

Kent County Council Auditor's Annual Report

Financial Year 2021-22

March 2023



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We are required under Section 20(1)(c) of the Local Audit and Accountability Act 2014 to satisfy ourselves that the Council has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources. The Code of Audit Practice issued by the National Audit Office (NAO) requires us to report to you our commentary relating to proper arrangements.

We report if significant matters have come to our attention. We are not required to consider, nor have we considered, whether all aspects of the Council's arrangements for securing economy, efficiency and effectiveness in its use of resources are operating effectively.



The contents of this report relate only to those matters which came to our attention during the conduct of our normal audit procedures which are designed for the purpose of completing our work under the NAO Code and related guidance. Our audit is not designed to test all arrangements in respect of value for money. However, where, as part of our testing, we identify significant weaknesses, we will report these to you. In consequence, our work cannot be relied upon to disclose all irregularities, or to include all possible improvements in arrangements that a more extensive special examination might identify. We do not accept any responsibility for any loss occasioned to any third party acting or refraining from acting on the basis of the content of this report, as this report was not prepared for, nor intended for, any other purpose.

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Executive summary















Value for money arrangements and key recommendation(s)

Under the National Audit Office (NAO) Code of Audit Practice ('the Code'), we are required to consider whether the Council has put in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources. Auditors are required to report their commentary on the Council's arrangements under specified criteria and 2021-22 is the second year that we have reported our findings in this way. As part of our work, we considered whether there were any risks of significant weakness in the Council's arrangements for securing economy, efficiency and effectiveness in its use of resources.

Our findings for 2020-21 concluded that there was one significant weakness within arrangements for financial sustainability. This was specifically linked to the High Needs deficit. Our findings for 2021-22 conclude that there are two significant weaknesses within arrangements for financial sustainability – High Needs, which remains weak, and the wider revenue budget. Therefore, overall, the situation for financial sustainability has deteriorated. For 2021-22, we also conclude that there were three other new significant weaknesses within arrangements for governance and improving economy, efficiency and effectiveness as well.

Our conclusions and the direction of travel between 2020-21 and 2021-22 are shown below. Our recommendations for 2021-22 are summarised in Appendix C to this report. Progress in 2021-22 against the key recommendations and improvement recommendations made for 2020-21 is summarised in Appendix D to this report.

Criteria	Risk assessment	2020/21 Auditor Judgment	2021/22 Auditor Judgment	Direction of travel
Financial sustainability	Risk identified during planning because of the Council's low level of reserves	 Significant weakness in arrangements identified. One key recommendation made and four improvement recommendations made	 Significant weakness in arrangements identified during testing. Two key recommendations and two improvement recommendations made	
Governance	No risk of significant weakness identified during planning	 No significant weaknesses in arrangements identified, but three improvement recommendations made	 Significant weakness in arrangements identified during testing. One key recommendation and one improvement recommendation made	
Improving economy, efficiency and effectiveness	Risk identified during planning because of the inadequate rating issued by Ofsted in respect of Special Educational Needs service provision	 No significant weaknesses in arrangements identified, but two improvement recommendations made	 Significant weakness in arrangements identified during testing and two key recommendations made	

	No significant weaknesses in arrangements identified or improvement recommendation made.
	No significant weaknesses in arrangements identified, but improvement recommendations made.
	Significant weaknesses in arrangements identified and key recommendations made.

Executive summary



Financial sustainability

The Council faces a savings requirement of £86 million in 2023-24 as well as a significant and growing deficit on the High Needs block of the Dedicated Schools Grant and school transport. The Council has reported a significant forecast overspend in 2022-23 that is likely to impact on its financial resilience. Strong decision-making and control over spend will be needed in the coming years, as well as a holistic approach towards managing demand for services. We make two Key Recommendations on Pages 13 and 14 and two Improvement Recommendations on Pages 15 and 16 of this report. These issues are very unlikely to be resolved by additional Government funding. The Council's administration will need to make some hard decisions about priorities and service provision.



Governance

There was a failure to comply with the Council's constitutional requirements in relation to the re-procurement of the SEND transport provision. The Annual Governance Statement includes comments on issues and complaints about feelings of safety in meetings and on committees. In addition, a review of the Governance and Audit Committee undertaken by CIPFA commented in July 2022 that the Committee should be more apolitical. We make one Key Recommendation on Page 21 and one Improvement Recommendation on Page 22 of this report. In response to the issues we have highlighted, we are undertaking a more in depth review of governance in the Council.



Improving economy, efficiency and effectiveness

Ofsted and CQC reported in November 2022 that there has been inadequate progress with required improvements to the Council's SEND services. The required improvements were reported in 2019. Also, a failed re-procurement of SEND transport in February 2022 resulted in significant service disruption. We make two Key Recommendations on Pages 26 and 27 of this report. Given the size of the budget deficit which is continuing to grow, the arrangements for achieving value for money are clearly inadequate in this service.



We are nearing completion of our audit of your financial statements and plan to issue an unqualified audit opinion following the Governance and Audit Committee meeting on 28 February 2023. Our findings are set out in further detail on page 28.



Opinion on the financial statements and use of auditor's powers

We bring the following matters to your attention:

Opinion on the financial statements

Auditors are required to express an opinion on the financial statements that states whether they : (i) present a true and fair view of the Council's financial position, and (ii) have been prepared in accordance with the CIPFA/LASAAC Code of practice on local authority accounting in the United Kingdom 2021/22.

We are nearing completion of our audit of your financial statements and plan to issue an unqualified audit opinion following the Governance and Audit Committee meeting on 28 February 2023. Our findings are set out in further detail on page 28. This opinion will be issued by 31 March 2023.

Statutory recommendations

Under Schedule 7 of the Local Audit and Accountability Act 2014, auditors can make written recommendations to the audited body which need to be considered by the body and responded to publicly.

We did not issue statutory recommendations.

Public Interest Report

Under Schedule 7 of the Local Audit and Accountability Act 2014, auditors have the power to make a report if they consider a matter is sufficiently important to be brought to the attention of the audited body or the public as a matter of urgency, including matters which may already be known to the public, but where it is in the public interest for the auditor to publish their independent view.

We did not issue a Public Interest Report.

Application to the Court

Under Section 28 of the Local Audit and Accountability Act 2014, if auditors think that an item of account is contrary to law, they may apply to the court for a declaration to that effect.

We did not apply to the Court.

Advisory notice

Under Section 29 of the Local Audit and Accountability Act 2014, auditors may issue an advisory notice if the auditor thinks that the authority or an officer of the authority:

- is about to make or has made a decision which involves or would involve the authority incurring unlawful expenditure,
- is about to take or has begun to take a course of action which, if followed to its conclusion, would be unlawful and likely to cause a loss or deficiency, or
- is about to enter an item of account, the entry of which is unlawful.

We did not issue an advisory notice.

Judicial review

Under Section 31 of the Local Audit and Accountability Act 2014, auditors may make an application for judicial review of a decision of an authority, or of a failure by an authority to act, which it is reasonable to believe would have an effect on the accounts of that body.

We did not apply for a judicial review.

Securing economy, efficiency and effectiveness in the Council's use of resources

All Councils are responsible for putting in place proper arrangements to secure economy, efficiency and effectiveness from their resources. This includes taking properly informed decisions and managing key operational and financial risks so that they can deliver their objectives and safeguard public money. The Council's responsibilities are set out in Appendix A.

Councils report on their arrangements, and the effectiveness of these arrangements as part of their annual governance statement.

Under the Local Audit and Accountability Act 2014, we are required to be satisfied whether the Council has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources.

The National Audit Office's Auditor Guidance Note (AGN) 03, requires us to assess arrangements under three areas:



Financial Sustainability

Arrangements for ensuring the Council can continue to deliver services. This includes planning resources to ensure adequate finances and maintain sustainable levels of spending over the medium term (3-5 years).



Governance

Arrangements for ensuring that the Council makes appropriate decisions in the right way. This includes arrangements for budget setting and management, risk management, and ensuring the Council makes decisions based on appropriate information.



Improving economy, efficiency and effectiveness

Arrangements for improving the way the Council delivers its services. This includes arrangements for understanding costs and delivering efficiencies and improving outcomes for service users.



Our commentary on the Council's arrangements in each of these three areas, is set out on pages 7 to 27. Further detail on how we approached our work is included in Appendix B.

Financial sustainability



We considered how the Council:

- Identifies all the significant financial pressures that are relevant to its short and medium-term plans and builds them into its plans
- Plans to bridge its funding gaps and identify achievable savings
- plans its finances to support the sustainable delivery of services in accordance with strategic and statutory priorities
- Ensures its financial plan is consistent with other plans such as workforce, capital, investment and other operational planning which may include working with other local public bodies as part of a wider system
- Identifies and manages risk to financial resilience, such as unplanned changes in demand and assumptions underlying its plans

FS1: Identifies significant financial pressures and builds them into plans

FS2: Plans to bridge funding gaps and identify achievable savings plans

FS3: Plans finances to support the sustainable delivery of services in accordance with priorities

The Revenue Budget

The Revenue Budget for 2021-22 was approved in February 2022, with a Net Budget Requirement of £1,129 million. The Net Budget Requirement assumed that the Council would draw down £22.2 million from reserves during 2021-22 and that it would generate savings and income of £39.6 million. The year end outturn report for 2021-22 shows that the Council went on to achieve a small underspend during the year of £7.6 million, after the revenue accounts received contributions from the General Fund and Earmarked Reserves of £15.3 million.

