

PFCC Decision Report

Report reference number: 155-24

Classification: Official sensitive

Title of report:

External Audit contract commencing with the Statement of Accounts for the year ending 31 March 2024, for the PFCC and PFCC Group

Area of county / stakeholders affected: Countywide.

Report by: Janet Perry, Chief Financial Officer and Strategic Head of Performance and Resources

Chief Officer: As above

Date of report: 07 August 2024

Enquiries to: As above

1. Executive Summary

- 1.1. The purpose of this report is to seek the Police, Fire and Crime Commissioner's approval to enter into a contract with Ernst and Young LLP, for external audit services, and to request authorisation for the application of an electronic signature to the Call Off Agreement.

2. Recommendations

- 2.1. It is recommended that the PFCC, acting on the recommendation of the Audit Panel, enters into the contract with Ernst and Young for external audit services appended to this report. The contract will be for three years, commencing with the audit of the 2023/24 accounts, with the option for two 12-month extensions.

- 2.2. The cost of the contract for the PFCC and the PFCC group in respect of the audit for the financial year 2023/24 will be £180,600.
- 2.3. This will form part of a joint contract with the Essex Chief Constable at £77,400 for 2023/24 and the Essex PFCCFRA at £110,000
- 2.4. The total cost of the joint contract will be £368,000 for the audit of the 2023/24 Statement of Accounts of the three bodies, being, the Essex PFCC and the Essex PFCC Group, the Essex Chief Constable, and the Essex PFCCFRA.
- 2.5. It is recommended that the Commissioner signs the joint contract, for the Essex PFCC and the Essex PFCC Group, the Essex Chief Constable, and the Essex PFCCFRA (there will also be a DR with the same recommendation from ECFRS)

3. Background to the Proposal

- 3.1. The PFCC is required to appoint the Local Auditors for the Essex PFCC and PFCC Group, commencing with the audit of the Statement of Accounts for the year ending 31 March 2024. The Essex Chief Constable, and the Essex PFCCFRA also require the appointment of a Local Auditor also to commence with the audit of the Statement of Accounts for the year ending 31 March 2024
- 3.2. The financial statements for the year ended 31 March 2023, for the three bodies, have been audited under the final year of the contract with the previous Local Auditors, Grant Thornton, appointed through our own procurement process. The three Essex bodies are amongst a small number, who did not opt into the Public Sector Audit (PSAA)'s national scheme. We have no audit backlogs in respect of previous years and, we have published the audited Statement of Accounts for the year ended 31 March 2023
- 3.3. Our external auditors had audited our Statement of Accounts for 2022/23 in full, with the exception of the Local Government Pension Scheme (LGPS) valuation, as they did not have the assurance from the Pension Audit.
- 3.4. The auditor's opinion explained Management had stated that in the interests of openness and transparency the signed accounts should be published. Management determined it was appropriate to limit the scope of the auditors work in respect of the net defined benefit pension plan liability.
- 3.5. In compliance with the Local Audit and Accountability Act 2014, it is the role of the Audit Panel to advise the PFCC and Chief Constable on the selection and appointment of the Local Auditor
- 3.6. In respect of the audits for 31 March 2024 onwards, we undertook a robust procurement process agreed and overseen by the Audit Panel, to enable the selection and appointment of Local Auditors. However, we did not receive any bids from our Invitation to Tender.

- 3.7. The current failures of the PSAA scheme, with audited financial statements not published according to statutory deadlines, has resulted nationally in a significant backlog of overdue and unaudited financial statements for local bodies spanning multiple financial years. This has resulted in financial statements not being audited and available to provide audited information in a timely manner for the benefit of residents, businesses, partners, and other interested parties timely information not being available to allow sufficient response to financial difficulties.
- 3.8. Finding an alternative solution was challenging. The Essex PFCC Group, for the first time in 2021/22, reached the criteria for Major Local Audit (MLA). Considerably more local audit capacity is required for MLAs. Only a few firms are in the position to satisfy the FRC's Audit Quality Review (AQR) to undertake any MLAs. It is a significant regulatory risk, requiring considerable financial investment, for firms to enter the MLA audit space. This acts as a major barrier to entry for audit firms, further constraining audit supply for public bodies that tip over the current threshold. The number of local bodies subject to MLAs, increases annually, as the definition for MLA is dependent upon meeting one of the following criteria:
- Total income or expenditure of at least £500 million; or
 - For a local authority pension scheme, at least 20,000 members or gross assets in excess of £1,000 million.
- 3.9. The Chief Financial Officer for the PFCC and the Chief Financial Officer for ECFRS, met with most of the big audit firms. The partners consistently stated they could not risk entering into any new contracts, as they all had major concerns over the capacity required for the significant backlogs within the new PSAA contracts and whether they could meet these contractual obligations, that they were already signed up to.
- 3.10. The PFCC and the Chief Constable wrote to the Home Office to express their concerns around being unable to directly appoint a local auditor, The response from the Home Office, disappointingly recommended PSAA.
- 3.11. We identified one alternative solution for the Essex PFCCFRA (which is not subject to MLA). Unfortunately, the current MLA criteria prevented this being the solution for the Chief Constable, the Essex PFCC and the PFCC Group.
- 3.12. Since this time, we have secured a contract for our external audit from 2023/24 onwards, with Ernst and Young.
- 3.13. The Audit Panel met on 8 December 2023 and recommended that the PFCC should contract with Ernst and Young for external Audit Services.

