

Auditor's Annual Report on Kent County Council

2022/23

February 2024



Contents

Section	Page
Executive summary	03
Key Recommendation	08
Use of auditor's powers	09
Securing economy, efficiency and effectiveness in its use of resources	10
The current Local Government landscape	11
Financial sustainability	13
Key and improvement recommendations	19
Governance	24
Key and improvement recommendations	30
Improving economy, efficiency and effectiveness	33
Key and improvement recommendations	40
Follow-up of previous recommendations	43
Opinion on the financial statements and other reporting requirements	46
Appendices	
Appendix A – Responsibilities of the Council	49
Appendix B – An explanatory note on recommendations	50



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

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



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

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Executive summary



Value for money arrangements and key recommendation(s)

Under the National Audit Office (NAO) Code of Audit Practice (the Code), we are required to consider whether the Council has put in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources.

Auditors are required to report their commentary on the Council's arrangements under specified criteria and 2022/23 is the third year that we have reported our findings in this way. As part of our work, we considered whether there were any risks of significant weakness in the Council's arrangements for securing economy, efficiency and effectiveness in its use of resources. Where we identify significant weaknesses in arrangements, we are required to make recommendations so that the Council may set out actions to make improvements. Our conclusions are summarised in the table below. There are a higher number of Recommendations under the specified criteria for 2022/23 than there were for 2021/22. The overall direction of travel is marginally downwards, and we therefore also make an additional overarching Key Recommendation on Page 8 of this report. Our key area of concern is financial sustainability – however this cannot be addressed unless the other criteria are improved at the same time. Increasing the pace of improvement is vital.

Criteria	2022/23 Risk assessment	2022/23 Auditor judgement on arrangements	2021/22 Auditor judgement on arrangements	Direction of travel
Financial sustainability	Significant weaknesses identified in 2021/22 and expected to still be present in 2022/23.	R Significant weakness in arrangements for financial sustainability identified. Two Key Recommendations and three Improvement Recommendations made.	R Significant weaknesses in arrangements identified. Two Key Recommendations and two Improvement Recommendations made.	↓
Governance	Significant weaknesses identified in 2021/22 and expected to still be present in 2022/23.	R Significant weakness in arrangements for governance identified. Two Key Recommendations and one Improvement Recommendation made.	R Significant weaknesses in arrangements identified. One Key Recommendation and one Improvement Recommendation made.	↓
Improving economy, efficiency and effectiveness	Significant weaknesses identified in 2021/22 and expected to still be present in 2022/23.	R Significant weakness in arrangements for improving economy, efficiency and effectiveness identified. Two Key Recommendations and one Improvement Recommendation made.	R Significant weaknesses in arrangements identified. Two Key Recommendations made.	↓
G	No significant weaknesses in arrangements identified or improvement recommendation made.			
A	No significant weaknesses in arrangements identified, but improvement recommendations made.			
R	Significant weaknesses in arrangements identified and key recommendations made.			

Executive summary (continued)



Financial sustainability

There are significant weaknesses within the Council's arrangements for financial sustainability. The Council overspent against its budget by £44.24 million in 2022/23. The Council is currently forecast to overspend again against its budget for 2023/24 by £36 million, unless management action can reverse current trends in the remaining three-months of 2023/24.

The Council's Internal Audit service concluded that only limited assurance could be provided over the Council's approach to budget savings in 2022/23 – because some savings plans were high risk and unsupported by business plans. Savings plans of £15.5 million for 2022/23 were not delivered – with most of the non-delivery being in the Adult Social Care and Health area. A governance review which we shared with the Governance and Audit Committee in October 2023 highlighted that the Council has a weak track record of prioritisation, including when it comes to making difficult decisions around finance. Furthermore, the management actions of £36 million currently put forward for balancing the 2023/24 budget seem to lack granularity. They include £21.3 million relating to "*subjective spend analysis*" from "*working with budget managers*".

Reserves are below the average for English County Councils and uncommitted elements are low relative to the level of overspend, savings plans and management actions that may be at risk. We note that as early as November 2022, the Council's Leader wrote jointly with another County Council Leader to the Prime Minister outlining that "*immediate help and a clear plan*" were needed to avoid the Council issuing a s114 notice "*within the next year or so*". This does show clear awareness of the Council's situation and a willingness to advocate for the County, but the County's issues are unlikely to be addressed by more government funding being made available.

Outside the Revenue Budget, we note that the Council started 2022/23 with a Dedicated Schools Grant deficit of £97.6 million. A safety valve improvement plan was agreed with the Department for Education on 16 March 2023. The Council

forecasts that, with help of £140 million from central government, it will clear the deficit by 31 March 2028. However, it also estimates that it will miss the Special Educational Needs and Disability (SEND) spending reduction targets for 2023/24 and 2024/25. Furthermore, there is evidence to suggest that more needs to be done to address the root causes of demand for Education, Health and Care Plans (EHCPs) rather than just directing effort at reducing the costs of administering SEND provision once EHCPs are in place.

The Council's capital programme has been subjected to significant slippage – only 60% of the programme was delivered in 2022/23. Project management factors play a significant part in the reasons for slippage, although the Council does also have a policy of delaying capital works until funds other than from new borrowings can be matched to them. Basic needs works and modernization of assets are amongst the areas that have slipped – but the Council does have an approach towards managing the regulatory and legal risks that come with this.

The Council has been in long-running dispute with the Home Office about how the costs of asylum-seeker children arriving in Kent should be shared. On 21 December 2023, the High Court gave the Council and the Home Office one month to agree a workable solution. It is estimated that around £50 million of revenue costs per annum and £30 million of capital costs were under dispute at the time of writing this report. These have not, so far, been reflected within the Council's budgets which is a clear policy decision.

For 2022/23, we note two Key Recommendations and three Improvement Recommendations around financial sustainability. We will consider the robustness of proposals and reserves for the 2024/25 Revenue Budget and the 2024-27 High Level Financial Plan to determine whether statutory audit action is required. We would emphasize to members that the Council must set a balanced budget for 24/25 and must ensure that appropriate reserves are in place to support risks that may emerge in 24/25 and beyond. This responsibility extends to all members and not just the Leader and Cabinet.

Executive summary (continued)



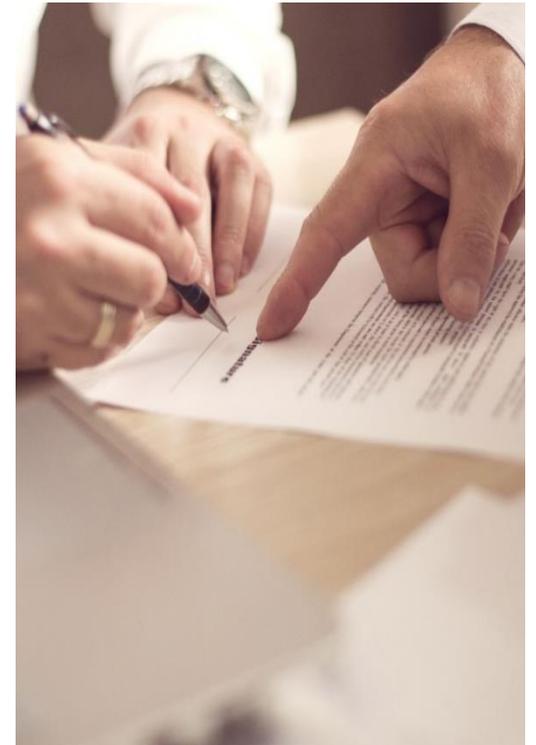
Governance

There were significant weaknesses in Kent County Council's arrangements for governance during 2022/23. We conducted a specific governance review over behaviour around decision-making between January and March 2023 and our findings were shared with the Governance and Audit Committee in October 2023. We made 22 recommendations, including around strategic arrangements for delivering priorities; effective challenge to and scrutiny of decisions; and the Council's structure, systems and behaviours. Nearly one year earlier, a CIPFA review had indicated in July 2022 that the Governance and Audit Committee was itself hampered by having too wide a remit; too cluttered an agenda; politicisation; and too much to do to be fully effective.

There have been some areas of improvement during 2022/23. The Council has programmes of work ongoing such as workshops to review member roles; comparisons with processes at other Local Authorities; a review of written governance processes; a member development survey; and training, including during "Governance Week" in November 2023. For process improvements to have the impact they are aimed at, it will be important that culture and behaviour and standards also keep pace with improvement. Furthermore, there remain areas where arrangements were not always "right first time" (for example, for SEND transport and service provision); and the number of areas where the Council is challenged to meet its core legal duties is rising. It is unfortunate that disagreements between Internal Audit and management/members have played out publicly in the Governance and Audit Committee at least twice in the last 18 months (Regional Growth Funds October 2022; and school transport procurement November 2023), which does not reflect well on the Council.

We note that for 2022/23, Financial Control was an area where Internal Audit could only provide Limited Assurance overall, because of the number of individual systems, processes or functions within the area that had only Limited Assurance. Whilst high level corporate risks are monitored on the Corporate Risk Register, good governance is the responsibility of all. There is evidence to suggest that financial regulations are not always widely understood across the Council. From our work for 2022/23, we raise two Key Recommendations and one Improvement Recommendation around governance.

Kent County Council faces serious financial challenges which will require strong collective effort; objective and impartial judgements; and mature decision-making to address. It was not clear, for 2022/23, that the firm governance and collective, shared culture of responsibility needed to drive this were in place.



Executive summary (continued)



Improving economy, efficiency and effectiveness

There were significant weaknesses in the Council's arrangements for improving economy, efficiency and effectiveness in 2022/23, relating to SEND performance and to procurement. External regulators assessed that performance on SEND services was below expectations. Whilst positive steps were taken during 2022/23 to strengthen the strategic approach towards procurement, there were weaknesses in compliance rates with mandatory procurement and contract management procedures throughout the year.

High demand for services such as SEND and highways maintenance made it difficult for the Council to achieve "floor" standards for performance during 2022/23. However, there may be scope for wider use of benchmarking; comparisons with financial data; and clearer understanding of which management actions are effective, and which are not. For 2022/23, the Quarter 4 performance report showed a sharp deterioration in corporate performance overall compared to the last Quarter of 2021/22. The percentage of RED RAG rated indicators more than trebled between 2021/22 and 2022/23 and the number of deteriorating RAG ratings doubled. We raise two Key Recommendations and one Improvement Recommendation around arrangements for improving economy, efficiency and effectiveness.



Direction of travel and summary of recommendations

Our Auditor's Annual Report for 2021/22 raised five Key Recommendations and three Improvement Recommendations. All five of the 2021/22 Key Recommendations also apply for 2022/23 and, for 2022/23, we additionally raise a new Key Recommendation around rates of implementing Internal Audit actions. We raise five Improvement Recommendations for 2022/23, compared to the three Improvement Recommendations for 2021/22. The overall direction of travel for 2022/23 is marginally downwards. We therefore include one new overarching Key Recommendation around required improvements across the whole organisation on Page 8 of this report.

We note that this Interim Auditor's Annual Report for 2022/23 chiefly reflects the position as it stood on 31 March 2023. The Council is carrying out ongoing work to improve and this work has continued since March 2023. Areas of ongoing work include Annual Governance Statement actions (including a Governance Week in November 2023); working through 116 actions for SEND performance; working through safety valve agreement actions with the Department for Education; moving towards introducing spending controls; and strengthening budget reporting arrangements and pension fund administration.

Financial sustainability remains a significant concern. On 31 March 2023, the Council estimated that it had available unallocated reserves of £101.5 million. However, the Council forecasts overspend for 2023/24 of £36 million and required savings and management actions of £97.4 million for 2024/25. We will consider the robustness of proposals and reserves for the 2024/25 Revenue Budget and the 2024-27 High Level Financial Plan when they are published to determine whether statutory audit action is required.

Acknowledgements

We would like to take this opportunity to record our appreciation for the assistance provided by Council officers, Council members and external stakeholders with whom we have engaged during the course of our review.



Financial Statements opinion

We are nearing completion our audit of your financial statements and plan to issue an unqualified audit opinion following the Governance and Audit Committee meeting on 01 February 2024. Our findings are set out in further detail on pages 46 to 47. Our opinion was issued on 18 March 2024.

Executive summary (continued)

Key Recommendations:

1. The Council should strengthen its pace and tighten its corporate grip over progress with addressing Key Recommendations. A holistic approach should be taken towards improving financial sustainability, governance and performance across the board (Page 8).
2. Steps need to be taken by the Council to control expenditure..... We will consider the robustness of the Council's proposals and reserves for the 2024/25 Revenue Budget and the 2024-27 High Level Financial Plan to determine whether further statutory action is required (Page 19).
3. The Council should take a holistic approach towards managing SEND demand and SEND financial management (and)..... focus on EHCP demand and approval processes.....if it is to have a lasting impact on returning SEND services to a sustainable footing (page 20).
4. Compliance with the Council's decision-making arrangements needs to be strengthened..... An action plan for implementing recommendations both from CIPFA and from our own 2023 review of governance should be adopted. (Page 30).
5. The Council should aim to maintain full implementation rates for Internal Audit findings and should complete its review of Internal Audit lessons learnt from the SEND transport re-procurement at poce (page 31).
6. The Council should liaise with its partners to determine and agree the improvements that will be made in SEND services..... careful, proactive consultation and engagement with schools, parents and other stakeholders will be necessary (Page 40).
7. Training around procurement strategy, policies and practice should be strengthened across the Council..... Opportunities for value for money through procurements and contract management should be maximised. VEAT notices should be used when required (page 41).

