



# Interim Auditor's Annual Report on Medway Council

2021-22

June 2023



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

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



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

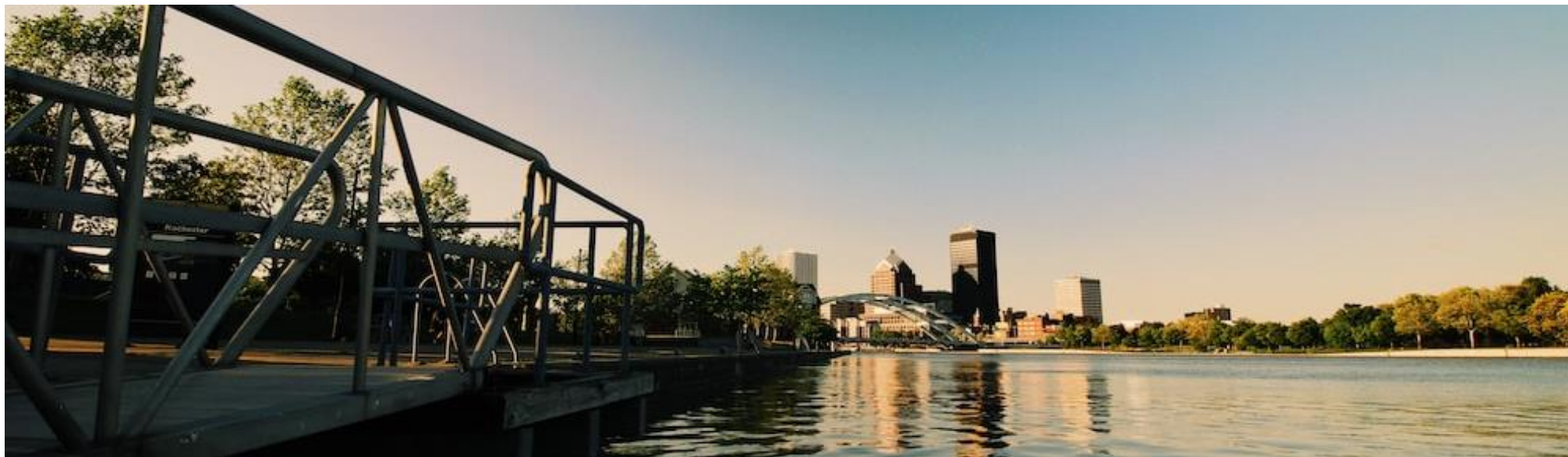
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# Executive summary

Under the National Audit Office (NAO) Code of Audit Practice ('the Code'), we are required to consider whether Medway Council has put in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources. Our audit of the Council's financial statements for 2020-21 is not yet complete and our audit of financial statements for 2021-22 has not yet started. The National Audit Office requires that where an auditor has significant concerns about a Council's arrangements, they report those concerns promptly rather than wait for all other audit work to conclude. In September 2022 we published an interim Auditor's Annual Report on Medway Council for 2020-21. Our report now, in June 2023, presents an interim Auditor's Annual Report for 2021-22. This latest report, together with the interim Auditor's Annual Report for 2020-21, meets the National Audit Office requirement for prompt reporting.

The findings we reported in September 2022, in respect of arrangements that the Council had in place for 2020-21, broadly identified that:

- Most children covered by Medway Council's Children's Services were not receiving a good enough service;
- The Council was successful at managing short-term financial pressure in 2020-21 but slippage in medium-term financial planning could be observed;
- There were new and emerging trends that the Council should be mindful of, for example rising costs in Children's Services; and
- The Council had sound governance processes in place but there was scope for improving arrangements with its subsidiaries.



# Executive summary

Our interim Auditor's Annual Report for 2020-21 made one Key Recommendation and seven Improvement Recommendations. Our 2020-21 recommendations and the progress made against them in the last six months are summarised in Appendix C.

As pages 8 to 17 of this report show, our interim findings in respect of 2021-22 are that:

- The Children's Services have not yet been formally re-inspected by Ofsted and, whilst the Council's commitment to improvement is clear, there were still significant aspects of required improvement in 2021-22. Our Key Recommendation from September 2022 still applies and is repeated on Page 22 of this report;
- The Council continued to face challenges when identifying and planning for medium term financial pressure and we make a new Improvement Recommendation on Page 10 of this report;
- The Local Plan currently in place does not include a high profile infrastructure project currently being designed and approved. We make a new Improvement Recommendation at Page 11 of this report;
- The Council has effective arrangements in place for governance but there is still scope for improving governance arrangements with its subsidiary companies. Our 2020-21 Improvement Recommendations for companies still apply and are repeated on Page 23 of this report;
- Dual role holding between Cabinet and Audit Committee could be reduced and we make a new Improvement Recommendation on Page 14 of this report; and
- The draft statutory accounts timetable for 2021-22 has been breached. We make a new Key Recommendation on Page 6 of this report.

Criteria	Risk assessment	Conclusion
Financial sustainability	No risks of significant weaknesses identified	No significant weaknesses in 2021-22 arrangements identified, but two new Improvement Recommendations made (Pages 10 and 11).
Governance	No risks of significant weaknesses identified	One new significant weakness in 2021-2022 arrangements identified. One new Key Recommendation (Page 6) and one new Improvement Recommendation (Page 14).  In addition, we note that Improvement Recommendations from September 2022 have not yet been implemented and still apply (Page 23).
Improving economy, efficiency, and effectiveness	Significant weaknesses identified	Significant weakness in arrangements identified. Key Recommendation from September 2022 still applies (Page 22).

