

Name of meeting: COUNCIL

Date: 15th FEBRUARY 2017

Title of report: ARRANGEMENTS FOR SELECTING AN EXTERNAL AUDITOR FOR THE YEAR 2018/19 AND ONWARDS

Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	Not applicable
Key Decision - Is it in the Council's Forward Plan (key decisions and private reports?)	Not applicable
The Decision - Is it eligible for call in by Scrutiny?	Not applicable
Date signed off by <u>Director</u> & name	Not applicable
Is it signed off by the Assistant Director - Financial Management, Risk, IT & Performance?	D Hogg :19 th January 2017
Is it signed off by the Assistant Director – Legal, Governance & Monitoring?	J Muscroft: 17 th January 2017
Cabinet member portfolio	Not applicable

Electoral wards affected: All

Ward councillors consulted: Not applicable

Public or private: Public

The following report was considered by the meeting of Corporate Governance and Audit Committee on 27 January 2017. The Committee endorsed the content of the report and therefore recommends that Council resolves;

That Public Sector Audit Appointments Ltd be asked to carry out Auditor Panel duties on behalf of the Council and nominate a proposed External Auditor, and that the Assistant Director (Financial Management and Risk) be requested to inform Public Sector Audit Appointments Ltd accordingly.

1. Purpose of report

1.1 Under the Local Audit and Accountability Act 2014, the Authority is required to appoint its own external auditors for the financial year 2018/19 (and beyond). This report provides information about options.

2. Summary

2.1 Prior to its abolition, the Audit Commission ran a tendering process and selected auditors on behalf of local authorities. From 2018/19 the Council is responsible for making its own arrangements. In order to do this, it must establish an Audit Panel.

2.2 This report examines the three main alternatives and recommends the appointment of the LGA body, Public Sector Audit Appointments Ltd (PSAA) is likely to be the simplest option to pursue, with no evidence that it will be at greater cost.

3. Information required to take a decision

3.1 Following the abolition of the Audit Commission in 2013, the Government appointed Auditors for each local authority by means of a national procurement exercise, the auditors being appointed on a regional basis. The Auditors were appointed with effect from the financial year 2013/2014 on a three-year contract with an optional extension for a further two years. The parties have agreed to extend the contract which now expires at the completion of the 2017/2018 audit.

3.2 With effect from the financial year 2018/2019, public bodies must appoint their own auditors following a process of competition. At a meeting of this Committee on 22 April 2016 (Request from the Local Government Association to express an interest in collective purchase of external audit) it was agreed, in principle, to express an interest in the collective purchase of audit services. The LGA has subsequently nominated its arm Public Sector Audit Appointments Ltd to carry out this work on their behalf.

3.3 The legislation however requires that the authority appoint an Auditor Panel to oversee and advise the Council on the recruitment, and monitor the relationship with the external auditor. There are three options for the establishment of an auditor panel available to this Authority:

- a) Set up its own panel
- b) Set up a joint panel with one or more other authorities
- c) Use a sector-led body as the appointing person under the Act.
- d) A further option which is to use of an existing audit committee. However, as the Councils does not have independent members this is not available (see below).

3.4 If the Council was to establish its own Auditor Panel it would need to be;

- a) composed of at least 3 members, 2 of which must be independent of the Council (or potential auditors) (this is subject to a complex definition- see para 2.4 of the accompanying detailed appendix)
- b) able to demonstrate knowledge of the areas of local authority finance, accountancy, audit processes and regulations and the role and responsibility of a local public auditor.
- c) be chaired by a suitably skilled person

3.5 The role of the Panel is to advise on;

- a) the selection and appointment of the auditor,
- b) whether the Authority should adopt a policy on obtaining non-audit services from the auditor,
- c) any proposal by the Authority to enter into a liability limitation agreement,
- d) maintaining an independent relationship with the auditor,
- e) the outcome of any investigation should the auditor resign from office or any proposal to remove them, and
- f) receipt of documents relating to public interest reports.

3.6 As it can be seen there are specific requirements as to the make-up of the Auditor Panel and its role which will require some dedicated administrative support and training resulting in additional costs. Added to this, the Council will have to consider the ongoing role of the Auditor Panel and also its relationship with this Committee.