The reported underspend for 2021-22 indicates that financial pressure was managed well during the year. However, the underspend was stated net not only of roll-forwards of £7.1 million but also of some £7.7 million of central funds and one-off grants released to support Adult Social Care and Health costs. The reported underspend also excluded a deficit of £4.2 million on Schools Delegated Budgets. Demand for Children's Social Care, Adult Social Care, and the High Needs block of the Dedicated Schools Grant was rising in 2021-22 but the effects of increased demand were somewhat masked by

savings in other parts of the budget; one-off income; and the statutory override for the High Needs deficit.

The financial challenges have increased since the end of 2021-22. During 2022-23, demand for services continued to rise; inflation increased significantly; and some planned savings were delayed or not delivered. The Net Revenue Budget for 2022-23 allowed for price inflation of £28.6 million and increased demand and cost drivers of £20.7 million. Savings and additional income of £37.9 million were planned for the year to balance the budget but the Council recognised within the budget report that *'Delivering a savings programme of this magnitude will be challenging and will require some tough decisions'*. The budget included a risk reserve of £25 million to reflect the financial challenge the Council faced.

However, the year 2022-23 has proved even more challenging than the budget planned for. The invasion of Ukraine by Russia happened a few weeks after the budget was set and the related financial consequences have impacted councils across the country. Quarter 2 data presented to Cabinet in December 2022 forecast that the non-school's revenue account would overspend by £60.9 million by the end of the year. Factors driving the expected overspend include significant increases in the weekly costs of Adult Social Care because of inflation in the labour and provider market; adult hospital discharges having more complicated needs; rising energy costs affecting adult social care residential overheads and the cost of home to school transport; and increased demand coupled with more complicated needs for children in care.

The overspend that the Council expects to incur in 2022-23 is likely to affect the Council's ability to continue to deliver the services currently provided or to the same level in future years. Whereas in February 2022 the Council had identified the need to make savings of £36 million for 2023-24, by January 2023, the Council was anticipating a much higher savings need of £86 million for 2023-24.

In November 2022, shortly before the Quarter 2 data was reported to Cabinet, the leader of Kent County Council wrote jointly with the leader of Hampshire County Council to the Prime Minister, the Chancellor of the Exchequer and the Secretary of State for Communities and Local Government. In their joint letter, the leaders stated that they were *'facing budget deficits over the next few years of a scale that has never been seen before'* and that *'without some immediate help and a clear plan for long term financial sustainability we are likely to be considering Section 114 notices within the next year or so'*. The leaders stated that the amount they could raise from council tax and business rates would barely cover normal inflationary pressures, leaving no funding to cover expected significant ongoing growth in adult and children's social care services.

Whilst the year 2021-22 itself reported a net revenue underspend, the underlying budget deficits particularly arising from adult and children's social care demand and price pressures and funding shortfalls were clearly present. The pace of cost increases in the social care sector poses a significant risk. The joint letter to the Prime Minister shows that the Council understands the severe financial situation it is in but nevertheless the Monitoring Officer highlighted in the Annual Governance Statement for 2021-22 that there have been instances of the administration directing resources to non-core activities. To avoid the s114 notice that the Council predicted to the Prime Minister, steps need to be taken by the Council itself to control expenditure, which may mean the administration having to make difficult decisions in the future around non-core activities. We state this in a Key Recommendation on Page 13. The Council's Strategy for 2022-26 ('Framing Kent's Future') outlines what the Council's strategic objectives are for the next four years. The ruling administration will need to prioritise, and the Council will need to be able to communicate how and what it prioritised.

For Kent in particular, we also note that risks in the budget are exacerbated by the demand management difficulties it has not only in the Special Educational Needs and Disability sector but with inwards migration as well.

Special Educational Needs and Disability (SEND)

During 2021-22, Kent County Councils' Schools' Delegated Budgets overspent by £41.2 million. Within the Schools line of accounts, the High Needs deficit increased from £51M at the start of 2021-22 to £97M by the end of 2021-22. Demand for High Needs support has been rising in Kent since 2014 and we reported in the Annual Auditors Report for 2020-21 that there were significant weaknesses in the financial sustainability of the High Needs service. At the time of writing this 2021-22 Auditors Annual Report, the Council estimates that a child in Kent is 20% more likely to receive an Education, Health and Care Plan (EHCP) in Kent than any other County.

Since May 2022, the Council has been working proactively with the Department for Education (DfE) to agree a safety valve recovery package. The Council has also been working hard, including with external consultants, to build a strategy for managing down demand. Although profiling is not yet complete, papers reviewed during our testing indicated that the Council will be able to contain the growth of the deficit to £220 million by 31 March 2028. DfE has proposed to write off a proportion of the forecast cumulative deficit (by the end of 2027-28). In return, the Council will be required to identify funding to cover the residual deficit and agree to make significant changes to local High Needs systems so that they are on a more sustainable financial footing and better placed to respond to pupils' needs.

Demand management initiatives that the Council is already working on focus on transition points (11+ and 16+); challenging schools to build-in more mainstream SEND support capacity; working with parent groups; and liaising with the adult social care service line (as the children of today will be the Council's adult service users of the future). The direction of travel is positive, but it will take several years for the deficit to be eradicated. For 2021-22 there remains a significant weakness within arrangements for a financially sustainable SEND service.

We note that the high number of children with High Needs using special and private schools in Kent has also led to a significant increase in the Council's school transport costs. During 2021-22, the Council spent some £50 million per annum on school transport. With energy costs rising, there is a risk that this cost will continue to rise. The Council re-procured school transport in February 2022 but with a final cost saving of only £1 million per annum.

We also note that despite the high costs incurred, Ofsted and the Care Quality Commission (CQC) reported in November 2022 that there remain significant quality and operational weaknesses within the Council's SEND services. We make a Key Recommendation on Page 14 of this report that a more holistic approach needs to be taken to managing SEND demand and SEND financial management issues in Kent.

Migration

Kent County Council spends around £27 million per annum on asylum. The asylum costs relate to duties discharged in connection with Unaccompanied Asylum-Seeking Children. In addition, from separate grant funds, Kent plays the same role as other Councils in co-ordinating Afghan and Ukrainian resettlement schemes. What makes Kent unique is, because of geographical location, the county also hosts key Home Office funded sites for asylum seekers: Manston processing centre; Napier Barracks; and at least ten hotels used by the Home Office as holding centres for newly arrived asylum seekers. The Council bears no direct costs for Home Office sites but does retain statutory duties for public health; safeguarding; schooling; and counter terrorism (Prevent) for all the people staying in and around them. For this, the Council receives no additional funding.

As a gateway authority and as one of the UK's key borders with the Continent, Kent sees high migration traffic. The Council has to manage the day-to-day impacts on its domestic population as well. In July 2022, the Council was forced to take a conscious decision not to comply with statutory duties under the Children Act as the high number of unaccompanied asylum-seeking children arriving in the county made effective compliance impossible. The Home Office introduced a new national scheme shortly afterwards to alleviate some of the pressure on Kent. In November 2022 the leaders of all 14 local authorities in Kent and Medway wrote jointly to the Home Secretary outlining the 'overheating' in the system and the fact that people were not receiving the statutory services they are entitled to because the system is overwhelmed by the volume of demand. The letter stressed that the geographic area would not be able to cope with hosting any additional Home Office sites.

The letter to the Secretary of State contained little financial data outlining the additional cost to the Council of public health; safeguarding; schooling; and counter terrorism for Home Office sites. Internal reporting within the Council on Home Office site impacts also tends to focus on actions and outputs rather than quantifying what it costs the Council to deal with the statutory duties around the sites. Many of the Council's additional costs are sunk in staff time which is not easily quantified. Whilst there is no guarantee of additional funding, capturing and reporting the additional costs could add weight to representations to government and we note this in an Improvement Recommendation on Page 15.



FS4: Ensures financial plan is consistent with other plans

The Council has in place a Capital Strategy, Treasury Management Strategy, Investment Strategy and People Strategy which align with corporate aims. The Capital Strategy is supported by a Capital Programme which, since 2022-23, has been phased over ten years and supported by a reserve to fund feasibility costs. The ten year Capital Programme was introduced in response to a growing trend of year on year slippage in capital spending. Our Auditor's Annual Report for 2020-21 identified that £175.4 million of planned capital spending for 2020-21 had been re-phased to later years and we recommended that steps be taken to reduce slippage in future years. Revenue and Capital Outturn reporting for 2021-22 recorded further slippage in 2021-22 of £171.7 million. Despite the move to a ten year Capital Programme, slippage remains relatively high. Quarter 2 data for 2022-23 presented to Cabinet in December 2022 forecast slippage of £103.7 million for 2022-23. This can make planning for the cost of capital difficult, although it is noted that part of the slippage is planned rephasing to reduce pressures on the budget.