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



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

We bring the following matters to your attention:

## Opinion on the financial statements

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

Medway Council has not yet published draft financial statements in respect of 2021-22. This breaches the requirements of the Accounts and Audit (Amendment) Regulations 2021 and we raise one Key Recommendation at page 6 of this report.

## Statutory recommendations

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

We did not issue statutory recommendations during or in respect of 2021-22.

## Public Interest Report

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

We did not issue a public interest report during or in respect of 2021-22.

## Application to the Court

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

We did not apply to the Court during or in respect of 2021-22.

## Advisory notice

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

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

We did not issue an advisory notice during or in respect of 2021-22.

## Judicial review

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

We did not apply for Judicial Review during or in respect of 2021-22.

# Key recommendation



## Key Recommendation

Draft accounts for 2021-22 should be published at the earliest opportunity. For 2022-23, early planning should be undertaken to meet statutory deadlines.

## Why/impact

The Council's draft Statement of Accounts for year ended 31 March 2022 has not yet been published and the 2021-22 accounts are therefore not yet available for inspection. This breaches the Accounts and Audit (Amendment) Regulations 2021.

We would normally have expected an unaudited statement of accounts for 2021-22 to have been published by 31 July 2022. We note that a draft statement of accounts for the year ended 31 March 2023 will shortly be due for publication (by 31 July 2023).

## Auditor judgement

Delays in preparing and publishing draft accounts reduces transparency and breaches the Council's statutory duty.

## Summary findings

The Council should work to recover the accounts timetable for 2021-22. Early planning will be important for 2022-23.

## Management Comments

The delayed publication of financial statements and completion of audits is a national issue and according to sector advisors, as at June 2023 only 35% of local authorities had published their 2022/23 statements. Our aspiration is to return to the statutory timetable as soon as practicably possible. We are bringing in additional resources to enable us to publish and support the external audits of the statements for 2021/22 and 2022/23 in parallel, with the intention therefore that we would be in a position to meet the statutory timetable from 2023/24 statements and audit.

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



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

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

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

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

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



## Financial Sustainability

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



## Governance

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

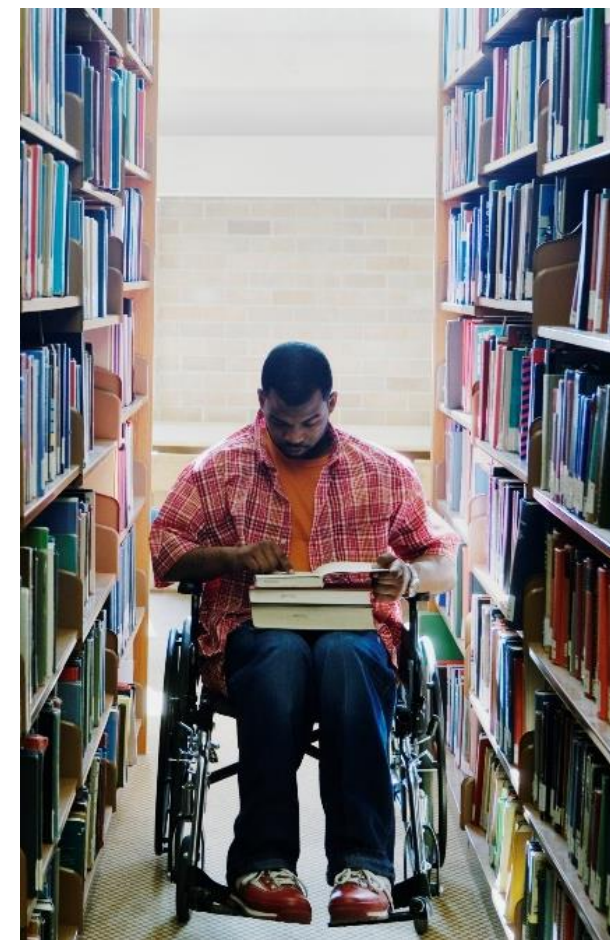


## Improving economy, efficiency and effectiveness

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



Our commentary on the Council's arrangements in each of these three areas, is set out on pages 8 to 17. Further detail on how we approached our work is included in Appendix B.



# Financial sustainability



## We considered how the Council:

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

## Identifying financial pressure and planning to bridge funding gaps with achievable savings plans

Medway Council was successful during 2021-22 at identifying and managing short-term financial pressure. The Council's Revenue and Capital Outturn Report for 2021-22 reported a small underspend against budget of £3.9 million, helped in part by income from parking and culture services recovering quicker than expected from covid; and by administrative top ups built into covid grants.

The Council had more difficulty during 2021-22 in planning for medium-term financial pressure. The Council did not prepare a Medium Term Financial Strategy for the years to follow 2022-23 and for the one year period ahead (2022-23), the savings and transformation plans which the Council did prepare, proved to be difficult to achieve. Whereas the Council developed plans during 2021-22 to reduce the 2022-23 budget gap of £18.2 million to £1.6 million, by February 2023 the forecast outturn for 2022-23 was, by contrast, an expected overspend against budget of £12.2 million.

The Council has subsequently taken steps during 2022-23 to strengthen arrangements for addressing medium term financial pressure. In November 2022 robust Council-wide measures were announced by the Chief Executive, including: Restricting permissions to authorise expenditure; increased control over direct spending; and increased scrutiny over Children's Services placements and the award of child and adult care packages. Furthermore, in February 2023, the Council approved a five-year projected budget and resource requirement for 2023-24 to 2027-28 (in effect, a new medium-term financial strategy). The impact of measures taken during November 2022 and February 2023 to strengthen medium-term financial planning will be considered as part of our value for money audit for 2022-23.

