

## **COUNCIL**

**21 FEBRUARY 2019**

### **CAPITAL AND REVENUE BUDGETS 2019/20**

Portfolio Holder: Councillor Alan Jarrett, Leader  
Report from: Phil Watts, Chief Finance Officer  
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#### **Summary**

This report sets out Cabinet's proposals for the capital and revenue budgets for 2019/20. In accordance with the Constitution, Council is required to approve the capital and revenue budgets, rent increases and council tax for 2019/20.

#### **1. Budget and Policy Framework**

- 1.1 The Council has responsibility for determining the budget, both capital and revenue, and setting the council tax level. In undertaking this responsibility the Council must consider the budget proposals developed by the Cabinet. However, ultimately it is Council's decision, and it may opt to adopt Cabinet's budget proposals, amend them, or substitute its own in their place.
- 1.2 In respect of the Housing Revenue Account budget proposals, Full Council is required to carry out an annual review of rents and notify tenants not less than 28 days prior to the proposed date of change.
- 1.3 The Council Plan is part of the Council's Policy Framework as set out in the Constitution. The Council Plan refresh will be considered as a separate item on this agenda.

#### **2. Background**

- 2.1 The Medium Term Financial Strategy (MTFS) was considered by Cabinet on 25 September 2018 and identified a potential revenue shortfall of some £3.189 million in 2019/20 rising to £16.330 million by 2022/23. On 20 November 2018 Cabinet considered the draft capital and revenue budget. The Chancellor delivered his Autumn Statement a week earlier and whilst the only item of note for the revenue budget was the additional funding for social care, it was decided not to reflect this in the draft budget until there was greater clarity over the conditions attached to it.
- 2.2 In accordance with the Council's constitution, overview and scrutiny committees were invited to comment on the draft budget proposals, represented by the

directorates budget requirements within the appendices and a high level narrative explaining the action being considered by the Administration to close the 'gap'.

### 3. Revenue Funding

#### 3.1 Core Spending Power

3.1.1 The local government settlement is underpinned by the Core Spending Power calculation, which is not in itself a statement of the actual resources available to the Council. It is simply a mechanism used by Government to illustrate the potential funds available to local authorities. In practice, the budget will be based upon the Council's own estimate of local tax yields. Medway Council's Core Spending Power is summarised in Table 1.

**Table 1: Medway Council's Core Spending Power**

	2018/19 £m	2019/20 £m
Adjusted Revenue Support Grant	0.000	6.053
NDR Baseline Funding Level	58.685	47.441
Settlement Funding Assessment	58.685	53.494
Council Tax excl. Parishes	114.663	119.953
Grants under Section 31 of the Local Government Act 2003	1.063	1.546
Improved Better Care Fund	5.152	6.095
Illustrative New Homes Bonus	2.512	1.978
Adult Social Care Support Grant	0.624	1.705
Winter Pressures Grant	0.998	0.998
Core Spending Power	183.696	185.768

#### 3.2 The Local Government Finance Settlement

3.2.1 The Minister for Local Government announced the provisional financial settlement to the House of Commons on 13 December 2018. As Medway Council is within the 97% of all local authorities that opted to accept the Government's offer of a four year settlement in 2015, the Revenue Support Grant allocated for 2019/20 is guaranteed and has already been reflected in the Medium Term Financial Strategy (MTFS). Between them, however, Government Ministers have made a number of funding announcements, which have significant implications for Medway in terms of setting the 2019/20 revenue budget.

3.2.2 Firstly, the Chancellor in his Autumn Budget allocated additional funds for social care, £240 million in the current year, increasing to £650 million next year. For Medway this meant £997,871 per annum to fund Winter Pressures in both 2018/19 and 2019/20 and a further £1,704,697 in 2019/20 to be used to meet pressures across both Adults and Children's Care.

3.2.3 Then in announcing the Provisional Settlement, the Secretary of State announced that Kent and Medway had been unsuccessful in applying for a second year of the Business Rates Retention Pilots. Whilst this is disappointing, the MTFS had not assumed that the bid would be successful and so this does not represent a worsening of the position reported in the Draft Budget.

- 3.2.4 Finally, on 16 December 2018, the Education Secretary announced an additional £350 million to support children with special educational needs. This amounts to £677,199 per annum in 2018/19 and 2019/20, plus a share of the £100 million allocated for capital expenditure.
- 3.2.5 The final settlement published on 29 January 2019 confirmed the position set out in the provisional settlement on which the Council's budget is based.