Improvement Recommendations:

1. Sensitivity analysis should be adopted for the budget for 2024/25 and the Council should also explore this for in-year financial monitoring (Page 21).
2. Kent County Council should reflect its share of the costs agreed with the Home Office for caring for unaccompanied asylum-seeker children in the budget for 2024/25 (Page 22).
3. Delays on capital projects should be reviewed for common factors. Project management (including through schools and contract partners) and specialist skills should be reviewed (Page 23).
4. Staff should be reminded that (of) the Officer's Code of Conduct states The role of finance business partners in explaining regulations and promoting good practice should also be considered (Page 32).
5. The Council should consider whether there is scope for making more use of benchmarking and other data for services where demand is increasing, and/or performance is deteriorating, to assess performance (Page 42).

Key recommendation

Key Recommendation 1	<p>The Council should strengthen its pace and tighten its corporate grip over progress with addressing Key Recommendations. A holistic approach should be taken towards improving financial sustainability, governance and performance across the board.</p>
Identified significant weakness in arrangements	<p>The overall direction of travel was marginally downwards in 2022/23, despite there being many separate programmes of work for improvement.</p>
Summary findings	<p>The number of Key Recommendations raised in Auditor's Annual Reports increased from 5 for 2021/22 to 6 for 2022/23 (Interim Auditor's Annual Report).</p> <p>There has been work by the Council to achieve improvement – but the speed at which the work progressed was not sufficient to prevent a marginal downwards movement in 2022/23.</p>
Criteria impacted by the significant weakness	<div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;">  <p>Financial sustainability</p> </div> <div style="text-align: center;">  <p>Governance</p> </div> <div style="text-align: center;">  <p>Improving economy, efficiency and effectiveness</p> </div> </div>
Auditor judgement	<p>Pace of improvement and corporate grip over organisational performance overall were not sufficient to prevent marginal downwards movement during 2022/23.</p>
Management comments	<p>At the end of 2022/23, the Council introduced a Chief Executive, in part to recognise the need for a strengthened corporate grip. Management are implementing a range of actions through planned activity and the Annual Governance Statement actions that will tighten grip as recognised by all. A holistic and whole council approach is being adopted towards financial, operational and governance planning to ensure resources are prioritised accordingly. Tracking of internal and external audit recommendations will also be changed to improve visibility of response.</p>

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

Progressing the actions management has identified to address the recommendations made will support the Council in addressing the weaknesses identified from our work. We consider that the timescales provided by management are appropriate and encourage the Audit Committee to monitor progress of implementation to gain assurance over the arrangements in place.

Use of auditor's powers

We bring the following matters to your attention:

2022/23

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 make any written recommendations under Schedule 7 of the Local Audit and Accountability Act 2014.

We will consider the robustness of proposals and reserves for the 2024/25 Revenue Budget and the 2024-27 High Level Financial Plan when they are published to determine whether statutory audit action is required.

Public Interest Report

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

We did not issue a public interest report.

Application to the Court

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

We did not make an application to the Court.

Advisory notice

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

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

We did not issue any advisory notices.

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 make an application for judicial review.

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

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

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

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

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



Financial sustainability

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



Governance

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



Improving economy, efficiency and effectiveness

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

In addition to our financial statements audit work, we perform a range of procedures to inform our value for money commentary:

- Review of Council, Cabinet and committee reports
- Regular meetings with senior officers
- Interviews with other members and management
- Attendance at Audit Committee
- Considering the work of internal audit
- Reviewing reports from third parties including Ofsted
- Reviewing the Council's Annual Governance Statement and other publications



Our commentary on the Council's arrangements in each of these three areas, is set out on pages 13 to 42.

The current LG landscape



National context

Local government in England continues to face significant challenges as a sector. These include a high level of uncertainty over future levels of government funding, alongside delays to the Government's plans for reform of the local government finance system, impacting on medium-term financial planning. This is also a time of generationally significant levels of inflation – the UK inflation rate was 7.8% in April 2022, rising to a 41-year high of 11.1% in October 2022, then reducing to 10.1% in March 2023. Inflation levels put pressure on councils' revenue and capital expenditure, as well as the associated cost of living crisis impacting on local communities and businesses, leading to an increase in demand for council services such as children with special education needs with associated transport costs, debt advice, housing needs, and mental health, as well as impacting on some areas of council income such as car parking and the collection rates of council tax, business rates and rents. This follows a significant period of funding reductions by Government (2012 to 2017) and the impacts of Brexit and the COVID-19 pandemic which, for example, have contributed to workforce shortages in a number of council service areas, as well creating supply chain fragility risks.

The local government finance settlement for 2023/24 was better than many in the sector anticipated demonstrating an understanding by Government of the financial challenges being faced by the sector. However, the Local Government Association, in July 2023, estimated that the costs to councils of delivering their services will exceed their core funding by £2bn in 2023/24 and by £900m in 2024/25. This includes underlying cost pressures that pre-date and have been increased by the pandemic, such as demographic pressures increasing the demand for services such as social care and homelessness.

Over the past decade many councils have sought to increase commercial activity as a way to generate new sources of income which has increased the nature of financial risk, as well as the need to ensure there is appropriate skills and capacity in place to manage such activities.

Local government is coming under an increased spotlight in terms of how the sector responds to these external challenges, including the Government establishing the Office for Local Government (Oflog) and there has been an increase in the number of councils who have laid a Section 114 Notice, or are commenting on the likelihood of such an action, as well as continued Government intervention at a number of councils.

There has also been an increase in the use of auditors using their statutory powers, such as public interest reporting and statutory recommendations. The use of such auditor powers typically derive from Value for Money audit work, where weaknesses in arrangements have been identified. These include:

- a failure to understand and manage the risks associated with commercial investments and council owned companies
- a failure to address and resolve relationship difficulties between senior officers and members
- significant challenges associated with financial capability and capacity
- a lack of compliance with procurement and contract management processes and procedures
- ineffective leadership and decision-making.

Value for Money audit has an important role in providing assurance and supporting improvement in the sector.

The current LG landscape (continued)



Local context

Kent is located in the south-east of England. It is the closest English county to continental Europe. Kent shares borders with Essex across the estuary of the River Thames to the north; the French department of Pas-de-Calais across the English Channel to the south-east; East Sussex to the south-west; Surrey to the west; and Greater London to the north-west.

Kent County Council provides the upper tier of local government for the county and works with 12 District Councils and Medway Unitary Council.

Excluding the Medway Unitary boundaries, Kent has a land area of 1,368 square miles as well as approximately 350 miles of coastline. Kent is known as 'the garden of England' and Council data records that around 70% of the land covered by the County Council is undeveloped. The 2021 census showed that Kent had 648,393 households, the majority of which were one family households.

Kent County Council's geographic area is ranked within the least deprived 50% of upper-tier local authorities in England for 4 out of 5 summary measures on the Index of Deprivation. However, there are some areas within Kent that do fall within the 20% most deprived in England. Many of these are coastal.

Kent County Council is made up of 81 members (councillors) who are elected every 4 years. The next full election will take place in 2025. The ruling administration is currently Conservative. The Council is divided into 72 electoral divisions, which the Councillors have been elected to represent.

Kent County Council has a history of working well with its geographic partners, including not only the District Councils and Medway Unitary Council, but also the Police, Fire and Rescue and Health services; Job Centre +; and a range of voluntary and community organisations. The Council is a "Category 1 Responder Member" of the Kent Resilience Forum and in recent years, has had to work with partners within the local geography to manage flooding; coastal erosion; Brexit transition impacts on roads to and from Channel crossings; emergency plans for radiation events at Dungeness; and asylum seekers arriving on small boats across the English channel.

On 1 November 2022, the leader of Kent County Council joined with the thirteen other Council leaders from the Kent and Medway area in a letter to the Home Secretary urging that the Government refrain from continuing to allocate further adult asylum quotas to the county and cease procurement of further hotel accommodation in the area. The leaders asked that the government "*stop using the county as an easy fix for what is a national, strategic issue*". At the time of writing this report (January 2024), the Council was still in discussion with the Home Office around achieving a workable solution for managing the costs of supporting unaccompanied asylum-seeker children arriving across the Channel.

The overall effectiveness of Kent County Council's Children's Services (including for asylum-seeker children) was ranked by Ofsted as Outstanding in May 2022, but Council's latest Special Educational Needs and Disability (SEND) services inspection by Ofsted and the Care Quality Commission (published in November 2022) concluded that for SEND services, the Council had failed to make improvements required since 2019. Kent County Council is currently working through an Action Plan for SEND services which the Department for Education expects to be delivered by April 2024. Kent is a grammar school county. Overall demand for SEND services in Kent nevertheless remains very high.

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

Identifying financial pressure and achievable savings plans; and managing risks to financial resilience

Kent County Council is fully aware of the financial pressure it faces. However, the savings plans put forward to address that pressure are unlikely to prevent the Council from needing to make further difficult decisions around the services it can afford.

To some extent, the Council has itself already reflected that savings plans alone will not be enough to tackle financial pressure. In November 2022, the Council's Leader wrote jointly with another County Council Leader to the Prime Minister outlining that "*immediate help and a clear plan*" were needed to avoid the Council issuing a s114 notice "*within the next year or so*". However, as our Auditor's Annual Report for 2021/22 concluded, the issues that the Council faces are very unlikely to be resolved by more government funding being given to the Council.

Data from the Council indicates that key sources of financial pressure include service cost inflation; growing demand and changing market forces for Adult and Children's Social Care; and continued high demand for Special Educational Needs and Disability (SEND) support, including for transport.

The Council's budget for 2022/23 relied on the Council generating additional savings, income and grants of £37.9 million in one year and of £100.1 million over three years. The budget for 2023/24 relied on the Council generating additional savings, income and grants of £86.6 million in one year and of £154 million over three years. The issues the Council faces therefore appear to be becoming more acute.

Because of ongoing pressure, and because of failure to generate the additional resources planned for, the Council overspent against its budget by £44.24 million in 2022/23.

The Council is currently forecast to overspend again against its budget for 2023/24 by £36 million, unless management action can reverse current trends in the remaining three-months of 2023/24. Members need to recognise that some decisions around discretionary services will prove very unpopular with the public but do need to be made. Driving out material savings in high demand services is always possible but not a panacea in itself.

	2022/23 Actual	2023/24 Forecast
Net budget requirement after savings and additional income proposals	£1,182.7 million	£1,310.9 million
Planned savings, additional income and new grants factored into the annual net budget requirement	£37.9 million	£86.6 million
Actual/forecast over/(under) spend	£44.24 million	£36 million
Total savings and additional income requirements expected over a three-year period	£100.1 million (2022-2025)	£154 million (2023-2026)

Financial sustainability (continued)

There are two main reasons why savings plans alone cannot replace difficult decision-making. Firstly, there may be weaknesses within the savings plans themselves; and secondly there are limited unallocated reserves available to cover any under-delivery. We consider each of these in turn. We also consider other factors around managing demand for SEND support that the Council needs to address.

We note that there are also pressures not even yet reflected within the Council's budget around the costs of supporting unaccompanied asylum-seeker children. As the cost of the Council's statutory duties for these children becomes clear, there is a risk that budget pressure will increase even further. It will be important that this is reflected within the budget risks assessment for 2024/25.

Savings plans

The Council's Internal Audit service concluded that only limited assurance could be provided over the Council's approach to budget savings in 2022/23 - because savings plans were high risk and unsupported by business plans.

2022/23 saw undelivered savings of £15.5 million and 2023/24 is forecast to see undelivered savings of £18.7 million. For 2022/23, some £12.2 million of the undelivered £15.5 million related to planned Adult Social Care and Health savings. Significant Adult Social Care and Health savings were still planned, nevertheless, for 2023/24 - with some £7.9 million policy savings and another £2.6 million efficiency and transformation savings earmarked for the Adult Social Care and Health directorate in 2023/24.

By November 2023, nearly all the 2023/24 Adult Social Care and Health savings (£8.6 million) were forecast not to be delivered by the end of the year. It is therefore likely to be for two-years running that the savings plans for this Directorate will not be achieved - suggesting that the plans first put in place for 2022/23 were overly optimistic. Other areas of slippage for 2023/24 savings plans include the Children, Young People and Education directorate and the Growth, Environment and Transport directorate. There is a risk that there was over optimism here too.

In November 2023, under the Council's budget recovery plan ('Securing Kent's Future'), management forecasted that new actions worth £36 million will eliminate net forecast overspends and balance the 2023/24 budget by 31 March 2024. However, Securing Kent's Future is a largely medium-term programme in nature. Initiatives within the programme surround reprofiling targets; using non framework providers; reducing non framework placements; and working with the NHS. These will take time to deliver and require skilled prioritisation.

At face value, the medium-term nature of the initiatives makes it seem unrealistic that an impact of £36 million can be achieved in just a small number of months before the end of 2023/24. Furthermore, a detailed analysis of the proposed management actions for 2023/24 shows that some £30 million are one-off in nature and some £21.3 million relate to "[subjective spend analysis](#)" which is described simply as involving finance staff "[working with budget managers to..... reduce the deficit](#)". Although there are spending controls being put in place, the actions as they were first drawn up lack detail and granularity in our view.