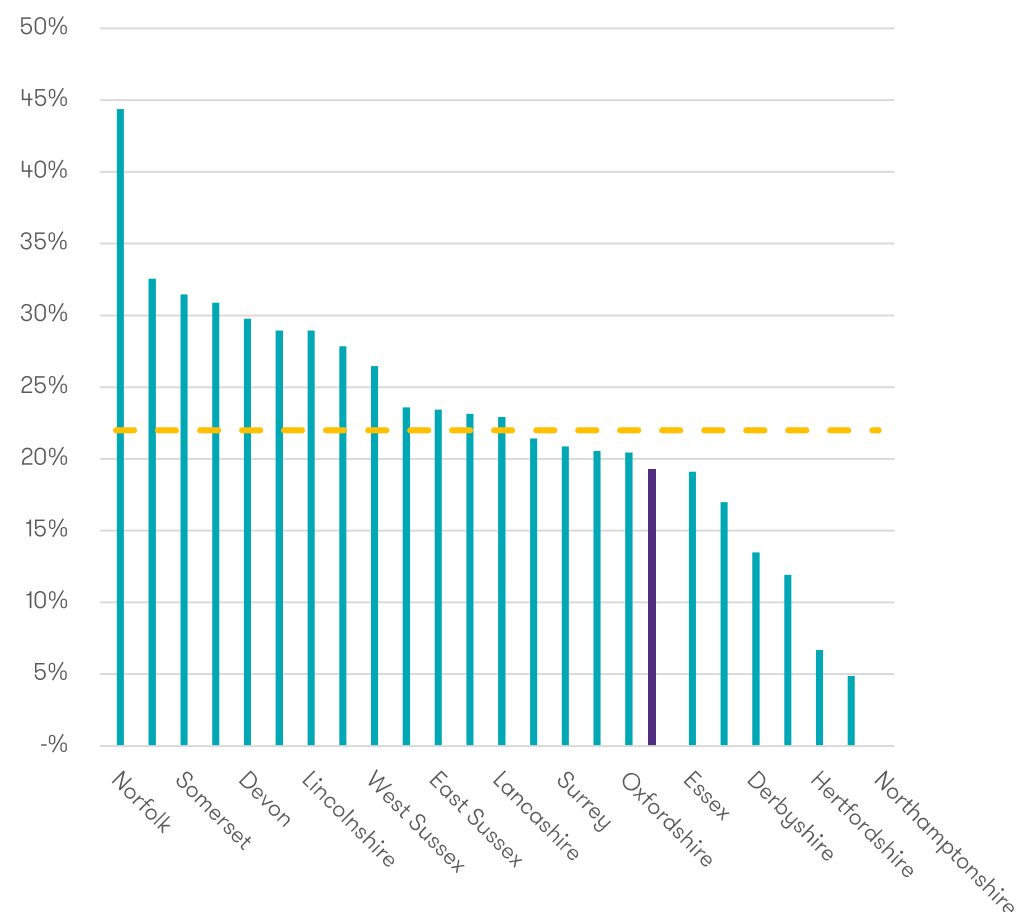
The Council's long term borrowings as a proportion of long term assets are not excessive when compared with other Councils (see Figure 1), however the overall size of the Capital Programme is high (expected to be £1,624 million over ten years from 1 April 2023), and the total cost of financing and servicing the programme therefore remains an issue for the Council. In recent years the Council has, to a degree, benefitted from internal borrowing to fund the capital programme but calls on reserves and changes in the wider economic climate may make this harder going forward. It will be important to maintain discipline around the financial and operational cost of the capital programme if the Council is to reduce pressure on the revenue account and reserves in future years. The likely future increases in the cost of borrowing is a key fact that members need to consider in the medium term financial strategy.

Asset rationalisation rather than capital addition is expected to be a high strategic priority for the Council in the coming years. The Council's need for an efficient, adequate and appropriate estate which maximises growth potential and minimises carbon footprint was first identified in the Asset Management Strategy for 2018 - 2023. In 2020-21, the Council's Strategic Reset Programme included a review of Future Assets which covered three workstreams: Office (including the Strategic Headquarters in Maidstone); Communities (including sports, youth and library facilities); and specialist assets (including waste, highways depots, and gypsy and traveller sites). During 2021-22, the Council spent some £4 million on the Future Assets review. At the time of writing this report, the administration had still to make a decision on Strategic Headquarters but a consultation on community assets was scheduled to commence in January 2023. The Council has taken steps to engage legal and professional advice and has estimated that backlog capital expenditure of some £165 million (compared to a budget of £30 million) could be saved by asset rationalisation.

Figure 1:

Long-term borrowing as a proportion of long term assets (%), comparing 24 English County Councils on 31 March 2022.

Source: Unaudited financial statements 2021-22 (Kent shown in purple)



FS5: Manages risk to financial resilience

Kent County Council identified in the February 2022 Section 25 Assurance Statement for 2022-23 that its reserves were 'adequate but not generous' and require 'continuous monitoring given the risks the Council is facing'. Our own benchmarking analysis supports this assessment. Comparing year end 31 March 2022 reserves data for 24 county councils, we identified that whilst Kent's reserves were not the lowest, they were lower than average for that date, as Figures 2 and 3 show.

The overspends in 2022-23 represent a significant risk to the reserves. The Council's February 2023 Section 25 Assurance Statement for 2023-24 identifies that latest forecasts for 31 March 2023 estimate reserves will be some £99 million lower than they were on 31 March 2022. The section 25 report concluded in February 2023 that "if the forecast outturn for 2022-23 is not brought down to a level that can be covered by reserves set aside for budget risks and stabilisation this poses a significant risk to the adequacy of reserves and thus the Council's financial resilience". Closing the High Needs deficit will also represent a significant demand for reserves. The Council needs to make provision to repay a proportion of the accumulated deficit from General Fund reserves as part of the Safety Valve agreement with the Department for Education. Currently there is no specific provision within General Fund reserves for this repayment. At the time of writing this report, High Needs Safety Valve contributions were expected to require significant input from the reserves over a period of several years.

Standards around reporting a medium term financial plan have improved at the Council. For 2020-23 and 2021-24, no formal Medium Term Financial Strategy was prepared as there was considered to be too much uncertainty. Instead, a two year 'Financial Outlook' document was prepared in February 2021. However, by February 2022, a full three year 'Revenue and Financing Plan' was prepared for 2022 - 2025. At the time it was prepared, the three year plan identified savings and income requirements of £38 million in 2022-23; £36 million in 2023-24; and £26 million in 2024-25. There was very little headroom (or margin for error) in the budget – just £11.8 million in 2024-25 and no supporting sensitivity or scenario analysis. As we have seen, the savings and income requirement for 2023-24 increased afterwards to £86 million; inflation has been high; and demand for services continues to grow. Sensitivity and scenario analysis may help the Council plan effectively for worst case (and best case) scenarios. A draft medium term financial plan for the three years 2023 - 2026 was prepared in January 2023 but this also does not include sensitivity or scenario analysis. We note an Improvement Recommendation for future years on Page 16 of this report.

Figure 2:

Reserves as a proportion of net cost of services (%), comparing 24 English County Councils on 31 March 2022.

Source: Unaudited financial statements 2021-22 (Kent shown in blue).