4. Proposal and Associated Benefits

- 4.1. The PFCC is required to appoint the Local Auditors for the Essex PFCC and PFCC Group, for the period commencing with the audit of the Statement of Accounts for the year ending 31 March 2024. The Essex Chief Constable, and

the Essex PFCCFRA also require the appointment of a Local Auditor also to commence with the audit of the Statement of Accounts for the year ending 31 March 2024

5. Options Analysis

- 5.1. Do nothing – Ruled out as the requirement to appoint external auditors is set out in statute by the Local Audit and Accountability Act 2014
- 5.2. Agree a contract with PSAA – Ruled out due to the risk of being in a similar position to other bodies under PSAA, where significant backlogs of audits have built up.
- 5.3. Following the original robust procurement process where no bids were received, it was recommended by the Audit Panel to enter into discussions with the audit firms able to undertake MLAs, to agree a contract under an existing Framework.

6. Consultation and Engagement

- 6.1. We have consulted with the Audit Panel throughout the process, including after having received no bids from our invitation to tender. Their recommendation was to commence discussions with the audit firms able to undertake MLAs. At the Audit Panel meeting on 7 September 2023 the independent members were informed that Ernst and Young were submitting a proposal to provide our local audit. The Audit panel met on 8 December 2023 and recommended this proposal to the PFCC.

7. Strategic Links

- 7.1. The local auditors audit the Statement of Accounts which show the income and expenditure for each year ended 31 March, which includes the financial resources used to support the required performance to meet the priorities and strategies within the Police and Crime Plan. The Audit ensures the Statement of Accounts reports the correct position.

8. Police operational implications

- 8.1. There are no direct operational implications arising from this decision report.

9. Financial implications

- 9.1. The fee for the External Audit of the Statement of Accounts for the year ending 31 March 2024 of the Essex PFCC and the PFCC Group is £180,600.

9.2. This will be a joint contract with the Essex Chief Constable and the Essex PFCCFRA. The total cost of the external audit contract for the three Essex bodies' Statement of Accounts for the year ending 31 March 2024, is detailed in figure 1 below.

Figure 1

	£	9.3. All prices exclude VAT and travel and
Essex PFCC and the PFCC Group	180,600	
Essex Chief Constable	77,400	
Total PFCC, Chief Constable and Group	258,000	
Essex PFCCFRA	110,000	
Total PFCC, Chief Constable, PFCC Group and PFCCFRA	368,000	

other associated expenses. In respect of the 2024/25 and 2025/26 audits, Ernst and Young would seek to increase the fees set out above at the higher of the Professional and Scientific Industry Wage Inflation rate at the 1 April of each of those financial years, or 5%.

9.4. The contract for the 2023/24 audits compared to the 2022/23 audits are detailed in figure 2 below:

Figure 2

	Cost to Audit the 2022/23 Statement of Accounts	Cost to Audit the 2023/24 Statement of Accounts	Movement between 2022/23 and 2023/24	
	£	£	£	%
Essex PFCC and the PFCC Group	100,999	180,600	79,601	79%
Essex Chief Constable	31,175	77,400	46,225	148%
Total PFCC, Chief Constable and Group	132,174	258,000	125,826	95%
Essex PFCCFRA	70,000	110,000	40,000	57%
Total PFCC, Chief Constable, PFCC Group and PFCCFRA	202,174	368,000	165,826	82%

9.5. The cost increase is mainly driven by the lack of capacity in the market for the provision of local/external audit services and cost increases due to inflation.

9.6. The Essex Chief Constable costs have increased by a higher percentage than the Essex PFCC and PFCC Group. This is due to a higher proportion of the increase being applied to the PFCC Group than to the Chief Constable in 2022/23.

- 9.7. We are required by statute to appoint local auditors to audit the accounts for the year ended 31 March 2024. Ernst and Young is the only audit firm with the capacity to enter into a contract outside of the PSAA contract, for all three bodies, being, the Essex PFCC and the Essex PFCC Group, the Essex Chief Constable, and the Essex PFCCFRA.
- 9.8. We remain convinced that we should remain outside of the PSAA arrangement, as we do not believe that the backlogs will be resolved by the backstop legislation. We will have the ability to manage our own contract by directly contracting with EY.
- 9.9. On 30 July 2024, Jim McMahon, Minister of State for Housing, Communities and Local Government provided Parliament with a written update on the action to tackle the local audit backlog in England and the intention to lay secondary legislation to provide for an initial backstop date of 13 December 2024, for the audits of all financial years up to and including 2022/23. The subsequent backstop dates are.
- 2023/24 - 28 February 2025
2024/25 - 27 February 2026
2025/26 - 31 January 2027
2026/27 - 30 November 2027
2027/28 - 30 November 2028
- 9.10. The backstop dates are the date at which unfinished audits will result in auditors issuing 'disclaimed' audit opinions (no assurance) on the accounts.
- 9.11. In addition, the update stated that commencing with the financial years 2024/25 the date by which local bodies should publish 'draft' (unaudited) accounts will change from 31 May to 30 June.
- 9.12. The audit backlogs and the previous proposals of backstop dates had already had a detrimental impact on the audit of the 2022/23 accounts. In Essex, the draft accounts for 2022/23 were published to the deadline, but the audit which would have normally taken place during the summer, did not commence until December, while auditors were concentrating on the national backlogs in other local bodies.