## Identifying and managing risk to financial resilience

### General Fund and Reserves

During 2021-22, the Council worked well to build resilience into its reserves. The Council's General Fund and General Reserves increased from a combined balance of £22.7 million on 1 April 2021 to a combined balance of £26.6 million by the end of the year.

The Council had more difficulty in managing risk to financial resilience for future periods. In February 2022, the Council approved a budget for 2022-23 which included a drawdown of £5 million from reserves. By February 2023, with the forecast overspend for 2022-23 standing at £12.2 million and additional needs to bolster the capital programme having been identified, the Council was forecasting that the combined balance on General Fund and General Reserves could fall from the £26.6 million held at the start of the year to as low as £5.794 million by 31 March 2023.

The spending restrictions introduced during November 2022 may mean that the reserves are more robust by the end of Quarter 4 of 2022-23 than was forecast in Quarter 3. Notwithstanding this, there remains a degree of fragility with financial sustainability and the ability to manage emerging financial pressures without drawing unsustainably on reserves.

The impact the measures had on financial resilience by the end of 2022-23 will be considered as part of our value for money audit for 2022-23.

### Dedicated Schools Grant Deficit

The planned drawdown from reserves of £5 million during 2022-23 covered, in part, an expected contribution to the dedicated schools grant deficit of £3 million. The Council's dedicated schools grant deficit has been increasing for a number of years, in common with many Local Authorities in England. On 1 April 2021 the deficit was £16.3 million and by 31 March 2022 the deficit was £20.5 million.



The Council's latest forecast is that the deficit will be £24.8 million by 31 March 2023. Medway Council is in the process of finalising a Safety Valve Intervention Programme (SVIP) agreement with the Education and Skills Funding Agency (ESFA). The ESFA is expected to contribute to the cost of the deficit, in return the Council will be expected to return the High Needs service to year on year financial balance by 2025-26. We will consider the success of the Council's efforts to address the deficit and bring the service back to financial balance as part of our audit work for 2022-23. In respect of 2021-22, however, we note that the Council's own data shows that increased dependency on special schools was one of the drivers for the deficit growing. The Council now plans to build more mainstream and special educational needs and disability (SEND) school provision. The Council has been granted some £17.05 million for Place Planning (basic need grant); and has other additional funding of £7.96 million (SEND grant) and £7.188 million (Safety Valve grant). Total costs of all additional places will marginally exceed this (£2.6 million) and the difference is being funded from s106 agreements and prior year programme monies due for utilisation.

### Supporting the sustainable delivery of services and ensuring the financial plan is consistent with other plans

To assess the effectiveness of Medway Council's arrangements to support sustainable delivery and plan finance on a consistent basis with operational planning, we considered the Council's workforce planning and capital and treasury planning.

#### Workforce planning

One over-arching workforce strategy document was not in place at Medway Council when we completed our work for the 2020-21 interim Auditor's Annual Report in September 2022 and was still not in place at the time of writing this latest report in March 2023. Individual service lines do have strategy documents for their own areas – the Children's Services is an example of an area where significant workforce planning and re-engineering has been taking place since 2020-21. For a Council-wide umbrella workforce strategy document, however, work was still ongoing in 2022 to develop a workforce strategy for the Council as a whole. Whilst strategies for individual areas are important, we recommend that work at Council-wide level also continues (**Improvement Recommendation 1, page 10**).

#### Capital and treasury planning

Medway Council's Capital Budget for 2021-22 was based on a high-value capital programme of £443 million. The capital budget for 2022-23 was based on an even higher value capital programme of £484 million. The Council plans to use grants and external borrowings to fund much of the capital programme. Long-term borrowings were valued at £237 million on 31 March 2021.

£170 million of the Council's capital programme related to planned developments on the Hoo Peninsular, to be funded by Housing Infrastructure Funds and in partnership with Homes England. Our interim Auditor's Annual Report for 2020-21 noted that the Council would be liable for 1% of cost overruns in excess of £170 million and also that by incurring costs before grant funds are reclaimed, the Council risked liquidity issues.

From our review of arrangements in place during 2021-22 we are satisfied that neither risk crystallised during 2021-22. At the time of writing this report in June 2023, the project is still going through challenge. We will review progress during our audit for 2023-24. We note that there have been no cash flow issues so far and that a project accountant has been recruited by the Council for accounting for capital additions.

£120 million of the Council's current capital programme relates to Medway Development Company (MDC) Ltd. MDC Ltd is wholly owned by the Council and acts as a vehicle for land and buildings development and sale. MDC Ltd itself has two subsidiary companies: MDC (Land and Projects) Ltd, created to allow the Council to make loans to support building development and sale; and MDC (PRS) Ltd, created to allow the Council to operate in the private rental sector should market conditions allow or require it. During 2021-22, the Council approved loan capital to MDC Ltd of up to £120 million over a five-year period. However, we note that in 2022-23, the Council agreed a business case for MDC (PRS) Ltd to take longer term loans (50 years) to support diversification into the private rental sector.

A formal loan agreement has been in place with MDC Ltd since 1 April 2021. Loans owed by MDC Ltd to the Council grew as follows during 2021-22:

- 1 April 2021: £13 million;
- 31 March 2022: £33 million.