### 3.3 Council Tax

- 3.3.1 In accordance with the Council delegation, on 14 January 2019 the Chief Finance Officer, in consultation with the Leader agreed the council tax base for 2019/20 at 84,533.23 band D equivalents. This represents an increase of 257.9 band D equivalent against the tax base reflected in the Draft Budget assumptions.
- 3.3.2 In the provisional settlement, the Secretary of State confirmed that the referendum limit remains at 3% and the 2019/20 budget proposed by Cabinet is based upon the Council raising council tax almost up to the 3% referendum limit.
- 3.3.3 This report considers the budget requirement for Medway Council only. There are a number of other factors that will influence the final council tax requirement to be approved by Council on 21 February 2019. Whilst the final rate will be dependent on the level of spending, it will also be affected by:
- The council tax base of 84,533.23 agreed on 14 January;
  - The parish precepts;
  - The Police and Crime Panel for Kent met on 6 February and agreed a £24 (14.2%) increase producing a Band D rate of £193.15.
  - A Kent Fire and Rescue Service (KFRS) budget meeting on 12 February agreed an increase of 2.98% producing a KFRS Band D rate of £77.76.

### 3.4 100% Business Rates Retention

- 3.4.1 As the Kent and Medway Authorities have not been included in the Business Rates Retention pilots for next year, Medway will return to the 50% scheme and revert from being a 'tariff' Authority, back to receiving a 'top up' grant of £4.423 million in 2019/20.
- 3.4.2 An additional £180 million was also announced by the Secretary of State in the Provisional Settlement. It has been funded from the surplus on the Business Rates Retention levy/ safety net account, however the MHCLG have not included this in the Core Spending Power figures, as it is a one-off allocation and it will therefore be in addition to the amounts shown in Table 1 above. Medway's share of this funding is £727,831.

### 3.5 New Homes Bonus

- 3.5.1 The 2019/20 provisional allocations have now been announced and indicate a £138,000 reduction for Medway, against the MTFs assumptions. Owing to a £10 million injection by the Government, there has been no change to the deadweight threshold (at 0.4%) or the eligibility of properties qualifying for the funding.

### 3.6 Dedicated Schools Grant (DSG) and Other Schools Related Grants

- 3.6.1 Schools related expenditure is essentially funded through the schools block of the Dedicated Schools Grant (DSG); however the local authority continues to be impacted by academy conversions. Whilst this reduction in funding theoretically accompanies the transfer of responsibilities away from the Council, it does have an impact on the funds available for core functions in support of maintained schools, such as admissions and school improvement activity. Based on the planned trajectory of academy conversions, schools related grant is forecast to reduce dramatically over the next four years, as illustrated in Table 2.
- 3.6.2 Pupil Premium Grant (PPG) is paid to schools separately as a grant to improve the attainment of pupils from deprived backgrounds, based on pupils eligible for a free school meal, 'looked after children' (LAC), and children with a parent in the armed forces. This grant is essentially passed straight to schools.
- 3.6.3 There are only two local authority maintained schools with sixth forms in Medway – one secondary and a special school – and the Sixth Form Grant is passed straight to these schools.

**Table 2: Projected schools related grants for the period to 2022/23**

	2018/19	2019/20	2020/21	2021/22	2022/23
DSG - Retained Schools Block	0.714	0.714	0.714	0.714	0.714
DSG - Schools Block	43.520	43.520	32.804	19.826	13.337
DSG - High Needs	24.297	24.297	20.925	20.425	19.925
DSG - Early Years	17.781	17.781	16.463	16.463	16.463
Pupil Premium Grant	3.993	3.993	2.996	2.071	1.608
Sixth Form Grant	0.482	0.482	0.482	0.482	0.482
<b>Total Grant</b>	<b>90.788</b>	<b>90.788</b>	<b>74.384</b>	<b>59.980</b>	<b>52.528</b>

### 3.7 Funding for Social Care

- 3.7.1 The Improved Better Care Fund allocations remain as previously announced, with Medway Council's allocation of £6.095 million in 2019/20. In addition to this a further £2.703 million for social care was announced by the Chancellor in his Autumn Statement.

### 3.8 Public Health Grant

- 3.8.1 Public Health Grant remains in line with MTFs assumptions and continues to reduce from £17.217 million in 2018/19 to £16.762 million in 2019/20. The directorate have identified savings proposals to bring spending in line with the reduction in grant.

## 4. Revenue Budget Requirement 2019/20

- 4.1 The strategic priorities for Medway as set out in the Council Plan are considered elsewhere in this agenda, however the MTFs and subsequent budget is prepared alongside the Council Plan and reflects the Council's priorities, as articulated by three key priorities and three corporate 'ways of working'. The key priorities are:
- Medway: A Place to be Proud Of;

- Maximising Regeneration and Economic Growth;
- Supporting Medway's People to Realise Their Potential.

