

CABINET

7 FEBRUARY 2023

CAPITAL AND REVENUE BUDGETS 2023/24

Portfolio Holder: Councillor Alan Jarrett, Leader of the Council

Report from: Phil Watts, Chief Operating Officer

Author: Katey Durkin, Chief Finance Officer

Summary

This report sets out Cabinet's proposals for the Capital and Revenue Budget for 2023/24. In accordance with the Constitution, this is to be submitted to Full Council on 23 February 2023, the special meeting convened to set the Council Tax.

1. Budget and policy framework

- 1.1. According to the Council's Constitution, it is the responsibility of Cabinet, supported by the Corporate Management Team, to propose a capital and revenue budget having first consulted the overview and scrutiny committees. Full Council has the ultimate responsibility for determining the budget and setting the Council Tax.
- 1.2. In respect of the Housing Revenue Account (HRA) 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 Strategy and Council Plan form 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.
- 1.4. This report has been circulated separately to the main agenda. Therefore, the Cabinet is asked to accept this report as urgent to enable consideration of the matter at the earliest opportunity given that the final budget will be submitted to the next scheduled Council meeting on 23 February 2023.

2. Background

- 2.1. The Draft Capital and Revenue Budget 2023/24 was presented to the Cabinet on 15 November 2022 and projected a potential revenue shortfall of £28.683million. On 19 December 2022 the government published the

Provisional Local Government Finance Settlement. Details of the funding announcements and their impact on Medway Council's budget were set out in a report considered by the Cabinet on 10 January 2023.

- 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 directorate budget requirements within the appendices and a high-level narrative explaining the action being considered by the Administration to close the 'gap'. These comments have been included at Appendix 1.

3. Budget Monitoring 2022/23

- 3.1. At its meeting on 24 February 2022, the Council set a total budget requirement of £351.982million for 2022/23. Since the budget was approved, additional grant funding to provide assistance to residents through the Household Support Fund, Holiday Activities and Food Programme and Homes for Ukraine Schemes have been received. These additions take the Round 3 budget requirement to a total of £373.535million. The Round 3 Revenue Budget Monitoring Report, considered elsewhere on this agenda, forecasts a net overspend on services of £12.333million. A freeze on all expenditure that is not essential to the delivery of statutory services or to meet existing contractual obligations has been in place since December 2022 in order to reduce the overspend and consequent call on the Council's limited reserves by the year-end.

4. Revenue Budget Funding

4.1. **Core Spending Power**

- 4.1.1. The local government settlement is underpinned by the Core Spending Power calculation. This calculation makes certain assumptions about the local tax that Medway is able to generate and then aggregates this with the core grant funding available to Medway. Medway Council's Core Spending Power is summarised in Table 1 overleaf.
- 4.1.2. The Core Spending Power calculation is not in itself a statement of the actual resources available to the Council; it is 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.

Table 1: Core Spending Power

	2022/23 £m	2023/24 £m
Revenue Support Grant	6.380	7.308
Business Rates Baseline Funding Level	48.214	50.019
Settlement Funding Assessment	54.594	57.327
Council Tax excluding Parishes	140.769	149.136
Section 31 Compensation for under-indexing the Business Rates Multiplier	3.961	8.520
Improved Better Care Fund	7.307	7.307
New Homes Bonus	1.979	1.998
Social Care Grant	8.497	14.330
Adult Social Care Market Sustainability	0.674	2.337
Adult Social Care Discharge Fund	0.000	1.025
Lower Tier Services Grant	0.383	0.000
Services Grant	3.324	1.873
Core Spending Power	221.488	243.853

4.2. The Provisional Local Government Finance Settlement

- 4.2.1. The Provisional Local Government Finance Settlement was announced via a written statement on 19 December 2022. The Ministerial Statement sets out that “councils across England will benefit from an additional £5 billion – a 9% increase on last year’s settlement [...] with a one-off Funding Guarantee that ensures every council in England will see at least a 3% increase in core spending power before any local decisions around council tax are taken.” The Provisional Settlement confirms grant allocations for 2023/24 and 2024/25 to “offer greater certainty [...] which will allow town halls to plan ahead with confidence”.
- 4.2.2. The Ministerial Statement also announced a new “£100 million of additional funding for local authorities to support the most vulnerable households in England. This funding will allow councils to deliver additional support to the 3.8million households already receiving council tax support, whilst also providing councils with the resources and flexibility to determine the local approaches to support other vulnerable households in their area.” This funding is outside of the Provisional Settlement, so we will add Medway’s allocation to the budget when confirmed.
- 4.2.3. The Settlement consultation document sets out that “The government had previously committed to carry out a Review of Relative Needs and Resources and a reset of accumulated business rates growth. Whilst we can confirm that these will not be implemented in this Spending Review period, the government remains committed to reforming the local government finance landscape in the next Parliament.”
- 4.2.4. Outside of the Settlement, on 19 December 2022 the government announced it would be providing support in the form of a £200 payment for households in Britain that use alternative fuels like heating oil, and that those without a direct

relationship to a domestic energy supplier, including many care home residents and those living in park homes, will receive a £400 discount on their fuel bills through the Energy Bills Support Scheme Alternative Funding (EBSS Alternative Funding). Final guidance for these schemes has not been published at the time of preparing this report, however it is understood that local authorities will have some responsibility for disbursing these funding streams and any funding allocations will be added to the budget when confirmed.

4.3. Income from Local Taxation – the Collection Fund

4.3.1. Income from Council Tax and Business Rates is held in a ringfenced collection fund account, from which authorities draw the budgeted level of income in each year irrespective of actual income collected. Any shortfall on income collected compared to that budgeted level results in a collection fund deficit which is recovered by reducing the amount of income the Council can budget for in the following year.

4.3.2. Given the scale of deficits expected owing to the pandemic, in 2020 the then Chancellor announced that repayments to meet collection fund deficits accrued in 2020/21 in respect of Council Tax could instead be phased over a three-year period from 2021/22 to ease immediate pressures on budgets. Therefore 2023/24 is the final year impacted by this deficit spreading, which reduces the amount of income available to the Council from the collection fund in 2023/24 by £431,000.

4.3.3. The business rates retention system introduced in 2013 was designed to transfer a level of risk and reward to local authorities, therefore any growth or decline in the local economy would impact the Council's income. Under the current system most local authorities retain 50% of rates collected (at Medway Council this is 49% with 1% paid to Kent Fire Authority) with the balance paid to the Government. The government has set a baseline funding level for each authority and for each year calculates a business rates baseline. Where an authority's business rates baseline exceeds its funding baseline, they pay the difference to central government as a tariff, which is used to pay for a top-up for authorities whose funding baseline is less than its business rates baseline. These tariffs and top-ups are updated each year by the business rates multiplier, now the Consumer Prices Index (CPI).

4.4. Council Tax

4.4.1. The Provisional Settlement set the Council Tax referendum threshold at 3% per year from April 2023, with upper tier local authorities also able to levy an Adult Social Care precept of up to 2% in addition. The Proposed Budget therefore reflects that Medway's Council Tax will be increased by 4.994%, taking the Medway Band D to £1,671.23.