10. Legal implications

- 10.1. The procurement has been carried out in accordance with the Contract Standing Orders and the Public Contracts Regulations 2015 using a compliant framework agreement.

11. Staffing implications

11.1. There are no direct staffing implications directly arising from this decision.

12. Equality, Diversity, and Inclusion implications

12.1. Under the core terms and conditions of the Framework Agreement, the supplier must follow all applicable equality law when performing its obligations under the contract including protections against discrimination on the grounds of race, sex, gender reassignment, religion or belief, disability, sexual orientation, pregnancy, maternity, age or otherwise, and any other requirements and instructions which CCS or the buyer reasonably imposes related to equality Law. The supplier must take all necessary steps and inform CCS, or the buyer of the steps taken, to prevent anything that is considered to be unlawful discrimination by any court or tribunal, or the Equality and Human Rights Commission (or any successor organisation) when working on a contract.

13. Risks and Mitigations

13.1. The procurement risks are mitigated through use of a legally compliant framework. The use of this framework does, however, mean that we have been unable to include performance measures or indicators within the contract. This means there is a higher risk around performance and that we would face unidentified additional costs. These risks are being mitigated by close management of the contract by the relevant 151 officers. The risk is also mitigated by the good reputation of the provider with similar officers elsewhere in the country.

13.2. The framework this contract was procured under set the level of required Public Liability Insurance at £5m which is the level the EY Contract provides. The Guidance on Indemnity and Insurance Terms of Contract from the Southeast and Eastern Region Police Insurance Consortium (SEERPIC) recommends a minimum Public Liability Insurance level of £10m. Having discussed this with EY, the level of cover provided in the contract cannot be altered without significant delay.

13.3. The lead procurement advisor from 7f has done a comparison of the level of cover offered by similar providers and these are either £10m or £5m. In their opinion and the opinion of the PFCC's Chief Finance Officer, having considered the risks associated with the contract, £5m of cover is sufficient.

13.4. There is no contract in place for the external audit of the Statement of Accounts for the financial year that ends 31 March 2024. By signing this contract, the risks relating to failing to appoint an auditor will be removed.

13.5. EY have not yet been able to provide an estimated start date for the audit for the year ending 31 March 2024. This could have subsequent impacts on the

timescales for delivery of the audit. This is also impacting the internal planning of resources. The backstop date for the audit of the 2023/24 Statement of Accounts is February 2024. This only allows just over six months to plan and complete the audit once the contract is signed.

14. Governance Boards

14.1. The Audit Panel of 7 September 2023

14.2. The Audit Panel of 8 December 2023

15. Links to Future Plans

15.1. The contract term is for three years commencing with the Audit of the Statement of Accounts for 2023/24, with the option to extend by one year and then by a further year. Therefore, this contract has the potential to run until the Audit of the Statement Accounts for 2027/28.


16. Background Papers and Appendices


16.1. Reg 84

16.2. Call off contract for the Commissioner's signature.

Report Approval

The report will be signed off by the PFCC's Chief Executive and Chief Financial Officer prior to review and sign off by the PFCC / DPFCC.

Chief Executive / M.O. Sign: 
Print: Darren Horsman - Deputy MO
Date: 14.8.2024

Chief Financial Officer Sign: 
Print: Janet Perry
Date: 08 August 2024

Publication

Is the report for publication? YES
NO

If 'NO', please give reasons for non-publication *(Where relevant, cite the security classification of the document(s). State 'None' if applicable)*

None

If the report is not for publication, the Chief Executive will decide if and how the public can be informed of the decision.

Redaction

If the report is for publication, is redaction required:

1. Of Decision Sheet? YES 2. Of Appendix? YES
NO NO

If 'YES', please provide details of required redaction:

N/A

Date redaction carried out:

Chief Finance Officer / Chief Executive Sign Off – for Redactions only

If redaction is required, the Treasurer or Chief Executive is to sign off that redaction has been completed.

Sign:

Print:

Chief Executive / Chief Finance Officer

Decision and Final Sign Off

I agree the recommendations to this report:

Sign: 

Print: Jane Gardner Deputy PFCC

Deputy PFCC

Date signed: 14/08/2024

I do not agree the recommendations to this report because:

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Sign:

Print:

PFCC/Deputy PFCC

Date signed: