

Supplement to the agenda for

Audit and governance committee

Tuesday 12 April 2022

2.00 pm

**The Conference Room, Herefordshire Council Offices, Plough
Lane, Hereford, HR4 0LE**

7. AUDITOR'S ANNUAL REPORT 2020/21

To present to the audit and governance committee the auditor's Annual Report 2020-21 for information and discussion.

[Update 11 April 2022: Appendix 1 has been updated, with the changes shown in yellow highlighted text]

Pages

3 - 52



Title of report: Auditor's Annual Report 2020/21

Meeting: Audit and governance committee

Meeting date: Tuesday 12 April 2022

Report by: Director of resources and assurance

Classification

Open

Decision type

This is not an executive decision

Wards affected

(All Wards);

Purpose

To present to the audit and governance committee the auditor's draft Annual Report 2020-21 for information and discussion.

Recommendation(s)

That:

- a) **The committee reviews the auditor's report, notes its findings and recommendations and considers the management responses.**

Alternative options

- 1. There are no alternative recommendations. The auditor's Annual Report forms part of the statutory external audit of the Council.

Key considerations

- 2. The external auditor's draft Annual Report for 2020/21 is attached at Appendix 1. Under the National Audit Office Code of Audit Practice, the external auditor is required

to consider whether the Council has put in place proper arrangements to secure economy, efficiency and effectiveness in the use of its resources.

3. As well as reporting on overall arrangements, the external auditor will consider whether there were any significant risks or weaknesses in the arrangements in place. The report includes the external auditor's findings together with their recommendations as to how any weaknesses identified can be addressed.
4. Officers are asked to provide management responses to the findings and recommendations and the responses are also included at Appendix 1.
5. The report has been finalised with officers.

Community impact

6. One of the principles in the council's code of corporate governance is to implement good practices in transparency, reporting, and audit to deliver effective accountability. To support effective accountability the council is committed to reporting on actions completed and outcomes achieved, and ensuring stakeholders are able to understand and respond as the council plans and carries out its activities in a transparent manner. External audit contributes to effective accountability.

Environmental impact

7. Herefordshire Council provides and purchases a wide range of services for the people of Herefordshire. Together with partner organisations in the private, public and voluntary sectors we share a strong commitment to improving our environmental sustainability, achieving carbon neutrality and to protect and enhance Herefordshire's outstanding natural environment.
8. Whilst this is a report for information and will have minimal environmental impacts, consideration has been made to minimise waste and resource use in line with the council's Environmental Policy.

Equality duty

9. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
10. The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of

policies and in the delivery of services. We do not believe that this report will have an impact on our equality duty.

Resource implications

11. There are no specific resource implications from the report itself. However, there may be resource implications from implementing specific recommendations. If these cannot be contained within approved budgets, then a specific decision will be presented for approval.

Legal implications

12. There are no specific legal implications arising from this report itself.

Risk management

13. Specific risks are included within the external auditor's report.

Consultees

14. None

Appendices

Appendix 1 Auditor's Annual Audit Report on Herefordshire Council 2020-21

Background papers

None identified.

Auditor's Annual Report on Herefordshire Council

✓ 2020-21

11 April 2022



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

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



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The contents of this report relate only to the matters which have come to our attention, which we believe need to be reported to you. It is not a comprehensive record of all the relevant matters, which may be subject to change, and in particular we cannot be held responsible to you for reporting all of the risks which may affect the Council or all weaknesses in your internal controls. This report has been prepared solely for your benefit and should not be quoted in whole or in part without our prior written consent. 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.

Executive summary



Value for money arrangements and key recommendations

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. The auditor is no longer required to give a binary qualified / unqualified VFM conclusion. Instead, auditors report in more detail on the overall arrangements, as well as key recommendations on any significant weaknesses in the Council's arrangements identified during the audit.