- 4.2 The Council Plan is the council's business plan, setting out what will be done to deliver these three key priorities and how we will measure delivery of the outcomes. This will be delivered through three corporate 'ways of working':
- Giving value for money;
  - Finding the best digital innovation and using it to meet residents' needs;
  - Working in partnership where this benefits our residents.
- 4.3 In accordance with the constitutional requirements, the draft budget, proposed by Cabinet, was passed to overview and scrutiny committees inviting comments. At that stage the draft budget was some £4.407 million in excess of the anticipated resources available, largely driven by demographic pressures manifesting within Adult Social Care and Children's Services.
- 4.4 Commencing in Summer 2018, during formulation of the MTFs, and continuing throughout the overview and scrutiny process, officers have worked closely with portfolio holders to identify savings, efficiencies and income generating measures to close the gap and achieve a balanced budget, without recourse to reserves and whilst attempting to minimise the impact on service delivery. These proposals and their impact in 2019/20 are discussed in more detail in the directorate level commentaries at Sections 5 to 8 of this report.
- 4.5 At its meeting on 30 January 2019, Employment Matters Committee recommended to Full Council that £841,800 is allocated to pay rises, to be distributed as follows:
- 0.60% paid as a general cost of living increase;
  - 0.40% paid in accordance with the performance arrangements as detailed under MedPay.
- 4.5.1 The Employment Matters Committee also recommended to Full Council to delegate to the Assistant Director, Transformation the authority to agree the competency based awards for staff assessed under MedPay at Levels 1A, 1B and 2.
- 4.5.2 For Members' information, the levels in the MedPay Scheme relate to the assessment criteria as follows:
- 1A – Excellence;
  - 1B – Performance exceeded the required standard;
  - 2 – Performance to the required standard.
- 4.6 Appendix 1 summarises the proposed budget requirement against the funding assumptions, with appendices 1a-1d representing the directorate summaries and appendices 2a-2c providing more detail regarding individual pressures, savings proposals and the impact on staff. Table 3 overleaf summarises the assumptions made and measures taken to balance the budget.

**Table 3: Balancing the 2019/20 Revenue Budget**

	£,000	£,000
<b>Draft Budget (Cabinet 20/11/18):</b>		
Budget Requirement		296,919
Initial Resource Assumptions		(292,512)
Forecast Deficit in 2019/20		4,407
<b>Revised Funding Assumptions:</b>		
Improvement in the agreed Council Tax Base	(364)	
Improvement in the projected NDR Tax Base	(1,582)	
Deterioration in the projected New Homes Bonus	138	
Chancellor's Autumn Budget: Social Care	(2,703)	
LG Finance Settlement: Levy Surplus	(728)	
Amendment to Public Health Grant	7	
		(5,231)
<b>Changes to Budget Requirement:</b>		
C&A - savings excluding transformation	(1,169)	
C&A - demographic and placement cost pressures	3,044	
RCET - savings excluding transformation	(300)	
RCET - contractual uplifts	153	
RCET - other pressures including Transformation 'business as usual'	605	
BSD - savings excluding transformation	(1,306)	
BSD - contractual uplifts	271	
Movement in treasury projections (including Brexit preparedness grant)	395	
Transformation savings stretch target	(863)	
		823
2019/20 Proposed Budget (Surplus) / Deficit		0

## 5. Children and Adults Services (Appendices 1a / 2a)

- 5.1 The proposed budget reflects the impact of current costs on next year's budget and resets the base for both Adult Social Care (£1.4 million) and Children's Services (£2.3 million). It then makes provision for continued demographic growth (£1.1 million) and the need to stabilize the provider market, by funding uplifts (£1.7 million).
- 5.2 It also recognizes the need to invest in additional social workers in Children Services to address the issue of increasing numbers of children in the system and high caseloads. However since Cabinet considered these proposals, we have had a more positive Ofsted experience and it is felt that some of the additional provision that was made is no longer necessary.
- 5.3 These are all significant pressures and the budget has sought to address them using the increase in the Improved Better Care Fund and the additional grant announced by the Chancellor in his Autumn Statement, but still this funding falls short of what is required. Consequently pressure remains on both the Adult Social Care and Children's Services improvement programmes to deliver significant savings and contribute to the Council's wider transformation agenda.