4.4.2. In accordance with the Council delegation, on 5 January 2023 the Chief Operating Officer, in consultation with the Leader, agreed the Council Tax base for 2023/24 at 89,336.65 band D equivalents. This represents an increase of 1,295.15 band D equivalents against the tax base reflected in the Draft Budget.

This results in a projected income collectable through the Council Tax of £149,302,106, an increase of £1,877,616 compared to the Draft Budget. At the end of the 2020/21 financial year, there was a deficit of £5.774million on the Collection Fund in relation to Council Tax. Of this figure the Council is required to repay the final £431,000 through the 2023/24 budget.

4.4.3. The Rating (Property in Common Occupation) and Council Tax (Empty Dwellings) Act 2018 provided for the billing authority to have discretion to charge an additional premium where a property has remained empty (unoccupied and substantially unfurnished) for a period in excess of two years. This means that where a property has been empty and unfurnished for two years or more and if the additional premium is 100% then it will attract an extra 100% council tax on top of the full amount for the property (a 200% council tax charge). Consequently, the council agreed in February 2020 to the following premiums from 2020/2021:

- a 100% premium for properties that have been empty for a period of two to five years, and
- a 200% premium for properties in excess of five years.

The Act also provided for a 300% premium to be charged for properties empty in excess of ten years and in February 2022, the Council agreed to introduce this premium from 2022/23.

4.4.4. The Levelling-up and Regeneration Bill, currently at committee stage in the House of Commons, proposes an amendment to section 11B of the Local Government Finance Act 1992 and the insertion of a new section 11C which will result in the following changes with effect from 1 April 2024:

- the 100% premium for long-term empty properties may be brought forward so that it can commence after being empty for one year rather than two; and
- a 100% premium may be charged for properties that are unoccupied but furnished (referred to as second homes).

These changes are subject to the bill being enacted (which is anticipated before the end of the current financial year) and to any guidance received from the Government. An authority's first determination under this section must be made at least one year before the beginning of the financial year to which it relates (i.e., it must be made prior to 1 April 2023 if it is to have effect from 1 April 2024). In November 2022 the Cabinet agreed to recommend to Council that these premiums be introduced from 2024/25 onwards and that final decision-making powers, once Royal Assent and Government guidance is received, are delegated to the Council's Chief Operating Officer (decision 135/2022 refers). Should these changes be adopted from 2024/25, it is estimated that this would affect 392 long-term empty (unoccupied and unfurnished) properties and 286 second homes (unoccupied and furnished properties) raising an additional estimated £1.127million in Council Tax income in 2024/25.

4.4.5. At the projected taxbase of 89,336.65 with a 4.994% increase and after repayment of the deficit, the Proposed Budget reflects the Council's projected income from Council Tax of £148.871million, representing £10.784million additional resources compared to 2022/23.

4.5. **Business Rates**

- 4.5.1. The rates payable by individual businesses is calculated based on the Rateable Value of the property as set by the government's Valuation Office Agency, which is then multiplied by a figure called the business rates multiplier which is set by the government each year. All business rates properties have been revalued by the VOA with the updated valuations in place from 1 April 2023. The multiplier has historically been adjusted each year to reflect inflation, based on the CPI inflation figure for the September prior to the billing year. However, the multiplier has been frozen by the government since 2020/21, with local authorities being compensated for the impact in line with CPI. The government confirmed in the Provisional Settlement that the multiplier is again frozen for 2023/24 with local authorities compensated in full for the impact of the freeze.
- 4.5.2. In his Autumn Statement on 19 November 2022, the Chancellor of the Exchequer announced the 2023/24 Retail, Hospitality and Leisure Relief Scheme which will provide eligible, occupied, retail, hospitality, and leisure properties with 75% relief, up to a cash cap of £110,000 per business. The Chancellor also announced the Supporting Small Business Relief Scheme, which will cap bill increases at £600 per year for any business losing eligibility for Small Business Rate Relief or Rural Rate Relief at the 2023 revaluation. The scheme also provides support for those previously eligible for the 2022/23 Supporting Small Business Scheme and facing large increases in 2023/24 but in those cases for one further year only. The Council will be fully reimbursed for the delivery of these reliefs by Section 31 grants calculated through the NDR1 (forecast) and NDR3 (actual spend) returns to the government. The government has published prescriptive guidance on the operation and delivery of both schemes and local authorities are expected to include details of the reliefs to be provided to eligible ratepayers in their bills for the 2023/24 year. These schemes will be implemented under the delegation of the Chief Operating Officer.
- 4.5.3. The amount of income the Council can expect to receive in respect of the coming financial year through Business Rates is calculated at the end of January through the NDR1 statutory return to the government. This calculation reflects any deficit or surplus in actual income received to the fund compared to the previous year's budget, the total income expected through Section 31 grants compensating for rate reliefs awarded by the government, the top-up grant to ensure authorities reach the baseline funding level set by the government, and the total Rateable Value (RV, as set for each non-domestic property by the Valuation Office Agency) of the area.
- 4.5.4. Our completed NDR1 calculates that Medway's income from retained business rates and Section 31 grants received in government compensation for reliefs awarded (less any surplus or deficit relating to prior years) will be £53.255million, which represents a £2.782million increase compared to the budget for 2022/23.

4.6. **Non-ringfenced government grant (including New Homes Bonus)**

- 4.6.1. To compensate for freezing the Business Rates multiplier until 31 March 2024, the Provisional Settlement includes an increase in grant compared to growth in line with the October CPI rate of 10.1%. Medway's funding is £8.520million, an increase of £4.284million compared to the assumption in the Draft Budget. Medway continues to be a top-up authority for Business Rates, with the Provisional Settlement confirming a grant allocation of £2.664million for 2023/24.
- 4.6.2. The Provisional Settlement reflects that local authorities will receive the 2022/23 allocations of Revenue Support Grant (RSG) increased in line with the Consumer Price Index (CPI), based on the October rate of 10.1%. Medway's allocation is £7.308million, an increase of £928,185 compared to the Draft Budget. However, the Provisional Settlement also announced that three previously separate grants will be rolled into RSG; the Local Council Tax Support Administration Subsidy, the Family Annexe Council Tax Discount Grant and Additional Funding for Food Safety and Standards Enforcement (Natasha's Law) grants. Medway's 2022/23 allocations for those grants totalled £281,094, meaning the extent to which the increased RSG benefits Medway's 2023/24 budget is £647,091.
- 4.6.3. The Provisional Settlement confirmed that the Services Grant, introduced as a one-off grant in 2022/23 will continue in 2023/24, however the national quantum has been reduced to remove the compensation previously announced for the impact of the Health and Social Care Levy on National Insurance Contributions, which has since been reversed. The grant has also been reduced "to increase the funding for the Supporting Families programme and to pay for other parts of the settlement such as increasing Revenue Support Grant." The consultation document notes that the quantum of the grant distributed in the Provisional Settlement has also been reduced as the government has held back a proportion "as contingency to cover unexpected movements". However, if this is not used, it will be returned to the Services Grant potentially increasing local authority allocations through the Final Settlement, expected in early 2023. Medway's Provisional Settlement allocation is £1.873million.
- 4.6.4. Introduced in 2011 to provide an incentive for local authorities to encourage housing growth in their areas, the New Homes Bonus scheme was significantly diluted in 2018/19 and it was widely anticipated that the scheme would end thereafter. However, the Provisional Settlement confirms that Medway will receive £1.998million in 2023/24.