	2022/23 Actual	2023/24 Forecast
Planned savings, additional income and new grants factored into the annual net budget requirement	£37.9 million	£86.6 million
Includes savings from transformation, efficiency, finance and policy changes	£25.6 million	£39.1 million
Undelivered savings from transformation, efficiency, finance and policy changes	£15.5 million	£18.7 million
Available unallocated reserves on 31 March 2023	£101.5 million	
Forecast overspend for 2023/24		£36 million
Savings requirement for 2024/25		£48.6 million
Management Actions for 2024/25		£48.8 million
Total amounts at risk in 2023/24 and 2024/25		£133.4 million

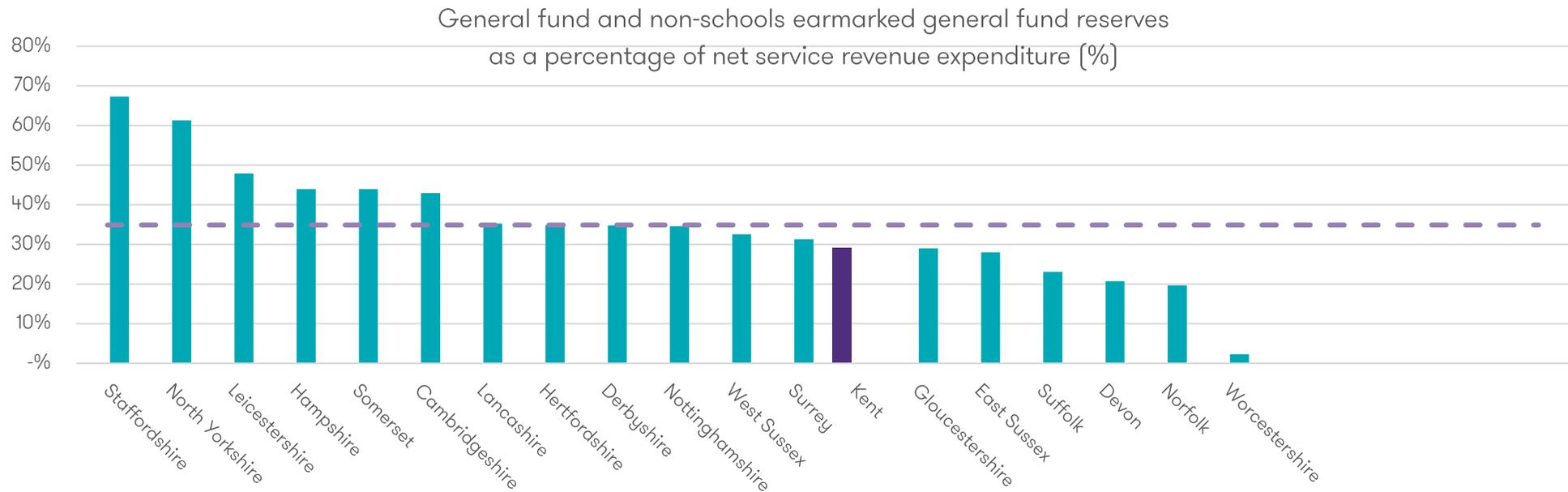
Financial sustainability (continued)

Available Reserves

As Figure 1 shows, Kent County Council’s General Fund and Earmarked Reserves are below the average held by other County Councils in England. Furthermore, the Council estimates that more than two thirds of its General Fund and Earmarked Reserves are already committed and are not available to fund any shortfall in the revenue budget. The Council estimates that within its 31 March 2023 General Fund and Earmarked Reserves balance of £355.1 million, only some £101.5 million was available for shortfalls in the revenue budget. Early drafts of the 2024/25 revenue budget indicate that savings of some £48.6 million and management actions of £48.8 million will be needed to balance the budget that year. Given our concerns so far around the non-delivery of savings and the lack of granularity in management actions, and given the forecast overspend of £36 million for 2023/24, there seems little headroom for error in the available reserves balance of £101.5 million.

Our Auditor’s Annual Report for 2021/22 made a Key Recommendation around the potential need to “withdraw or pare back” services. We repeat the Key Recommendation on page 19 of this report. We make an Improvement Recommendation around using sensitivity analysis on page 21 of this report.

Figure 1**:



** Data sourced directly from Council draft Statements of Accounts published on Council websites. As this data is taken from third parties, we cannot verify the accuracy or completeness of the information. Data is not available for all Councils due to some delays in publications.

Financial sustainability (continued)

Managing demand for SEND support

Demand for SEND support has been rising in Kent since 2014 and we reported in the Auditor's Annual Reports both for 2020/21 and 2021/22 that there were significant weaknesses in the financial sustainability of the SEND service.

Kent County Council started 2022/23 with a £97.6 million Dedicated Schools Grant deficit. A safety valve improvement plan was agreed with the Department for Education on 16 March 2023 and, having received £56.3 million from the Department on 30 March 2023 and set aside from reserves an additional £17 million of its own, the Council did end 2022/23 having significantly reduced its deficit to £61.353 million. In this regard, Kent County Council was ahead of many peers whose deficits continued to grow during the year.

However, under the safety valve improvement plan, the Council is required to fully eliminate the deficit by 31 March 2028, making staged reductions in each of the years leading up to that date. The Council estimates that it will miss the reduction targets for 2023/24 and 2024/25 although it also estimates that it remains on track for full elimination by 31 March 2028. We note that the current statutory override arrangement means dedicated schools grant deficits are not included in the main revenue budget. This arrangement is due to end on 31 March 2026.

The Council has developed a comprehensive series of action plans for the next five years and these surround:

- Tackling placements: Centralised data collection; new dedicated advice; school-attended decision-making panels; and further training by the commissioning team;
- Building mainstream capacity: Trained workforce; and action plan to clear the historic backlog; and
- Increasing integration with the mainstream: Bespoke district level dashboard; inclusion champions; teacher training on mainstream core standards; termly network meetings; and localities pre consultation events.

These actions focus on reducing costs once pupils are in the SEND process rather than on tackling demand for SEND at the point where it first arises. The Council's own data shows that Education, Health and Care Plan (EHCP) referrals in Kent are well above the national average and it is perhaps this that the Council needs to consider if it is going to make a long-term difference.

We made a Key Recommendation around managing demand for SEND services in our Auditor's Annual Report for 2021/22. With referral rates remaining above the national average, we repeat the Key Recommendation on Page 20 of this report.

Planning in accordance with strategic priorities and statutory duties

Strategic Priorities

Framing Kent's Future is the Council's top-level strategy for 2022-2026. The priorities within the strategy surround levelling-up the County; providing infrastructure for communities (digital, transport and social); achieving environmental step change; and delivering new models of care. During our value for money testing, we did not see any evidence of discretionary activity being prioritised over statutory duties or of the Council financing activities that were inconsistent with its strategic aims. However, a governance review which we shared with the Governance and Audit Committee in October 2023 highlighted that the Council has a weak track record of prioritisation when it comes to making difficult decisions, including around finance.

The governance review reported that Framing Kent's Future includes no prioritisation and no clear links to funding for each action proposed. The review noted that the Council needs to develop a "whole system and outcome focused" approach if its budget recovery is to be successful.

From the value for money testing carried out to support this report, we noted that the present approach towards rolling out spending controls shows elements of the Council delaying difficult financial decisions. Since September 2023, budget holders have been encouraged to differentiate between essential and non-essential spend. In December 2023, "Stop and Think" messages were used to reinforce messaging around limiting unnecessary spend. However, at the time of writing this report (January 2024), mandatory spending controls had not yet been introduced – despite there being a £36 million forecast overspend for 2023/24.

A Future Assets Review currently being carried out by the Council also shows some aspects of similar delay. The approach towards heritage assets has gone to public consultation and decisions have been progressed in relation to the community assets and office estate in line with the expectations of the Council Medium term financial plan. However, there are some areas such as the library network review which has been delayed despite the Council recognising the need for right-sized estate. To some extent, this also shows elements of difficult decisions being delayed.

Financial sustainability (continued)

For the Council's plan to achieve an environmental step change, we note that in May 2023, Internal Audit reported that only Limited Assurance could be given on the Council's Net Zero Action Plan. Internal Audit reported that costs of delivering the plan had not been fully estimated; spend was not being monitored; and that the approach towards securing funding was inadequate. More importantly, Internal Audit also reported that the Council did not have a mechanism for ensuring that delivery of the plan was prioritised and, without a timetable for Actions, had no effective means of tracking progress.

Our governance review shared in October 2023 made 22 Recommendations aimed, amongst other things, at making sure the Council has a strategic plan for delivering its priorities, which is owned and understood by all Cabinet members and senior officers alike. Key Recommendation 4 on Page 30 of this report highlights the importance of the Council actioning the Recommendations from our governance review at pace.

Statutory Duties

In July 2022, Kent County Council took a conscious decision not to comply with its statutory duties under the Children's Act 1989 in respect of looking after unaccompanied asylum-seeker children arriving in Kent. Estimates available now indicate that the annual revenue costs of looking after the additional children would have amounted to around £50 million per annum and the additional capital costs would have amounted to at least £30 million in total. Budget plans drawn up by the Council both for 2022/23 and for 2023/24 did not include any planning or allowance for these costs.

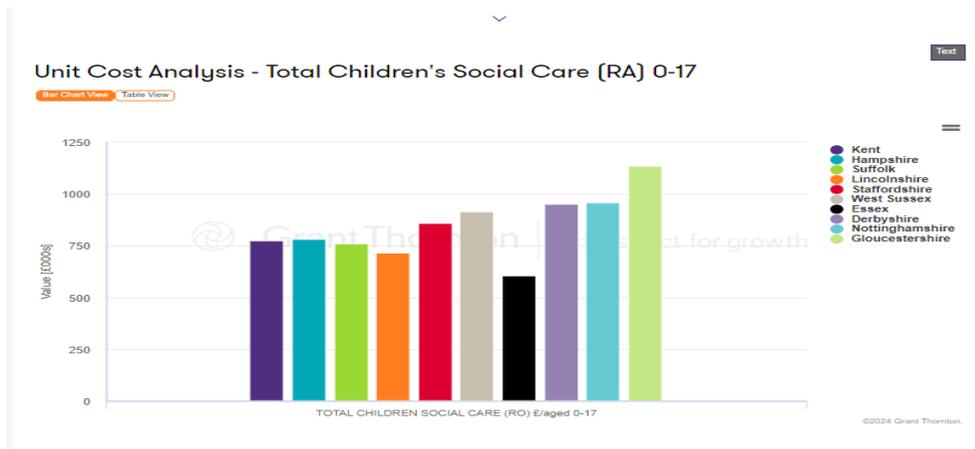
In July 2023, the UK High Court found that Kent County Council had acted unlawfully and ordered that the Council must take all possible steps to increase its capacity to accommodate and support all unaccompanied asylum-seeking children arriving in Kent - including but not limited to seeking and agreeing additional funding and other resources from Government; requesting assistance with placements from other local authorities; and/or lawfully redeploying existing resources within the County Council. On 21 December 2023, the High Court gave Kent County Council and the Home Office one month to agree a workable plan for sharing the costs of looking after affected children. We note that the Home Office does run a National Transfer Scheme (NTS) moving children who arrive in Kent to other parts of the country and that Kent County Council is no longer liable for children once they are re-located to other counties. However, Kent County Council alleged that

delays within the NTS are unlawful (and add to Kent's costs). The High Court upheld this allegation in November 2023.

Because legal disputes were ongoing up until 21 December 2023, there were grounds for preparing and publishing budgets which excluded the incremental costs of unaccompanied asylum-seeker children if Kent lost its case. By the end of January 2024, however, workable solutions with the Home Office are required and we expect to see related amounts reflected in the budget for 2024/25, with context provided in budget risks documentation.

We note that in May 2022, Ofsted reported that the unaccompanied asylum-seeking children that Kent County Council does already take responsibility for are well cared for and our own benchmarking shows that the incremental Children's Social Care costs are relatively well absorbed (Figure 2). Nevertheless, reflecting the incremental costs agreed with the Home Office in the 2024/25 budget will ensure accountability for the costs and may help build influence over how and when those costs are incurred. We raise an Improvement Recommendation (Improvement Recommendation 2 on Page 22 of this report).

Figure 2: 2022/23 Revenue Account budget data provided by Councils to the Department for Levelling Up, Housing and Communities (DLUHC)



Financial sustainability (continued)

Ensuring the financial plan is consistent with other plans, including capital plans

Our value for money testing for 2022/23 did not identify any evidence of financial budget planning being inconsistent with workforce planning; treasury and investment planning; the capital programme; and other operational planning. However, we did identify a trend towards slippage in the capital programme after it had been approved each year.

Kent County Council has a high value ten-year capital programme, but funding is only recognised in the programme for projects that are expected to occur within the first five years. Furthermore, projects are only allowed to start once funding is directly matched to them – during 2022/23 that specifically meant new grants or capital receipts being matched to proposed capital projects as the Council has a ‘No additional borrowings for capital’ policy. Even basic need and modernisation works are pushed back as far as possible until funding other than from borrowings can be matched to them.

Each year, some degree of slippage or re-phasing occurs. Only 60% of the Council's capital programme for 2022/23 was delivered, although a more positive 73.4% delivery rate is forecast for 2023/24.