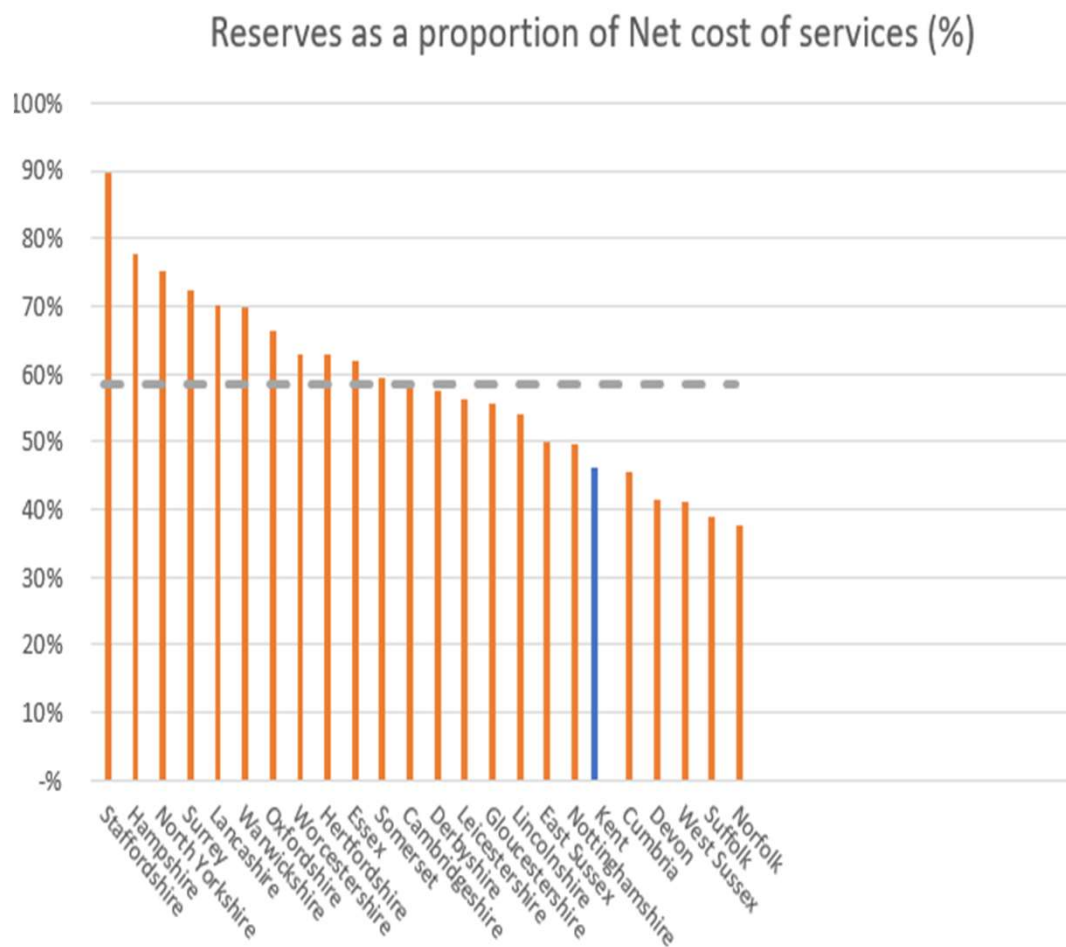
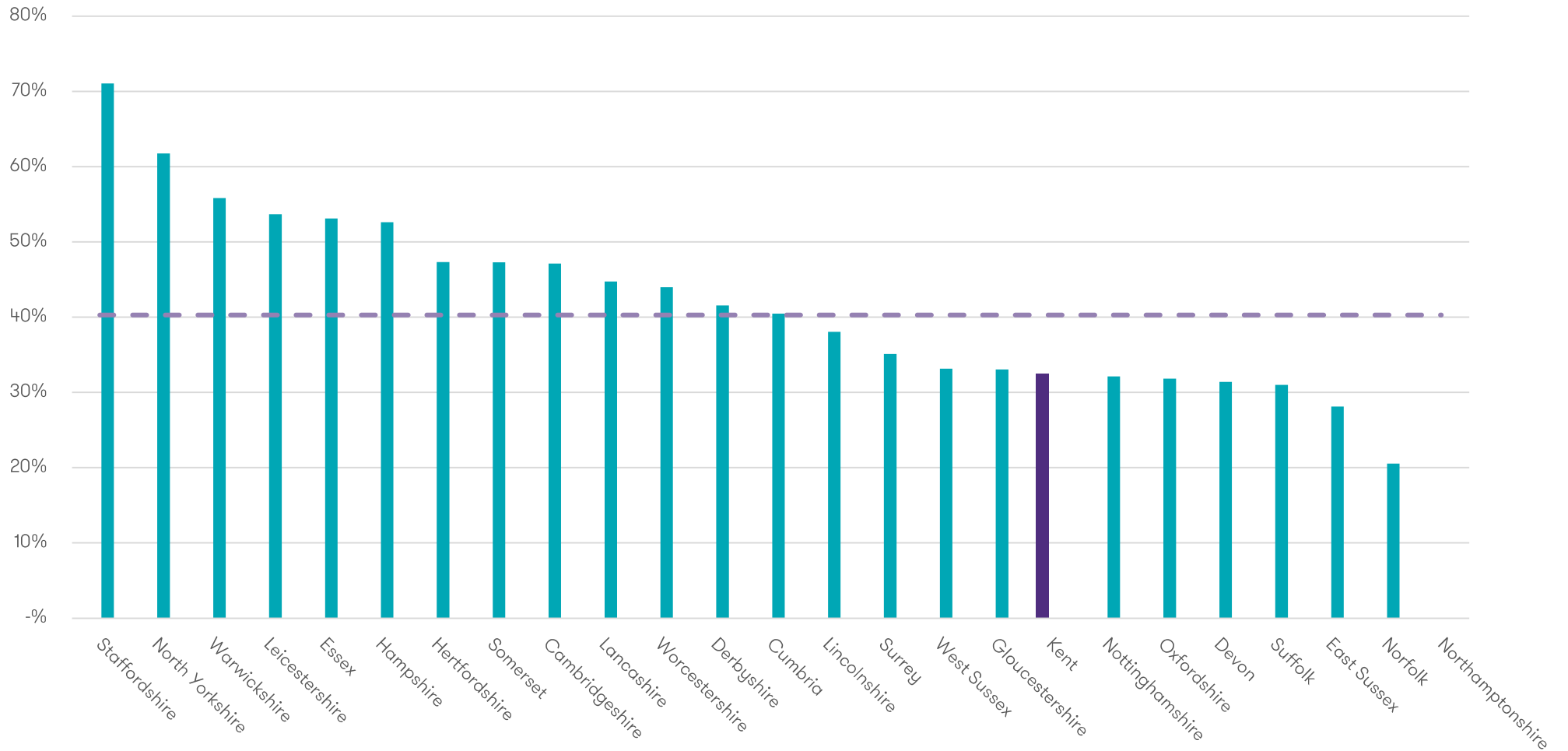


Figure 3:

General fund and non-schools earmarked general fund reserves as a percentage of net service revenue expenditure (%), comparing 24 English County Councils on 31 March 2022.

Source: Unaudited financial statements 2021-22 (Kent shown in purple).



Key recommendation



Financial sustainability – spending control

Key Recommendation 1

Steps need to be taken by the Council to control expenditure. This is necessary now to avoid the future s114 notice that the Council predicted to the Prime Minister. The Council will need to be realistic about the capacity available to support delivery of the savings. The administration will need to prioritise and consult and will need to be able to communicate how and what it prioritised. Some very difficult decisions will need to be made by the ruling administration to reduce expenditure and in some cases withdraw or pare back existing services.

Why/impact

The Council faces a substantial savings requirement for 2023-24 of £86 million in order to deliver a balanced budget against the backdrop of a significant forecast overspend in 2022-23. The Leader of the Council joined the Leader of Hampshire Council in a November 2022 letter to the Prime Minister, Chancellor of Exchequer and Secretary of State outlining that the amount they could raise from council tax and business rates would barely cover normal inflationary pressures, leaving no funding to cover expected significant ongoing growth in adult and children's social care services, which if left unaddressed would lead to a s114 notice.

Auditor judgement

In the absence of additional government funding, which is unlikely in the current economic climate, difficult decisions about reduced spending will be necessary in the near term. Effective consultation and communication with residents about how and what the ruling administration prioritises will be necessary.

Summary findings

The Council faces an £86 million savings requirement in 2023-24. Strong steps and focus to control costs will be needed to maintain the council's financial sustainability.

Management Comments

The council has introduced a range of measures to control expenditure and to minimise non-essential expenditure as much as possible. The management action being taken to control and reduce expenditure is formally reported in the quarterly finance monitoring report that is presented to Cabinet. The progress on delivery of the savings agreed by County Council are also formally reported to Cabinet in the quarterly report. In recognition of the challenging financial situation and the need to contain growth and identify savings to ensure financial sustainability over the medium term, the 2024-25 and MTFP budget process will commence in April 2023.



The range of recommendations that external auditors can make is explained in Appendix B.

Key recommendation



Financial sustainability – Special Educational Needs and Disability (SEND)

Key Recommendation 2

The Council should take a holistic approach towards managing SEND demand and SEND financial management issues in Kent. This will involve the ruling administration making some difficult decisions.

Why/impact

During 2021-22, Kent County Councils' Schools Delegated Budgets overspent by £41.2 million. Within the Schools' line of accounts, the High Needs deficit increased from £51M at the start of 2021-22 to £97M by the end of 2021-22. The Council also spends around £50 million per annum on transporting children including those with SEND to school. As the Council has already recognised, the children with needs of today may become the Council's adult service users of the future.

Auditor judgement

The Council is working with DFE to agree a recovery package for the High Needs deficit. In return for a proportion of the deficit being written off by DFE, the Council will need to provide funding to write down the rest of the deficit by the end of 2027-28 and will need to make the service more financially sustainable. Wider impacts also need to be considered by the Council. For example, re-procuring the transport service for a net saving of £1 million may in the long term be less impactful than working with school and parent stakeholders to influence expectations, behaviour and demand.

Summary findings

There is still a growing deficit in High Needs spending per annum, leading to high transport costs and, in the future, potentially even more strain on adult social care costs.

Management Comments

The oversight and management of the SEND agenda, both service transformation and fiscal prudence are now a whole Council priority. This is being delivered through the internal SEND Transformation Board, which reports to the Council's Strategic Reset Programme Board. Cross Council expertise and resource has been committed to provide advice, support and oversight, ensuring a holistic approach to the demand and financial SEND management issues.



The range of recommendations that external auditors can make is explained in Appendix B.

Improvement recommendation



Financial sustainability – incremental cost data

Improvement Recommendation 1

The Council should consider capturing and reporting the additional costs of public health; safeguarding; schooling; and counter terrorism related to Home Office asylum seeker sites.

Why/Impact

The cost data could add weight to representations to government.

Auditor judgement

Scope for using financial data as a tool for promoting Kent's interests.

Summary findings

Internal reporting within the Council on Home Office site impacts tends to focus on actions and outputs rather than quantifying what it costs the Council to deal with the statutory duties around the sites. Many of the Council's additional costs are sunk in staff time. The Council has little financial data summarising exactly what the additional costs are.

Management Comments

The additional cost information relating to the Home Office Asylum Seeker sites that can be separately identified will be captured and reported.



The range of recommendations that external auditors can make is explained in Appendix B.

Improvement recommendation



Financial sustainability – sensitivity analysis

Improvement Recommendation 2

Sensitivity analysis or scenario testing should be presented to Cabinet and published alongside the medium term financial strategy for 2022-2026 or with future medium term financial plans.

Why/impact

The headroom in the Council's budget is very low and there is little margin for error. Inflationary, demand and High Needs pressures on the budget are very high. Sensitivity analysis may help to sharpen the focus on risk in the medium-term financial plan.

Auditor judgement

Sensitivity and scenario analysis in the medium term financial plan may help the Council plan effectively for worst case (and best case) scenarios.

Summary findings

Industry best practice (to include scenario testing within MTFs) not followed.

Management Comments

The approach to financial planning is reviewed and improved on a regular basis. AS part of the planned development for 2024-25, Sensitivity analysis/scenario testing will form part of the medium term financial planning process.



The range of recommendations that external auditors can make is explained in Appendix B.