4.7. **Social Care Grants**

- 4.7.1. In addition to the flexibility to levy a 2% Adult Social Care precept on Council Tax, the Autumn Statement announced that the rollout of the Adult Social Care charging reforms would be delayed from October 2023 to October 2025, but stated that the funding previously allocated for the reforms (nationally £1.3billion in 2023/24 and £1.9billion in 2024/25) would be distributed to local authorities through the Social Care Grant. The Statement also announced new funding

allocations for Social Care, with national allocations of £1.0billion in 2023-24 and £1.7billion in 2024-25. Of that:

- £600million in 2023/24 (£1billion in 2024/25) will be distributed through the Better Care Fund (BCF) “to get people out of hospital on time into care settings, freeing up NHS beds for those that need them”.
- £400million in 2023/24 (£680million in 2024/25) will be distributed through a grant “ringfenced for adult social care which will also help to support discharge”.

4.7.2. Medway’s Draft Budget projected that we would receive £5.8million to fund the Adult Social Care Charging Reforms and the Market Sustainability and Fair Cost of Care changes. The Provisional Settlement set out that Medway’s allocation through the Social Care Grant for 2023/24 is £14.330million, an increase of £5.833million compared to the projection in the Draft Budget. However, the Provisional Settlement also confirmed that the Independent Living Fund, previously paid separately, will be rolled into the Social Care Grant from 2023/24. Medway’s 2022/23 allocation of this grant was £720,000, therefore the extent to which the increased Social Care Grant will benefit Medway’s 2023/24 budget is £5.113million.

4.7.3. The Provisional Settlement announced the Adult Social Care Market Sustainability and Improvement Fund as a replacement for the Fair Cost of Care and Market Sustainability Fund. Medway’s allocation from the Adult Social Care Market Sustainability and Improvement Fund is £2.337million, which is £1.663million more than assumed in the Draft Budget.

4.7.4. The day before the Provisional Settlement, the Government announced the 2022/23 allocations of the new Discharge Fund “to support timely and safe discharge from hospital into the community by reducing the number of people delayed in hospital awaiting social care and reducing the number of bed days lost to delayed discharges. The focus will be on (but not limited to) a ‘home first’ approach and discharge to assess (D2A).” Medway’s 2022/23 allocation is £831,559. The Provisional Settlement confirmed that this fund would continue into 2023/24, with Medway’s allocation rising to £1.024million.

4.7.5. The Provisional Settlement confirmed that Medway’s Improved Better Care Fund (iBCF) allocation for 2023/24 will be unchanged from our 2022/23 allocation, at £7.307million.

4.7.6. The net impact of these changes to Social Care Grants is an increase for 2023/24 of £2million compared to the Draft Budget.

4.8. **Education Related Grants**

4.8.1. Outside of the Settlement, on 16 December the government wrote to local authorities confirming the Dedicated Schools Grant (DSG) funding allocations for 2023/24. Medway’s allocations for Education Related Grants will total £116.566million as set out in Table 2 overleaf. This represents an increase of £6.117million compared to the Draft Budget, with the equivalent hypothecated growth in expenditure also reflected in the Education budget.

Table 2: Projected Schools related grants for the period to 2024/25

	2023/24 £m	2024/25 £m
DSG (Retained Schools Block)	1.033	1.064
DSG (Schools Block)	48.344	49.794
DSG (High Needs Block)	43.176	44.471
DSG (Early Years Block)	19.274	19.853
Pupil Premium Grant	3.824	3.939
Sixth Form Grant	0.914	0.914
Total Grant	116.566	120.035

4.8.2. Schools related expenditure is generally funded through the Schools Block of the Dedicated Schools Grant (DSG). However, Medway continues to experience significant pressure on services for children with Special Educational Needs and Disabilities (SEND), and the third round of the Revenue Budget Monitoring (considered elsewhere on this agenda) projects that this will result in a cumulative deficit of £24.717million on the DSG High Needs reserve by 31 March 2023. The government have confirmed the statutory override, which means this deficit does not have to be offset against General Reserves, has again been extended for three years, to March 2027.

4.8.3. The Council is working with the Department for Education through the Safety Valve Intervention Programme (SVIP) to agree a plan to address the deficit over the next four years. Through this scheme the government have confirmed agreement in principle to enter into an agreement that will provide £17.725million revenue funding. The funding is subject to the delivery of a Deficit Recovery Plan which is projected to remove the deficit and bring the High Needs block of the DSG to balance by 2025/26. The Council will continue to provide resources and funding to support inclusive practices within our schools from within existing budgets. In addition to this funding, the Council is required to provide £3million in an earmarked reserve to be used should the Recovery Plan not address the deficit in line with the agreement. Cabinet are therefore asked to recommend to Council the transfer of £3million from general reserves to a new earmarked reserve for this purpose. The Council has also secured £7.188million additional High Needs capital through the SVIP to help the Council with developing our local high needs offer, on top of the funding already allocated through the High Needs Provision Capital Allocations as set out in Section 14 of this report.

4.9. **Public Health Grant**

4.9.1. Neither the Provisional Settlement nor the Autumn Statement made any announcements in respect of the Public Health Grant, and we understand that the Department of Health and Social Care will be announcing allocations early in 2023. Our Proposed Budget therefore assumes the same level of funding will be received in 2023/24 as in the current year; £18.075million.

5. Revenue Budget Requirement 2023/24

- 5.1. In accordance with the constitutional requirements, the Draft Budget, proposed by Cabinet, was passed to Overview and Scrutiny Committees inviting comments, with comments from these meetings summarised at Appendix 1 to this report. At that stage the draft budget was some £28.683million in excess of the anticipated resources available, largely driven by demographic pressures manifesting within Adult Social Care and Children's Services.
- 5.2. Commencing in the summer, during formulation of the Financial Outlook, and continuing throughout the overview and scrutiny process, officers have worked closely with portfolio holders 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 2023/24 are discussed in more detail in the directorate level commentaries at Section 7, 8 and 9 of this report.
- 5.3. Appendix 2 summarises the proposed budget requirement against the funding assumptions, with appendices 2a, 3a and 4a representing the directorate summaries and appendices 2b, 3b and 4b providing more detail regarding individual pressures and savings proposals. At the time of writing this report, there is still a deficit of £2.026million to resolve. If we cannot identify measures to address this deficit, it will need to be met from the Council's reserves.