## 6. Regeneration, Culture, Environment and Transformation (Appendices 1c / 2b)

- 6.1 The quarterly budget monitoring process has exposed inherent pressures around delivery of some very challenging income targets in Leisure, Parking and Bereavement Services. That said, the Administration remains resolute that services

must deliver on these targets and the budget process in RCET has focused on strategies to increase the income generated and meet the targets already reflected in base budgets. This might involve shifting to alternative service delivery models and delivering further efficiency savings.

6.2 Overall the directorate's budget has increased and this can be explained by three things:

- Contractual uplifts on outsourced services;
- Demographic pressures in terms of homelessness;
- Creation of a structure to embed transformation in the organisation and ensure that it becomes 'business as usual'. This increase will be funded from further transformation savings, as the programme continues to build momentum.

## **7. Business Support Department (BSD) (Appendices 1d / 2c)**

7.1 The department is now quite small, however it is still expected to make a significant contribution towards the transformation savings target. It will achieve this principally through the project to improve debt recovery processes across the Council and through moving the Revenues and Benefits system on to a hosted arrangement, allowing it to rationalize systems and transform front end and back office processes. The reduction in overall benefit paid as a result of the introduction of Universal Credit has manifested in a reduction in net expenditure in-year, which we anticipate continuing in 2019/20 and the budget requirement has been reduced by £175,900 accordingly.

## **8. Public Health (Appendix 1b)**

8.1 The Public Health Grant will be subject to further cuts over the medium term and for 2019/20 this represents £455,000. In keeping with the precedent set in previous budget rounds and acknowledging the ring-fenced nature of the grant, the reductions in Public Health Grant have been hypothecated and commensurate savings targeted at those services delivering public health outcomes.

## **9. Other Corporate Savings**

9.1 Transformation: With £7.0 million of previously delivered transformation savings already incorporated in directorate base budgets, these budget proposals are underpinned by plans for a further £3.0 million, which have been reflected in directorate budgets for next year.

9.2 Interest and Financing: The proposed 2019/20 treasury management budget has been increased significantly from the previous year. This reflects the interest cost of smoothing out the Council's debt maturity profile to reduce reliance on short-term borrowing, the returns from the £23.0 million invested in property funds and the impact of the proposed capital programme on borrowing requirements. Part of the reason for taking this action is to insulate the Council from potential turbulence in financial markets and the additional Brexit preparedness funding will be used to partially fund this action.

9.3 Alternative Delivery Models: In seeking to deliver services more efficiently and embrace more commercial ways of working, the Council has established a number of alternative delivery vehicles, including Medway Norse, Medway Commercial Group and the Medway Development Company. Over the medium to longer term,

these organisations are expected to generate significant financial benefits for the Council, however no further savings are anticipated in the 2019/20 budget proposals.

## **10. Fees and Charges**

- 10.1 The draft budget proposals have been formulated on an assumption that fees and charges would generally increase by 3.0%, however where market conditions allow or where the Council has a statutory obligation to recover costs, greater increases have been applied. The schedule of proposed fees and charges is set out at Appendix 7.
- 10.2 Members will be aware that from time to time it is necessary to introduce new fees and charges during the financial year, the most recent example being agreement of animal welfare licensing fees at Full Council on 11 October 2018. In addition, the Audit Committee considered a report on internal audit assurance work in January 2017 which referred to in year changes to leisure memberships.
- 10.3 To provide the Council with some flexibility, it is proposed that the Chief Finance Officer, in consultation with the Leader and relevant Portfolio Holder, be given delegated authority to either introduce new fees and charges or vary existing fees and charges during the financial year subject to the following:
- That any variation to existing fees and charges would not be expected to lead to increased costs to the Council or an underachievement of income;
  - That the introduction of any new fees and charges will be compliant with government legislation and/or existing Council policy.
- 10.4 Any decisions made under delegated authority would need to be reported to Members in the next Revenue Budget Monitoring report submitted to Cabinet.
- 10.5 Members should note that the proposed delegation to vary existing fees and charges would only be used in exceptional circumstances, specifically to respond to market conditions, for example, where the Council is competing with private providers.

## **11. General Reserves**

- 11.1 One of the key aims of the MTFS is to produce a sustainable budget without recourse to the use of reserves. Non-earmarked reserves, in the form of the Revenue Balance, the General Reserve and the uncommitted balance of the South Medway Development Fund, are forecast to stand at over £10 million by 31 March 2019 or almost 5% of the proposed non-schools budget requirement.
- 11.2 The principal risk to be covered by the contingency balance is that of an overspend and it is a testimony to both the Council's internal budgetary control systems and the robustness of the budget setting process, that over a number of successive years the Council has consistently underspent its revenue budget. Members are however asked to note the latest revenue monitoring position reported to Cabinet on 5 February 2019, which forecasts an overspend of around £2.921 million in 2018/19. Directorate management teams continue to identify urgent action to bring expenditure back within budget.