Legal and regulatory risks are well managed within the capital programme – for example, safe, warm and dry building works are prioritised when funding is identified. There are also arrangements in place to keep an effective pipeline of capital works under development for when funding does become available.

Nevertheless, significant areas of re-phasing and backlog in both 2022/23 and 2023/24 do include basic need commissioning; highways maintenance; and the modernisation of assets. However, from a review of reasons for slippage during 2022/23 and 2023/24, we note that high value single item causes of slippage often have more to do with project management after funds are made available rather than the initial funding itself:

- Lack of appropriate specialist skills in place to oversee technical work;
- Project management delays by schools on budget lines the Council has no direct control over;
- Planning permission, spatial checks, surveys and other legal check delays; and
- Inflation in contractor prices pushing projects outside their budget envelope.

Whilst inflation may be a factor beyond the Council's control, managing project lead times, recruiting the right skills at the right time and managing the timescales for agreeing contracts are areas where tighter focus may improve capital programme delivery. We raise an improvement recommendation that the Council considers these factors holistically (Improvement Recommendation 3, Page 23 of this report).

	2022/23 Actual	2023/24 Forecast
Ten-year capital programme	£1,702.2 million	£1,624 million
Planned capital spend for year under review	£393.8 million	£399.5 million
Slippage recorded during year under review	£159.2 million	£112.1 million
% of the planned capital spend for year delivered – actual	60%	73.4%

Key recommendations

Key Recommendation 2

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

Going forward, savings and growth plans will require robust business cases. Management actions will also need to be supported by realistic planning. We will consider the robustness of the Council's proposals and reserves for the 2024/25 Revenue Budget and the 2024-27 High Level Financial Plan to determine whether further statutory action is required.

Identified significant weakness in arrangements

Gaps in the revenue budget that are unlikely to be bridged by savings plans alone. Insufficient reserves to sustainably close gaps.

Summary findings

History of overspend and undelivered savings plans. Future budget gaps unlikely to be sustainably bridged by reserves.

Criteria impacted by the significant weakness



Financial sustainability



Governance



Improving economy, efficiency and effectiveness

Auditor judgement

Based on the work undertaken, we are not satisfied that the Council has proper arrangements in place to secure economy, efficiency and effectiveness in its use of resources in 2022/23. We have therefore identified a significant weakness in arrangements.

Management comments

The Council introduced spending controls in November 2023 and has strengthened them in January 2024. The process for considering growth and savings plans has been considerably strengthened and more information is available for Members to scrutinise at a granular level. Further work will be required in 2024 to improve the business cases for both savings and growth. We agree that this will involve Members needing to make difficult decisions on priorities.

Progressing the actions management has identified to address the recommendations made will support the Council in addressing the weaknesses identified from our work. We consider that the timescales provided by management are appropriate and encourage the Audit Committee to monitor progress of implementation to gain assurance over the arrangements in place.

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

Key recommendations (continued)

Key Recommendation 3

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

Managing demand will be key to service recovery going forward. We note that EHCP referral requests in Kent remain well above the national average. In addition to the cost focused initiatives already in place, the Council will need to focus on EHCP demand and approval processes in the coming five years if it is to have a lasting impact on returning SEND services to a sustainable footing.

Identified significant weakness in arrangements

Continued high demand for service levels which are not financially sustainable.

Summary findings

The Council has a safety valve improvement plan in place but estimates that it will miss the reduction targets for 2023/24 and 2024/25. Although the Council does estimate that it remains on track for full elimination of the deficit by 31 March 2028, we note that EHCP referral rates remain well above the national average.

Criteria impacted by the significant weakness



Financial sustainability



Governance



Improving economy, efficiency and effectiveness

Auditor judgement

Based on the work undertaken, we are not satisfied that the Council has proper arrangements in place to secure economy, efficiency and effectiveness in its use of resources in 2022/23. We have therefore identified a significant weakness in arrangements.

Management comments

The Council is adopting a holistic approach towards SEND demand and finances, as evidenced by the multi-disciplinary and multi-agency approach being adopted. The Council agrees that managing EHCP demand is important and is working with partners and stakeholders on this. However, the cost of placements (and complexity of packages) is currently a more important factor for overall financial impact, so we will also focus on this.

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

Progressing the actions management has identified to address the recommendations made will support the Council in addressing the weaknesses identified from our work. We consider that the timescales provided by management are appropriate and encourage the Audit Committee to monitor progress of implementation to gain assurance over the arrangements in place.

Improvement recommendations (continued)

Improvement Recommendation 1	Sensitivity analysis should be adopted for the budget for 2024/25 and the Council should also explore this for in-year financial monitoring.
Improvement opportunity identified	Sensitivity analysis not previously included by the Council in medium term financial planning.
Summary findings	Management inform us that work is underway to use sensitivity analysis as part of budgeting for 2024/25. In view of overspends having been incurred two years running, we recommend that the Council also includes sensitivity analysis in forecast data used for in-year financial monitoring.
Criteria impacted	 Financial sustainability
Auditor judgement	Our work has enabled us to identify a weakness in arrangements which we do not consider to be significant but have raised a recommendation to support management in making appropriate improvements.
Management comments	The Council has adopted a more sophisticated approach towards budget setting for 2024/25, particularly around estimating future demand (rather than just catching up with existing demand). It will build on this going forward, including exploring the potential benefits from expanding this approach into in-year financial monitoring.

Progressing the actions management has identified to address the recommendations made will support the Council in addressing the improvements identified from our work. We consider that the timescales provided by management are appropriate and encourage the Audit Committee to monitor progress of implementation to gain assurance over the arrangements in place. The range of recommendations that external auditors can make is explained in Appendix B.

Improvement recommendations (continued)

Improvement Recommendation 2	Kent County Council should reflect its share of the costs agreed with the Home Office for caring for unaccompanied asylum-seeker children in the budget for 2024/25. Budget risks documentation for 2024/25 should reflect the latest progress on agreeing arrangements with the Home Office and possible future developments.
Improvement opportunity identified	Improved accountability for the costs and strengthened influence over how and when those costs are incurred.
Summary findings	On 21 December 2023, the UK High Court gave Kent County Council and the Home Office one month to agree a workable solution for sharing the costs of unaccompanied asylum-seeker children arriving in Kent. Total incremental revenue costs (before sharing is agreed) are expected to amount to around £50 million per annum and total capital costs are expected to amount to around £30 million. These have not, so far, been included within Council budgets.
Criteria impacted	 Financial sustainability
Auditor judgement	Our work has enabled us to identify a weakness in arrangements which we do not consider to be significant but have raised a recommendation to support management in making appropriate improvements.
Management comments	The Council will reflect the likelihood of any additional costs arising from working with the Home Office as part of the best way of supporting UASC, but starts from the presumption that the Council's overall net budget should be made whole (ie the Council should be no worse off). The rationale for this will be reflected in the budget risk assessment and this is the basis of discussions with the Home Office.

Progressing the actions management has identified to address the recommendations made will support the Council in addressing the improvements identified from our work. We consider that the timescales provided by management are appropriate and encourage the Audit Committee to monitor progress of implementation to gain assurance over the arrangements in place. The range of recommendations that external auditors can make is explained in Appendix B.

Improvement recommendations (continued)

Improvement Recommendation 3	Delays on capital projects should be reviewed for common factors. Issues around project management (including through schools and contract partners) and specialist skills retention should be reviewed holistically.
Improvement opportunity identified	Scope for reducing slippage on the capital programme.
Summary findings	Only 60% of the Council's capital programme for 2022/23 was delivered. Lack of specialist skills, project management delays, pauses for funding and legal checks were among the causes.
Criteria impacted	 Financial sustainability
Auditor judgement	Our work has enabled us to identify a weakness in arrangements which we do not consider to be significant but have raised a recommendation to support management in making appropriate improvements.
Management comments	The Council will review (i) its process for profiling the capital programme, to ensure there is a realistic plan in place to monitor against and (ii) the reasons behind project delays, to identify any common issues.

Progressing the actions management has identified to address the recommendations made will support the Council in addressing the improvements identified from our work. We consider that the timescales provided by management are appropriate and encourage the Audit Committee to monitor progress of implementation to gain assurance over the arrangements in place. The range of recommendations that external auditors can make is explained in Appendix B.

Governance



We considered how the Council:

- ensures it makes properly informed decisions, supported by appropriate evidence and allowing for challenge and transparency
- monitors and assesses risk and gains assurance over the effective operation of internal controls, including arrangements to prevent and detect fraud
- 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
- approaches and carries out its annual budget setting process
- monitors and ensures appropriate standards, such as meeting legislative/regulatory requirements and standards in terms of staff and member behaviour (such as gifts and hospitality or declaration of interests) and where it procures and commissions services
- approaches the pension fund

Making properly informed decisions

Our Auditor's Annual Report for 2021/22 identified a significant weakness in Kent County Council's arrangements for decision-making. We noted that there had been an unconstitutional decision around SEND school transport re-procurement in 2021/22; that there was a history of informal governance arrangements being used; and that members and officers had reported feeling "unsafe" in meetings where decisions were discussed. We recommended that decision-making arrangements be strengthened; members and officers better understand their roles; and better practice in meetings be introduced. For school transport, we have also now established that members sit on appeals panels, which is unusual for Local Authorities.

Significant weaknesses in arrangements for decision-making continued during 2022/23. Following the concerns raised both in our Auditor's Annual Report for 2021/22 and in the Annual Governance Statement for 2021/22, we undertook a specific governance review to examine behaviours around decision-making between January and March 2023. Our findings were shared with the Governance and Audit Committee in October 2023 and identified:

- micro-aggressions (from members to officers) which were at risk of becoming normalised;
- some members having little interest in any information that might challenge their settled view, increasing the risk that mistakes could be made;
- reports to Cabinet sometimes being slanted to achieve a particular outcome;
- Freedom of Information having been inappropriately politicised by members; and
- some members using officers as an alternative route to get the answers they wanted, rather than using the correct decision-making process.

We noted earlier in this report that strategic arrangements for delivering priorities (including financial priorities) were found to be weak in our governance review. For effective challenge to and scrutiny of decisions, the governance review also included recommendations for better functioning of the Governance and Audit Committee and Scrutiny Committees.

Governance (continued)

In July 2022, CIPFA finalised a report of its own on the effectiveness of the Governance and Audit Committee. Broadly, the review concluded that the Committee had too wide a remit; too cluttered an agenda; was too political; and was doing too much to be fully effective.

From our value for money testing for 2022/23, we have identified additional ongoing issues that the Council should consider:

- the Governance and Audit Committee met eight times during 2022/23 but the Corporate Risk Register was only reviewed by the Committee once in the year;
- all Chair and Vice Chair roles for the Governance and Audit Committee and all Scrutiny Committees and Sub Committees are held by members of the ruling administration;
- closely timed role holding between Cabinet and the Governance and Audit Committee risks members challenging their own decisions;
- as noted earlier in this report, decision-making on key matters is sometimes delayed both by officers and members; and
- officers responses to an Annual Governance Statement survey run by the Council indicated that some officers still feel members do not fully understand the more complicated aspects of governance; may not yet be fully familiarised with governance; have taken key decisions within the wrong timeframes; and sometimes inappropriately by-pass senior officers to liaise directly with their juniors.

Overall, we consider that arrangements for decision-making, including challenge and scrutiny of decision-making, still need to strengthen. Our Auditor's Annual Report for 2021/22 made a Key Recommendation around strengthening compliance. We repeat the Key Recommendation on Page 30 of this report. In total, our specific governance review made 22 additional recommendations around the Council's structure, systems and behaviours. Our Key Recommendation on Page 30 of this report notes that these, as well as recommendations raised by CIPFA need to be implemented at pace. Given the need to manage SEND and other school transport costs, we also recommend the Council consider the role of members on appeals panels.

Monitoring and assessing risk and gaining assurance over internal control

Internal Audit findings and the role of internal audit:

Internal Audit concluded both for 2021/22 and for 2022/23 that overall, the Council had adequate arrangements in place in relation to corporate governance, risk management and internal control. For four years running, there has been a deterioration in the strength of that conclusion, but this to some extent reflects that Internal Audit has been asked to look at higher risk areas, year on year, for a better gage of where the Council's issues lie.

For 2019/20, Internal Audit provided Substantial Assurance on 47% of all systems it tested and only provided Limited Assurance on 9% of the systems it tested. For 2022/23, Internal Audit provided Substantial Assurance on just 26% of the systems it tested and provided Limited Assurance on 35% of the systems it tested. Whilst the trend in Assurance is clearly downwards, the Council is nevertheless being proactive in directing Internal Audit to shine a light on the areas where it knows it needs to improve.

	2022/23	2019/20	Direction of Travel
% of systems, processes or functions assigned: Limited Assurance	33%	9%	↑
% of systems, processes or functions assigned: Substantial Assurance	26%	47%	↓
Rate of full implementation of Internal Audit recommendations	50%	62%	↓

Governance (continued)

We note that for 2022/23, Financial Control was one of the areas where Internal Audit could only provide Limited Assurance overall, because of the number of individual systems, processes or functions within the area that had only Limited Assurance. Limited Assurance was given on Budget Savings and Net Zero Action Planning systems (as already highlighted earlier in this report), but also on arrangements for individual contracts with care providers; data quality and managing the risk of overpayments for lifespan pathways; and compliance with financial regulations. Procurement, commissioning and partnerships was the other area where Internal Audit provided only Limited Assurance overall.