3.7 Potential options for the Auditor Panel, and the advantages and disadvantages are shown in the tableaux below.

A. Set up a separate Panel for the Council

Advantages	Disadvantages
Full ownership of the process	Difficulty attracting independent members for the

Fully bespoke contract with the auditor Tendering process based on local circumstances Possible cost advantages resulting from proximity to Leeds and large audit firms including the existing provider.	Panel Need to ensure members are suitably qualified and maintain competence Will have to meet all ongoing costs of the Panel May not achieve the financial benefits of larger procurement process
--	--

B. Set up a Joint Panel with the other (for example West Yorkshire) Authorities

Advantages	Disadvantages
Less of an administrative burden on this authority Shared administration costs with other authorities Would remain a local process but offer a greater market share May achieve some economies of scale The size of the combined contracts is likely to be more attractive An opportunity to bespoke the contract	May have to compromise on the contract arrangements May not end up with the first choice auditor Need to be clear on the decision process covering all the Authorities involved

C. Use of the LGA Sector Lead Body(Public Sector Audit Appointments Ltd)

Advantages	Disadvantages
Administratively much less burden Do not have to establish an auditor panel and consequently overcome the problem of recruitment and training Easier to attract bidders because of the size of market share Likely to build up a pool of expertise Possible savings through economies of scale The cost of maintaining the panel would be recovered in the audit fee.	May have to compromise on the contract arrangements May not end up with the first choice auditor Need to be clear on the decision process covering all the authorities who are participants

- 3.8 Whilst each option has its own advantage as and disadvantages, option B is in reality not available, as no neighbouring authorities appear interested in joining a consortia.
- 3.9 The detailed report attached presents additional information about the process and complexities of creating an Auditor Panel. It also examines the market position, which suggests that there are only a limited number of approved providers, not all of whom are active in this region.
- 3.10 On balance it is likely that option C will be the simplest, easiest to achieve, and present the lowest overall risk. There is no evidence that it will be more expensive than the direct procurement, particularly when the costs of operating an EU procurement process, and establishing and maintaining an Auditor Panel are taken into account.
- 3.11 The Appendix to this report sets out more details about Auditor Panels and options available.

4. Implications for the Council

- 4.1 The full Council needs to make the decision on method, and on ultimate appointment of an auditor.
- 4.2 If the Council wishes to place a contract directly it will need first to appoint an Auditor Panel, and then carry out an EU compliant tendering process, and then make an award.
- 4.3 If the Council wishes to ask Public Sector Audit Appointments Ltd to nominate an auditor, they will recommend a supplier to the council (and carry out the other tasks at 3.5)-on a 5 year contract basis.
- 4.4 The Council wants a qualified, competent supplier at the lowest available cost, to perform their independent certification duties. There is no particular reason why the Council would have any preference for any particular supplier from the limited market.
- 4.5 It will need to take decisions later about the way to obtain grant certification work.

5. Consultees and their opinions

- 5.1 No specific views have been expressed

6. Next steps

- 6.1 Corporate Governance & Audit Committee make recommendations to full Council who exercise the initial choice. The Council must commit to the Public Sector Audit Appointments Ltd arrangements by 9th March 2017.

6.2 When the Auditor Panel, or Public Sector Audit Appointments Ltd have carried out a tender process, they will recommend an auditor to the Council.

6.3 An Auditor needs to be appointed by 31st December 2017.

7. Officer recommendations and reasons

7.1 That Corporate Governance & Audit Committee having considered the potential options recommend that Council ask Public Sector Audit Appointments Ltd to carry out Auditor Panel duties on behalf of the Council and nominate a proposed External Auditor to the Council in due course.

7.2 The reasons for the choice are those of convenience and simplicity.

8. Cabinet portfolio holder's recommendations

Not applicable

9. Contact officer

Martin Dearnley, Head of Audit & Risk; 01484 22100- x 73672

10. Background Papers and History of Decisions

Appendix to this report

CIPFA Guidance on Auditor Panels.