Governance



We considered how the Council:

- Ensures it makes properly informed decisions, supported by appropriate evidence and allowing for challenge and transparency. This includes arrangements for effective challenge from those charged with governance/audit committee
- Monitors and ensures appropriate standards, such as meeting legislative/regulatory requirements and standards in terms of staff and board member behaviour (such as gifts and hospitality or declaration/conflicts of interests) and where it procures and commissions services.
- Monitors and assesses risk and gains assurance over the effective operation of internal controls, including arrangements to prevent and detect fraud
- Approaches and carries out its annual budget setting process
- Ensures effective processes and systems are in place to ensure budgetary control; communicate relevant, accurate and timely management information (including non-financial information); supports its statutory financial reporting; and ensures corrective action is taken where needed, including in relation to significant partnerships

GOV1: Makes properly informed decisions

The Council

Kent County Council has both formal and informal governance arrangements. The informal arrangements principally comprise a Cabinet Members meeting on a weekly basis and a Corporate Board (Cabinet Members and the Corporate Management Team) meeting on a monthly basis, with a range of other service or topic specific Boards. Neither the Cabinet Members meeting, nor the Corporate Board have decision-making powers under the Council's Constitution and their meetings are not recorded publicly. However, our 2020-21 Annual Auditors Report noted that the two groups were in a position to influence decision-making as they played leading roles in discussion leading up to decisions.

The Council's Monitoring Officer recommended a review of informal practices and the introduction of new practices in the Annual Governance Statements both for 2019-20 and 2020-21. Our Annual Auditors Report for 2020-21 (April 2022) also recommended that the Council should take action around informal governance and decision-making, as the recommendations made by the Monitoring Officer had not, by April 2022, been actioned. In response, in May 2022 the Council's constitution was amended to recognise that informal governance groups do meet. Codification of the role of these groups is expected to be added to the constitution during 2023.

Our audit for 2020-21 did not specifically identify any instances of unconstitutional or non-statutory decision-making during 2020-21 despite the informal governance arrangements. However, unconstitutional decision-making during 2021-22 has come to our attention. As highlighted earlier in this report, the Council decided during 2021-22 to re-procure SEND school transport services. The services cost the Council some £50 million per annum and a savings opportunity (for a final net saving of £1 million per annum) had been identified. Under the terms of the Council's constitution, this should have been a key decision – requiring consultation and risk and equalities impacts assessments. The key decision process in place in the Council was bypassed and a shorter process for due diligence was used. A short timeframe was also used for the re-procurement. The re-procurement proved complex and the timeframe allowed was inadequate (two months). On 14 February 2022, several hundred children were left without school transport, but the Council was unable to confirm the definitive number of children affected.

Had the Council's key decision process been followed, the re-procurement decision would have been subject to greater scrutiny. The Council's Internal Auditors reported in a Lessons Learnt report in September 2022 that *'if governance and processes relating to Key Decisions and associated Equality Impact Assessment,*

Project Management and the management of risk had been followed and raised with all appropriate parties and sections within the Council, then the impact upon children, parents and carers may not have occurred’.

Internal Audit concluded that *‘there now needs to be an increased emphasis upon a culture which ensures the consistent delivery of good governance at Kent County Council’.*

After the Internal Audit SEND transport review concluded and further assurance activity was completed, a revised version of the Annual Governance Statement was provided within Governance and Audit Committee papers. The revised version included a Monitoring Officer statement. The revised Annual Governance Statement makes clear that members and officers should carefully ensure that all relevant information and the full range of advice is in place and considered before taking decisions for which they are accountable. The statement also clearly sets out that the Council needs to improve the way in which scrutiny of these decisions and activity is undertaken.

The Annual Governance Statement is a comprehensive and honest account of the key issues that need to be addressed. As an example, the Monitoring Officer reported that a range of issues and complaints had been raised during 2021-22 regarding the experience and feeling of safety for all members and officers at meetings of the Council and its Committees. The Monitoring Officer also reported that the administration had diverted resources to non-core activities, despite the challenging financial situation and that *“Member behaviour and prioritisation in this regard must also be reviewed to avoid the challenges faced in Liverpool, Northamptonshire and elsewhere”.*

Going forward, the ruling administration now faces exceptionally difficult decisions around spending and cost savings. Strong governance will be more important than ever. We make a Key Recommendation on page 21 of this report that supports what the Monitoring Officer has set out in the Annual Governance Statement that decision-making arrangements need to be strengthened; that members and officers ensure they understand their roles; and that issues and complaints raised with the Monitoring Officer during 2021-22 feed into good practice training for the future. We would commend members to read the recent Public Interest Report on Cheshire East which explores some of the tensions between officers and member roles in some detail.

The Pension Fund

In response to 16 Action Plan recommendations made by Internal Audit in December 2019 and an additional 108 recommendations made in an independent review by Barnet Waddingham commissioned by the Council in 2021, the Council took steps during 2021-22 to strengthen arrangements for decision-making for the Pension Fund. The renamed Pension Fund Committee was introduced to replace the Pension Superannuation Committee. Membership of the Pension Fund Committee is wider than it had been for the predecessor Committee. Membership is made up of 11 members from the County Council; three members from districts; one member from Medway Council; and four non-voting members (to include a trade union representative; a member representative; a pensioner representative; and one other representative nominated by an outside body such as police or fire services). Joint membership of the Pension Fund Committee and the supporting Pension Board is prohibited.



Decision-making arrangements for the Pension Fund Committee are now set out in the Constitution. We note that the Internal Audit and Barnet Waddingham reviews had been carried out after the Council lost some £237 million when dealing in the Woodford Fund was suspended in June 2019. The Council's net loss from the Woodford Fund after disbursements is currently expected to be £63.7 million. The recommendations from both reviews have been implemented and strengthened arrangements for pension fund governance are in place.

GOV2: Monitors and ensures appropriate standards

Steps have been taken by the Council since the end of 2021-22 to strengthen arrangements around managerial leadership, accountability and standards. In July 2022, the Chief Executive Officer (CEO) and Deputy Chief Executive Officer posts were established. The Corporate Directors now report and are directly accountable to the CEO, who with the support of the Monitoring Officer and Section 151 officer is putting in place refreshed operational arrangements to improve oversight and accountability.

The Section 151 Officer and Monitoring Officer also jointly commissioned an independent review by CIPFA of its Governance and Audit Committee. CIPFA's review focused on the operating effectiveness of the Governance and Audit Committee and concluded in July 2022 that the Committee had demonstrated and continued to demonstrate some good practices to build on. However, the review also highlighted that Committee questions sometimes *'became political or seemed to be asked to make a point about a person or activity'*. CIPFA noted that *'inappropriately political behaviour in meetings'* had been observed. CIPFA made a series of recommendations including around strengthened Terms of Reference for the Committee, which have been accepted by the Committee. We welcome this recommendation and will review progress as part of our work for 2022-23.

As already noted in this report, changes to the constitution are also ongoing to strengthen codification around governance arrangements. With the changes being made to managerial leadership structures; the limited resources available; and the need to focus on tackling the high value deficits, members will need to be focused on the strategic challenges facing the Council.

GOV3: Monitors and assesses risk; gaining assurance over internal control; and arrangements to prevent and detect fraud

The Council

Kent County Council had effective arrangements in 2021-22 for monitoring and assessing risk. The Council also had an effective Internal Audit service in place. Furthermore, a new Anti-Fraud and Corruption Strategy was introduced in January 2022 (having last been updated in 2016).

Our Annual Auditors Report for 2020-21 noted that we would review the adequacy of Internal Audit resourcing during 2021-22. Internal Audit was re-structured during 2021-22 and a new IT internal auditor was recruited. However, additional demand on the Internal Audit service was significant during 2021-22 and it was therefore still difficult to complete the full programme of planned work. At least three weeks of Internal Audit team time was re-directed to investigating circumstances in February 2022 around the re-procurement of the SEND transport service. This disrupted scheduled work on other areas.

Although overall Internal Audit provided Adequate Assurance over the Council's controls in 2021-22, the strength of this Assurance is weaker than it was for 2020-21. 22% of 2021-22 internal audit reports had limited assurance compared to 18% of the reports for 2020-21. 4% of 2021-22 internal audit reports had No Assurance whereas none of the 2020-21 reports provided No Assurance. We also note that by 31 March 2022, only 41% of all Internal Audit Actions (Issues) had been implemented. Some 57% were still showing as In Progress. With a slight decline in control standards in 2021-22 compared to 2020-21, it will be important that Actions from internal audit reports are taken seriously and addressed on a timely basis. The Governance and Audit Committee should review Internal Audit Issues 'In Progress' at each meeting and officers should be accountable for the pace of response to recommendations and for the implementation of recommendations. We note an Improvement Recommendation on page 22 of this report.

Subsidiary companies

The Council has a Shareholder Board which oversees subsidiary companies and which maintains regular liaison with the companies on risk management through the year. Council members and officers do not sit on the subsidiary company boards but the Council does provide the subsidiaries with their internal audit service and the Council has access to all company meeting minutes. The subsidiaries also each provide the Council with a form of year end Annual Governance Statement outlining the risks for their individual company. From these processes, the Council is able to maintain effective oversight and understanding of risks being managed by its subsidiary companies without compromising the arms length relationship it has with those companies. From our review of company Annual Governance Statements for 2021-22 we did not identify risks that were material to the Council.

GOV4: Approaches and carries out an annual budget setting process

GOV5: Ensures budgetary control

Notwithstanding the difficulty in anticipating rising costs and demand for services, Kent County Council does have an effective process for ensuring that a new Revenue and Capital budget is set annually. When the Council prepared the Revenue Budget for 2022-23 (prepared during 2021-22), a 'prior year cost plus estimated change' approach was used. The Council plans to more closely align financial budgeting with performance target setting from 2024-25. The Council plans to move to Outcomes Based Budgeting by 2025-26.