11.3 The other reason for maintaining reasonable reserve balances is to protect against the risk of a catastrophic event. Nonetheless there are compensatory schemes to mitigate such events and these include the Government 'Belwin' scheme and our own insurance cover which, whilst largely of a self-insured nature, does provide for extreme claims with property excess capped at £1.25 million and claims above this met by the insurers and the aggregate of liability claims in a similar vein at £2.9 million. The balance on the Insurance Fund at 31 March 2018 had decreased to £4.8 million, including a provision for identified liabilities of £3.2 million accumulated over a number of years with the larger cases taking some time to reach settlement.

## **12. Capital Programme 2019/20 and beyond**

12.1 This year, the provisional settlement has introduced little that the Council was not already aware of and which hadn't already been reflected in our £229 million current 2018/19 programme. The Department for Transport (DfT) has confirmed that the Local Transport Plan allocations for next year will remain at the current levels and the Council has already received notification from the Department for Education (DfE) that it will not be receiving any additional Basic Needs funding. In short, there will be little in the way of new capital funding coming to the Council next year and the focus will be on delivering the substantial existing programme.

12.2 **Schools Capital Programme:** The current programme includes £15.2 million and it is anticipated that £2.7 million of this will be spent next year, funded primarily from Basic Needs Grant, to provide additional school places and there is a programme of school expansions in progress to deliver these. In addition to this, the DfE has also agreed proposals to fund four new 'free schools' and the Council has recently added £24.7 million to the capital programme to build a new ASD school on the Cornwallis Avenue site.

12.3 Although no further Basic Needs funding is anticipated over the next year or two, the Council should continue to receive Schools Condition and Maintenance Grant funding of circa £1 million to fund major condition works at maintained schools and schools should also receive a modest allocation of Devolved Capital Grant directly.

12.4 **Highways and Transport Related Capital:** The DfT have indicated that LTP allocations will remain at current levels and officers expect to continue to receive the incentive element of the Highways Maintenance Grant. It is once again proposed to inject a further £1.5 million of capital receipts towards maintaining the highways. In addition the current programme features an accelerated programme of column replacement, which includes the replacement of existing street lighting with energy-efficient LED lights.

12.5 **Housing and Regeneration Related Capital:** The Housing Revenue Account is looking healthy and a further phase of new build housing is planned, alongside the usual programme of works to maintain the existing stock. It is also anticipated that Government funding will continue be made available to fund Disabled Facilities Grants.

12.6 The Council's ambitious regeneration programme will continue over the medium term through delivery of the riverside developments, investment in Innovation Park Medway and self-delivery of £120 million of housing development managed by the Medway Development Company (MDC) Ltd.

### **13. Housing Revenue Account**

- 13.1 The Council is required under the Local Government and Housing Act 1989 to ensure that the Housing revenue Account (HRA) does not fall into a deficit position.
- 13.2 Business Support Overview and Scrutiny Committee on 31 January 2019 received a report that details the HRA revenue and capital budget proposals. Furthermore a detailed report was seen by Cabinet on 5 February. The main points of these reports are covered by the following recommendations:
- 13.3 A proposed rent decrease of 1% for the housing stock as set out in Appendix 4a (based upon 53 collection weeks) with effect from 1 April 2019.
- 13.4 A proposed average rent of £82.47 per week based on a 53 week rent cycle be agreed for the six new build one bedroom bungalows at Petham Green Twydall (estimated let date Autumn 2019).
- 13.5 The baseline garage rent for Council tenants be increased by £1 from £8.12 to £9.12 per week with effect from 1 April 2019.
- 13.6 A rent increase for all garage tenure types of 5% will be applied with effect from 1 April 2019.
- 13.7 That the service charges and increases as set out in Appendix 4b of the report for 2019/20 be approved.
- 13.8 That the revenue budget for the HRA Service for 2019/20 as per Appendix 4c be approved.
- 13.9 That the proposed capital budget of £3.3 million be approved for the fourth phase of new build programme on various garage sites to be funded from borrowing and 1-4-1 capital receipts.
- 13.10 That the provision for the repayment debt based on annuity based payment on the HRA outstanding debt to be £0.326 million for 2019/20 be approved.
- 13.11 That members approve the revised 30 year HRA Business Plan model as attached at Appendix 4d.