PSAA Ltd Website

22 April 2016 Request from the Local Government Association to express an interest in collective purchase of external audit

11. **Director responsible** D Hogg; Financial Management, Risk Performance & IT

Appendix A

KIRKLEES COUNCIL APPOINTING AN EXTERNAL AUDITOR.

Summary

In abolishing the Audit Commission, the government offered new “freedoms” to local authorities to appoint their own local (external) auditor. It did so by the Local Audit & Accountability Act 2014, which established complex rules that control the appointment of auditors to local authorities (more complex than those applicable to NHS bodies).

The legislation also allows approved national bodies to procure auditors. The Local Government Association has established Public Sector Audit Appointments Ltd (PSAA) to carry out this work. This body appears to be being selected by many local authorities to procure on their behalf.

Although there are some potential advantages to the Council procuring its own auditors, the complexity of doing so appears to be likely to exceed any (financial) advantages that might be gained. Whilst the procurement exercise to obtain the services of an auditor is quite simple (albeit it would be subject to the EU procurement regime), the legislation intended to create freedom effectively creates a process so complex that the use of a third party to secure appointments is probably more attractive.

If the council is attracted by the freedom, it needs to consider if it is willing to set aside the resources needed to recruit the panel and operate the process.

Adding other additional services seem unlikely to make the package on offer particularly attractive, and the market lacks significant competition.

The advantages of direct purchasing are;

A bespoke contract may reflect the specific needs of the Council.

Auditing services to the main council subsidiaries and for grant claims could be part of the package

Kirklees has the potential to be geographically attractive to suppliers.

The council would pay its own fee based on market perceived risk

It may be possible to negate an increase in fees.

The disadvantages of direct purchasing are;

The substantial complexities of finding and organising an Auditor Panel

Quality candidates may command a fee.

Auditor Panel needs to be kept in place to carry out ad hoc functions

The costs EU procurement is high as a proportion of the contract value

A market with restricted competition

The package of work may not be attractive (compared to PSAA work).

No supplier may be willing to bid at the suggested budget or willing to accept specifications and terms and conditions.

New exercise required if auditors resign or dismissed

As the local auditor must be appointed by 31st December 2017 there is now a single critical path to appointment, either using PSAA (who must be notified by 9th March 2017) or to follow the necessary processes of local appointment.(annex 3) It is unclear if an option exists to extend the arrangement with the existing auditor. This would not though provide a sustainable compliance solution.

MED December 2016

KIRKLEES COUNCIL APPOINTING AN EXTERNAL AUDITOR.

Introduction

- 1.1 The Local Audit and Accountability Act 2014 established new arrangements for the audit and accountability of local authorities. These new arrangements include the ability of such bodies to appoint their own local public auditors but only via an Auditor Panel. This may be done either individually or jointly with one or more other authorities. Auditor Panels must also advise the authority or authorities on the maintenance of independent relationships with the chosen local auditor.
- 1.2 Larger local government bodies –including Kirklees- move to the new arrangements on 1 April 2018 (the 2018-19 financial year). In practice, this means the local auditor must be appointed by 31st December 2017.
- 1.3 Authorities may opt into any sector-led body that may be established as the appointing person under the Local Audit and Accountability Act and relevant regulations. If they decide to do so, they will not need an auditor panel. This organisation is Public Sector Audit Appointments (PSAA), an arm of the LGA. It proposes to appoint auditors in a manner broadly similar to that used by the Audit Commission, with (it is understood) regional based competitions looking to appoint a panel of suppliers in each region, a supplier being nominate to each authority, and a charging model that looks to even out some costs of supply. PSAA would appoint a national Auditor Panel for selection and engagement management; although it appears that the post appointment role will be minimal, with engagement only in the event of a fundamental fall- out with the supplier.
- 1.4 Authorities may also establish their own Auditor Panel to advise them on the appointment of their local auditor and there are four main options for this:
 - (1) establish a separate and individual Auditor Panel, solely for the authority
 - (2) set up a panel jointly with one or more other authorities
 - (3) use an existing committee or sub-committee to act as the auditor panel (subject to compliance with the other provisions and regulations relating to Auditor Panels)
 - (4) ask another authority's Auditor Panel to carry out the functions of the authority in question.
- 1.5 There are advantages and disadvantages to each option but these are likely to vary according to the type of authority and its size, geographic location, etc.
- 1.6 Auditor Panels act in an advisory position. They will recommend to their authority (Full Council) or authorities which local auditor to appoint but ultimately the responsibility for appointing the auditor rests with the authority itself.
- 1.7 As 1.4(2) above although there has been some very limited discussion with other (neighbouring) authorities on creating local arrangements to procure auditors, this appears to lack energy and enthusiasm. A joint panel would help to mitigate costs, enable a larger contract to be offered, (subject to potential conflicting), but might require some compromises. Members of shared Auditor Panels, or (those of another authority), have to pass the independence tests (see below). West Yorkshire Fire & RA would have been the most appropriate potential partner (as they share many of our systems), but they have chosen PSAA as their audit procurer. There appears to be no other local interest in this approach.
- 1.8 The Councils current Corporate Governance & Audit Committee would not meet the requirements of independence, and indeed the Auditor Panel appears to be accepted by DCLG and Cipfa as simply existing to manage the procurement exercise.(see (3) above)