With significant housebuilding factored into the Council's and MDC's capital programme, it will be important to have an up to date Local Plan agreed and in place. The Council's current Local Plan was adopted in 2003 and did not include, for example, the development now proposed on the Hoo Peninsular. A timetable is in place to agree a revised Local Plan for the period to 2040. However, although design and approval stage work on the Hoo Peninsular was successful at demonstrating that strategic growth is possible there, firm political consensus and final agreement with Homes England around further development has not yet been achieved. Projects can take longer and, as a result, cost more where the planning application process is not underpinned by an agreed Local Plan. On the other hand, proceeding with projects without political consensus risks spending money on planning work for projects that will not proceed. In March 2020, the government set a deadline of December 2023 for all councils to have up-to-date Local Plans in place. We recommend that Medway Council continue with current efforts to agree and update its Local Plan so that the strategic growth it hopes to deliver can continue in a timely and consensual fashion (**Improvement Recommendation 2, page 11**).

# Improvement recommendation



## Financial sustainability

### Recommendation 1

The Council should continue with developing a Council-wide workforce strategy.

### Why/impact

Work was underway to develop a Council-wide workforce strategy at the time of our interim Auditor's Annual Report for 2020-21 but has not yet been completed. Labour market shortages are acute in some sectors (eg, social care), but also impact more generally across the Council as a whole.

### Auditor judgement

Delays in implementing planned improvements.

### Summary findings

No Council-wide workforce strategy in place in 2020-21 and 2021-22 and 2022-23.

### Management Comments

The overall Council Workforce Strategy is in draft form, the scope of the strategy is wide-ranging and builds on our original HR ambition and provides a framework following our staff survey results (September 2022) and our pilot findings from the Medpay review (due to completed 1 August 2023). The actions in the strategy are in relation to behaviours and culture change; personal performance, leadership and management, workforce planning, learning and development, engagement reward and wellbeing, which all underpin our Employee Voice Strategy. Further work is planned across Q3/4 to socialise the full strategy, seek feedback and consult and agree on a new set of values to work alongside our new Council Plan.



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

# Improvement recommendation



## Financial sustainability

**Recommendation 2** Medway Council should continue with current efforts to agree and update its Local Plan so that the strategic growth it hopes to deliver can continue in a timely and consensual fashion.

**Why/impact** The Council's current Local Plan was adopted in 2003 and did not include, for example, the development now proposed on the Hoo Peninsular. A timetable is in place to agree a revised Local Plan for the period to 2040 but as yet no revised Plan has been adopted. In March 2020, the government set a deadline of December 2023 for all councils to have up-to-date Local Plans in place.

**Auditor judgement** Projects can take longer and, as a result, cost more where the planning application process is not underpinned by an agreed Local Plan. On the other hand, proceeding with projects without political consensus risks spending money on planning work for projects that will not proceed.

**Summary findings** A revised Local Plan should be agreed and adopted.

**Management Comments** At the October 18 2022 Cabinet, members adopted the Local Development Scheme 2022-2025 which is the programme for bringing forward the Local Plan for adoption. That programme set out the following: (1) Regulation 18 Development Alternatives consultation Summer-Autumn 2023; (2) Regulation 19 Publication of draft Local plan – early 2024; (3) Submission of Plan for examination – Summer 2024; and (4) Adoption – Autumn 2025.

Following the election result in May 2023, the new Labour and Co-Operative administration confirmed its priority to deliver a Local Plan and to meet the timetable set out in the LDS. It is intended to take a regulation 18 report to Cabinet on 5th September (that will include an updated Land Availability Assessment) and then to go out for a 6-week consultation period through end of October 2023. Following that to then move quickly to the regulation 19 (draft plan stage) in accordance with the LDS timetable .



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

# Governance



## We considered how the Council:

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

## Monitoring and assessing risk and gaining assurance over internal control

### Council operations

Medway Council has sound processes in place for monitoring and assessing risk and for gaining assurance over internal control. Risk is identified at service line level and reported upwards through Directorate Management Teams to the Corporate Management Team and, on a quarterly basis, to the Cabinet. The Council's Risk Strategy stresses that staff at all levels of the organisation have a responsibility to "Identify, assess and report risks within their service areas" and a clear chain is in place for escalation up to the Strategic Risk Management Group, which is chaired by the Chief Executive Officer.

The Council has an in-house Audit and Counter Fraud function which also provides audit and counter fraud services to another local authority. The internal audit team use benchmarking against a Quality Assurance and Improvement Programme to measure and quality assure their work. The team's latest Public Sector Internal Audit Standards confirmations (for 2021-22) show a 100% compliance rate with the standards; and that 75% of the team were professionally trained. Internal audit and counter fraud updates are provided regularly to the Audit Committee throughout the year – as are whistleblowing updates under the Council's Speak Up policy.

In respect of 2021-22, the Internal Audit and Counter Fraud Service reported that "Medway Council's risk management, system of internal control, and framework of governance, were sufficient and effective, and contributed to the proper, economic, efficient, and effective use of resources in achieving the council's objectives".

## Arrangements with subsidiary companies

Medway Council owns two subsidiary companies: Kyndi Ltd and MDC Ltd. For both companies there are regular monitoring reports to Cabinet. During 2021-22, Kyndi Ltd was reported on in August 2021 and March 2022. MDC Ltd was reported on in November 2021. Reports to Cabinet on MDC Ltd after the end of 2021-22 occurred on June 2022 and January 2023.