### **14. Precepting Obligations and the Council Tax leaflet**

- 14.1 In order to declare the Council Tax, the precepting requirements of the Police and Crime Panel (PCP), the Kent Fire and Rescue Service (KFRS) and Parish Councils must be added. These requirements are detailed in the following paragraphs and incorporated in the formal resolution set out at Appendix 6.
- 14.2 The Police and Crime Panel agreed a £24.00 (14.196%) increase at their meeting on 6 February 2019, giving a band D of £193.15 and an associated precept of £16,327,593.
- 14.3 The KFRS budget was agreed at their meeting on 12 February 2019 where a Council Tax increase of 2.98% was agreed with a band D rate of £77.76 and an associated precept of £6,573,304.

14.4 The Parish Council precepts and the consequent additions to the general level of Council Tax are detailed at Appendix 5. In total the Parish precepts amount to £474,327 and add an average of £5.61 to the Medway band D rate.

## 15. Schedule of Precept Dates

15.1 Medway Council, as billing authority for council tax purposes, is required to determine a schedule of instalment dates for the payment of precepts to all the precepting authorities. The dates proposed for 2019/20 are as follows:

23 April 2019	22 May 2019
24 June 2019	22 July 2019
22 August 2019	23 September 2019
22 October 2019	22 November 2019
20 December 2019	22 January 2020
24 February 2020	23 March 2020

## 16. Council Tax Setting

16.1 Cabinet on 5 February 2019 recommended a 2.994% increase in Council Tax levels. The level of Band D Council Tax with this increase will be £1,412.44. The total Band D for billing purposes, incorporating the Kent Police and Crime Commissioner and Kent and Medway Fire and Rescue Service precepts will be £1,683.35. Additional requirements for parish areas are shown in Appendix 5 and in the formal Resolution at Appendix 6.

## 17. Legal Considerations

17.1 Sections 30 to 36 of the Local Government Finance Act 1992 require that the Council sets a budget and council tax by 11 March each year and in doing so make a number of statutory calculations incorporated by resolution. The Localism Act 2011 has amended some of the terms and definitions to accommodate the introduction of powers to call local referendums for excessive council tax increase. The Council is now required to make a calculation of the Council Tax Requirement (Section 31A), excluding Parish precepts. The Act (Section 36) further prescribes that a calculation of the basic amount of Council Tax be presented together with an analysis of the Council Tax across the area and by valuation band. These calculations are required to be presented in a prescribed format and be subject to formal resolution by the Council.

17.2 The Local Authorities (Standing Orders)(England) Regulations 2001 deal, amongst other things, with the process of approving the budget. Under the constitution the adoption of the budget and the setting of the council tax are matters reserved for the Council upon recommendation from Cabinet.

17.3 *Council budget.* In reaching their decisions, Members and officers must act reasonably, taking into account all relevant considerations and ignoring irrelevant ones. There is a need to ensure that when making budget decisions the result is not one which is irrational in the Wednesbury sense (i.e. one which no reasonable local authority could have made). The Council's overriding duty is to make a lawful budget and this is the touchstone against which other considerations must be tested.

- 17.4 The council must have regard to its public sector equality duties when making decisions. This includes the requirement to undertake a Diversity Impact Assessment in relation to all significant changes to policies, procedures or practice, and to pay 'due regard' to the need to eliminate discrimination and promote equality with regards to race, disability and gender. An overarching Diversity Impact Assessment has been included at Appendix 8.
- 17.5 *Legal Obligations:* Local authorities provide services pursuant to statutory duties (a mandatory requirement to provide services), and statutory powers, (where the Council has a discretion whether or not to provide services). Where the Council has a legal duty then it still has discretion in determining the manner in which those services are provided, so long as the level of quality of service provision is sufficient to fulfil the statutory duty.
- 17.6 Even where Members and officers are under pressure to make a budget reduction, they must not pre-empt proper decision-making processes by focusing solely on financial considerations. Members and officers must address the core question of individual service users' needs, rather than a lack of resources. Case law has held that resources may be a relevant consideration in making a decision relating to the manner of service provision, so long as the individual's assessed needs are met.
- 17.7 *Charges for services:* In considering charges for services, Members and officers should also try to achieve a fair balance between the interests of the users of council services and council tax payers. Where charges are being increased, Members need to bear in mind the scale and extent of the charges, and may need in some cases to have regard to the costs of service provision, associated with the power to charge.
- 17.8 *Members' responsibility to make a personal decision:* In Council, Members must make a personal decision on how to vote on the budget proposals. Members' overriding duty is to the whole community. Members have a special duty to their constituents, including those who did not vote for them. Whilst Members may be strongly influenced by the views of others, and of their party in particular, it is their responsibility alone to determine what view to take when deciding upon budget questions. He/she should not follow party loyalty and party policy to the exclusion of other considerations.
- 17.9 Members need to balance the cost to council tax payers of any budget reductions, against the need for the benefits of services of the particular nature, range and quality, under consideration. If having taken into account all relevant (and disregarding all irrelevant) considerations, Members are satisfied that it is financially prudent and reasonable to make any budget cuts proposed and adopt the recommendations as proposed then they may properly and reasonably decide to do so.
- 17.10 *Capping:* The Localism Act 2011 has superseded the previous capping legislation and dictates that should a council propose an increase in council tax which would be deemed to be excessive in accordance with principles and levels designated by the minister, then a local referendum on the proposal would be required. This would necessitate the drafting of an alternative proposal that would meet ministerial requirements to be put to the electorate alongside the 'excessive' proposition. Since this proposed budget is below the 'excessive' threshold this does not apply.