Option	Possible Advantages	Possible Disadvantages
Set up own separate and individual panel to oversee separate and individual procurement	Full ownership and control of the process	May experience difficulties in appointing majority independent panel members and independent panel chair as per the regulations
	Fully bespoke contract with the auditor, including competition for grant and other independent certification work (see 8 below)	Will need to ensure that panel members are suitably qualified to understand and participate in the panel's functions
	Tendering process more based on local circumstances (within EU procurement rules)	Will have to cover panel expenses completely
	Kirklees is geographically well located for suppliers from Leeds, Manchester & Sheffield	Potential limited provider choice . A single authority contract may be less attractive to some providers
	Few contracts of this size likely to be offered (larger than typical NHS contracts, smaller than the PSAA block work)- which might be attractive. (see 7 below)	Cost/ may not achieve economies of scale (compared to PSAA contracts)

1.9 An authority appointing panellists to its own Auditor Panel is required to take decisions on those appointments at full council.

2. The Auditor Panel.

2.1 The minimum number of members that an Auditor Panel must have is three. There must be a majority of independent members and there must always be an independent chair, and for a panel meeting to be quorate, there must be a majority of independent members present at the meeting. There are specific regulations which clarify how independence is to be defined for the purposes of Auditor Panels.

2.2 Panel members will be expected to have a certain level of specific knowledge and experience to ensure that the panel carries out its duties effectively, which will require panel member job descriptions, advertisement and recruitment processes to choose candidates with the correct skills and experience. Panel members may be paid an allowance and any reasonable expenses covered.

2.3 CIPFA suggest that the Panel does not need to be large, but state “The depth of knowledge required may be harder to achieve with a small panel”. At a more practical level, the meeting can only be quorate with a majority of external members, creating a risk (of sickness /unavailability) if there are only 3 members.(assuming that the council wanted to nominate its own representative (see annex 1).

2.4 The persons is not “independent” if they have ;

- had previous involvement within the last five years as a member or officer with the authority or another, connected authority or an officer or employee of a connected entity
- a relationship (familial or friendship) with a member or officer of the authority or a connected authority or with an officer or employee of a connected entity
- a contractual (commercial) relationship with the authority – either as an individual or via a body in which the panel member has a ‘beneficial interest’, or
- a possible conflict of interest through being a prospective or current auditor of the authority or, within the previous five years, been: an employee of such a person, partner

in a firm, or director of a body corporate which is a prospective or current auditor of the authority at the given time. (Prospective means a business having submitted an expression of interest/bid; it does not preclude a person who might be involved in a future bid for the services)

- 2.5 CIPFA advise that all types of interests should be disclosed by (prospective and sitting) Panel members, and that party political relationships, whilst not specifically forbidden should be treated carefully, as they can suggest partiality, as can a close association with any particular policy issue. Should any Panel members become conflicted, or they were otherwise disqualified, they would need to be replaced. They advise that prospective chairs should be selected for their generic leadership skills, but all panel members should have knowledge of some or all of accountancy (public sector or commercial) and audit processes and regulation (public or private sector, external/local audit or internal audit), including more specifically, local authority finance and the role and responsibilities (statutory duties) of a local public auditor in local government.
- 2.6 There is no requirement for a specific period of tenure, although it would probably be sensible to not replace all panel members at the same time, nor to change them immediately before the next procurement exercise. Panel members may well have training requirements relating to EU procurement (which would apply to a KMC contract).