Kyndi Ltd operates as a Local Authority Trading Company. It is wholly owned by the Council and the Council makes two of the appointments to its board. The company delivered CCTV, telecare and recruitment agency services during 2021-22. Kyndi made a small profit in 2021-22 (subject to audit, £677,000).

MDC Ltd has the potential to grow in value to around £120 million. Two MDC Ltd directors are appointed by the Council. Furthermore, both of MDC's subsidiaries are chaired by members of Medway Council's Cabinet. Our interim Auditors Annual Report for 2020-21 made a number of recommendations around formalising and strengthening the Council's governance arrangements for MDC Ltd. The recommendations we made in respect of 2020-21 are listed in Appendix C to this report and broadly surrounded:

- Revisiting and implementing Internal Audit recommendations from July 2020 (which included the recommendation that company monitoring reports to Cabinet be made more frequent than six-monthly);
- Moving away from the current arrangement for having Cabinet members sit on subsidiary company Boards; and
- Reviewing business case approval arrangements.

Recent slowdowns in the housing market represent a significant risk for MDC Ltd, although diversification into the private rental sector using longer term loans from the Council in part mitigates that risk. However, with the risk profile changing, our recommendations around governance remain important. The recommendations are shown on page 23 of this report and still apply.



## Budget setting, budgetary control, and making properly informed decisions

### Budget setting and budgetary control

Effective budget setting and budgetary control arrangements were in place at Medway Council during 2021-22.

### Making properly informed decisions

Cabinet is the part of the Council responsible for most decisions. All Cabinet meetings have been livestreamed since May 2021. Cabinet papers are published (with the exception of specific exemptions) and this provides transparency over decision-making. Cabinet receives formal reports, which are prepared in standard formats using templates which have links to diversity impact assessment guidance. All reports are reviewed by the Chief Operating Officer and the Chief Legal Officer and include sections on financial and legal impacts; risk; and equalities. The reports may also include information on options (where relevant).

There is an effective challenge and scrutiny arrangement in place at Medway Council. The Council has an Audit Committee and four Council Overview and Scrutiny Committees (Business Support; Children and Young People; Health and Adult Social Care; and Regeneration, Culture and Environment). We note that there is some dual role holding between Cabinet and the Audit Committee (ability for members to sit on both). Governance can be more effective where the executive and the challenge and scrutiny functions are separated. In Medway's case, where there are underlying difficulties with financial resilience and also no agreed up to date Local Plan, it will be important not only that decision-making follows correct processes, but that it is clearly seen to do so. Strengthening the division between executive and challenge/scrutiny functions could help make the rigour of decision-making clearer. We recommend that the Council move away from the current dual role holding option between Cabinet and Audit Committee (**Improvement Recommendation 3, page 14**).



## Monitoring and ensuring appropriate standards

### Members and employees:

Medway Council has a Councillor Conduct Committee which is responsible for promoting and maintaining standards of conduct by Councillors. It is supported by a Member Code of Conduct written into the Constitution and there is also an Employee Code of Conduct. Policies around declaring and managing interests and around gifts and hospitality are written into both Codes.

The Council's arrangements for securing standards of behaviour among members and employees are broadly effective, with the exception of one historic recruitment issue identified during 2021-22. On 6 August 2021 it came to light that a locum who had been with the council since 2018 holding themselves out as a Solicitor-Advocate was not a qualified solicitor, which is a criminal offence. The Head of Legal Services immediately informed the Monitoring Officer, the locum's contract was terminated with immediate effect and the matter reported to the Solicitors Regulatory Authority and the Local Designated Family Judge. We note that the Council engages with locums through temporary recruitment processes. When the original engagement occurred, in 2018, the Council's temporary recruitment services were provided by Kyndi Ltd. The Council took the temporary recruitment function back in-house on 1 April 2022 and new processes for compliance checks were introduced.

### Other areas of business:

The Council's draft Statement of Accounts for year ended 31 March 2022 has not yet been completed and the 2021-22 accounts are therefore not yet available for inspection. We would normally expect an unaudited statement of accounts for 2021-22 to have been published by 31 July 2022. The Council's website states that the delay in preparing financial statements for 2021-22 results from delays in completing the audit of the financial statements for 2020-21.

A draft statement of accounts for the year ended 31 March 2023 will shortly be due for publication (by 31 July 2023). Delays in preparing and publishing draft accounts reduces transparency and breaches the Council's statutory duty under the Accounts and Audit (Amendment) Regulations 2021. We note that the 2021-22 Revenue Outturn report which was due to the Department for Levelling-Up, Housing and Communities on or before 26 August 2022 required an agreed extension and was submitted by the Council on 7 November 2022.

**We raise a Key Recommendation around recovering the accounts table on page 6.**

# Improvement recommendation



Governance

## Recommendation 3

Medway Council should move away from the current dual role holding option between Cabinet and Audit Committee.

## Why/impact

Governance can be more effective where the executive and the challenge and scrutiny functions are separated.

## Auditor judgement

In Medway's case, where there are underlying difficulties with financial resilience and also no agreed up to date Local Plan, it will be important not only that decision-making follows correct processes, but that it is clearly seen to do so.

## Summary findings

Strengthening the division between executive and challenge/scrutiny functions could help make the rigour of decision-making clear.

## Management Comments

Following the local elections in May 2023 the new administration has worked with officers to implement this recommendation; there are no Cabinet members on the Audit Committee from June 2023.