- 17.11 *Housing Revenue Account*: Under Section 76 of the Local Government and Housing Act 1989, the council is required, in advance of the financial year, to formulate proposals which satisfy the requirement that, on certain stated assumptions, the Housing Revenue Account for that year does not show a debit balance. The council is obliged to implement those proposals and from time to time to determine whether the proposals satisfy the 'break even' requirement. If not, then the council shall make such provisions as are reasonable practicable towards securing that the proposals as revised, shall satisfy the requirement.
- 17.12 Under Section 24 of the Housing Act 1985, the council can make such reasonable charges as it determines for the tenancy or occupation of its houses. The council is obliged, from time to time, to review rents charged and make such changes, as circumstances may require. In exercising this function (determining and fixing rent), the council should have regard to the rents charged in the private sector.
- 17.13 A decision to increase rent constitutes a variation of the terms of a tenancy. Under Section 103 of the Housing Act 1985, in respect of secure tenancies, a notice of variation (specifying the variation and date on which it takes effect) must be served on each tenant. For non-secure tenancies (excluding introductory tenancies), a notice must be served that complies with Section 25 of the Housing Act 1985.
- 17.14 The Housing Act 1985 defines the legal requirements for informing tenants of rent increases. In practice this requires the issue of written notification to each tenant a minimum of four weeks in advance of the date that the increase becomes operative. For 2019/20 the latest date for posting the notices (first class) is 28 February 2019.

## **18. Risk Management**

- 18.1 As in previous years there remain risks inherent in the assumptions that underpin the budget build and these are described below:
- The 2019/20 budget is predicated on the successful outcome of a number of significant savings proposals. Such assumptions can be significantly impacted upon by events, not least the need to consult with stakeholders;
  - Further demographic pressures in adult social care and children's services may surface in 2019/20 above those assumed in building the budget;
  - Extreme weather may increase the demand for highway maintenance and put pressure on other front line services;
  - There is no allowance at this stage for discretionary service improvement priorities and any such proposals will require the identification of additional resource.

## **19. Diversity Impact Assessment**

- 19.1 In setting its budget, the Council is exercising a public function and must therefore comply with the duties in section 149 Equality Act 2010 to have 'due regard' to the matters set out that section. Accordingly due regard to the need to eliminate discrimination, advance equality, and foster good relations between those with a protected characteristic (pregnancy and maternity, age discrimination, disability, gender reassignment, marriage and civil partnerships, race, religion or belief, sex and sexual orientation) and those who do not share it must form an integral part of the decision making process in relation to the budget. In practice the Council must show it has thoroughly considered any impact its decisions could have on groups with 'protected characteristics' before any decision is arrived at. Complying with this

duty does not prevent the council from making difficult decisions about reorganisations, redundancies and service reductions nor does it stop decisions being made which may affect one group more than another. What must be demonstrated is that where there is potential for disproportionate impact this is transparent and any appropriate mitigating actions have been considered before final decisions are made.

- 19.2 An overarching Diversity Impact Assessment is attached as Appendix 8, summarising the results of the Diversity Impact Assessments which have been completed for each of the services affected by the proposed budget changes.
- 19.3 It should be noted however that although equality impact assessments help to anticipate the likely effects of proposals on different communities and groups, in reality the full impact will only be known once the proposal is introduced. To mitigate any unintentional and unidentified impact, monitoring will be undertaken and will be reported quarterly.