6. Children and Adults (Appendices 3a / 3b)

- 6.1. Since the inadequate rating from Ofsted's inspection of Children's Services in 2019, there has been significant growth in the budget for the service, with c£7million added for 2020/21, almost £9million added for 2021/22 and more than £6million added for 2022/23. Ofsted have now carried out five monitoring visits in May 2020, July 2021, January 2022, May 2022 and September 2022. The most recent report noted positive improvements in the leadership of the service, the workforce reported being well supported and value opportunities for learning and development and capacity within the service has increased. A final monitoring visit is expected in early 2023 with the full inspection expected in the Spring/Summer.
- 6.2. However, continued increases in the complexity of need, and an ongoing scarcity of suitable placements has driven significant financial pressures at Medway in 2022/23 reflected in the Round 3 Revenue Budget Monitoring Report elsewhere on this Agenda. The Proposed Budget reflects a further increase in expenditure compared to the 2022/23 budget for Children's Social Care of £10.549million. The budget also reflects further efficiencies and improvements in planning and tracking packages of support expected as a result of ongoing change programmes of £2.500million. Savings arising from work to increase capacity in residential provision in Medway of £1.561million and for Care Leavers of £837,000, and savings expected as a result of provision of more intensive parent support of £509,000. As a result of these activities, the net increase in the Children's Services budget for 2023/24 is £5.143million.

- 6.3. The Budget reflects significant increases in Adult Social Care expenditure of £9.113million, including funding from the Adult Social Care Market Sustainability and Improvement Fund to help local authorities to make tangible improvements to adult social care and, in particular, to address discharge delays, social care waiting times, low fee rates, workforce pressures, and to promote technological innovation in the sector. Social care providers in the market continue to experience significant cost pressures including increases in the National Living Wage and rising inflationary costs, and the national issues around recruitment and retention of social care staff and the resultant staff shortages making reliance on expensive agency staff a further pressure within the service. The pressures currently being experienced in the NHS will bring additional demand and cost to Medway's budget and we are working with our partners in the NHS and care sector to ensure best use is made of the government funding available to support the discharge of medically fit patients into sustainable care packages. Our assumptions around the level of support the Council will receive via the NHS and pooled budgets reduce the budget requirement by £1.200million. Savings of £1.426million are anticipated through the continuation of the programme of targeted reviews to ensure care packages continue to meet the needs of clients at an appropriate cost and £300,000 related to the expansion of the Flight supported Living provision enabling the service to step down service users from more expensive supported living provisions. Along with anticipated funding through the Better Care Fund, these collectively reduce the net increase required in the Adult Social Care Budget for 2023/24 to £6.187million.
- 6.4. The Budget also reflects that Medway continues to experience significant pressure on services for children with Special Educational Needs and Disabilities (SEND). In addition to the growth in Education grants set out in Section 4.9 of this report, the Proposed Budget reflects growth of £6.185million in the general fund budget requirement for Education Services, primarily arising from the increasing demand for and cost of transporting children to school which is in part mitigated by savings anticipated through increasing travel training and enabling independence. As set out in Section 4.9.3 of this report, the Council is receiving support through the SVIP to address the deficit on the High Needs block of the DSG.
- 6.5. As set out at section 4.10 of this report, the government has yet to make any announcements about the Public Health Grant allocations for 2023/24. As expenditure on Public Health services is contained within the grant received, our Proposed Budget assumes the same level of funding will be received in 2023/24 as in the current year; £18.075million.
7. Regeneration, Culture and Environment (Appendices 4a / 4b)
- 7.1. The Proposed Budget for the Directorate in 2023/24 reflects the impact of high inflation rates on the c£40million of contract expenditure including waste, highways and transport services combined to increase the Directorate budget requirement by £2.378million. The Directorate is responsible for the majority of the Council's property estate, and therefore bears most of the cost of rising utilities prices which add a further £2.108million.

- 7.2. The budget also reflects the one-year impact of £726,000 resulting from the works to turn the first floor of the Pentagon Centre into a Healthy Living Centre, meaning service charge and business rates charges for the vacant units fall to the Council for the duration of the works. Income is anticipated to return to budgeted levels in 2024/25. Increases levied on other Council rental/leases are anticipated to generate a further £103,000 income.
- 7.3. The introduction of the enforcement of Moving Traffic Offences, Red Routes and School Streets in Medway during 2023/24 are anticipated to generate £786,000 income. The budget assumes savings in the delivery of concessionary fares and subsidised bus routes of £117,000 and of £96,000 through the ongoing Smart Cities programme.
- 7.4. The Proposed Budget for general fund Housing Services reflects the delivery of floating support through the Council's Benefits and Financial Welfare Team, which is anticipated to save £200,000. Despite most local authorities ceasing to provide funding for Sheltered Housing to social landlords, with Kent County Council funding ceasing in 2017, Medway has continued to fund this at an annual cost of £248,000. Medway's general fund ceased providing funding to the HRA in 2019/20. The Proposed Budget reflects the cessation of this funding which has been anticipated by providers for some years, by giving six months' notice from 1 April 2023. This would deliver a part year saving in 2023/24 of £140,000. Cabinet is asked to recommended to agree to the cessation of funding to landlords to provide sheltered housing, with a six month notice period from 1 April 2023.
- 7.5. Savings and additional income anticipated through changes to the delivery of tourism, festivals and events are expected to save a total of £147,000. Fees and charges uplifts as set out in the proposed Fees and Charges schedule at Appendix 7 are anticipated to generate £200,000 additional income across the Directorate.
- 7.6. Collectively these savings reduce the Directorate budget requirement by £3.192million.
8. Business Support Department and Interest & Financing (Appendices 5a / 5b)
- 8.1. The Proposed Budget for the Business Support Department and Interest & Financing represents an increase in the budget requirement of £3.6million. The most significant increase is the cost of financing the borrowing required to finance the Council's capital programme. Though the programme has grown in 2022/23, the latest projections for interest rates have reduced since the Draft Budget was prepared and as such the total requirement is £15.3million, a reduction of £4.837million compared to the Draft Budget. In 2019 the Council commissioned a review of its Minimum Revenue Provision policy and the contributions to reserves made to date. This review concluded that the Council had over-provided in the past and could therefore reduce contributions to the provision in future years to £1 up to the value of that over-provision. The budgeted provision manifested in an underspend which contributed to the

overall underspends reported in the outturn of 2020/21 and 2021/22, and enabled the creation of an earmarked reserve to be used to smooth the impact of changes in the Interest and Financing budgets in future years. The Proposed Budget reflects the use of £2.985million from that earmarked reserve to address the pressure arising from Interest and Financing in 2023/24.

8.2. Levies charged by other bodies for statutory services including the Kent Coroners Service are increasing, requiring the addition of £300,000, while the rising scope and cost of external audit work adds £165,000 to the budget requirement. Inflation on other contracts and the rising cost of utilities on properties within the Department add £115,000 and grants rolled into the Revenue Support Grant (as outlined at Section 4.7 of this report) are reflected with the addition of £276,000 to the budget requirement. The rebate received from Medway Norse is expected to fall by £315,000 reflecting the challenging operating climate.

8.3. These pressures are partially mitigated by savings of £1million anticipated through the ongoing work to transform the delivery of Medway Revenues and Benefits and the impact of this work on Customer and Business Services, anticipated improvements in the Benefits Subsidy arising from the Supported Housing Improvement Project and a review of arrangements to deliver print, post and scanning services across the Council. Savings of £100,000 are anticipated from the CCTV service and of £80,000 through the Replacement Asset Management System (RAMS). The net effect of these movements reduces the budget requirement for the department by £4.421million.

