

Audit & Governance Committee

26 July 2016

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

Yes

External Auditor Procurement

Final Decision-Maker	Full Council
Portfolio Holder(s)	
Lead Director	Lee Colyer – Director of Finance & Corporate Services (s151 Officer)
Head of Service	Jane Fineman – Head of Finance and Procurement and Deputy s151 Officer
Lead Officer/Report Author	Rich Clarke – Head of Audit Partnership
Classification	Non-Exempt
Wards affected	All

This report makes the following recommendations to the final decision-maker:

1. That the Audit & Governance Committee **notes** the latest information on external auditor procurement and **comments as appropriate** on the options available to the Council.

This report relates to the following Five Year Plan Key Objectives:

- A Prosperous Borough
- A Green Borough
- A Confident Borough

This report is concerned with the internal control and governance of the Council. Successful controls and effective governance are a crucial underpinning for all corporate priorities.

Timetable

Meeting	Date
Audit & Governance Committee	26 July 2016

External Auditor Procurement

1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 To give an outline to the Committee on the Council's alternatives for external audit appointment.
 - 1.2 The Council's contract with its external auditor is due to expire, and it will need to appoint a new auditor before 31 December 2017. The new auditor will take on responsibility for examining the 2018/19 financial statements and deliver their first opinion in July 2019.
 - 1.3 The Council (and this will have to be a full Council decision) has broadly three options open to it for routes to obtain a new auditor. This paper sets out each for information.
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2. INTRODUCTION AND BACKGROUND

- 2.1 Previously, selecting the Council's external auditor was a matter for the Audit Commission. Although the Council could comment on the Audit Commission's decision, it could not object and so ultimately did not have power to choose its own auditor. The Local Audit and Accountability Act 2014 changed that landscape, abolishing the Audit Commission and granting to local authorities the power to choose their own auditor, through one of a range of specified routes. This report provides information to members on each route, particularly ahead of a decision Full Council is likely to have to take before the end of 2016 on whether or not to procure through a sector-led body.
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3. AVAILABLE OPTIONS

- 3.1 Before considering the procurement alternatives it should be noted that suppliers must have permission from the Financial Conduct Authority (FCA) to provide public audit services. Currently the following suppliers provide public audit services in local authorities:
 - BDO LLP (Currently auditing 39 authorities)
 - Ernst & Young LLP (232 authorities)
 - Grant Thornton UK LLP (265 authorities, including Tunbridge Wells BC)
 - KPMG LL P (218 authorities)
 - Mazars LLP (40 authorities)

- 3.2 More providers may seek permission as decisions move closer. However, it is unlikely that small local independent firms will be able to meet the FCA's demands, so limiting the Council's choice of auditor.

Solo Procurement and Auditor Panels

- 3.3 The Council could decide to procure a new auditor alone. To do this the Council must create an Auditor Panel as described in the 2014 Regulations. The Panel must have an independent chair and majority of independent members. For the Regulations, 'independent' means:
- not a councillor or officer of the authority or employed by a prospective auditor and has not been so for at least five years.
 - not a relative or close friend of any serving councillor or officer.
- 3.4 Should the authority choose this route, the Auditor Panel could be separate from the Council's committee format or a sub-committee within its existing governance (for example a sub-committee of the Audit & Governance Committee). It must meet the composition demands of the Regulations, including a majority of independent members and chair. Tunbridge Wells BC, since it already has independent representation on its Audit & Governance Committee, is in the unusual position with Kent authorities of being able to form a qualifying sub-committee from its existing membership.
- 3.5 An Auditor Panel is an advisory body recommending actions to Full Council, who need not follow its recommendations. Beyond recommending an auditor, the Auditor Panel must remain as a standing committee to carry out its other roles, including:
- Reviewing the Council's policy on buying non-audit services from the auditor;
 - Upholding an independent relationship to the auditor;
 - Overseeing the quality and effectiveness of the auditor;
 - Considering any investigation into the circumstances of an auditor's resignation from office or any proposal to remove; and
 - Receiving any public interest reports published by the auditor.

3.6 We outline a summary of the advantages and disadvantages of this approach below.

Advantages/Benefits	Disadvantages/Risks
Maximum (though not complete) control over auditor procurement	Costs of recruiting and keeping an <i>Auditor Panel</i>
Ability to shape auditor needs to local circumstances	Unlikely to achieve economies of scale

3.7 This raises a question whether members would be comfortable with a majority independent panel recommending auditor appointments to Council and overseeing some parts of governance.

