</sup>. From 2017 or up to 2020, Recognised Supervisory Bodies will determine the eligibility of local public auditors and register them and, in turn, they will be recognised and supervised by the Financial Reporting Council. The Financial Reporting Council's Audit Quality Review team will monitor the local public audits carried out by auditors through new regulatory arrangements.

### **Grant certification.**

The role of making arrangements for housing benefit subsidy certification will transfer to Public Sector Audit Appointments Limited from 1 April 2015. It is intended that this role will continue until housing benefit is rolled into Universal Credit, or until the audit contracts end – whichever happens first. The independent company will not have a role in relation to the certification of other grant claims.

### **Code of Audit Practice.**

The National Audit Office will produce and maintain the Code of Audit Practice and provide supporting guidance to auditors from 1 April 2015.

### **Whistleblowing.**

The Comptroller and Auditor General will be a prescribed person to whom whistleblowing disclosures can be made in respect of local public bodies under the Public Interest Disclosure Act 1998 from 1 April 2015. Appointed auditors retain their status as a prescribed person under the Act.

### **National Fraud Initiative.**

The Audit Commission powers to conduct the National Fraud Initiative will pass to Cabinet Office on the 1st of April 2015, and the NFI will run under Cabinet Office powers from that date onwards. The NFI matches data provided by some 1,300 participating organisations from across the public and private sectors against data provided by other participants, and key data sets provided by government departments and other national agencies, to prevent and detect fraud.

### **Counter fraud.**

To preserve the legacy of the Audit Commission's counter-fraud work we will publish relevant counter-fraud tools and outputs online with open access before the Commission closes at the end of March 2015.

### **Provision of information about audit.**

The National Audit Office will publish information previously provided by the Audit Commission. The NAO will become the owner of *Council Accounts: A Guide to Your Rights*, often referred to as the guide to the electorate's rights with regard to the audit of their local authority. Public Sector Audit Appointments Limited will continue to publish Auditing the Accounts and quarterly and annual reports on auditor compliance and audit quality.

### **Analytical tools.**

Three of the Audit Commission's analytical tools that are primarily maintained to support audit contracts will transfer to Public Sector Audit Appointments Limited and will continue until the end of the current audit contracts: the two Value for Money Profiles Tools (for councils and for fire authorities), and the Audit Fees Comparator Tool. The Financial Ratios Tool is also likely to continue, although arrangements are yet to be finalised.

### **National value for money studies.**

Building on its existing work, including in the Health sector, the National Audit Office now also carries out studies which consider the value for money of services delivered by the local government sector.

### **Best value inspections.**

The power to carry out Best Value inspections (not exercised by the Audit Commission since 2010) transferred to the Secretary of State for Communities and Local Government on 4 April 2014.

### **Audit Commission historic reports and information.**

The National Archives preserves copies of the Audit Commission's website and these are available at [http://webarchive.nationalarchives.gov.uk/\\*/http://audit-commission.gov.uk/pages/default.aspx](http://webarchive.nationalarchives.gov.uk/*/http://audit-commission.gov.uk/pages/default.aspx). For copies of the Commission's past reports you may view these on the National Archives website.

Not all of the professional bodies will be Recognised Supervisory Bodies for the purposes of local public audit.

See the Future functions at a glance page for contact details after 1 April 2015