Our Auditor's Annual Report for 2021/22 stated that it is "*important that Actions from internal audit reports are taken seriously and addressed on a timely basis*". However, implementation rates for management actioning recommendations remain significantly lower than they were four years ago (50% in 2022/23 compared to 62% in 2019/20).

For 2022/23, one of Internal Audit's highest profile reports was a Lessons Learnt report on SEND transport procurement. The report was issued in September 2022, following a significant and well publicised February 2022 failure in SEND transport re-procurement. By November 2023, however, full follow-up had not yet been achieved, despite the Governance and Audit Committee having required it. A '*lack of enthusiasm*' from officers and directors involved in the procurement was highlighted to the Governance and Audit Committee as one of the reasons why Internal Audit findings had not been fully followed-up on. It is unfortunate that disagreements between Internal Audit and management have played out publicly in the Governance and Audit Committee at least twice in the last 18 months which does not reflect well on the Council.

The Internal Audit annual opinion for 2022/23 stated that directorates needed to improve their "second line of defence" i.e. reduce their dependency on Internal Auditors finding errors out that then require correction. The present experience of the SEND team perhaps highlights the importance of getting things right first time. The team is currently responding to recommendations from Internal Audit (Lessons Learnt on transport re-procurement); Ofsted and CQC (inspection of service performance standards); and the Department for Education (financial safety valve improvement requirements). This may in some measure be one of the drivers for delays in following-up on the Internal Audit findings.

We raised an Improvement Recommendation in our Auditor's Annual Report for 2021/22 around implementing Internal Audit Recommendations. With rates of implementation still

being lower than they were four years ago and the key report on SEND transport needing follow-up, we now raise a Key Recommendation around the importance of implementation (Key Recommendation 5, Page 31).

The Annual Governance Statement:

The Annual Governance Statements both for 2022/23 and for 2021/22 outline actions identified by the Monitoring Officer as requiring improvement for governance to be fully effective. The Council has programmes of work ongoing to improve processes around the required actions. Steps already taken include workshops to review member roles; comparisons with processes at other Local Authorities; a review of written governance processes; a member development survey; and training, including during "Governance Week" in November 2023. For process improvements to have the impact they are aimed at, it will be important that culture and behaviour and standards also keep pace with improvement.

	2022/23	2021/22
Annual Governance Statement – identified actions which have work ongoing to address	24	13
Head of International Audit opinion	Adequate	Adequate
Internal Audit assurance on compliance with financial regulations	Limited	NA
Ofsted inspection rating	Outstanding (May 2022 inspection)	Good (March 2017 inspection)
Incidents reported to the Information Commissioner's Office	16	?
Annual Governance Statement – areas where the Council faces challenges meeting its duties	5 (includes caring for children presenting in need in the area)	3 (includes caring for children presenting in need in the area)

Governance (continued)

Budgetary control

Despite there being significant weaknesses within arrangements for financial sustainability overall, the detailed mechanics of reporting on budget setting and budgetary control are an area where the Council has had success in introducing improvements.

Our Auditor's Annual Report for 2021/22 included an Improvement Recommendation that the Council include sensitivity analysis or scenario testing within future medium-term financial plans – so that the range of impacts on future reserves balances could be estimated. Management have informed us that this will be adopted when the budget for 2024/25 is prepared.

Throughout 2022/23, quarterly reports were presented to Cabinet on financial outturn. We note that the Quarter 4 (year-end outturn) report shared with Cabinet in June 2023 included an early assessment of outturn on the reserves and that the Quarter 1 report shared with Cabinet for 2023/24 (in October 2023) included an update on the reserves position.

Since October 2023, the Council has also adopted an arrangement for monthly reporting to Cabinet on the financial position. Given the trend two years running towards overspend, the Council should consider adopting sensitivity analysis for the in-year financial monitoring forecasts it shares with Cabinet as well as in the medium-term financial planning documents prepared alongside the budget at the start of a year.

Overall, though, the direction of travel around strengthening the mechanics for budgetary reporting has been positive. The more regular reporting should help to focus attention on key issues and may perhaps provide a platform for taking forward the other changes needed around decision-making and financial control.

Standards and Behaviours

We outlined earlier in this report that the Council acted unlawfully when it breached its duty to look after unaccompanied asylum-seeker children in July 2022. At the time of writing this report, the Council and the Home Office have been given one month from 21 December 2023 to reach a workable solution for sharing the revenue and capital costs of looking after affected children. A workable solution should make legal compliance easier going forward. However, this is not the only area where the Council faces challenges in meeting its statutory duties. Furthermore, the number of additional areas of challenge as identified by the Monitoring Officer in the Annual Governance Statement rose from 2 to 4 between 2021/22 and 2022/23:

Areas where the Council faces challenges in complying with statutory duties	2022/23	2021/22
Children presenting as in need within our area (includes unaccompanied asylum-seeker children arriving in Kent)	Yes	Yes

Other areas:

Deprivation of Liberty Safeguards	Yes	Yes
Services to Children and Young People with SEND	Yes	Yes
Compliance with timescales for Education, Health and Care Plans (EHCPs), Freedom of Information (FOI) and Subject Access Requests (SARs)	Yes	No
Use of unregistered placements for children	Yes	No

Governance (continued)

Increasing difficulty in complying with timescales for EHCPs, FOI Requests and SARs and the use of unregistered placements for children are perhaps a reflection of factors already discussed within this report – continued high demand for EHCPs; politicisation of the use of FOIs; and high demand with changing market pressures in the Children’s Social Care sector. These areas being listed in the Annual Governance Statement shows that the Council is at least sited on them.

The Corporate Risk Register increased its risk rating for risks around maintaining governance in a challenging environment from 10 to 15 between July 2022 and May 2023, which reflects senior leadership awareness of the risks the Council faces. However, there are other indications that the Council may be increasingly challenged in covering its statutory basic duties at other levels within the organisation as well. For example:

- the policy of pushing back basic needs capital projects to avoid new borrowing risks compromising the Council’s duties around safe, warm and dry buildings (currently mitigated by legal advice to prioritise basic need works first and by keeping an up-to-date capital projects pipeline); and

- Internal Audit’s report on compliance with financial regulations in September 2023 highlighted a fundamental lack of knowledge of and understanding of financial regulations in the two directorates that Internal Audit sampled (Adult Social Care and Housing; and Growth, Environment and Transport).

For the Internal Audit report on compliance with financial regulations, we note that Internal Audit surveyed Service Managers, Heads of Service and Assistant Directors. 26 responses were received, and these identified that:

- 17 respondents (65%) were unfamiliar with the most recent Council financial regulations. 12 respondents either had not read the regulations or were not sure if they had read them and 5 respondents had utilised outdated versions;
- 13 respondents (50%) stated they were unsure of any financial regulations training offered via induction or on an ongoing basis; and
- 7 respondents (27%) stated that they were not completely sure of the overall purpose of the financial regulations.

At the time we completed our value for money testing for 2022/23, work was underway at the Council to strengthen central messaging to staff around the Council’s financial regulations. Internal Audit have since concluded that the prospects for improvement are good.

For central messaging to be fully embedded on an ongoing basis however, there may be a role to play for finance business partners working with service directors in the field. Ultimately, though, good governance should be the responsibility of all. Staff should be reminded that the Officer’s Code of Conduct states that:

- The Council’s financial regulations and anti-fraud and corruption strategy must be adhered to at all times; and
- Officers are expected, through agreed procedures and without fear of recrimination, to bring to the attention of management any irregularity in the provision of service.

We raise an Improvement Recommendation around this point (Improvement Recommendation 4, Page 32).

Governance (continued)

Governance over the Pension Fund

Kent County Council administers a high value pension fund which held net assets valued at £7,848 million on 31 March 2023 (31 March 2022: £7,697 million). Our Auditor's Annual Reports from previous years have reported how the Fund wrote-off an investment of around £237 million when trading was suspended for shares the Fund held in the Woodford Equity Income Fund during 2019/20. Capital distributions from liquidators to investors mean that final losses net of distributions were forecast in 2021/22 to be the lower figure of £63.7 million. A settlement is expected from the Link Group of Arrangements in the spring of 2024.

Following the initial losses, an independent review by Barnett Waddingham made 139 recommendations for improved governance over the Pension Fund. These included widening representation on the Superannuation Committee; ceasing dual role holding between the Superannuation Committee and the Pension Board; and sharpening processes around decision-making. The Council introduced a new Pension Fund Committee in response; prohibited dual membership of the Pension Fund Committee and the supporting Pension Board; and wrote decision-making arrangements for the Pension Fund Committee into the Constitution. In all, the Council spent £32.5 million on Pension Fund administration, governance and oversight during 2022/23.

In May 2023 Internal Audit reported that 116 of the Barnett Waddingham recommendations have now been implemented. Overall, Internal Audit provided an Adequate Assurance opinion over the Pension Fund in 2022/23, with good prospects for further improvement. However, the Internal Audit report did highlight that the Pension Board only met once in the 12 months to 31 January 2023 and that the key performance indicator reporting adopted by the Fund during 2022/23 does not have any comparators and is not benchmarked against other local

authorities to assess how well the Kent's pension administration team is performing on a relative scale. The Internal Audit report also highlighted high risk recommendations around preventing Annual Benefit Statement and Annual Allowances breaches and, where they do occur, reporting them to the Pension Committee and Pension Board; and around data collection for McCloud data remedy.

Overall, the Council's response to prior year issues with the governance of the Pension Fund has been proactive. As with all other Internal Audit findings, it will be important that recommendations raised by Internal Audit in May 2023 are now actioned. Nevertheless, engaging Internal Audit to report to Cabinet on progress with Barnett Waddingham actions is itself a sign of positive attitude towards improvement.



Key recommendations

Key Recommendation 4	<p>Compliance with the Council's decision-making arrangements needs to be strengthened. Members and officers should ensure they understand their roles and comply with the Council's governance arrangements. Issues and complaints raised with the Monitoring Officer should be addressed and feed into good practice training for the future.</p> <p>The effectiveness of the scrutiny and challenge functions should be carefully considered. An action plan for implementing recommendations both from CIPFA and from our own 2023 review of governance should be adopted.</p> <p>Given the need to focus on costs, the effectiveness of members roles on school transport appeals panels should also be considered.</p>
Identified significant weakness in arrangements	Weaknesses in arrangements for decision-making, including in arrangements for strategic prioritisation and challenge and scrutiny.
Summary findings	Significant weaknesses identified by CIPFA and by our specific review of governance between January and March 2023 and by the Monitoring Officer in the Annual Governance Statement two years running.
Criteria impacted by the significant weakness	<div style="display: flex; align-items: center; justify-content: space-between;"> <div style="text-align: center;">  <p>Financial sustainability</p> </div> <div style="text-align: center;">  <p>Governance</p> </div> <div style="text-align: center;">  <p>Improving economy, efficiency and effectiveness</p> </div> </div>
Auditor judgement	Based on the work undertaken, we are not satisfied that the Council has proper arrangements in place to secure economy, efficiency and effectiveness in its use of resources in 2022/23. We have therefore identified a significant weakness in arrangements.
Management comments	Detailed activity has already been delivered against this recommendation throughout 2023/24 with delivery continuing until Q1 2024/25. This includes training for Members, Governance Week and training for officers, introductory guides, simple explainers and information and the development of a new decision-making platform to integrate and automate decision-making arrangements. Work has also been undertaken in relation to the approach to governance within the Council and follow ups on the 2022/23 AGS Officer Survey. Reports will also be going to Standards and Scrutiny Committee during Q4 2023/24. Members have discussed the Annual Audit Opinion during 2023/24 for the first time and have established a Governance Working Party to work through the Member Specific elements of the External Audit Governance Report.

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

Progressing the actions management has identified to address the recommendations made will support the Council in addressing the weaknesses identified from our work. We consider that the timescales provided by management are appropriate and encourage the Audit Committee to monitor progress of implementation to gain assurance over the arrangements in place.

Key recommendations (continued)

Key Recommendation 5

The Council should aim to maintain full implementation rates for Internal Audit findings and should complete its review of Internal Audit lessons learnt from the SEND transport re-procurement at poce.

Identified significant weakness in arrangements

Delays in actioning findings from Internal Audit.

Summary findings

Implementation rates for management actioning Internal Audit recommendations remain significantly lower than they were four years ago (50% compared to 62%). One of Internal Audit's highest profile reports on SEND transport re-procurement was issued in September 2022 but has not yet been fully followed-up on.

Criteria impacted by the significant weakness



Financial sustainability



Governance



Improving economy, efficiency and effectiveness

Auditor judgement

Based on the work undertaken, we are not satisfied that the Council has proper arrangements in place to secure economy, efficiency and effectiveness in its use of resources in 2022/23. We have therefore identified a significant weakness in arrangements.

Management comments

The Council will focus on improving Internal Audit findings implementation rates, including the SEND transport re-procurement lessons learned review.

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

Progressing the actions management has identified to address the recommendations made will support the Council in addressing the weaknesses identified from our work. We consider that the timescales provided by management are appropriate and encourage the Audit Committee to monitor progress of implementation to gain assurance over the arrangements in place.