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

# Improving economy, efficiency and effectiveness



## We considered how the Council:

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

## Performance review, monitoring, assessment and evaluation

### Children's Services 2021-22

Our interim Auditors Annual Report for 2020-21 concluded that most children covered by Medway Council's Children's Service were not receiving a good enough service. An Ofsted inspection in July 2019 had concluded that the overall effectiveness of the Council's Children's Services was "Inadequate".

During 2021-22, three monitoring visits were carried out by Ofsted to monitor progress with improvement – one in May 2021; one in September 2021; and one in January 2022.

When reporting on the May 2021 monitoring visit, Ofsted recognised that the Council had taken steps to implement an improvement plan and stabilise staffing. However, inspectors still highlighted three areas of the service that needed to improve:

- The analysis of need and planning for children who are at risk of harm and experiencing long-term neglect;
- Management oversight and case planning for children who are placed at a distance from Medway and children who go missing and are at risk of exploitation; and
- The availability of and access to emotional health and well-being services for older children in care and care leavers.

Reporting on the September 2021 monitoring visit, Ofsted again recognised that the Council had increased senior leadership stability but noted that staff turnover and capacity remained an issue with the rest of the service. Ofsted reported that **"most children in Medway who require support are not yet receiving a good enough service. Their progress is held back by wide-**

**ranging inconsistencies in the quality and impact of assessments, plans, interventions and management oversight and supervision".**

The monitoring visit in January 2022 reported relentless commitment by senior leadership to the improvement journey; steady progress; and an accelerating pace of change. However, the report still acknowledged the impact of wider constraints the Council works within – for example highlighting that whilst planning for permanence had improved, securing permanence was often delayed; too many children experiencing a change of social worker; and, in small numbers of cases, there were still sufficiency challenges leading to some children being placed with unregistered providers or in placements that did not fully meet their needs. In this respect we conclude that there were still significant weaknesses within the Children's Services during 2021-22.

Rising placement costs and workforce shortage remain ongoing critical factors that the Council has to contend with. Although the Council did report a £3.9 million underspend on the revenue account as a whole for 2021-22, the individual Children's Service line within the revenue account incurred a significant overspend. This was off-set by underspends on other portfolios. Children's Services overspent by £7.5 million during 2021-22, with more than £5 million of the overspend relating to rising placement costs. Workforce wise, in 2021-22 the Council had to contend with a national shortage of foster carers and a national labour shortage. At the same time, in common with other local authorities, the Council had to deal with rising numbers of complex cases with higher (and therefore costlier) needs. These trends have continued since the end of 2021-22. For example, Child Protection cases being managed by the Council increased from 134 on 31 March 2021 to 209 on 31 March 2022 and to 281 on 31 March 2023.

Going forward, as placement costs and complex cases rise and the labour market remains competitive, an effective strategy for recruitment and retention of skilled in-house social workers will be essential. Initiatives undertaken by the Council during 2021-22 (and since then, in 2022-23) include pay and conditions reviews; capping the number of cases allocated to newly qualified social workers; investing in social worker apprenticeships; working with other South East Local Authorities to implement a Memorandum of Co-operation on agency rates; installing new permanent heads of service; and enhancing training offerings. Labour market conditions have continued to be difficult though. As Figure 1 shows, between 1 April 2021 and 31 August 2022, the percentage of Medway Council Children's Services roles occupied by permanent staff still fell from 82% to 76% and the number of unfilled full time equivalent posts increased from 42 to 82. The number of social worker working days lost to sickness also continued to increase – from 322 in April 2021 to 366 by August 2022.

The Key Recommendation that we made in respect of 2020-21 Children's Services still applied for 2021-22 and is repeated on page 22 of this report.

### Other Council Plan performance monitoring arrangements

Medway Council generates quarterly reports showing high-level performance for the Council Plan as a whole and also showing more detailed performance information for three individual strategic objectives: People, Place and Growth. The quarterly reports are generated from IT systems and escalated through Directorate Management Teams, the Corporate Management Team, Cabinet and (where relevant), the Scrutiny Committees. Performance against Measures is RAG rated and presented in a clear way that allows trends and direction of travel to be monitored and key issues for discussion to be drawn out.

The reports RAG rate performance for a series of detailed measures, differentiating between measures which exceeded target (GREEN); fall up to 5% below target (AMBER); or fall more than 5% below target (RED). Over the course of 2021-22, the number of measures falling more than 5% below target stayed broadly stable – at around 25%. However, the Council saw an increase in the number of measures *slightly* falling below target during 2021. The increase in numbers falling slightly below target continued into 2022-23. Overall, between 1 April 2021 and 30 September 2022, the percentage of measures falling slightly below target increased from 5.4% to 12.5%. This may indicate underlying stress in other areas of the business as well as in Children's Services.

**Figure 1: Social worker workforce data**  
Source: Medway Council Children and Young People Overview and Scrutiny Committee Reports Pack, 29 September 2022.

	1 April 2020	1 April 2021	1 April 2022	31 August 2022
Number of social work roles occupied by agency staff	86.82 fte (38.47%)	44.00 fte (18.16%)	54.50 fte (21.28%)	59.31 fte (23.78%)
Number of social work roles occupied by perm staff	138.48 fte (61.36%)	198.34 fte (81.84%)	201.64 fte (78.72%)	190.14 fte (76.22%)
Number of vacancies	92.30 fte	41.69 fte	61.93 fte	81.77 fte





## Delivering within significant partnerships

Medway Council works with a high cross section of partners to deliver the Local Plan. Important areas of partnership already considered within this report include the partnering with external providers to manage in-house residential children's placements; arrangements with subsidiary companies; and the partnership with Homes England to deliver new homes on the Hoo Peninsular. The Council does not maintain a single inventory or directory of "Partnerships". However, the Council's Strategic Risk Register includes "Alternative Delivery Models" as a Strategic Risk and gives an outline of the range of different models used; the risks of working through partnerships and agreements with others; and mitigations used by the Council to manage those risks. Mitigations include a business case approval process; Cabinet reporting; oversight and scrutiny arrangements; robust contracts; effective performance management; and business continuity mechanisms. We have no observations to raise in respect of partnership working.