3.8 Also note that, even if set up as a sub-committee, the Audit Panel would report direct to Council and not have to go through the Audit & Governance Committee. This could create governance issues, especially in the overlap between the Panel and Committee for the Panel’s continuing responsibilities.

3.9 Besides, it is uncertain whether the let contract would be large enough to achieve a competitive price. This may result in an increased audit fee.

Joint Procurement

3.10 An alternative is that authorities may decide to ask the Auditor Panel of another authority to advise them (a joint procurement, but not a joint Panel). Or the authority could seek to work with others to create a fully joint Panel. Joint panels can cover across geography or sector (for instance, a joint panel with Police or Fire authorities). However, the Auditor Panel will still need a majority of independent members.

3.11 We outline below a summary of the advantages and disadvantages of this approach.

Advantages/Benefits	Disadvantages/Risks
Spreads the cost of procurement	Some loss of local control
Potentially easier to recruit independent members	May face complexities if participants have differing procurement aims

3.12 This approach keeps the issue of the Panel remaining a standing committee. So a third-party body will uphold the relationship with the auditor, overseeing performance and receive public interest reports.

3.13 How able a joint procurement will be to get a competitive price depends on the number of other authorities who join. Kent Finance Officers have considered a Kent-wide body but have not followed this as a preferred choice.

Outsourced Procurement (the ‘Sector-Led Body’)

- 3.14 The Secretary of State can approve ‘specified persons’ with ability to make auditor appointment decisions for councils who opt-in.
- 3.15 Currently the Secretary of State has approved no ‘specified persons’. However, the Local Government Association (LGA) has been exploring the possibility of creating a ‘Sector-Led Body’ (SLB) that would seek that approval. The LGA’s explorations have included seeking early responses from authorities on whether they have any interest in opting into an SLB. In a brief survey, 58% of respondents reported an interest in the ‘*specified person*’ route; (the survey had only a 20% response rate).
- 3.16 Authorities that choose to procure via a ‘specified person’ **do not** need to create or maintain an Auditor Panel. In this route, once full Council decides to opt-in, the ‘specified person’ would negotiate contracts and appoint for councils. The ‘specified person’ would also take on the tasks of an Auditor Panel for opted-in councils.
- 3.17 Under the 2015 Regulations, Full Council’s decision to opt-in (or not) following invitation by a ‘specified person’ is final. The Council will not have the choice of waiting to see what deal the SLB can achieve before deciding. Nor can it take a different path if it does not support the eventual appointment the SLB makes.
- 3.18 We include below a summary of the advantages and disadvantages of this approach.

Advantages/Benefits	Disadvantages/Risks
Likely to deliver economies of scale	Loss of local control
No need to run procurement exercise or create <i>Auditor Panel</i>	

- 3.19 While there is some loss of control this should balance against the reality on the range of choice the authority would have in external auditors. This route has the benefit of simplicity and likeness to the current approach that has delivered a fall in audit fees. We would, however, need to consider how the sector-led body recovers its costs and oversees audit quality.

4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 4.1 No decision is required now; we present this report for information. The final decision on which route to take must be one of Full Council. This includes a decision, following invitation, on whether or not to opt into any arrangements proposed by a sector-led body.

4.2 At this stage we seek the views and comments of the Committee to assist officers in engaging with the LGA (and any other bodies) and providing any further support to members ahead of taking the decision.

5 CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

5.1 Various earlier stages of this discussion (which dates back to the original decision to seek abolition of the Audit Commission in August 2010) have occurred at this Committee and elsewhere but this is the first paper dedicated to the topic. As the situation develops, in particular once the situation is clear on the offer presented by a sector-led body, we will bring further information for members’ consideration.

6 CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off (name of officer and date)
Legal including Human Rights Act	The report is presented for information rather than decision and so presents no cross-cutting issues or implications at present.	Rich Clarke
Finance and other resources		Head of Audit Partnership
Staffing establishment		July 2016
Risk management		
Environment and sustainability		
Community safety		
Health and Safety		
Health and wellbeing		
Equalities		

7 REPORT APPENDICES

No appendices

8 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 [here](#).