3. Role & Functions of the Auditor Panel

- 3.1 The Auditor Panel exists to advise the authority on the selection and appointment of the auditor. It will also need to be involved in a decision as to whether the authority should adopt a policy on obtaining non-audit services from the auditor, including the contents of such a policy, and any proposal by the authority to enter into a liability limitation agreement. The Panel will also need to oversee the maintenance of an independent relationship with the auditor, the outcome of any investigation of an auditor's resignation from office (should this occur), or on any proposal to remove a local auditor from office. The Auditor Panel is also included under legislation required to be involved in any discussions and receipt of relevant documents relating to public interest reports.
- 3.2 It will be necessary to provide administrative/secretariat support and direct officer support and advice on certain areas both during and outside of panel meetings.
- 3.3 There may be some overlap between the Auditor Panel and the Corporate Governance & Audit Committee in respect of certain roles, although these should be quite minimal. (see 4)
- 3.4 It is likely that the Panel will need to meet several times during the procurement process, probably (a) at initiation, (b) to consider the contents of the specification, (c) to review outcomes from the tender process (and determine or clarify the outcomes), and to recommend an auditor to the Full Council who will make the formal appointment.
- 3.5 It should be noted that for Kirklees the procurement will need to be subject to full EU procurement rules. Given the nature of the market (see 7.2) it is probably unnecessary to use a prequalification stage, and appropriate to use an open tender process. This requires a systematic evaluation of written proposals, and the authority practice with all tenders is to avoid interviews. It is normal for this to be dealt with by officers, although the Panel could have some involvement, within the rigid structures that apply to EU processes. It is likely therefore that the Panel will be presented with a set of outcomes, and a winner (under EU rules there is no discretion) subject to any conflicts having been filtered out prior to this stage. Assuming that the Panel is content with the outcome and the Full Council agrees, future roles are likely to be limited, unless fundamental conflict, resignation or public interest matters arise.
- 3.6 CIPFA believes that the Chief Executive, Chief Finance Officer, Head of Internal Audit and Head of Procurement will all have relationships with the Auditor Panel, although the nature of the role suggest that only the latter will require an enduring relationship. (see Annex 2).

- 3.7 The Auditor Panel is required to be consulted on proposals to use the appointed external auditor to provide other services.
- 3.8 Auditor panels have a statutory duty to give advice to the authority if it proposes to enter into a liability limitation agreement. If panel members lack knowledge or experience in this area, it is recommended that training is sought that may assist them in this duty.
- 3.9 The Auditor Panels must see any public interest report that has been made by the auditor. They should take a public interest report into account when advising the authority on its relationship with the auditor. Cipfa also believe that public interest reports should inform the panel's monitoring of the quality and effectiveness of the auditor, and that the Auditor Panel should be aware that adverse reports might impact on the authorities attitude about the suitability of the provider.

4. The Corporate Governance & Audit Committee(CGAC)

- 4.1 The CGAC has a role in dealing with many aspects of the appointed external auditors role and work. This includes the consideration of the external audit plan, reports from the external auditor, management letters, providing letters of representation, and approval of the final accounts.
- 4.2 They may also wish to comment on the proposed audit procurement arrangements, and specification, and the proposed appointment. Nothing in the Auditor Panel role replaces or substitutes these duties. They also (in a very light touch way) monitor the external auditors work. This does have the potential to touch the Auditor Panel role, albeit it is only likely to happen in the event of major disagreement between the Council, (its officers, or CGAC) and the appointed auditor, or towards the time when re-tendering is being undertaken, and the existing auditor is a potential bidder. CGAC should also have an opportunity to comment on any proposals to use the appointed auditor to provide services, albeit it is the Auditor Panel that has the statutory authority to advise on this.
- 4.3 Although an Audit Committee can perform the role of Auditor Panel, it can do so only if it meets the criteria for an Auditor Panel; ie independent chair and majority of members. This is very remote from existing arrangements for CGAC, who have in the past shown no willingness to consider any independent members. It would be possible to create a formal sub-committee of the CGAC (which again met the independence criteria) by appointing 2 independent members to CGAC. However, the proceedings of the Auditor Panel have to be executed separately from the Audit Committee.