The Council also has effective processes for budgetary control. A range of comprehensive information is included in Finance Reports to Cabinet, over and above Revenue and Capital variances. Enhancements made to data since April 2021 include: more regular savings and reserves monitoring data since September 2021; an update to Cabinet on the cost of living crisis for Q1 in 2022-23; and a summary of planned Actions to Reduce the Deficit for Cabinet for Q2 of 2022-23.

Although the Council faces the unprecedented overspends and £86 million savings requirement outlined earlier in this report, the budget processes in place have at least enabled the Council to clearly understand its problems. Harnessing the data to strengthen communication with stakeholders around the difficult decisions that now need to be made may help the Council with the effective communication needed to manage expectations and demand from residents going forward.



Key recommendation



Governance – decision-making and member/officer relations

Key Recommendation 3

Compliance with the Council's decision-making arrangements needs to be strengthened. Members and officers should ensure they understand their roles and comply with the council's governance arrangements. Issues and complaints raised with the Monitoring Officer during 2021-22 should be addressed and feed into good practice training for the future.

Why/impact

Under the terms of the Council's constitution, this should have been a key decision – requiring consultation and risk and equalities impacts assessments. The key decision process was bypassed. The final Annual Governance Statement for 2021-22 is expected to highlight the importance of officer and member training and of appropriate professional advice being obtained to support decisions. The final Annual Governance Statement is also expected to highlight that a range of issues and complaints were raised with the Monitoring Officer during 2021-22 regarding the experience and feeling of safety for all members and officers at meetings of the Council and its Committees.

Auditor judgement

Non-compliance with statutory and constitutional decision-making standards during 2021-22 has been noted. There have also been issues and complaints around behaviour in meetings. Members should take note of the issues raised in the recent Cheshire East Public Interest Report.

Summary findings

Poor standards of governance applied during the year in the decision regarding the re-procurement of SEND transport provision.

Management Comments

The recommendation notes the raising of this issue by the Monitoring Officer and this is welcomed. The AGS sets out an aggressive programme of activity for delivery over the first half of 2023/24 and work has already started in relation to the roles and compliance with the governance. Ultimately the success of this will be linked to the behaviours of the individual Members and Officers and this will be expressly tested through further updates to the AGS process reviewing 2022/23 that will be delivered in Q1 of 2023/24 and in future years.



The range of recommendations that external auditors can make is explained in Appendix B.

Improvement recommendation



Governance

Improvement Recommendation 3

The Governance and Audit Committee should review Internal Audit Issues 'In Progress' at each meeting and officers should be accountable for the pace of response to recommendations and for the implementation of recommendations. The number of issues in progress should be managed down or, where this is not possible, the reasons why should be understood.

Why/impact

By 31 March 2022, only 41% of all Internal Audit Actions had been implemented. Some 57% were still showing as In Progress.

Auditor judgement

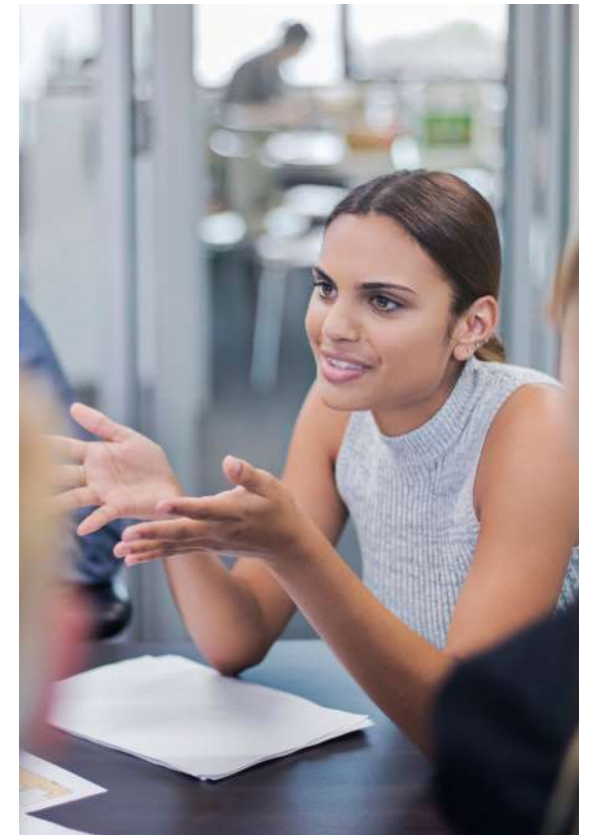
With a slight decline in control standards in 2021-22 compared to 2020-21, it will be important that Issues from internal audit reports are taken seriously and addressed on a timely basis.

Summary findings

Delays to implementing Internal Audit recommendations.

Management Comments

CIPFA have recently reviewed the effectiveness of the Governance and Audit Committee and made a number of recommendations that have been accepted by the Committee. One of the recommendations relates to the consideration of Internal Audit reports by the Committee and this will be taken into account as part of the implementation of the recommendations



The range of recommendations that external auditors can make is explained in Appendix B.

Improving economy, efficiency and effectiveness



We considered how the Council:

- Uses financial and performance information to assess performance to identify areas for improvement
- Evaluates the services it provides to assess performance and identify areas for improvement
- Ensures it delivers its role within significant partnerships and engages with stakeholders it has identified, in order to assess whether it is meeting its objectives
- Where it commissions or procures services assesses whether it is realising the expected benefits

EEE1: Uses financial and performance information to assess performance and identify areas for improvement

EEE2: Evaluates services to assess performance and identify areas for improvement

Kent County Council has effective performance dashboard and corporate key performance indicator processes in place for internal monitoring and assessing of performance. There are also plans to link performance indicator targets and financial budgeting more closely and to adopt Outcomes Based Budgeting from 2024-25 and 2025-26 onwards.

Responding to external assessment of performance is weaker, at least for the Children, Young People and Education service's SEND arrangements. On 9 November 2022, Ofsted and the Care Quality Commission published their joint findings from an inspection of SEND services in September 2022. The inspection reviewed the Council's progress against nine areas of significant weakness in the service which Ofsted and CQC had identified in March 2019.

Ofsted and CQC reported that the Council had not made sufficient progress in addressing any of the significant weaknesses identified in 2019 (see Figure 4, Page 24) and that it would be for DfE and NHS England to determine the next steps, which may include the Secretary of State using powers of intervention.

Ofsted and CQC reported that '*Parental confidence in the local area's ability to meet their children's needs is at an all-time low*'. We note that almost 2,000 parents had shared their views with the 2022 inspectors.

By contrast, other areas of the Childrens, Young People and Education service have been very successful, broadly over the same period, in using external information to assess performance and identify areas for improvement.

An Ofsted inspection in 2017 concluded that the Council's Children Service was Good but by May 2022, Ofsted concluded that the service was 'Outstanding'. The inspection report noted that '*Senior leaders have taken effective action in the areas identified at the last inspection in 2017.....Progress is evident*'.

We noted earlier in this report that there are significant weaknesses in the financial sustainability of the Council's High Needs services. During 2021-22, Kent County Councils' Schools Delegated Budgets overspent by £41.2 million and the High Needs deficit increased from £51M at the start of 2021-22 to £97M by the end of 2021-22. We also noted that to some extent, it is the high volume of demand which drives the financial pressure. The Council estimates that the number of children in Kent in receipt of an EHCP is on average 20% higher than anywhere else in England.

At the time of writing this report, forward-looking work was underway within the Childrens, Young People and Education service to explore ways of reducing demand for High Needs support, in particular at 11+ and 16+ transition points. This involves working with parent forums and other partners. Work is also underway to explore more cost-effective strategies with schools for meeting demand. Financially, the Council's ambition is that funding will match costs by 2027-28.

For 2021-22 we conclude that there were significant weaknesses within the SEND arrangements for learning from performance data; evaluating services; and for providing an adequate service. However, we note that if the overall volume of demand reduces in the coming years and engagement with schools parent forums improves, the actual and perceived quality of service provision and the Council's ability to respond to performance concerns may also improve. We note a Key Recommendation at Page 26 of this report.

Figure 4: Significant weaknesses in Kent County Council SEND practice, 2019

Source: Ofsted and CQC Report, November 2022

Significant weaknesses in Kent County Council SEND practice identified by Ofsted and CQC in March 2019 and September 2022

1. A widely held concern of parents that the local area is not able, or in some cases not willing, to meet their children's needs.
2. A variable quality of provision and commitment to inclusion in schools, and the lack of willingness of some schools to accommodate children and young people with SEND.
3. That parents and carers have a limited role in reviewing and designing services for children and young people with SEND.
4. An inability of current joint commissioning arrangements to address known gaps and eliminate longstanding weaknesses in the services for children and young people with SEND.
5. Poor standards achieved, and progress made, by too many children and young people with SEND.
6. The inconsistent quality of the EHC process; a lack of up-to-date assessments and limited contributions from health and care professionals; and poor processes to check and review the quality of EHC plans.
7. Weak governance of SEND arrangements across the EHC system at strategic and operational level and an absence of robust action plans to address known weaknesses.
8. Unacceptable waiting times for children and young people to be seen by some health services, particularly CAMHS, tier two services, SALT, the wheelchair service, and ASD and ADHD assessment and review.
9. A lack of effective systems to review and improve outcomes for those children and young people whose progress to date has been limited by weaknesses in provision.

EEE3: Delivers within significant partnerships

Kent County Council identifies its key partners as District Councils, Medway Unitary Council, the Police, Fire and Rescue and Health services, and Job Centre + as well as a range of voluntary and community organisations. The Council has a dedicated partnerships team which maintains regular and proactive dialogue with partners. The joint letter on asylum from all local authorities to the Secretary of State in November 2022 was an example of partners co-operating to try to address common geographical problems.