Improvement recommendations (continued)

Improvement Recommendation 4

Staff should be reminded that the Officer's Code of Conduct states that:

- The Council's financial regulations and anti-fraud and corruption strategy must be adhered to at all times; and
- Officers are expected, through agreed procedures and without fear of recrimination, to bring to the attention of management any irregularity in the provision of service.

The role of finance business partners in explaining regulations and promoting good practice should also be considered.

Improvement opportunity identified

Heightened awareness of financial regulations.

Summary findings

An Internal Audit report on compliance with financial regulations in 2022/23 identified high rates of non-awareness of regulations amongst Service Managers, Heads of Service and Assistant Directors in two directorates sampled.

Criteria impacted



Governance

Auditor judgement

Our work has enabled us to identify a weakness in arrangements which we do not consider to be significant but have raised a recommendation to support management in making appropriate improvements.

Management comments

The Financial Regulations have been comprehensively reviewed and will be considered by Governance & Audit committee in February and recommended to Council in March. This will include an all-Member briefing to improve understanding and awareness of the Regulations. Following approval of the new Regulations, there will be a communication strategy to improve understanding and awareness amongst staff.

Progressing the actions management has identified to address the recommendations made will support the Council in addressing the improvements identified from our work. We consider that the timescales provided by management are appropriate and encourage the Audit Committee to monitor progress of implementation to gain assurance over the arrangements in place. The range of recommendations that external auditors can make is explained in Appendix B.

Improving economy, efficiency and effectiveness



We considered how the Council:

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

Using and evaluating performance information

For Council operations, Kent County Council has an effective performance management framework in place and performance reports are shared with members on a quarterly basis. Trends and anomalies in performance are monitored by the Council's Chief Analyst and the Director of Strategy, Policy, Relationships and Corporate Assurance. In places, performance reports include benchmarking against national averages and south-east averages. The Council monitors trends in performance over time.

For 2022/23, the Quarter 4 performance report showed a sharp deterioration in corporate performance compared to the last Quarter of 2021/22. The percentage of RED RAG rated indicators more than trebled between 2021/22 and 2022/23 and the number of deteriorating RAG ratings doubled.

	2022/23 Quarter 4	2021/22 Quarter 4
Number of RED RAG rated corporate performance indicators	12/37	3/33
% of corporate performance indicators RAG rated RED	32%	9%
Number of indicators with deteriorating RAG rating	11/37	5/33
% of indicators with deteriorating RAG rating	30%	15%

	G	A	R	↑	→	↓
Customer Services	1		2		3	
Governance and Law			2		2	
Growth, Economic Development and Communities	1		1		2	
Environment and Transport	2	2	2		4	2
Children, Young People and Education	5	5	3	1	7	5
Adult Social Care	1	3	2		4	2
Public Health	5			1	2	2
TOTAL	15	10	12	2	24	11

The Council understands the relationship between financial and other operational performance frameworks.

Improving economy, efficiency and effectiveness (continued)

Our value for money testing considered the degree to which some services performed worse than others; Council performance in high-spend areas compared to peers and compared to the expectations of external regulators; and the completeness of information available for 'high demand' services.

Degree to which some services perform worse than others

Quarter 4 data for 2022/23 showed that Red RAG rated performance was fairly evenly distributed across the Council, with Public Health being the only directorate not to miss the 'floor' standard for any of its targets. The trend towards deterioration of target performance was most marked, however, in the Children, Young People and Education directorate.

The directorates with the highest rates of long term (one year or more) failure to reach 'floor standard' targets were the directorates for Customer Services; Governance and Law; and Children, Young People and Education. However, to some extent, the pressure affecting all three areas came from the Children, Young People and Education directorate.

For Customer Services, performance was impacted by the fact that the Customer Services directorate is still dealing with a backlog of complaints around the Children, Young People and Education directorate. For Governance and Law, over two thirds of Subject Access Requests that the directorate responds to relate to the Children, Young People and Education directorate. These are, in turn, very complex to respond to.

For the Children, Young People and Education directorate itself, we note that the indicators where the Council had failed to achieve 'floor standard' for one year or more surrounded the rate of EHCPs issued within 20 weeks and the percentage of foster placements which are in-house or with a relative or friend (not including unaccompanied asylum-seeker children). Our understanding, at the time of writing this report, is that officers are considering changing performance report formats so that greater emphasis is placed on tracking management actions – making it possible, for long term under-performing targets, to assess which actions are effective and which are not. This would be a positive development.

Council performance in high spend areas compared to peers

Using 2022/23 Revenue Account budget data published by the Department for Levelling Up, Housing and Communities, we compared key areas of spend for Kent County Council with its ten nearest statistical neighbours. For spend per head on adults needing learning disability support and for spend per head on central services (which include management costs), we noted that the Council's spend is significantly higher than that of its nearest neighbours (see Figures 3 and 4, Page 34).

The Council's performance data around Adult Social Care and Health is inconclusive about whether the relatively high spend represents value for money. The indicators are not aligned to draw out specific data for adults needing learning disability support and there is no benchmarking of the Adult Social Care and Health performance data against other Councils or against national data. However, we would note that the two Red RAG rated Quarter 4 indicators for Adult Social Care and Health did not specifically relate to adults needing learning disability support.**

For Central Services spend, given that the Council's spend was higher than all peers but four out of five of the Customer Services and Governance and Law indicators were RAG rated Red, the Council may wish to consider assessing movements in its key cost drivers for fuller sense checking of performance by central teams. These were also areas where there was no benchmarking included within the performance reports for performance against other Councils or national trends, although Cabinet discussions around performance did explore whether the targets the Council was assessing itself against may be higher than is usual in other parts of the country.

** Red RAG rated indicators for Adult Social Care and Health, Quarter 4, 2022/23:

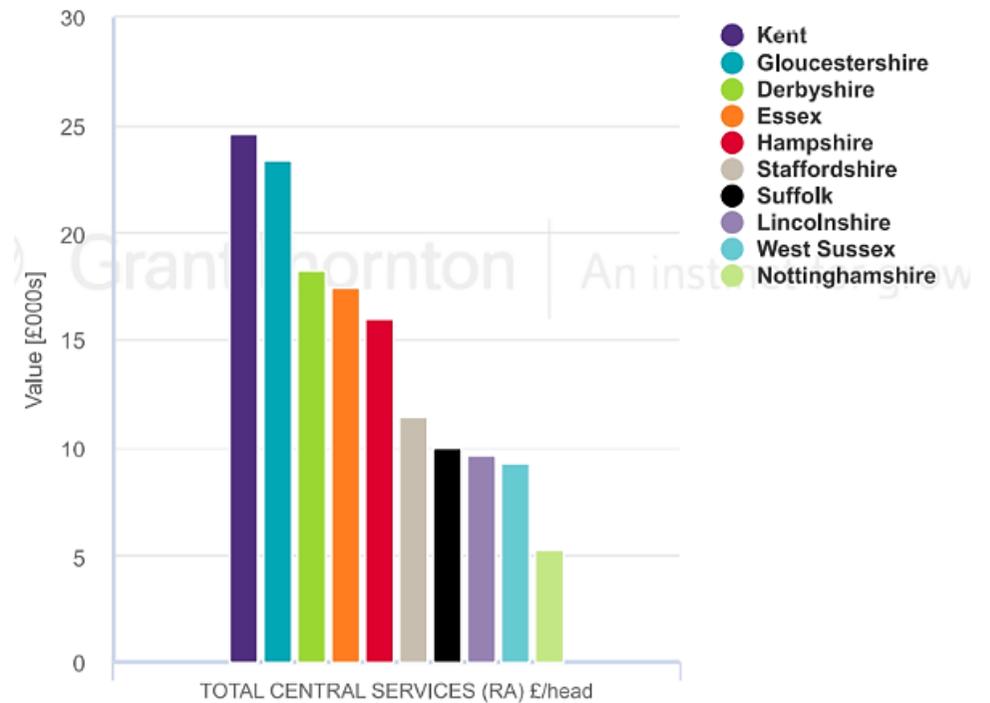
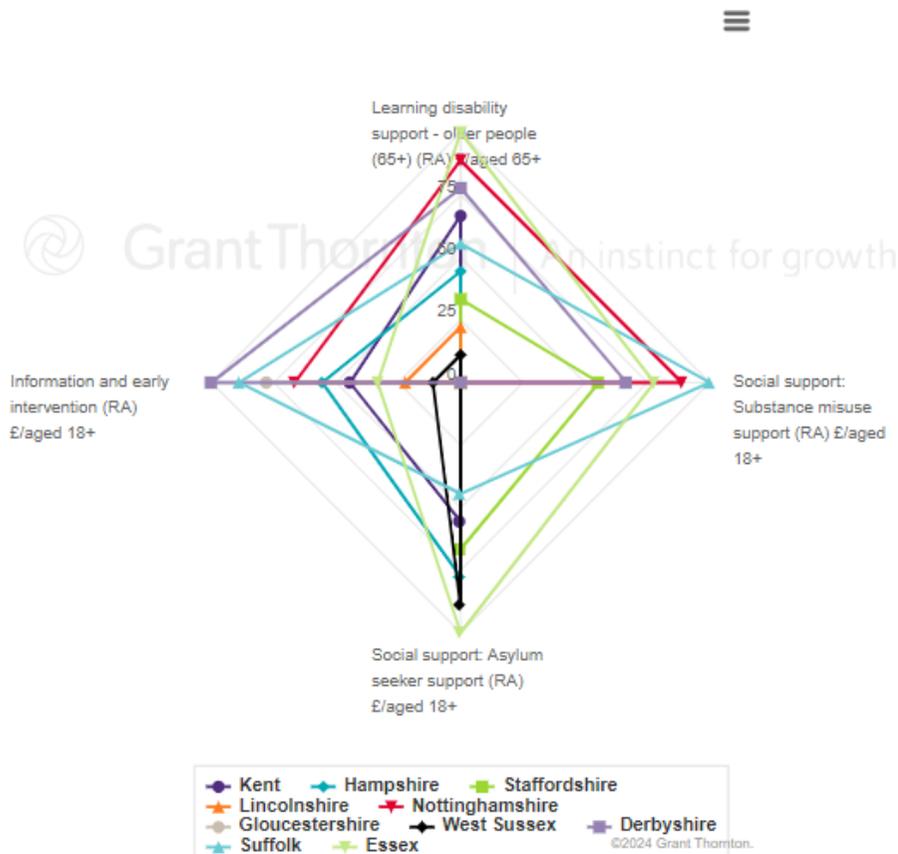
1. Proportion of new care needs assessments delivered within 28 days.
2. Long term support needs of older people (65 and over) met by admission to residential and nursing care homes.

Source: Kent County Council Quarterly Performance Report, Quarter 4, 2022/23.

Improving economy, efficiency and effectiveness (continued)

Figure 3: 2022/23 Revenue Account budget data provided by Councils to the DLUHC

Figure 4: 2022/23 Revenue Account budget data provided by Councils to DLUHC



Improving economy, efficiency and effectiveness (continued)

Council performance in high spend areas compared to the expectations of external regulators

As we have already seen, the Council has a £61.3 million Dedicated Schools Grant deficit which the Department for Education expects it to close by 31 March 2028. Our Auditor's Annual Reports for 2020/21 and 2021/22 highlighted that it was high spend on SEND services, in particular through contracts with the private sector, that contributed to the original build-up of the deficit. Against the terms of a safety valve improvement plan agreed with the Department for Education though, the Council currently expects to overspend against its financial targets for 2023/24 and 2024/25.

Contrary to higher spend leading to higher performance standards, external regulator findings are that performance standards in the SEND service fall significantly below expectations.

Significant weaknesses in SEND service performance were identified by Ofsted and the Care Quality Commission (CQC) in March 2019, September 2022 and November 2022. These were highlighted in our Auditor's Annual Reports both for 2020/21 and for 2021/22. Ofsted and CQC issued an Improvement Notice to the Council in March 2023 because of its ongoing failure to address the nine areas of concern they had highlighted.

We note that Kent County Council is now working through a 116-point Action Plan for SEND services that the Department for Education expects to be delivered by April 2024. Each Action has a Responsible Officer who reports monthly to a Partnership Delivery Group, providing evidence of impact from actions. There is a Strategic Improvement and Assurance Board in place that the Partnership Delivery Group can escalate concerns to. Tackling the continued high rates of EHCP referral already noted in this report may nevertheless also help with driving Actions through.

The Council's Commissioning Plan for Education Provision in Kent 2022-26 highlighted that the number of EHCPs increased in Kent by 13.2% between January 2020 and January 2021 whereas the rest of England increased by 10%. The requirement for special provision in Kent then grew by 16% between 2021 and 2022 compared to 9.9% nationally. Delivering the improvements that Ofsted and CQC require will be difficult to manage financially if proactive steps are not taken to manage demand as well.

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

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

Our Auditor's Annual Report for 2021/22 raised a Key Recommendation around improving performance standards within the SEND service. With standards having remained below expectation in 2022/23, we repeat the Key Recommendation on Page 40 of this report.

We also note that two of the Council's own 2022/23 Children, Young People and Education directorate performance indicators relate to SEND services and both were RAG rated Red at the end of 2022/23:

- Percentage of EHCP's delivered within 20 weeks; and
- Percentage of pupils being placed in independent schools or out of county special schools.