9. Flexible Use of Capital Receipts

9.1. From 2016/17 local authorities were given the power to use capital receipts from the disposal of property, plant and equipment assets received in the years in which this flexibility is offered, to spend up to 100% of their fixed asset receipts (excluding Right to Buy receipts) on the revenue costs of transformation projects. The flexibility was granted for three financial years to 2018/19 and was then extended for three years from 2019/20 to 2021/22. On 10 February 2021 the government announced a further three-year extension from 2022/23 onwards.

9.2. Alongside the budgets for 2020/21, 2021/22 and 2022/23 Full Council approved the Council's Strategy for the use of this flexibility, with investment in the Children's Improvement programme, the Council's Transformation programme and feasibility studies featuring in the current capital programme. Appendix 8 to this report sets out the updated Strategy and the proposed use of this flexibility in 2023/24. While the Proposed Budget does not reflect the addition of any further capital receipts to this programme of activity, the funding agreed in the 2022/23 budget not spent by 31 March 2023 will continue to support the Council's transformation activities in 2023/24 under this Strategy. This will see the continuation of support through this flexibility to support the Adult Social Care Transformation and Improvement Programme and for the Council's Business Change Team to continue to be funded from capital receipts for the 2023/24 financial year.

10. Pay and Pensions

10.1. The Proposed Budget reflects the recommendations of the Employment Matters Committee of 24 January 2023 to Full Council, which Cabinet are asked to note:

- a general cost of living increase of £1,000 (pro-rata) for all staff,
- creation of a gap in pay ranges 1-4 through the introduction of a £500 gap, as detailed in paragraphs 7.6-7.8 of that report, and
- Full Council delegate to the Chief Executive the authority to agree the competency-based awards for staff assessed under MedPay at Levels 1A and 1B.

These recommendations result in a budget requirement for pay uplifts of £3.104million. In addition the Proposed Budget reflects £675,000 to uplift pay and premia payments to match the market and attract and retain permanent staff in Children's Services. The total cost for pay uplifts in the Proposed Budget is £3.761million, a reduction of £1.069million compared to the Draft Budget.

11. Fees and Charges

11.1. The budget proposals have been formulated on an assumption that fees and charges would generally increase by circa 10%, 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.

12. General Reserves

12.1. Over recent years the Council has pursued a strategy seeking to rebuild reserves and Table 3 below illustrates the progress made since March 2018. Non-earmarked General Fund reserves currently stand at £26.550million.

Table 3: Movement in Reserves

Type of Reserve	Closing Balance 31/03/2018 £m	Closing Balance 31/03/2019 £m	Closing Balance 31/03/2020 £m	Closing Balance 31/03/2021 £m	Closing Balance 31/03/2022 Draft £m
General Fund Balance	5.000	5.000	10.000	10.000	10.000
General Fund Earmarked Reserves	11.073	13.907	19.216	53.526	48.822
General Reserves	0.089	4.039	3.924	12.689	16.550
Insurance Fund	1.368	1.216	0.960	2.459	2.483
Schools Balances	1.181	2.004	1.356	1.414	1.750
HRA Reserves	4.916	6.308	6.746	5.701	5.283
Capital Grants and Contributions (incl. S106)	8.249	10.988	18.764	25.916	17.787
Capital Receipts Reserves	0.331	1.110	5.463	6.674	8.113
HRA Major Repairs Reserve	0.008	0.100	0.000	0.000	0.000
Total Usable Reserves	32.216	44.671	66.429	118.378	110.788
Unusable Reserve - DSG Adjustment Account	(0.452)	(4.139)	(9.346)	(16.261)	(23.530)

12.2. The principal risk to be covered by the contingency balance is that of an overspend and it is a testimony to both the internal budgetary control systems and the robustness of the budget setting process, that over successive years the Council has consistently underspent its revenue budget.

12.3. The other reason for maintaining reasonable reserve balances is to protect against the financial impact of a major emergency or catastrophic event. It would be fair to say that recent years have seen several events that would fall into this category:

- The lasting impacts of the Covid-19 pandemic,
- The economic impact of the war in Ukraine including high inflation and cost of living,
- Spiralling demand for social care and the crisis being experienced in the NHS and social care system.

12.4. Whilst the Provisional Settlement was more positive than anticipated, the financial pressures impacting on all upper tier authorities have made balancing the budget difficult, without recourse to reserves and indeed, the government has stated its expectation that councils utilise reserve balances to see them through the current financial difficulties.

13. Projected Budget Requirement and Resources for future years

13.1. Historically in the Autumn of each year we have published a Medium-Term Financial Strategy providing five-year projections of the Council's income and expenditure. In recent years, the uncertainty created by the pandemic and a series of one-year local government finance settlements had made it impossible to make any meaningful projections beyond the coming year. It had always been our intention to return to publishing medium term projections when circumstances enabled us to do so, and the Council's external auditors have recommended we do so in their latest audit findings reports. Our initial projections for the next five years are presented at Appendix 9 and will form the basis of the work to prepare the budget for 2024/25 and beyond, commencing in the Summer of 2023.

14. The Capital Programme 2023/24 and beyond

14.1. Elsewhere on the agenda we present the Round 3 Capital Budget Monitoring Report which reflects planned capital expenditure over the medium term and incorporates everything we currently know about capital grant allocations for the period.

14.2. The current Capital Programme for 2022/23 includes £125.169million (approved) / £95.595m (remaining) relating to schemes being delivered by the Medway Development Company Ltd (MDC), including Garrison Point, Chatham Waterfront and Britton Farm Residential. For some schemes, including White Road, Britton Farm Public Realm/ Skills Hub and Queen Street, MDC have acted in a project management capacity on behalf of Medway, to build or

develop assets owned by Medway Council. For other schemes, MDC is building or developing assets in their ownership. Medway Council finances the latter schemes through loans to MDC with interest charged at a market rate yielding a revenue benefit to the Council.

- 14.3. We have considered the relevant guidance from the Chartered Institute of Public Finance and Accountancy (CIPFA) on the proper accounting treatment and have concluded that though these loans are capital in nature, as they are not schemes delivered by the Council to deliver or improve Council owned assets, they should not feature in the Council’s capital programme. As such, the Capital Programme for 2023/24 onwards will not feature these schemes, representing a reduction of £65.386million (approved)/£44.631million (remaining) budget compared to the 2022/23 programme, not including the unallocated balance if this is removed then this will mean £115.742million (approved) and £94.383million (remaining). Tables 4 (below) and 5 (overleaf) re-state the current capital programme with these schemes removed, and will therefore form the basis of the Capital Programme for 2024/24 onwards.