EEE4: Commissioning and procurement

In addition to the partnerships overseen by the Council's partnerships team, the Council also commissions and procures around £1 billion of commercial services every year; spends around £43 million on professional fees every year; and spends around £50 million every year on externally delivered SEND school transport. With such a high value of expenditure through external commercial providers, the Council could be vulnerable to any inflation within the supplier market – as a Budget Financial Risks paper to Cabinet recognised in March 2022.

We have referred to the arrangements for the procurement of the border facility at Sevington in our Audit Findings Report. Our initial view the Council's arrangements for procuring and managing this work did not meet the requirements of the Council's own standing orders and financial regulations. We understand this matter is being further considered by Internal Audit.

Safeguarding the efficiency and effectiveness of so high a value of spend with commercial partners requires strategic planning. We note that Kent County Council does not at present have a written Commissioning or Procurement Strategy, although Framing Kent's Future (the Council's new corporate strategy for 2022-26) makes clear references to using commissioning and procurement as a vehicle for achieving net zero; environmental objectives; and efficiency in adult and children's services.

Procurement training and a good understanding of the procurement rules and processes is important. When the SEND transport service was re-procured in February 2022 and, for a period, the service failed, this was as much a failure of the service's understanding and application of the procurement process as it was of decision-making. The lessons learnt report published by the Council's Internal Auditors noted that: *'The re-tendering timeframe of the entire SEND transport network was over ambitious and treated as business-as-usual activity rather than the complex commissioning exercise that it was. Consequently,*

there was no support from GET's Project Management Office or Strategic Commissioning'.

Internal Audit also reported that there had been, within the re-procurement, *'a failure of Risk Management and a general lack of awareness of risk'.*

A Government Commercial Function Improvement Assessment for the Council in July 2022 (based on a self assessment by the Council in May 2022), recommended that the Council adopt an overall commercial strategy that takes account of applicable commercial and organisational policy priorities and defines how policy objectives will be delivered. The assessment also recommended that the performance of the commercial function be measured and reported. We endorse this recommendation and add a Key Recommendation of our own (page 27) – that training around procurement strategy, policies and practice be strengthened across the Council (for staff working in service lines as much as for staff working in the commissioning and procurement team) and specialist support is signposted across the organisation so that staff commissioning and procuring complex services can recognise early when they need that support (ie, recognise risk) and know where to go to get the support once they have recognised they need it.



Key recommendation



Improving economy, efficiency and effectiveness

Key Recommendation 4

The Council should liaise with its partners to determine and agree the improvements that will be made in SEND services. An Action Plan with clear accountability and regular monitoring and reporting will be required to ensure the findings and recommendations from the Ofsted and CQC inspection report are addressed and implemented. At the same time, looking to the longer term, strategies for managing demand and expectations will be critical if a financially sustainable service is to be secured. This will be a balancing act for the Council and careful, proactive consultation and engagement with schools, parents and other stakeholders will be necessary.

Why/impact

In November 2022 Ofsted and CQC reported that the Council had not made sufficient progress in addressing any of the significant weaknesses they identified in SEND services in 2019. This is despite year on year overspends in SEND services and a growing deficit.

Auditor judgement

Overspends have not secured actual and perceived quality of service. Findings from independent inspectors should be addressed at the earliest opportunity.

Summary findings

Despite significant overspends, actual and perceived quality of SEND service standards falls short of regulator expectations.

Management Comments

The Local Area SEND offer and provision is now the subject of external scrutiny and oversight through the Send Improvement and Assurance Board. This is a multi agency, independently chaired board with responsibility for progressing an accelerated improvement plan in collaboration with the DFE and NHSE improvement advisors. The board has new ToR's, membership and an operational delivery board reporting into it.



The range of recommendations that external auditors can make is explained in Appendix B.

Key recommendation



Improving economy, efficiency and effectiveness

Key Recommendation 5

Training around procurement strategy, policies and practice should be strengthened across the Council (for staff working in service lines as much as for staff working in the commissioning and procurement team) to ensure an understanding of and compliance with the procurement rules. Specialist support should be clearly signposted across the organisation. Staff commissioning and procuring complex services should recognise and plan early when they need that support (ie, recognise risk) and know where to go to get the support once they have recognised they need it.

Why/impact

The Internal Audit SEND transport lessons learnt report highlighted that a complex re-procurement was rushed; treated as a business as usual activity; lacked expert input; and showed poor understanding of project management and risk.

Auditor judgement

Procurement training and support should be strengthened, for staff working in service lines as well as staff in the commissioning and procurement unit.

Summary findings

When the SEND transport service was re-procured in February 2022 and, for a period, the service failed, this was as much a failure of the service's understanding and application of the procurement process as it was of decision-making.

Management Comments

The Council has recently reviewed and revised "Spending the Council's Money" which is the council's contract standing orders. Once formally approved there will be a comprehensive council wide communication and engagement plan, with training and guidance provided to ensure staff undertaking procurement clearly understand their responsibilities and engage with the procurement team at the earliest opportunity.



The range of recommendations that external auditors can make is explained in Appendix B.

Opinion on the financial statements



Audit opinion on the financial statements

As of the date of writing we have not issued our opinion on the Council's financial statements because our audit work is still in progress. This work is nearing completion and we expect to issue an unqualified opinion following the Governance and Audit Committee on 28 February 2022. We expect to sign the audit opinion by 31 March 2023.

Audit Findings Report

More detailed findings can be found in our AFR, which was published and reported to the Council's Audit Committee on 28 February 2022 which had been updated and resubmitted to the 16 March 2023 meeting.

Whole of Government Accounts

To support the audit of the Whole of Government Accounts (WGA), we are required to review and report on the WGA return prepared by the Council. This work includes performing specified procedures under group audit instructions issued by the National Audit Office.

Our work on WGA is not yet complete as we are still awaiting guidance from the NAO.

Preparation of the accounts

The Council provided draft accounts in line with the national deadline and provided a good set of working papers to support it.

Issues arising from the accounts:

The key issues were:

- On 25 December 2022, an amendment to the Capital and Finance regulations in respect of Infrastructure assets meant that the Authority had to revise its presentation of PPE to adhere to the new requirements.
- Our audit also identified several control issues which we communicated in our Audit Findings Report. It is important that management puts in place appropriate actions to address these.

Grant Thornton provides an independent opinion on whether the accounts are:

- True and fair
- Prepared in accordance with relevant accounting standards
- Prepared in accordance with relevant UK legislation



Appendices

Appendix A – Responsibilities of the Council

Public bodies spending taxpayers' money are accountable for their stewardship of the resources entrusted to them. They should account properly for their use of resources and manage themselves well so that the public can be confident.

Financial statements are the main way in which local public bodies account for how they use their resources. Local public bodies are required to prepare and publish financial statements setting out their financial performance for the year. To do this, bodies need to maintain proper accounting records and ensure they have effective systems of internal control.

All local public bodies are responsible for putting in place proper arrangements to secure economy, efficiency and effectiveness from their resources. This includes taking properly informed decisions and managing key operational and financial risks so that they can deliver their objectives and safeguard public money. Local public bodies report on their arrangements, and the effectiveness with which the arrangements are operating, as part of their annual governance statement

The Chief Financial Officer (or equivalent) is responsible for the preparation of the financial statements and for being satisfied that they give a true and fair view, and for such internal control as the Chief Financial Officer (or equivalent) determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

The Chief Financial Officer (or equivalent) or equivalent is required to prepare the financial statements in accordance with proper practices as set out in the CIPFA/LASAAC code of practice on local authority accounting in the United Kingdom. In preparing the financial statements, the Chief Financial Officer (or equivalent) is responsible for assessing the Council's ability to continue as a going concern and use the going concern basis of accounting unless there is an intention by government that the services provided by the Council will no longer be provided.

The Council is responsible for putting in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources, to ensure proper stewardship and governance, and to review regularly the adequacy and effectiveness of these arrangements.



Appendix B – An explanatory note on recommendations

A range of different recommendations can be raised by the Council’s auditors as follows:

Type of recommendation	Background	Raised within this report	Page reference
Statutory	Written recommendations to the Council under Section 24 (Schedule 7) of the Local Audit and Accountability Act 2014.	No	N/A
Key	The NAO Code of Audit Practice requires that where auditors identify significant weaknesses as part of their arrangements to secure value for money they should make recommendations setting out the actions that should be taken by the Council. We have defined these recommendations as ‘key recommendations’.	Yes	FS – pages 13, 14 GOV – page 21 EEE – pages 26, 27
Improvement	These recommendations, if implemented should improve the arrangements in place at the Council, but are not a result of identifying significant weaknesses in the Council’s arrangements.	Yes	FS – pages 15, 16 GOV – page 22 EEE – N/A

Appendix C – Summary of recommendations for 2021-22

Page	Key Recommendation	Management Response	Status
13	Steps need to be taken by the Council to control expenditure. This is necessary now to avoid the future s114 notice that the Council predicted to the Prime Minister. The Council will need to be realistic about the capacity available to support delivery of the savings. The administration will need to prioritise and consult and will need to be able to communicate how and what it prioritised. Some very difficult decisions will need to be made by the administration to reduce expenditure and in some cases withdraw or pare back existing services.	The council has introduced a range of measures to control expenditure and to minimise non-essential expenditure as much as possible. The management action being taken to control and reduce expenditure is formally reported in the quarterly finance monitoring report that is presented to Cabinet. The progress on delivery of the savings agreed by County Council are also formally reported to Cabinet in the quarterly report. In recognition of the challenging financial situation and the need to contain growth and identify savings to ensure financial sustainability over the medium term, the 2024-25 and MTFP budget process will commence in April 2023.	
14	The Council should take a holistic approach towards managing SEND demand and SEND financial management issues in Kent. This will involve the ruling administration making some difficult decisions.	The oversight and management of the SEND agenda, both service transformation and fiscal prudence are now a whole Council priority. This is being delivered through the internal SEND Transformation Board, which reports to the Council's Strategic Reset Programme Board. Cross Council expertise and resource has been committed to provide advice, support and oversight, ensuring a holistic approach to the demand and financial SEND management issues.	