5. Appointing the Chosen Auditor

- 5.1 The Auditor Panel must give advice to the authority- formally the Full Council-on the selection and appointment of the local auditor. This advice, or a summary of it, must be published within 28 days of appointing the auditor.
- 5.2 When the authority does not follow the advice given to it by the Panel, it must also set out the reasons why it has not done so in the same notice.
- 5.3 Once Full Council has approved an appointment, the order/contract is executed with the chosen provider. (As this is an EU procurement, the authority will have to have given notice about the proposed appointment in advance of the formal contractual appointment)

6. Resignation or Removal of the Auditor

- 6.1 There are processes to be followed, set out in the legislation, in the event that an auditor wishes to resign or the Council, wishes for them to be dismissed. In the event of a resignation, the Auditor Panel must consider the circumstances of the resignation within 3 months, and provide advice and or recommendations; The Authority is required to publish this within 4 weeks of receipt. The Authority is also required to advise the Secretary of State for Communities & Local Government within 14 days of the resignation.

6.2 There are complex processes set out for the removal of an auditor, including an obligation to advise all members, the rights of the auditor to respond, a requirement for the Auditor Panel to report and conclude before a decision is taken, and the right for the Auditor, and an Auditor Panel member to attend and speak at the meeting which will consider the removal. There are a set of processes to be followed after dismissal, including the requirement to advise the Secretary of State for Communities & Local Government within 14 days of the dismissal.

7. Lessons relating to the appointment of the external auditor (from the Audit Commission exercise in 2012/14).

7.1 The Audit Commission believed that only packages of £5m per annum were attractive to the market and bring forward effective competition. Although they got 13 bidders in 2012, and 9 in 2014, there are currently only 5 suppliers. The Commission used a written and blind scoring process to award 40% of marks on quality; 60% of marks were based on price, as it sought to avoid encouraging gold plated standards.

7.2 Only parties registered by the Institute of Chartered Accountants (EW) can carry out local authority audit work. The companies registered at present are;

BDO	Deloitte
Mazars	Ernst & Young
KPMG	PricewaterhouseCoopers
Grant Thornton	Moore Stephens
Cardens (Hove)	Scott Moncrieff (Edinburgh)

It is understood that only KPMG(Leeds & Manchester), Grant Thornton(Manchester) and Mazars(Durham, with Leeds sub office) are currently active in this region. There are not a large number of individuals possessing the likely skills and experience who do not work with existing operators. Although in theory staff working on contracts such as this might be entitled to TUPE transfer, in practice staff are unlikely to work for the qualifying time to have such rights. In addition, it is understood that suppliers may choose to retain all or most existing employees and deploy them on other duties.(and hence potentially undermining the ability of new providers to enter a market in a geographical area.).

8. Other matters

8.1 Although there was a substantial move by DCLG to increase self-certification of grants several years ago, a number of government departments including Department for Education and Department of Work and Pensions still insist on independent certification of certain grant claims.

8.2 This is not covered by the proposed PSAA contracts, although they indicate no concerns (as regards e.g. independence) with the use of their chosen supplier as the grants certifier.

8.3 The move to universal credit should have massively reduced the need for DWP grants to local authorities, but continued delays mean that it remains the single most significant grant claim. It is understood that discussion has taken place with DWP about them appointing their own independent auditor (somewhat analogous to the arrangements used in relation to Stronger Families, albeit their compliance work relates to eligibility).

8.4 As a matter of routine we, like most authorities, have used the current auditor to do this work. (for which they have a substantial knowledge advantage).

8.5 If DWP work remains part of arrangements grant certification cumulated over 3 or 5 years is likely to exceed EU procurement thresholds; without DWP it may be below threshold, albeit CPRs would still require competition.