## **20. Financial and Constitutional Implications**

- 20.1 The financial implications are contained in the body of the report and in the attached appendices.
- 20.2 The council's constitution contains the budget and policy framework rules. The relevant extracts from the constitution are reproduced as follows:
- The budget and policy framework rules contained in the constitution specify that the Cabinet should produce the draft revenue and capital budget. This initial budget which does not have to give full detail, nor be a finalised set of proposals, should be submitted to the overview and scrutiny committees to consider the initial budget and if appropriate offer alternative proposals. Any such proposals will be referred back to the Cabinet for consideration.
  - Under the constitution the Cabinet has complete discretion to either accept or reject the proposals emanating from the overview and scrutiny committees. Ultimately it is the Cabinet's responsibility to present a budget to the Council, with a special Council meeting arranged for this purpose on 21 February 2019. The adoption of the budget and the setting of council tax are matters reserved for the Council.

## **21. Conclusion**

- 21.1 The budget has been formulated to accord with the principles set out in the MTFS. In addition, budgets have been proposed to deliver the aspirations of the Council Plan and preserve those services that are important to residents.
- 21.2 The proposed revenue budget requirement of £297.742million (Appendix 1) represents a balanced budget without recourse to general reserves.

## **22. Recommendations**

- 22.1 Council are recommended to:
- 22.2 Consider the recommendations of Employment Matters Committee on 30 January 2019 regarding the proposals for a pay award as set out at paragraph 4.5 and to delegate authority to the Assistant Director, Transformation to agree the competency based awards for staff assessed under MedPay at Levels 1A, 1B and 2 as set out in paragraphs 4.5.1 and 4.5.2 of the report;
- 22.3 Approve the general fund gross, income and net revenue estimates as summarised in Appendix 1 in the sum of £297.742million;
- 22.4 Approve the proposed capital programme as set out in Appendix 3 and section 12 of this report;
- 22.5 Note the Kent Police and Crime Commissioner's precept requirement;
- 22.6 Note the Kent Fire and Rescue Service precept requirement;
- 22.7 Note the parish council precept requirements of £474,327 as detailed at Appendix 5 of this report;
- 22.8 Agree the schedule of precept instalment dates as set out in section 15 of this report;
- 22.9 Approve the basic rate of Council Tax at band D for 2019/20, before adding the police, fire and parish precepts, at £1,412.44;
- 22.10 As part of the budget proposals, approve fees and charges, as recommended by Cabinet and set out in the booklet 'Medway Council - Fees and Charges April 2019' as set out in Appendix 7;
- 22.11 Agree to delegate authority to the Chief Finance Officer, in consultation with the Leader and relevant Portfolio Holder, to vary existing fees and charges and introduce new fees charges during the financial year on the basis set out in paragraphs 10.3 and 10.4 of the report.
- 22.12 Agree the recommendations set out at 13.3 to 13.11 in this report with regard to the Housing Revenue Account and detailed in the following appendices:
- The proposed decrease in rents as set out at Appendix 4a;
  - The proposed service charges as set out at Appendix 4b;
  - The budget proposed as summarised at Appendix 4c;
  - The 30 year business plan projections at Appendix 4d;
- 22.13 Adopt the formal resolution for the Council Tax requirement and schedule of Council Tax charges for 2019/20 as set out in Appendix 6 to this report and to incorporate any amendments arising from the meeting;
- 22.14 Note the findings of the Diversity Impact Assessments as set out at Appendix 8, and the proposal to continue, where necessary, to report through quarterly monitoring any further unidentified or unintentional impact.

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**Appendices:**

1 and (a) to (d)	Summary of Revenue Budget Requirement by Directorate
2 (a) to (c)	Directorate Revenue Pressures and Savings Proposals
3 and (a) to (c)	Summary of Proposed Capital Programme by Directorate
4a	Proposed HRA Rent Charges
4b	Proposed HRA Service Charges
4c	Proposed HRA Budget
4d	HRA Business Plan
5	Schedule of Parish Precepts
6 and (a)	Council Tax Resolution and bandings
7	Schedule of proposed Fees and Charges
8	Diversity Impact Assessment

**Background Papers:**

Medium Term Financial Strategy 2018-2023 report to Cabinet 25 September 2018

<https://democracy.medway.gov.uk/mgconvert2pdf.aspx?id=43672>

Draft Capital and Revenue Budget 2019/20 report to Cabinet on 20 November 2018

<https://democracy.medway.gov.uk/mgconvert2pdf.aspx?id=44488>

Provisional Local Government Settlement 2019/20 – Cabinet 15 January 2019

<https://democracy.medway.gov.uk/mgconvert2pdf.aspx?id=45263>

Pay Negotiations – Employment Matters Committee 30 January 2019

<https://democracy.medway.gov.uk/mgIssueHistoryHome.aspx?IId=24967>

Capital and Revenue Budgets 2019/20 report to Cabinet 5 February 2019

<https://democracy.medway.gov.uk/ieListDocuments.aspx?CIId=115&MIId=4131&Ver=4>