Appendix C – Summary of key recommendations for 2021-22

Page	Key Recommendation	Management Response	Status
21	<p>Compliance with the Council’s decision-making arrangements needs to be strengthened. Members and officers should ensure they understand their roles and comply with the council’s governance arrangements. Issues and complaints raised with the Monitoring Officer during 2021-22 should be addressed and feed into good practice training for the future.</p>	<p>The recommendation notes the raising of this issue by the Monitoring Officer and this is welcomed. The AGS sets out an aggressive programme of activity for delivery over the first half of 2023/24 and work has already started in relation to the roles and compliance with the governance. Ultimately the success of this will be linked to the behaviours of the individual Members and Officers and this will be expressly tested through further updates to the AGS process reviewing 2022/23 that will be delivered in Q1 of 2023/24 and in future years.</p>	
26	<p>The Council should liaise with its partners to determine and agree the improvements that will be made in SEND services. An Action Plan with clear accountability and regular monitoring and reporting will be required to ensure the findings and recommendations from the Ofsted and CQC inspection report are addressed and implemented. At the same time, looking to the longer term, strategies for managing demand and expectations will be critical if a financially sustainable service is to be secured. This will be a balancing act for the Council and careful, proactive consultation and engagement with schools, parents and other stakeholders will be necessary.</p>	<p>The Local Area SEND offer and provision is now the subject of external scrutiny and oversight through the Send Improvement and Assurance Board. This is a multi agency, independently chaired board with responsibility for progressing an accelerated improvement plan in collaboration with the DFE and NHSE improvement advisors. The board has new ToR’s, membership and an operational delivery board reporting into it.</p>	



Appendix C – Summary of key recommendations for 2021-22

Page	Key Recommendation	Management Response	Status
27	<p>Training around procurement strategy, policies and practice should be strengthened across the Council (for staff working in service lines as much as for staff working in the commissioning and procurement team) to ensure an understanding of and compliance with the procurement rules. Specialist support should be clearly signposted across the organisation. Staff commissioning and procuring complex services should recognise and plan early when they need that support (ie, recognise risk) and know where to go to get the support once they have recognised they need it.</p>	<p>The Council has recently reviewed and revised “Spending the Council’s Money” which is the council’s contract standing orders. Once formally approved there will be a comprehensive council wide communication and engagement plan, with training and guidance provided to ensure staff undertaking procurement clearly understand their responsibilities and engage with the procurement team at the earliest opportunity.</p>	

Appendix C – Summary of improvement recommendations for 2021-22

Page	Improvement Recommendation	Management Response	Status
15	The Council should consider capturing and reporting the additional costs of public health; safeguarding; schooling; and counter terrorism related to Home Office asylum seeker sites.	The additional cost information relating to the Home Office Asylum Seeker sites that can be separately identified will be captured and reported.	
16	Sensitivity analysis or scenario testing should be presented to Cabinet and published alongside the medium term financial strategy for 2022-2026 or with future medium term financial plans.	The approach to financial planning is reviewed and improved on a regular basis. AS part of the planned development for 2024-25, Sensitivity analysis/scenario testing will form part of the medium term financial planning process.	
22	The Governance and Audit Committee should review Internal Audit Issues In Progress at each meeting and officers should be accountable for the pace of response to recommendations and for the implementation of recommendations. The number of issues in progress should be managed down or, where this is not possible, the reasons why should be understood.	CIPFA have recently reviewed the effectiveness of the Governance and Audit Committee and made a number of recommendations that have been accepted by the Committee. One of the recommendations relates to the consideration of Internal Audit reports by the Committee and this will be taken into account as part of the implementation of the recommendations	

Appendix D – Follow-up on prior year improvement and key recommendations

Recommendation	Management Response	Findings in 2021-22	Direction of Travel/ Recommendation Closed
The January 2022 draft High Needs financial recovery plan should be finalized and implemented.	<p>Closer working between the Finance and CYPE colleagues has already ... been introduced. The role and responsibility of schools in contributing towards closing the deficit is also key ... [this] will not in itself reduce the number of requests for independent and special schools or changes in EHCP assessment/review practices.</p> <p>... the Government has announced that Kent is included in the Safety Valve grant programme.</p>	<p>The High Needs deficit continued to grow during 2021-22. The deficit increased from £51M on 1 April 2021 to £97M on 31 March 2022.</p> <p>The Council is in liaison with DFE to agree a recovery package. The Council's current target is to match annual costs of SEND services with funding available by 2027-28.</p> <p>Despite the high value costs incurred, Ofsted and CQC reported in November 2022 that there remain significant weaknesses within the Council's SEND services.</p>	
Actions should be taken around informal governance and decision-making.	<p>... The risk around informal governance as identified is something that has been identified by our own processes and we are already tracking this with actions that are flowing through in the current financial year and next ...</p>	<p>Informal governance arrangements were recognized in the Council's constitution and further codification is planned. However, within the formal governance framework, key decision-making arrangements were by-passed for a SEND transport re-procurement decision. Furthermore, the final Annual Governance Statement is also expected to note that a range of issues and complaints were raised with the Monitoring Officer during 2021-22 regarding the experience and feeling of safety for all Members and Officers at meetings of the Council and its Committees.</p>	
BW pension fund governance recommendations should be tiered or ranked to help with prioritisation and cross-checked against internal audit recommendations	<p>A number of recommendations considered the highest priority have already been implemented. The new Head of Pensions and Treasury is overseeing the implementation of the remaining recommendations and a dedicated fixed term post has been appointed</p>	<p>A new Pension Fund Committee has replaced the Superannuation Fund Committee. Membership is wider and dual membership with the Pension Board is no longer allowed. Decision-making arrangements for the Pension Fund Committee are set out in the Constitution. A report to the Pension Fund Committee in December 2022 showed that 127 of the 139 Barnet Waddingham recommendations have been implemented and that all 16 Internal Audit recommendations have been implemented.</p>	Recommendation Closed

Appendix D – Follow-up on prior year improvement and key recommendations

Recommendation	Management Response	Findings in 2021-22	Direction of Travel/ Recommendation Closed
Consideration should be given to introducing a central PMO function to help with strengthening savings oversight	Progress on the delivery of savings is now reported as part of the quarterly finance monitoring report to Cabinet.....it is not considered necessary to have a specific PMO now to co-ordinate the savings monitoring as the business-as-usual arrangements now in place are considered sufficient.	Savings reports were added to regular Cabinet Finance Reports from September 2021.	Recommendation Closed
The Council should consider whether there is scope for strengthening oversight and challenge as Summary Business Cases are developed by Directorates for Transformation Savings plans which will be included within the Medium-Term Financial Plan	The arrangements for reviewing and challenging the business cases for transformation type savings have been strengthened..... There is a dedicated finance resource supporting the SRP undertaking the financial analysis and assessment working with the main finance team including the finance business partners to ensure the robustness of the business cases before they are considered and approved by the SRP Board.	During 2022-23, regular informal Star Chamber meetings between the Chief Executive, the s151 officer and corporate directors. These complement the formal quarterly Star Chamber meetings already in place and including the Leader and Deputy Leader of the Council. The new informal meetings are expected to be constitutionalized during 2023-24 and strengthen the Council's oversight of savings and transformation plans.	Recommendation Closed
Steps should continue to manage and reduce the trends towards year-on-year slippage in the Capital Programme	A ten-year capital programme has been approved by county council and implemented to enable more longer-term planning and profiling of the capital programme which will help reduce slippage.	A ten-year capital programme was introduced in 2022-23. Quarter 2 reporting for 2022-23 indicates some reduction in slippage.	Recommendation Closed

Appendix D – Follow-up on prior year improvement and key recommendations

Recommendation	Management Response	Findings in 2021-22	Direction of Travel/ Recommendation Closed
Budget documents should show a clear distinction between the cost of proposed statutory and discretionary services	There is an established process to identify spending on statutory and discretionary services ... There is a robust system for identifying spending demands which distinguishes between unavoidable spending and spending choices which is considered more appropriate.	N/A	Recommendation Closed
The Corporate Risk Register shows Summary Profiles which for most but not all risks are supported by more detailed analysis. Gaps in detailed analysis should be filled or explained.	Any risks not supported by detailed analysis in the register are accompanied by explanations in covering reports. The dynamic nature of the risks being faced by the Council mean that different levels of detail are available at any one time.	N/A	Recommendation Closed
The Council should promote an update to the Kent Resilience Forum Community Risk Register to capture risks of disease and risks of disease and pandemic.	The KRF risk registers are regularly reviewed and updated to ensure they remain fit for purpose. The Community Risk Register is part of that review and consideration will be given to the recommendation made.	N/A	Recommendation Closed
The Council should consider inventorising partnerships so that legal status and commitments can be checked.	Consideration will be given to inventorising partnership arrangements.	The Council's Head of Strategic Partnerships oversees 14 areas of partnership with other public sector organisations in the geographic region. The Council's website lists who the Council considers its key partners to be.	Recommendation Closed