Table 4 – 2022/23 Capital Monitoring Summary excluding MDC owned schemes

Directorate	Total Approved Cost £m	Total Exp to 31/03/22 £m	Remaining Budget £m	Forecast Spend 2022/23 £m	Forecast Spend in Future Years £m	Forecast (Under)/ overspend £m
Children and Adults (including Public Health)	37.449	16.564	20.885	15.046	6.430	0.590
Regeneration, Culture and Environment	560.732	183.505	377.227	55.856	321.371	0.000
Housing Revenue Account	47.896	19.739	28.157	15.743	12.413	0.000
Business Support Department	3.677	2.952	0.724	0.300	0.424	0.000
Members Priorities	0.363	0.000	0.363	0.025	0.338	0.000
Total	650.117	222.760	427.356	86.970	340.977	0.590

Table 5 – Funding the Capital Budget excluding MDC owned schemes

Funding Source	C&A £m	RCE £m	HRA £m	Business Support £m	Member Priorities £m	Total £m
Prudential Borrowing	14.890	49.707	17.108	0.175	0.000	81.881
Borrowing in lieu of Future Business Rates	0.000	30.304	0.000	0.000	0.000	30.304
Borrowing in lieu of Capital Receipts	1.174	83.171	0.000	0.000	0.000	84.345
Borrowing in lieu of Future Section 106 Contributions	0.000	0.000	0.000	0.000	0.000	0.000
Borrowing in lieu of Future NHS Grant	0.000	10.348	0.000	0.000	0.000	10.348
Capital Receipts	0.001	4.623	0.009	0.548	0.363	5.543
Capital Grants	2.329	197.092	0.488	0.002	0.000	199.911
RTB Receipts	0.000	0.000	2.906	0.000	0.000	2.906
S106 Developer Contributions	2.490	0.994	0.000	0.000	0.000	3.484
Revenue / Reserves	0.000	0.989	7.646	0.000	0.000	8.634
Total Capital Programme	20.885	377.227	28.157	0.724	0.363	427.356

14.3.1. Arrangements are in place for progress against all MDC activities to be reported to the Council through regular reports to Overview and Scrutiny, and a summary update will be provided through the Capital Budget Monitoring Reports from 2023/24 as a memorandum item, to ensure continued transparency around these developments.

14.4. Additions to the programme for 2023/24 are dealt with in the narrative below. New schemes will be funded from a combination of grant, prudential borrowing and capital receipts where available.

14.5. **Housing Revenue Account (HRA)**

14.5.1. The HRA Capital and Revenue Budgets 2023/24 report considered earlier on this agenda sets out that 2023/24 will be the third year of the current three-year planned maintenance and disabled adaptations capital works programme, and the continuation of the new build/acquisitions programme over the coming year. The HRA is now looking at bringing forward phases 5 and 6 which once completed, will deliver an additional circa 84 units. Phase 5 consists of two sites with one receiving planning permission and the other currently in the process of having a planning application submitted. Phase 6 is currently on site and due to complete in 2024. The HRA is also looking at other housing provisions such as Rough Sleepers Accommodation. The HRA successfully obtained funding to purchase 6 units of which 50% of the costs being eligible for grant funding from Homes England. The HRA Business Plan references a three-year planned capital maintenance budget as summarised in Table 6 overleaf.

Table 6: HRA Capital Requirement 2024/24

	2021/22 £m	2022/23 £m	2023/24 £m
Planned Maintenance	5.419	4.975	4.417
Disabled Adaptations	0.200	0.200	0.200
New Build/Acquisitions Programme	0.000	8.200	12.000
Total	5.619	13.375	16.617

- 14.6. **Schools Capital Programme:** The Annual Review of the School Place Planning Strategy 2022-2027 approved by Cabinet in October 2022 articulates a requirement to add 1,010 permanent and 180 temporary places at an estimated total cost of £21.283million. In March 2022 the Department for Education announced the Basic Need capital grant allocations to support the creation of places needed during 2023/24 and 2024/25. Medway's allocation is £17.050million. In addition to the Basic Need capital grant allocation to deliver new places for 2023/24 and 2024/25, the Council has been allocated £7.962million to fund places and improve existing provision for children with SEND or who require Alternative Provision. These funding allocations will be added to the capital programme to deliver places in line with the Strategy in due course.
- 14.7. **Highways and Transport Related Capital:** In the Spending Review 2021 the government announced that the Department for Transport settlement provides £8.5billion, equivalent to real-terms growth rate of 1.9% a year on average over the settlement period to 2024/25. The funding is exclusively ring fenced to highways, however Local Authorities have yet to be notified of allocations and these will be added to the programme, under the Chief Operating Officer's delegation, when final allocations are known. It is proposed to inject a further £1.5million, funded from reserves, towards maintaining the highways.
- 14.8. **Future High Streets and Levelling Up Fund:** In January 2021, we received £9.498million from the government's Future High Streets Fund which aims to transform high streets into vibrant hubs for future generations and to protect and create jobs. Last year we were also awarded £14.4million from the government's Levelling Up Fund which will be invested in three projects to further support the establishment of Chatham as Medway's city centre - The Docking Station, The Brook Theatre and The Fitted Rigging House which will support the area's flourishing creative sector and provide further opportunities for economic growth. In January 2023 the government announced the latest round of allocations from the Levelling Up Fund, however Medway's bids for Innovation Park Medway: Gateway Building, Southern Site, and Green Infrastructure, and Gillingham: Open Lines not successful so officers and Members will review how the aspirations underpinning those bids might be delivered without that grant funding.
- 14.9. **Culture & Community**
- 14.9.1. The Council holds the Grade I listed Dickens Chalet in trust for Medway residents and the nation and the Proposed Budget includes the addition of £100,000 to restore the chalet to a structurally sound state. This would enable

the Council to seek funding from external organisations to continue the restoration of the chalet with the aim of creating a restored, safe attraction for visitors to not only see but to step inside.

- 14.9.2. The Library Service currently operates a Children's Mobile Library that visits schools and early years settings that are not currently close to a static Library, supporting our child friendly city aspirations. The Proposed Budget includes the addition of £150,000 to purchase a modern, environmentally friendly vehicle to replace the current mobile community hub vehicle that is proving costly to maintain and operate. This facility would also focus on supporting literacy improvement amongst young people, particularly in rural locations where very few other Council services are available on a permanent basis. As with the other community hub developments, this mobile community hub would provide a single point of contact for our residents, particularly those living in more isolated areas, enabling them to regularly access a broad range of Council services, as well as signposting to partner organisations in the community, voluntary and private sectors.
- 14.10. **Rochester Pier Salvage:** In 2019 Rochester Pier closed owing to structural safety concerns relating to the central floatation platform linking the two brows from the upper section of pier to the pontoon. Elsewhere on the agenda for this meeting, a report seeks approval to add £137,172 to the capital programme, funded from borrowing, to remove the collapsed sections of the pier and timber dolphins from the riverbed. Should the Cabinet approve the recommendations in that report, the addition will be reflected in the Proposed Budget presented to the Council on 23 February 2023.
- 14.11. **Play Area Investment:** In July 2020, Cabinet recommended that £250,000 should be added to each year's capital programme (subject to the availability of Section 106 contributions and /or capital receipts) moving forward to ensure that residents and visitors continue to have access to safe play equipment designed to meet the increasingly diverse range of user needs. This programme has seen investment of £275,000 in 2021/22 and £250,000 in 2022/23 funded from capital receipts. We do not project any availability of capital receipts beyond those already committed to fund the existing capital programme or the additions set out in Table 7 in 2023/24. As such, as and when suitable Section 106 contributions become available, this will be added to the capital programme to deliver play areas in 2023/24 via a future report to Cabinet and Council.
- 14.12. **Disabled Facilities Grant (DFG):** The DFG is a means tested grant of up to £30,000 to provide adaptations in people's homes that will make them more accessible. The grant forms part of the Better Care Fund and for 2022/23 is worth £2.471million; when the allocation for 2023/24 is confirmed the funding will be added to the budget using the delegation of the Chief Operating Officer.
- 14.13. **Facilities for Council Meetings:** Due to the loss of the Civic Suite space as part of the Ministry of Justice lease, and the larger space required for social distancing measures due to the Covid-19 pandemic, Medway Council had to split Council meetings across Gun Wharf and the St Georges Centre. There are issues with heating and the acoustics at the St Georges Centre and having