## Procurement

As we noted in the interim Auditors Annual Report for 2020-21, Medway Council spends in excess of £230 million per annum, taking revenue funding and capital and grant monies together. Procurement is undertaken centrally by the Category Management team, which works closely with service lines and the Finance team.

A Procurement Board maintains member oversight of procurement and category management activity. During our testing for 2021-22, we reviewed a sample of procurements and confirmed, for those procurements we reviewed, that there had been risk assessment as new procurements were undertaken and an appropriate lead time for planning as older contracts approached an ending and re-procurement was required. The Council introduced a new Procurement Strategy in December 2020 and this has since been refreshed in January 2022. Both the Business Support Overview and Scrutiny Committee and the Cabinet reviewed the refreshed strategy.

Risks that the Council is aware of within the Procurement Strategy surround:

1. The ability of contractors to provide the service Medway expected in the face of increasing inflation and utilities costs;
2. Scope for officers to rely on assertions from contractors that they were achieving value for money; and
3. Lack of clear approach to addressing climate change criteria within the strategy.

The Council has an approach for managing these risks - by monitoring suppliers; training officers; and linking climate change criteria with social value. However, the profile of the risks is likely to increase in coming years with rising inflation, infrastructure development planned for delivery through contractor partners; and net zero objectives gaining political prominence. It will be important that appropriate mitigations continue to be applied in coming years.



# Opinion on the financial statements



## Audit opinion on the financial statements

Medway Council has not yet published draft financial statements for 2021-22. This breaches the Accounts and Audit (Amendment) Regulations 2021. Our audit has not yet started and we are unable to provide an opinion in June 2023.

## Other opinion/key findings

Not applicable at the time of writing this report.

## Audit Findings Report

Not applicable at the time of writing this report.

## Whole of Government Accounts

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

Our audit of the Council's WGA submission for 2022-23 has not yet started.

## Preparation of the accounts

Medway Council has not yet published draft financial statements for 2021-22. This breaches the Accounts and Audit (Amendment) Regulations 2021.

## Issues arising from the accounts:

Not applicable at the time of writing this report.

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

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

This is not yet applicable at the time of writing this report.



# Appendices

# Appendix A: Responsibilities of the Council

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

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

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

The Chief Financial Officer (or equivalent) is responsible for the preparation of the financial statements and for being satisfied that they give a true and fair view,

and for such internal control as the Chief Financial Officer (or equivalent) determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

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

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





# Appendix B: An explanatory note on recommendations

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

Type of recommendation	Background	Raised within this report	Page reference
Statutory	Written recommendations to the Council under Section 24 (Schedule 7) of the Local Audit and Accountability Act 2014.	No	N/A
Key	The NAO Code of Audit Practice requires that where auditors identify significant weaknesses as part of their arrangements to secure value for money they should make recommendations setting out the actions that should be taken by the Council. We have defined these recommendations as 'key recommendations'.	Yes	FS – N/A GOV – Page 6 EEE – prior year recommendation still applies – Page 22
Improvement	These recommendations, if implemented should improve the arrangements in place at the Council, but are not a result of identifying significant weaknesses in the Council's arrangements.	Yes	FS – Pages 10, 11 GOV – Page 14 (and prior year recommendations still apply – Page 23) EEE – N/A

# Appendix C – Follow-up on prior year recommendations

Key Recommendation in respect of 2020-21	Management Response	Findings in respect of 2021-22	Direction of Travel/ Recommendation Closed
<p>As it moves into 2022-23, Medway Council should undertake:</p> <ul style="list-style-type: none"> <li>Further modelling of the medium-term impact of rising complex case costs in the Children's Service. This should feed into a Medium-Term Financial Strategy to be presented to Cabinet. The impact that rising costs of term-time only placements will have on the Dedicated Schools Grant deficit should also be reflected within medium-term financial planning</li> <li>Development of Risk Management Policies for the Children's Service as a whole, to complement risk management processes already in place at individual child level</li> <li>Continued work to stabilise the Children's Service workforce and achieve consistent standards of practice within the Children's Service. This should pay regard to ongoing labour market issues after the COVID-19 pandemic</li> <li>Review of practices and standards for engaging with children and families – with ongoing steps to share planning clearly and avoid jargon</li> </ul>	<p>We continue to update and enhance our modelling of placement costs in Children's Services and our latest projections are in the Financial Outlook 2023/24 presented to Cabinet in September 2022. While the government has been delivering one year settlements for local authorities, we have paused the publication of projections into the medium term. It is our intention to publish medium term projections alongside the budget in February 2023, subject to sufficient clarity from the government in the Autumn of this year. Children's Services Divisional Management Team have revised the strategic risks in place at a Corporate level and will continue to monitor to date.</p> <p>The singular strategic risk focuses on meeting the needs of children and young people and the possibility of failure to achieve this aim. We have revised practices and procedures partnering with our internal audit team as well our partner in practice, Essex County Council, but will seek further guidance from our corporate risk colleagues to assure ourselves of our position.</p> <p>We continue to review and monitor our workforce strategy, and report on delivery monthly to the Leaders Improvement Board and quarterly to the Partnership Improvement Board, as well as regular returns to Department for Education. Our workforce position is further scrutinised by Overview and Scrutiny Committees. We benchmark our position quarterly to ensure we remain competitive and review additional benefits to ensure our attraction strategy is working well. Constant review ensures we work towards stabilising the workforce as best we can in light of the national context.</p> <p>Children's Services Divisional Management Team will work to increase opportunities, practices, and standards for engaging with children and families.</p> <p>There is also a Corporate programme of work underway to secure Medway's place as a Child-Friendly Community.</p>	<p>Rising costs; labour force instability; and higher numbers of complex cases remained an issue during 2021-22.</p> <p>Formal Ofsted re-inspection has not yet occurred.</p>	<p>No change</p> <p>There continued to be significant weaknesses within arrangements for 2021-22.</p> <p>This recommendation still applies.</p>