Improving economy, efficiency and effectiveness (continued)

Completeness of information available for 'high demand' services

SEND services were not the only service to experience high demand and missed targets during 2022/23. Highways, Roads and Transport services also reported high demand and missed targets. These were considered in detail as part of our work.

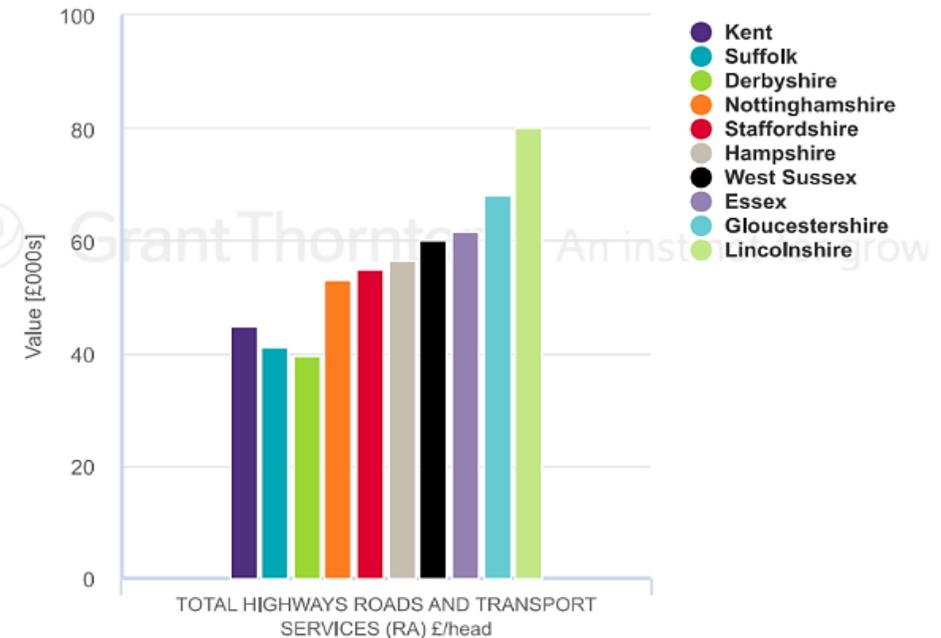
2022/23 Quarter 4 performance data shows that the Council missed its floor targets for the percentage of pothole repairs completed within 28 days in every quarter between June 2022 and March 2023. It also shows that the Council missed its floor targets for emergency highway incidents attended within two hours of notification in the Quarters ending December 2022 and March 2023. Data presented to Cabinet in the March 2023 performance report highlighted 'unprecedented demand' and pointed to very wet weather at the end of the year following on from backlogs caused by snow at the start of the year. The report referred to 'prolonged rain, snow and ice', all of which could reasonably be expected to have had an impact on demand levels. However, the report did not include any comparative data showing how Kent County Council's Highways performance (or any other Environment and Transport indicators) compared with other Councils. The bad weather conditions that the report cites would not have been confined to Kent alone.

We also note that comparative financial data was not considered in the evaluation of performance. Our own benchmarking showed that Kent County Council's spend on highways, roads and transport per head of the population is relatively low compared to statistical nearest neighbours.

SEND, EHCP and other early years data is relatively well benchmarked against national data trends in the Council's Quarter 4 performance report. The link between activity (demand) being higher than the rest of the country and performance being below target is clear. The Highways, Roads and Transport absence of national benchmarking shows that this is not a uniform approach to reporting though.

There may be scope for the Council to make more use of benchmarking and other data for services where demand is increasing, and/or performance is deteriorating, to assess performance. We raise an Improvement Recommendation around this point (Improvement Recommendation 5 on Page 42 of this report).

Figure 5: 2022/23 Revenue Account budget data provided by Councils to the DLUHC



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Improving economy, efficiency and effectiveness (continued)

Partnership working

Kent County Council has effective arrangements in place for partnership working. The Council identifies its key partners as District Councils, Medway Unitary Council, the Police, Fire and Rescue and Health services; Job Centre +: and a range of voluntary and community organisations.

The Council is a “Category 1 Responder Member” of the Kent Resilience Forum and in recent years, has had to work with partners within the local geography to manage flooding; coastal erosion; Brexit transition impacts on roads to and from Channel crossings; and the need to maintain emergency plans for radiation events at Dungeness.

For 2022/23 issues around asylum seeker rates, the Council worked with its partners to champion what they see as the strategic interests of the local area. On 1 November 2022, the leader of Kent County Council joined with thirteen other Council leaders from the Kent and Medway area in a letter to the Home Secretary urging that the Government refrain from continuing to allocate further adult asylum quotas to the county and cease procurement of further hotel accommodation in the county. This was a strong example of geographic partners working together to address common concerns.

Voluntary and Community organisations are seen as important economic partners and the Council actively sought in 2022/23 to build on the strategic relationship built-up during the Covid-19 pandemic. The Council engaged consultants to report in May 2022 on the effectiveness of its commissioning from the voluntary and community sector. The consultants identified good practice examples. Recommendations around making practice more consistent were shared with Cabinet for actioning.

Procurement and contract management

Strategy

Kent County Council spends around £1 billion per annum through commercially procured contracts and has a small central procurement team. During 2022/23, there was no formal Procurement Strategy in place, although officers inform us that the Council is now developing one. We are also aware that steps are underway to enhance the strategic use of the procurement team. There are plans to include procurement partners in the decisions on Children and Adult placements, for example. The intention will be to move away from just finding placements and towards finding placements that make commercial good sense.

Compliance

Internal Audit’s overall opinion for 2022/23 was that only Limited Assurance could be provided over ‘Procurement, Commissioning and Partnerships’ but a review of detailed findings shows that the key areas of weakness identified came from the procurement and contract management compliance rather than partnerships aspects of their testing:

Audit area	Report number	Opinion
Procurement	CA07-2023	Limited
Contract extensions	RB21-2023	Limited
Individual contracts with care providers	RB03-2023	Limited

Improving economy, efficiency and effectiveness (continued)

Issues reported by Internal Audit in their procurement and contract management findings for 2022/23 included inconsistencies in the use of the Council's contract management system; different approaches to the retention of procurement documentation; the absence of performance indicators on compliance with procurement and contract management procedures; limitations to the ability to monitor spend against specific contracts; weak procedures for purchases under £25,000; 40% of contract extensions not approved in line with the correct decision-making matrix; templates for contract extensions not always completed and contract extension risks were not always identified; and the contracts register not always being kept up to date. Internal Audit also reported an inconsistent approach to the completion of contract change notices; and an insufficient amount of time sometimes being allocated to properly consider an extension option versus re-procurement. It was also raised that there was no monitoring or reporting of which staff have completed and which have not completed contract management training across the Council.

For context, it is important to remember that in February 2022, Internal Audit also documented the 60 lessons that needed to be learnt from the failed SEND transport re-procurement. At the same time, when Internal Audit concluded that only Limited Assurance could be provided for 2022/23 over the Council's compliance with financial regulations, they noted that they had been unable to test the use of iProcurement software for raising orders because documentation was not made available to them; the Adult Social Care and Health directorate was using the Mosaic system instead of iProcurement to procure care packages; and for a sample of single source justifications examined, Voluntary Ex-Ante Transparency (VEAT) Notices had not always been obtained.

As part of our value for money testing for 2022/23, we tested the re-procurement of a high value (£50 million), multi-year highways maintenance contract. We found, similarly to Internal Audit, that although this was a single-source procurement, no VEAT notice had been issued. We also found, similarly to Internal Audit, that progress with decision-making around the contract extension had been slow, although covid-19 procurement backlogs; price volatility; and the need to take proper legal advice accounted for this.

.Since the end of 2022/23, steps have been taken by the Council to address Internal Audit's findings from the Procurement, Contract Extensions and Individual Care Contract reports. A new Commercial and Procurement Division was formally launched on 1 September 2023. Senior Officers in the Division have completed an extensive series of briefings to Directorate Management Teams across the Council outlining the key provisions in the Council's mandatory spending rules; and a sourcing support team has been formed to focus on the controls governing compliance. The Commercial and Procurement Division is also taking forward the development of performance measures to assess compliance with the Council's mandatory procurement. Training is planned and Internal Audit have reported that the Council's former Contract Management Review Group may be re-launched.

Despite the high volume of weaknesses identified by Internal Audit in their reports on procurement, contract extensions and individual care contracts, with so many initiatives now underway to strengthen the procurement and contract management functions, Internal Audit did conclude that the prospects for improvement in these areas are 'Good' to 'Very Good'. However, at the time of writing this report, Internal Audit had not yet followed-up on the prospects for improvement around financial regulations and, as previously noted in this report, had not yet been able to follow-up on all Lessons Learnt from the failed SEND Transport re-procurement.

Our Auditor's Annual Report for 2021/22 raised a Key Recommendation around procurement. We repeat the Key Recommendation on Page 41 of this report.

Key recommendations

Key Recommendation 6

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

An effective strategy for managing demand may enhance Council performance against its own corporate key performance indicators (such as delivering EHCPs on time and managing numbers in the mainstream) as well as helping to meet external regulator requirements.

Identified significant weakness in arrangements

Poor operational performance in a service that is also showing significant weakness in financial performance.

Summary findings

External regulator findings are that performance standards in the SEND service fall significantly below expectations despite there being a £61.3 million deficit to clear on the service. Continued high rates of demand for the service make progress with improvement difficult.

Criteria impacted by the significant weakness



Financial sustainability



Governance



Improving economy, efficiency and effectiveness

Auditor judgement

Based on the work undertaken, we are not satisfied that the Council has proper arrangements in place to secure economy, efficiency and effectiveness in its use of resources in 2022/23. We have therefore identified a significant weakness in arrangements.

Management comments

The Council already has a detailed improvement plan (the Accelerated Progress Plan) that is monitored and reported to the Strategic Improvement and Assurance Board (SIAB). This Board includes partners, and this is used to feedback to Ofsted and CQC. For as long as central Government requires us to use the mechanism, we will use it to determine and agree improvements.

Progressing the actions management has identified to address the recommendations made will support the Council in addressing the weaknesses identified from our work. We consider that the timescales provided by management are appropriate and encourage the Audit Committee to monitor progress of implementation to gain assurance over the arrangements in place.

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

Key recommendations (continued)

Key Recommendation 7

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

Opportunities for value for money through procurement and contract management should be maximised. VEAT notices should be used when required.

Identified significant weakness in arrangements

Poor compliance with mandatory arrangements for procurement and contract management.

Summary findings

For 2022/23, Internal Audit recorded three Limited Assurance opinions on procurement and contract management; 60 lessons learnt on a SEND transport re-procurement; and procurement weakness in arrangements for compliance with financial regulations. Our own testing confirmed that VEAT notices are not always used when required and procurements can be slow.

Criteria impacted by the significant weakness



Financial sustainability



Governance



Improving economy, efficiency and effectiveness

Auditor judgement

Based on the work undertaken, we are not satisfied that the Council has proper arrangements in place to secure economy, efficiency and effectiveness in its use of resources in 2022/23. We have therefore identified a significant weakness in arrangements.

Management comments

The Council has rewritten its Contract Standing Orders [In KCC they're called "Spending The Council's Money" (SCM)], which sets out the responsibilities for anyone spending on behalf of KCC. It establishes a new requirement to maintain a pipeline of planned procurements, tiered to identify strategic importance based on the consideration of value, risk and complexity. All contracts valued above the threshold for the Public Contracts Regulations will be led by the corporate procurement function. A recent restructure drove the separation of commissioning and procurement functions, with a newly created centralised commercial team dedicated to providing greater commercial oversight and procurement support to ensure adherence to policies and procedures.

Progressing the actions management has identified to address the recommendations made will support the Council in addressing the weaknesses identified from our work. We consider that the timescales provided by management are appropriate and encourage the Audit Committee to monitor progress of implementation to gain assurance over the arrangements in place.

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

Improvement recommendations (continued)

Improvement Recommendation 5	The Council should consider whether there is scope for making more use of benchmarking and other data for services where demand is increasing, and/or performance is deteriorating, to assess performance.
Improvement opportunity identified	Potential for better informed assessment of performance.
Summary findings	In some areas where demand for services is increasing and performance is deteriorating, performance reports for Quarter 4 of 2022/23 did not use benchmarking data to compare trends with other Councils and did not always make full comparison with financial trends. This may have meant that not all factors affecting performance were clear.
Criteria impacted	 <div style="background-color: #FFD700; padding: 5px; display: inline-block;">Improving economy, efficiency and effectiveness</div>
Auditor judgement	Our work has enabled us to identify a weakness in arrangements which we do not consider to be significant but have raised a recommendation to support management in making appropriate improvements.
Management comments	The Council will consider this as part of future budget setting considerations.

Progressing the actions management has identified to address the recommendations made will support the Council in addressing the improvements identified from our work. We consider that the timescales provided by management are appropriate and encourage the Audit Committee to monitor progress of implementation to gain assurance over the arrangements in place. The range of recommendations that external auditors can make is explained in Appendix B.