Auditors are required to report their commentary on the Council's arrangements under specified criteria. As part of our work, we considered whether there were any risks of significant weakness in the Council's arrangements for securing economy, efficiency and effectiveness in its use of resources. Our work has identified three significant weaknesses in the Council's arrangements and three corresponding key recommendations which are set out on pages 7, 8 and 9.

The significant weaknesses identified on page 4 and improvement recommendations listed throughout this report are based on the arrangements in place at the Council during 2020/21 and an element of the progress made in 2021/22.

Officers recognise and are committed to delivering improvements across the Council and in those areas where significant weaknesses have been identified and the recommendations throughout this report. Officers have drawn our attention to the following areas where changes and service improvements are being made in 2021/22. We will consider the following in our value for money review for the financial year 2021/22:

- the re-organisation of senior management to improve and develop the corporate approach 'one Council'
- additional investment in the 2022/23 budget to enhance its enabling services
- new flexible working (flexible futures) arrangements for staff supported by investment in digital infrastructure
- agreement of its Covid-19 recovery plan with the approval of £6.144m to deliver the immediate action to enable economic recovery
- increased focus on the economy with commitment to deliver the 2050 Big Plan, the City Centre Strategy and review the Local Plan in conjunction with its partners
- completion of the enterprise zone cyber quarter – Skylon Park
- the formation of Herefordshire's citizens climate assembly to discuss and inform decisions relating to climate change
- review of the Council's waste strategy
- dealing with the phosphate pollution impact on the local plan objectives
- the award of £22.m to invest in Hereford's investment plan
- supporting NMITE in the development of the new university
- market towns investment plans
- the review and update of the County Plan delivery priorities
- continued review and delivery of the transport strategy
- significant investment in Children's services to ensure improvement and transformation as required by the Department for Education
- the expansion of Hoople Limited to include a 'Home First' service.

Executive summary



Value for money arrangements and key recommendations

The significant weaknesses identified below and improvement recommendations listed throughout this report are based on the arrangements in place at the Council during 2020/21.

Children's Social Care Services

1. We consider the Council's failure to meet the statutory needs of children in its care to be a significant weakness in arrangements. This is evident from the findings in the court judgment, the Department for Education non-statutory notice and the lack of progress made since Ofsted inspected in 2018 and the focused visit following the court judgment.

The court judgment issued by Mr Justice Keehan in March 2021 identified how the Council had failed the children in its care, as well as the foster parents and birth parents. Subsequent to this judgment the Council received a non-statutory improvement notice from the Department for Education and an Ofsted focused visit identified that the Council had made little progress in improving the quality of practice for children in need and those subject to child protection planning since June 2018.

Contract management

2. The Council's lack of effective contract management arrangements for its public realm and facilities management contracts, to enable it to hold its contractor to account, is a significant weakness in arrangements.

A range of reviews commissioned by the Council has identified the Council's inability to effectively manage its public realm and facilities management contract with Balfour Beatty Living Places Limited. These concerns began to emerge in January 2020 and were reported to Cabinet in September 2020. Improvements have been made in 2021/22 and an improvement plan was agreed in March 2022. However, these improvements did not have an impact on arrangements in place in 2020/21.

3. We consider the Council's contract appointment and management arrangements to be a significant weakness in arrangements. It did not ensure that the Council's public realm contract was awarded to an appropriate and legitimate company and as a result the Council has engaged and continues to engage with a dormant company—Balfour Beatty Living Places Limited (BBLP). We consider the Council's contract appointment and management arrangements include a significant weakness in arrangements, as it did not establish the validity of contracting and continuing to trade with a company which was dormant or otherwise non-trading from a formal perspective.

The Council identified in January 2021 that Balfour Beatty Living Places Limited (BBLP) was a dormant company as evident at Companies House. This information was not reported to members and no action or legal advice was obtained by the Council to understand the implications of contracting with a dormant company until March 2022, following audit queries, as part of our value for money review. The Council's current legal advice has highlighted concerns over the legitimacy validity of this arrangement and the increased risk to which the Council is exposed. The contracting arrangement is now being resolved by officers and, as such, the final outcome is unknown.