8.6 The Council has subsidiary parties that are limited companies; their auditing regimes are subject to the simpler companies act and accounting standards regimes. KNH (the main subsidiary), has recently changed its auditor to a local supplier Revell Ward.

- 8.7 One opportunity might be to look to carry on the existing arrangement with the current auditor. The current audit fee is £160,000, with about £40,000 of additional services (grant work) also obtained from the auditor. It is not clear if this opportunity exists as an option under the legislation (although it does not seem to be specifically forbidden). It is not clear if the existing provider would be interested in agreeing to a single year arrangement on this basis. The council has no current documentation that governs contractual features, although it should be possible to obtain this.
- 8.8 The annual fee falls just below the EU threshold of £164,176, although with the additional work the value is considerably above. The Councils own CPRs make a presumption of competition, and a strong justification would need to be provided to make a direct award. This would only move the need for a choice one year forward, and it is not clear if PSAA would accept a new entrant after 1 year. Arguably an auditor is only ever appointed for 1 year, so this exercise could be repeated, but it does not really fall within the proper spirit of sound governance and auditor competition that is recommended for all large organisations, and would at best test the spirit, intention and indeed obligations of the local Audit & Accountability Act and EU procurement rules.

9. Analysis: what should Kirklees Do?

- 9.1 What then are the potential advantages for Kirklees in choosing to use its freedom under the new legislation to choose its own local auditor.
- 9.2 As a matter of practice it is important to note that the auditor needs to be chosen for their independence, and indeed the legislation is prepared with the requirement to construct structures to make that happen. In addition the basic services of a local auditor are very simple (essentially to determine if the accounts are prepared in accordance with the applicable standards and regulations).
- 9.3 In addition, because of the necessary arrangements, there is little difference between the “choice” that the Council can make if it makes its own arrangements and if it accepts a nomination from PSAA.
- 9.4 The advantages are;
- (a) A bespoke contract may reflect the specific needs of the Council (though see 9.2)
 - (b) It would be possible to include in grant related services (with an option of competition on this aspect) albeit the nature of what needs to be certified is uncertain.
 - (c) It might also be possible to add in auditing services to the main council subsidiaries, (but see 7.2, 8.6. Although the package of work would be bigger, KNH may find their move from a national to local market auditor more expensive))
 - (d) This would be quite a large contract, and Kirklees has the potential to be geographically attractive to suppliers.
 - (e) A direct award would mean that the Council would pay its own fee based on market perceived risk (rather than through a mechanism that involves an element of pooling/cross subsidy and contribution to the costs of a third party).
 - (f) Depending on how and when the PSAA contracts are awarded this may entice contractors to marginal cost contracting
 - (g) It might be possible to negate an increase in fees by stating the Councils expectations on payment (e.g. no more than the current fee)
 - (h) The task may attract a new entrant although as noted in 7.2 this is most unlikely.
- 9.5 The disadvantages are;
- (a) The substantial complexities of finding and organising an Auditor Panel must not be underestimated. Candidates of the quality that might be needed may expect to receive some degree of fee.
 - (b) The Auditor Panel will need to be engaged to a reasonable extent during the procurement phase but would need to be kept in place to carry out the monitoring and ad hoc functions during the life of the arrangement. Keeping the Auditor Panel “interested” may be difficult in what may well be a long period of genuine inactivity.

- (c) The costs of carrying out an EU compliant procurement, although not massive, are quite high as a proportion of the contract value (that might be c £0.6m over 3 years).
- (d) This is a market with restricted competition to start with, and apparently only 3 active operators in the area. If they are all to benefit from PSAA work they may not be interested in the more modest sum on offer from KMC.
- (e) The package of work may not be attractive.
- (f) No supplier may be willing to bid at the suggested budget.
- (g) PSAA are likely to be successful in agreeing appropriate specifications and terms and conditions, and may have more sway in avoiding the auditors seeking limitation of liability than the council could if procuring alone.
- (h) In the event of auditors resigning (including for commercial reasons) or being dismissed, it is more likely that PSAA will have alternative providers available through their enduring framework arrangements rather than the need for the council to undertake a new exercise.

9.6 Had we pursued this option earlier it might have been possible to tender a direct award alongside West Yorkshire Fire, although this is now too late.