meetings split across two different sites causes unnecessary travel for officers and Members. The Proposed Budget includes a capital addition of £320,000 to deliver a new Council Chamber in Gun Wharf to hold all Council meetings, including full Council. Some of the technology used to support Council meetings is approaching end of life, especially the wireless microphones, so this addition also includes the replacement of the audio visual technology. Following the successful creation of a Council Chamber at Gun Wharf, the Council will be able to review the options for the St George's Centre.

Table 7 – Proposed Additions to the Capital Programme

Addition	£m
Restore Dickens Chalet to structurally sound state, funded from reserves	0.100
Purchase of new Mobile Library, funded from reserves	0.150
Facilities for Council Meetings, funded from reserves	0.320
Highways improvements, funded from capital receipts	1.500
Total	2.070

15. Housing Revenue Account

- 15.1. 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.
- 15.2. The Business Support Overview and Scrutiny Committee received a report on 25 January 2023 that detailed the HRA revenue and capital budget proposals and a follow up to that report features elsewhere on this agenda.
- 15.3. The summarised Housing Revenue Account is attached at Appendix 6, with the capital investment requirements included within the current programme at Tables 4 and 5.

16. Risk management

Risk	Description	Action to avoid or mitigate risk	Risk rating
Failure to deliver a balanced budget without recourse to reserves	The Council has a statutory duty to deliver a balanced budget in advance of the financial year. Reserve balances will need to be protected to ensure the future sustainability of the Council's finances.	Members and officers are working closely to develop proposals to reduce the cost of service delivery or maximise income streams to ensure a balanced budget can be achieved.	B2

Risk	Description	Action to avoid or mitigate risk	Risk rating
Demographic Growth	Further demographic pressures may surface across our social care services above those assumed in the budget.	Close monitoring of demand for service to identify pressures early, robust budget monitoring.	C2
Final settlement may be worse for Medway than the Provisional settlement	There remains a slight possibility that following consultation, changes could be made to the settlement that adversely affect the overall position for the Council in.	This is considered a low risk but in the event that it proves to materialise there may be a need to table revised proposals for consideration by Council. Close monitoring of government communications.	D3
Inadequate Funding	Funding allocated is inadequate to offset expenditure pressures, and it may not be possible to deliver significant savings required to balance the Council's budget without recourse to reserves.	Officers and Members continue to work closely to identify savings.	C1
Capital Receipts	The budget assumes a significant proportion of the Capital Programme is funded from capital receipts; if the Council does not achieve the required receipts, schemes may need to be curtailed or refinanced.	Close monitoring of the programmes anticipated to deliver capital receipts, and careful management of the delivery of those schemes funded from receipts.	C2

Risk	Description	Action to avoid or mitigate risk	Risk rating
Interest Rate Rises	The budget assumes a significant proportion of the Capital Programme is funded from borrowing. If rates rise beyond the projections in the budget, or if additional borrowing is required, a revenue budget pressure will arise unless some elements of the programme can be curtailed or refinanced.	Close monitoring of the capital programme monitoring to minimise borrowing and avoid taking out borrowing at interest rate peaks.	C1
Deliverability of the Capital Programme	Macro-economic conditions, largely but not wholly resulting from the pandemic, have affected the cost and availability of both materials and labour.	Close monitoring of the programme and careful management of the delivery are supported by scrutiny from senior officers and Members.	D3
Special Educational Needs and Disabilities	Further increases in the number of children requiring support, and in the complexity of needs may surface above those assumed the budget.	Close monitoring of demand for service to identify pressures early, robust budget monitoring.	C2
Social Care Reforms	The impact of the government's social care reforms may result in higher costs to the authority beyond that received through new burdens funding.	Officers continue to work to determine the impact of the reforms and lobby government for adequate financial support for the sector.	C1

Risk	Description	Action to avoid or mitigate risk	Risk rating
Medway Development Company (MDC) activity	A reduction or slowing of the housing market could mean that MDC schemes planned may not generate the revenue income or the capital receipts assumed in the Council's budget.	Skilled and experienced staff within the company and at the Council are focused on the production of high quality businesses cases, leading to the selection and delivery of schemes that will perform well. Close monitoring of the programme and careful management of the delivery are supported by scrutiny from senior officers and Members.	D2
Housing Infrastructure Fund (HIF)	The delivery of the HIF scheme is funded by Homes England, however any overspend must be funded by the Council.	A dedicated team of skilled and experienced staff are focussed on the delivery of the HIF programme. Close monitoring of the programme and careful management of the delivery are supported by scrutiny from senior officers and Members.	C2

Likelihood	Impact:
A Very high	1 Catastrophic (Showstopper)
B High	2 Critical
C Significant	3 Marginal
D Low	4 Negligible
E Very low	
F Almost impossible	

17. Consultation

- 17.1. The Draft Budget is subject to consultation with Members via Overview and Scrutiny Committees with their comments captured at Appendix 1 to this report.

18. Diversity Impact Assessment

- 18.1. 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.
- 18.2. In accordance with statutory requirements, work is currently ongoing by services to ensure that robust diversity impact assessments have been completed for the budget proposals in advance of Full Council's decision on the 23 February 2023. To manage the potential cumulative effect of proposals, this will include an overarching assessment taking a strategic view of the aggregate impact of reductions in funding, in recognition that some individual proposals on their own may not be significant but may need to be considered against changes in provision by other Council services.
- 18.3. 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.

19. Financial implications

- 19.1. The financial implications are set out in the body of the report and in the attached appendices.

20. Legal and Constitutional Implications

- 20.1. 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.

- 20.2. Section 25 of the Local Government Act 2003 requires the Council's Section 151 officer to report to the Council on the robustness of the estimates made and the adequacy of the proposed financial reserves assumed in the budget calculations.
- 20.3. 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.
- 20.4. 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.
- 20.5. 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. This is further dealt with in Section 16 of this report.
- 20.6. 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.
- 20.7. 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. Recent 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.

- 20.8. 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.
- 20.9. 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.
- 20.10. 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.
- 20.11. 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.
- 20.12. 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.
- 20.13. 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.