Follow-up of previous recommendations

Recommendation	Type of recommendation	Date raised	Progress to date	Addressed?	Further action?
1 Steps need to be taken by the Council to control expenditure. This is necessary now to avoid the future s114 notice that the Council predicted to the Prime Minister. The Council will need to be realistic about the capacity available to support the delivery of savings. The administration will need to be able to communicate how and what is prioritised. Some very difficult decisions will need to be made by the ruling administration to reduce expenditure and in some cases withdraw or pare back existing services.	Key	March 2023	The Council overspent against its budget by £44.24 million in 2022/23. The Council is currently forecast to overspend again against its budget for 2023/24 by £36 million. Reserves are below the average for English County Councils and uncommitted elements are low relative to the level of overspend, savings plans and management actions that may be at risk. In November 2022, the Council's Leader wrote jointly with another County Council Leader to the Prime Minister outlining that " <i>immediate help and a clear plan</i> " were needed to avoid the Council issuing a s114 notice " <i>within the next year or so</i> ".	No	We have re-raised a Key Recommendation to ensure that the Council is focused on delivering improvements. See Key Recommendation No. 2
2 The Council should take a holistic approach towards managing SEND demand and SEND financial management issues in Kent. This will involve the ruling administration making some difficult decisions.	Key	March 2023	A safety valve improvement plan was agreed with the Department for Education on 16 March 2023. However, the Council estimates that it will miss the SEND spending reduction targets for 2023/24 and 2024/25. EHCP referral rates remain above the national average.	Partial	We have re-raised a Key Recommendation to ensure that the Council is focused on delivering improvements. See Key Recommendation No. 3 .
3 Compliance with the Council's decision-making arrangements needs to be strengthened. Members and officers should ensure they understand their roles and comply with the Council's governance arrangements. Issues and complaints raised with the Monitoring Officer during 2021-22 should be addressed and feed into good practice training for the future.	Key	March 2023	There remain significant weaknesses in arrangements for decision-making. These are evidenced by a specific review of governance which we shared with the Governance and Audit Committee in October 2023; a CIPFA review in July 2022; and recommendations made by the Monitoring Officer in the Annual Governance Statement for 2022/23.	No	We have re-raised a Key Recommendation to ensure that the Council is focused on delivering improvements. See Key Recommendation No. 4 .

Follow-up of previous recommendations (continued)

Recommendation	Type of recommendation	Date raised	Progress to date	Addressed?	Further action?
<p>4 The Council should liaise with its partners to determine and agree the improvements that will be made in SEND services. An Action Plan with clear accountability and regular monitoring and reporting (is) required to ensure the findings and recommendations from Ofsted and CQC inspection reports are addressed and implemented. At the same time, looking to the longer term, strategies for managing demand and expectation will be critical if a financially sustainable service is to be secured. This will be a balancing act for the Council and careful, proactive consultation and engagement with schools, parents and other stakeholders will be necessary.</p>	Key	March 2023	The SEND service has not been subject to formal re-inspection since our last report. Rates of demand for EHCP, however, remain above the national average.	No	We have re-raised a Key Recommendation to ensure that the Council is focused on delivering improvements. See Key Recommendation No. 6.
<p>5 Training around procurement strategy, policies and practice should be strengthened across the Council (for staff working in service lines as much as for staff working in the commissioning and procurement team) to ensure an understanding of and compliance with the procurement rules. Specialist support should be clearly signposted across the organisation. Staff commissioning and procuring complex services should recognise and plan early when they need that support (ie recognise risk) and know where to go to get the support once they recognise that they need it.</p>	Key	March 2023	Internal Audit reports show that there remain weaknesses within the Council's arrangements for procurement and contract management compliance. Our own test findings are consistent with Internal Audit findings.	No	We have re-raised a Key Recommendation to ensure that the Council is focused on delivering improvements. See Key Recommendation No. 7.

Follow-up of previous recommendations (continued)

Recommendation	Type of recommendation	Date raised	Progress to date	Addressed by January 2024	Further action?
6 The Council should consider capturing and reporting the additional costs of public health; safeguarding schooling; and counter terrorism related to Home Office asylum seeker sites.	Improvement	March 2023	In July 2023, the High Court ruled that Kent County Council acted unlawfully by breaching its legal duty to look after unaccompanied asylum-seeker children. On 21 December 2023, the High Court ordered that the Council and the Home Office had one month to find a workable solution for sharing costs (£50 million revenue costs per annum and £30 million capital costs).	Partial	Yes. We raise a new Improvement Recommendation on Page 22 of this report that the Council's share of costs agreed with the Home Office is reflected in the Council's budget for 2024/25.
7 Sensitivity analysis scenario testing should be presented to Cabinet and published alongside the medium-term financial strategy for 2022-26 or with future medium-term financial plans.	Improvement	March 2023	Management inform us that work is underway to use sensitivity analysis as part of budgeting for 2024/25. In view of overspends having been incurred two years running, we recommend that the Council also includes sensitivity analysis in forecast data used for in-year financial monitoring.	No	Yes Sensitivity analysis should be adopted for the budget for 2024/25 and the Council should also explore this for in-year financial monitoring. We raise a new Improvement Recommendation on Page 21 of this report
8 The Governance and Audit Committee should review Internal Audit issues 'In Progress' at each meeting and officers should be accountable for the pace of response to recommendations and for the implementation of recommendations. The number of issues in progress should be managed down, or, where this is not possible, the reason why should be understood.	Improvement	March 2023	The rate of implementing Internal Audit recommendations remains lower than it was in 2019/20. Sixty Internal Audit lessons learnt from a September 2022 high-profile review of failed SEND transport procurement have not yet been fully followed up on. We have escalated issues around responding to Internal Audit to a Key Recommendation for 2022/23.	No	Yes We raise a new Key Recommendation to ensure that the Council is focused on delivering improvements. See Key Recommendation No. 5.

Opinion on the financial statements



Grant Thornton provides an independent opinion on whether the Council's financial statements:

- give a true and fair view of the financial position of the Council as at 31 March 2023 and of its expenditure and income for the year then ended, and
- have been properly prepared in accordance with the CIPFA/LASAAC Code of practice on local authority accounting in the United Kingdom 2022/23
- have been prepared in accordance with the requirements of the Local Audit and Accountability Act 2014.

We conducted our audit in accordance with:

- International Standards on Auditing (UK)
- the Code of Audit Practice (2020) published by the National Audit Office, and
- applicable law

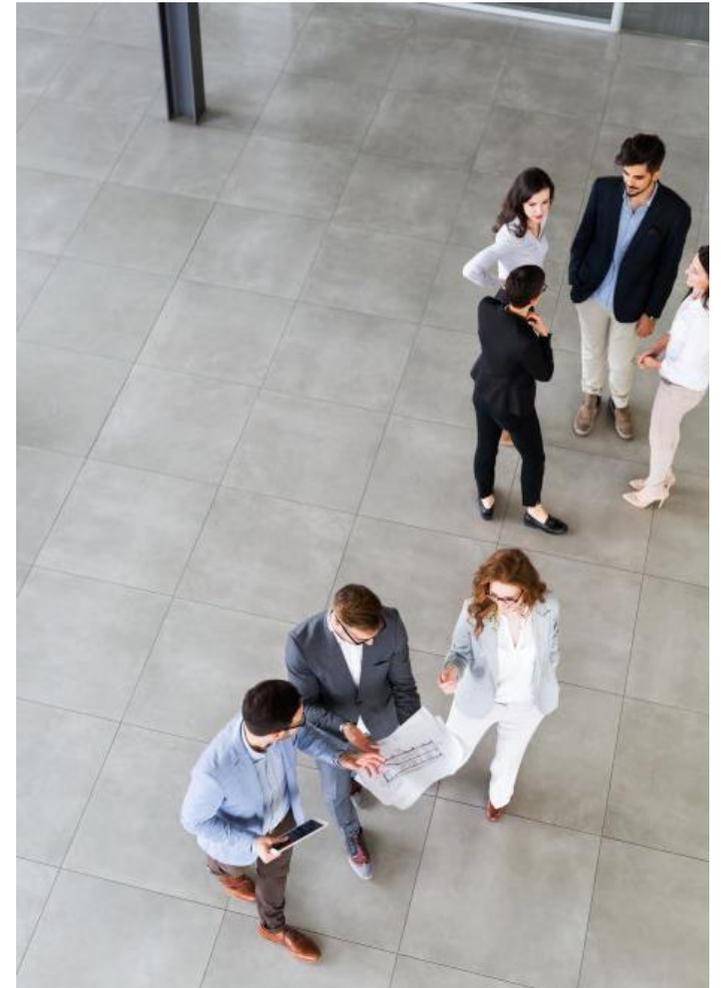
We are independent of the Council in accordance with applicable ethical requirements, including the Financial Reporting Council's Ethical Standard.

Audit opinion on the financial statements

We plan to issue an unqualified opinion on the Council's financial statements following the Governance and Audit Committee on 01 February 2024. The opinion was issued on 18 March 2024.

The full opinion will be included in the Council's Annual Report for 2022/23, which will be published on the Council's website.

Further information on our audit of the financial statements is set out overleaf.



Opinion on the financial statements



Timescale for the audit of the financial statements

- Our risk assessment and planning visit took place March 2023. The draft audit plan was presented and approved at the Governance and Audit Committee in September 2023.
- The Council provided draft financial statements for the single entity Council in line with the national timetable in July. The draft group accounts and associated working papers were provided to us in August.
- As in previous years, the quality of the financial statements and supporting working papers continues to be high evidenced by the small number of presentation and disclosure issues identified during the audit. The Council's corporate finance team engages well with the audit process and responds to our audit queries.
- There were however several challenges and headwinds that delayed the audit process as summarised below:
 - slow responses to some of our queries, particularly where it required information outside of finance;
 - annual leave over the summer holidays that reduced the resources available in the Council's finance team to respond to queries;
 - the reconciliation issue in your school's cash balance;
 - material prior period adjustment (PPA) in your property, plant and equipment balance, grants disclosure note and senior officer's remuneration disclosure note. Material prior period adjustments involves additional work for both management and the audit team. We are required to consult with our internal technical team on all PPA's for major local audits;
 - a control issue was identified in the general ledger where journals were being posted by a user other than the person who prepared the journal. This led to additional lines of enquiries and testing to gain the required assurances;

- the Council took the decision to update the Annual Governance Statement (AGS) for new information that became available during the audit process. This means that the AGS is due to be finalised on the 01 February 2024; and
- an audit team member we planned to have on the audit becoming unavailable

As a result, we plan to issue an unqualified opinion following the Governance and Audit Committee on the 01 February 2024. This is not in line with the national deadline of 30 November 2023. This was issued on 18 March 2024.

Findings from the audit of the financial statements

Our audit did not result in any adjustments to the financial statements that impact the net reporting position of the Council or the Group. We did identify several presentation and disclosure misstatements that management have adjusted for. Our audit also identified several control issues and we raised associated recommendations to management to improve the control environment. More detailed findings are set out in our Audit Findings Report, which was presented to the Council's Governance and Audit Committee on November 2023 and an updated report was provided to the Governance and Audit Committee in February 2024. Requests for the Audit Findings Report should be directed to the Council.

Whole of Government Accounts

To support the audit of the Whole of Government Accounts, we are required to examine and report on the consistency of the Council's consolidation schedules with their audited financial statements. This work includes performing specified procedures under group audit instructions issued by the National Audit Office.

This work is not yet complete.

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.

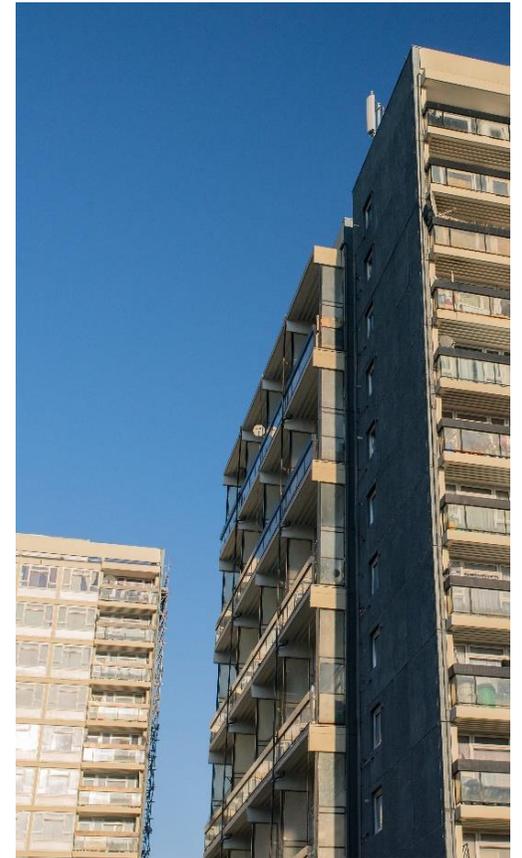
Financial statements are the main way in which local public bodies account for how they use their resources. Local public bodies are required to prepare and publish financial statements setting out their financial performance for the year. To do this, bodies need to maintain proper accounting records 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) 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(s)
Statutory	Written recommendations to the Council under Section 24 (Schedule 7) of the Local Audit and Accountability Act 2014.	No However, we will consider the robustness of proposals and reserves for the 2024/25 Revenue Budget and the 2024-27 High Level Financial Plan to determine whether further statutory action is required.	6, 7, 19
Key	The NAO Code of Audit Practice requires that where auditors identify significant weaknesses as part of the Council's 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	8, 19, 20, 30, 31, 40, 41
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	21, 22, 23, 32, 42