# Appendix C – Follow-up on prior year recommendations

Improvement Recommendations in respect of 2020-21	Management Response	Findings in respect of 2021-22	Direction of Travel/ Recommendation Closed
<p>Working with subsidiaries: Internal Audit's July 2020 recommendations on MDC Ltd governance arrangements should be revisited and, where necessary, implemented at the earliest opportunity.</p>	<p>Cabinet declined to receive update reports on a more frequent basis, however if the sub-committee proposal (recommendation 6 below) is accepted by Cabinet, this will create a mechanism for more frequent monitoring reports.</p>	<p>Our recommendations from the interim Auditors Annual Report for 2020-21 remain under consideration.</p> <p>MDC Ltd monitoring reports to Cabinet remain around six-monthly. Recent reports were provided to Cabinet in November 2021, June 2022 and January 2023. Members of Cabinet remain directors of MDC Ltd and MDC Ltd subsidiaries.</p>	<p>No change</p> <p>There continued to be areas for improvement in 2021-22.</p>
<p>Working with subsidiaries: As MDC grows and as Cabinet membership turns over, consideration should be given to moving away from the current arrangement for having Cabinet members sit on subsidiary company Boards.</p>	<p>The issue of Cabinet Members sitting on the Boards of our LATCos was also raised in the more recent internal audit of Kyndi's governance. The management action plan commits to a review of the membership of our LATCos following the local elections in May 2023, at which point we will look to take on board the recommendations from the two internal audits, which are consistent with Grant Thornton's own recommendations and the best practice guidance from CIPFA.</p>	<p>We recommend that the Council consider revising governance arrangements. This could include increasing the frequency of company level reporting to a Cabinet Sub Committee; a Shareholder Board; and/or a Cabinet sub committee.</p>	<p>These recommendations still apply.</p>
<p>Working with subsidiaries: As MDC grows and as Cabinet membership turns over, consideration should be given to moving away from the current arrangement for having Cabinet members sit on subsidiary company Boards.</p>	<p>The issue of Cabinet Members sitting on the Boards of our LATCos was also raised in the more recent internal audit of Kyndi's governance. The management action plan commits to a review of the membership of our LATCos following the local elections in May 2023, at which point we will look to take on board the recommendations from the two internal audits, which are consistent with Grant Thornton's own recommendations and the best practice guidance from CIPFA.</p>		

# Appendix C – Follow-up on prior year recommendations

Improvement Recommendations in respect of 2020-21	Management Response	Findings in respect of 2021-22 and 2022-23	Direction of Travel/ Recommendation Closed
<p>Medway Council should re-introduce medium-term financial planning in the form of an annual Medium-Term Financial Strategy presented to Cabinet. Ideally, this would cover a five-year period. Consideration should be given to moving the cycle for reporting Medium-Term Financial Strategies from September or November to January or February the following year.</p>	<p>While the government has been delivering one year settlements for local authorities, we have paused the publication of projections into the medium term. It is our intention to publish medium-term projections alongside the budget in February 2023, subject to sufficient clarity from the government in the Autumn of this year.</p>	<p>Budget setting for 2023-24 included publishing a five-year projected budget and resource requirement for 2023-24 to 2027-28.</p> <p>The final budget was approved by Council in February 2023.</p>	<p>Action taken.</p> <p>2020-21 Recommendation CLOSED.</p>
<p>The Council should consider whether there is scope for strengthening oversight and challenge as Summary Business Cases are developed by Directorates for Transformation Savings plans which will be included within the Medium-Term Financial Plan</p>	<p>The Council should consider reporting Capital Programme performance (or slippage) against the budget for each year of the programme rather than against a five-year total.</p>	<p>The Council are currently reviewing the monitoring of capital schemes procedures to strengthen the level of information provided to aid decision making, and as part of that, have recently increased the level of information provided to Members as part of the quarterly monitoring reports.</p>	<p>Response accepted.</p> <p>2020-21 Recommendation CLOSED.</p>
<p>Steps should continue to manage and reduce the trends towards year-on-year slippage in the Capital Programme</p>	<p>Consideration should be given to increasing the frequency of budget monitoring reports (currently quarterly).</p>	<p>Cabinet declined to receive update reports on a more frequent basis, however if the subcommittee proposal (recommendation 6 below) is accepted by Cabinet, this will create a mechanism for more frequent monitoring reports.</p>	<p>Response accepted.</p> <p>2020-21 Recommendation CLOSED.</p>