- 20.14. 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.
- 20.15. 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 2023/24 the latest date for posting the notices (first class) is 28 February 2023.
- 20.16. The Council's constitution contains the budget and policy framework rules. The relevant extracts from the constitution are summarised 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 24 February 2022. The adoption of the budget and the setting of Council Tax are matters reserved for the Council.
- 20.17. The Council has a statutory duty to set a balanced budget no later than 11 March in the financial year preceding the one in respect of which the budget is set. When developing the budget, the Council needs to be cognisant that is required in law to provide some services, mandatory services, and others where it is a matter of local choice, discretionary services. It is a matter for the Council to determine what its local priorities are and those which are not. This can assist in determining resource allocation.
- 20.18. Section 19 of this report refers to the potential budget gap for the next financial year. When determining its budget, the Council must have regard to the advice provided by the Chief Operating Officer (its statutory S151 finance officer). The S151 officer is required to report on the robustness of the estimates made for the purposes of the calculations, and the adequacy of the proposed financial reserves.

21. Conclusions

- 21.1. The budget has been formulated based on the assumptions set out in the Financial Outlook, Draft Budget and Capital Strategy. In addition, budgets have been proposed to deliver the aspirations of the Council Plan and preserve those services that are most important to residents.

21.2. The proposed revenue budget requirement of £390.205million (Appendix 2) exceeds the estimated available resources by £2.026million. If we cannot identify measures to address this deficit, it will need to be met from the Council's reserves.

22. Section 25 Statement:

22.1. Section 25 of the Local Government Act 2003 requires that an Authority's Chief Financial Officer (Section 151 Officer) reports to Full Council when it is considering its Budget and setting its Council Tax for the forthcoming financial year, confirming the robustness of the estimates and the adequacy of the reserves allowed for in the budget proposals.

22.2. The budget proposals are based on extensive analysis and assurance from members of the Council's senior leadership team and their finance support staff. Portfolio Holders have worked with their respective Directors throughout the budget setting process. Overview and Scrutiny Committees have been consulted on the proposals as set out in the Draft Budget. The latest estimates, including those informed by the Provisional Settlement, are detailed throughout this report.

22.3. The Council's reserves position is set out in detail at Section 13 of this report. It demonstrates that at March 2022 the Council had non-earmarked general fund reserves of £26.550million available to it. Elsewhere on this agenda, the round 3 monitoring for the current financial year indicates that if the position does not improve by year end, the Council may be called upon to use £17.186million of these reserves, although our experience is that the final outturn generally shows significant improvement between the last reported monitoring and year end. The 'Safety Valve' programme also requires the Council to set aside £3million of general reserves as a guarantee against non-delivery of the deficit recovery plan. Finally, in the absence of sufficient capital receipts, the capital additions proposed at Table 7 would require circa £0.570million of general reserves. This would leave the Council's non-earmarked general fund reserves at around £5.794million – around £700,000 greater than the balances held at March 2018.

22.4. As the Section 151 Officer, I would prefer that the Council were not in this position, however it is not dissimilar to the position confronting many other upper tier authorities. Indeed, the government has urged local authorities to use reserves in order to balance budget shortfalls.

22.5. In conclusion, I feel confident in confirming the robustness of the assumptions underpinning this proposed budget and whilst the current level of reserves does not point to the Council's longer-term sustainability, there are sufficient general reserves available to the Council to balance the budget for 2023/24.

23. Recommendations

23.1. Cabinet notes the comments from the overview and scrutiny committees as summarised in Appendix 1 to this report;

- 23.2. Cabinet recommends to Full Council that the net revenue budget summarised at Appendix 2, should be set at £390.205million, and that this should be funded by a 4.994% increase in Council Tax for 2023/24 with the equivalent Band D figure at £1671.23;
- 23.3. Cabinet recommend to Full Council the transfer of £3million from general reserves to a new earmarked reserve, to be used in the event the Deficit Recovery Plan does not reduce the DSG Deficit in line with the agreement with the Safety Valve Intervention Programme, as set out in Section 4.9.3 of the report.
- 23.4. Cabinet agree to the cessation of funding to landlords to provide sheltered housing, with a six month notice period from 1 April 2023, as set out in Section 7.4 of the report.
- 23.5. Cabinet note that on 24 January 2023, Employment Matters Committee recommended to Full Council:
- a general cost of living increase of £1,000 (pro-rata) for all staff,
 - creation of a gap in pay ranges 1-4 through the introduction of a £500 gap, as detailed in paragraphs 7.6-7.8 of that report, and
 - Full Council delegate to the Chief Executive the authority to agree the competency-based awards for staff assessed under MedPay at Levels 1A and 1B.
- 23.6. Cabinet recommends to Full Council the capital budget proposals, as set out in Table 7;
- 23.7. Cabinet recommends to Full Council the fees and charges set out at Appendix 7 to this report;
- 23.8. Cabinet recommends to Full Council the Flexible Use of Capital Receipts Strategy set out at Appendix 8 to this report;
- 23.9. The Chief Operating Officer be requested to calculate the formal requirements under Sections 30 to 36 of the Local Government Finance Act 1992 for resolution by Special Council on 23 February 2023.
- 23.10. Cabinet notes its earlier recommendation to Full Council (decision 135/2022 refers) that when setting the Council Tax, the following changes are applied to Council premia in line with the Rating (Property in Common Occupation) and Council Tax (Empty Dwellings) Act 2018, as set out in paragraph 4.4.3 of this report:
- the 100% premium for long-term empty properties may be brought forward so that it can commence after being empty for one year rather than two; and
 - a 100% premium may be charged for properties that are unoccupied but furnished (referred to as second homes).

24. Suggested reasons for decision

- 24.1. The Constitution required that Cabinet's budget proposals must be referred to Council for consideration and approval.
- 24.2. The Council is required by statute to set a budget and Council Tax Levels by 11 March each year.

Lead officer contact

Katey Durkin, Chief Finance Officer, Gun Wharf, katey.durkin@medway.gov.uk

Appendices

- 1 Report back from Overview and Scrutiny Committees on Draft Budget Proposals
- 2 Proposed Revenue Budget Summary 2023/24
- 3A Children & Adults Directorate Budget Summary
- 3B Children & Adults Directorate Pressures and Savings
- 4A Regeneration, Culture and Environment Directorate Budget Summary
- 4B Regeneration, Culture and Environment Directorate Pressures and Savings
- 5A Business Support Department Budget Summary
- 5B Business Support Department Pressures and Savings
- 6 Housing Revenue Account Budget 2023/24
- 7 Schedule of Proposed Fees and Charges 2023/24
- 8 Flexible Use of Capital Receipts Strategy
- 9 Projected Budget Requirement and Resources for future years

Background papers

Provisional Local Government Finance Settlement – Cabinet 10 January 2023:

<https://democracy.medway.gov.uk/ieIssueDetails.aspx?Id=35136&Opt=3>

Draft Capital and Revenue Budget 2023/24 – Cabinet 15 November 2022:

<https://democracy.medway.gov.uk/ieIssueDetails.aspx?Id=34005&Opt=3>

Financial Outlook 2023/24 – Cabinet 18 October 2022:

<https://democracy.medway.gov.uk/ieIssueDetails.aspx?Id=33680&Opt=3>