9.7 The arrangements for creating an Auditor Panel have the potential to contain an element of conflict with the CGAC. This risk is reduced if PSAA is used.

10. Conclusions

10.1 Although there are some potential advantages to the Council procuring its own auditors, the complexity of doing so appears to be likely to exceed any (financial) advantages that might be gained

10.2 Although the procurement exercise to obtain the services of an auditor is quite simple (albeit it would be subject to the EU procurement regime), the legislation intended to create freedom effectively creates a process so complex (and which does not apply to NHS bodies or academy schools) that the use of a third party to secure appointments is probably more attractive.

10.3 If the Council is attracted by the freedom, it needs to consider if it is willing to set aside the resources needed to recruit the Panel and operate the process.

10.4 There can be no guarantee that the arrangement will provide any savings (although equally nothing about the PSAA arrangement offers such). Direct procurement would offer the potential to obtain some (grant certification) services in a way that might be more competitive than through the use of PSAA.

10.5 Given the constraints of the market it is unlikely though that related organisations would make a saving through shared procurement.

10.6 If a group of Yorkshire authorities were to join together the economies and practicalities might change, but there seems no enthusiasm for this.

MED

December 2016

Annex 1

Options if the Council is tempted to procure its local auditor through its own Auditor Panel.

1. Select a minimum sized Auditor Panel. It is suggested that this has 3 independent members only.(plus perhaps one reserve who is called upon in the event of resignation) The constitutional arrangements could require the right of audience of council officers and (eg) a representative of the CGAC before any decisions are taken.
2. The selection (of independent members) must follow advertisement of the vacancy. Appointment processes appear not to be defined, must not be solely by the council Executive.
3. If the panel had 3 independent members only, there would be fewer problems with achievement of the statutory quorate, and as Members cannot be in the majority anyway, few risks of uninfluenced outcomes. In any event, the Full Council can overturn any advice from the Panel.
4. As it will be obligatory to follow EU procurement rules, and the councils approach uses essentially a mechanistic approach, the real opportunity for influence by the Auditor Panel, or Full Council is limited.

Annex 2

Roles of Council Officers with the Auditor Panel

	Chief Executive	CFO	Head of IA	Head of Procurement
Lead officer adviser for panel		Optional	Optional	Optional
Strategic procurement approach	Yes	Yes	Optional	Yes
Detailed specification		Yes	Optional	Yes
Detailed Evaluation of Bids		Optional	Optional	Yes
Preparation of Report to Council		Optional	Optional	Yes
Ongoing Contract Supervision		Optional	Optional	Yes

Annex 3

Timetable for Arrangements

Appointment of the auditor must be made by 31 December 2017

Meeting/ Date	Using own Auditor Panel	Using PSAA	Notes
CGAC 27 th January 2017	Consider position of this approach	Consider position of this approach	Advisory stage
Full Council February 2017	Select this option	Select this option	
Early March 2017		Advise PSAA of Council joining their scheme	
March 2017	Prepare role descriptions for Auditor Panel		
April 2017	Initial preparation of Specification		
CGAC 21 st April 2017	Approve arrangements to date; advertise roles		
May 2017	Interview candidates for roles		
June 2017	Full Council approves		

	appointment to auditor panel		
June 2017	Initial meeting of Auditor Panel		
July 2017	EU advertisement of contract		
July 2017	Finalisation of Specification		
September 2017	Tenders returned & evaluated by officers		
October 2017	Auditor Panel considers outcomes of process	PSAA advises of proposed auditor	
October 2017	Alcatel Process notification of intended contractor		
November 2017	Full Council considers proposal	Full Council considers proposal	
November 2017	Auditor formally appointed	PSAA formally appoints auditor	

Note; there is only limited opportunity for slippage under this proposal. There would be significant problems if any potential contractor raised concerns about the evaluation outcome under alcatel.

Full Council meetings for 2017/18 not yet set. This may impact the timetable.

No plans to include CGAC in consultations post initial approach.

The timetable needs testing for appropriate EU timescales and any other matters of legal compliance required by Audit & Accountability Act 2014 and other legislation that may apply.