Executive summary

At our initial planning stage and within our audit plan we identified risks of significant weakness within each of the following criteria:

- Financial sustainability
- Governance
- Improving economy, efficiency and effectiveness.

Criteria	Risk assessment	Conclusion
Improving economy, efficiency and effectiveness	Yes - risks of significant weakness identified	Three significant weaknesses in arrangements identified and five improvement recommendations made
Governance	Yes - risks of significant weakness identified	No significant weaknesses in arrangements identified and two improvement recommendations made
Financial sustainability	Yes - risks of significant weakness identified	No significant weaknesses in arrangements identified, but seven improvement recommendations made

Further detail on the risks identified at our planning stage can be found at appendix B.

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



Improving economy, efficiency and effectiveness

We are not satisfied that the Council has appropriate arrangements in place to deliver quality services within its Children's Social Care Services and to effectively contract manage its public realm contract and have identified three significant weaknesses as set out on the previous page.

We have also identified five improvement records in relation to benchmarking, procurement and commissioning, contract procedures, partnerships and performance management of its subsidiary Hoople Limited. Further details can be found on pages 11 to 21.



Governance

Whilst we have not identified any significant weaknesses within the governance section we recognise that failures in the leadership and management of children's services have had an impact on the Children's Social Care Services and the Council's ability to effectively meet its statutory duties.

We have identified two improvement recommendations. These are in relation to maintaining formal records for all settlement agreements and ensuring all corporate risks on the corporate risk register are linked to the relevant corporate objective.

Our findings are set out in further detail on pages 22 to 26.



Financial sustainability

Overall we are satisfied that the Council had appropriate arrangements in place to manage the risks it faced in respect of financial resilience. We have not identified any significant risks of material weakness but have identified opportunities for improvement.

These reflect the importance of strengthening its medium term financial planning to ensure its Medium Term Financial Strategy is extended beyond one year and if the level of reserves is sufficient to meet possible pressures, improving the reporting of its capital programme including slippage, consider reporting its performance against its Dedicated Schools Grant and also the importance of developing more comprehensive and integrated workforce plans.

Our findings are set out in further detail on pages 27 to 38.

Executive summary



Opinion on the financial statements

Under International Standards of Audit (UK) (ISAs) and the National Audit Office (NAO) Code of Audit Practice ('the Code'), we are required to report whether, in our opinion:

- the group and Council's financial statements give a true and fair view of the financial position of the group and Council and the group and Council's income and expenditure for the year; and
- have been properly prepared in accordance with the CIPFA/LASAAC code of practice on local authority accounting and prepared in accordance with the Local Audit and Accountability Act 2014.

We are also required to report whether other information published together with the audited financial statements (including the Annual Governance Statement (AGS) and Narrative Report, is materially inconsistent with the financial statements or our knowledge obtained in the audit or otherwise appears to be materially misstated.

Our audit work was completed remotely during July to December 2021. Full details of our findings from the audit are detailed in our Audit Findings Report dated 24 November 2021.

We provided an unqualified audit opinion on 10 December 2021.



Key recommendations



1. Key Recommendation

The Council should continue to work with the Department for Education to improve its Children's Social Care Services.

Why/impact

Failure to improve the Council's Social Care Services could result in further action being taken by the Department for Education.

Summary findings

In March 2021 Mr Justice Keehan issued a court judgment in relation to a case which involved four children placed in foster care. This judgment identified how the Council had failed the children in its care, as well as the foster parents and birth parents. Subsequent to this judgment the Council received a non-statutory improvement notice from the Department of Education (DfE).

Also the Ofsted focused visit stated that the Council had made little progress in improving the quality of practice for children in need and those subject to child protection planning since the Ofsted inspection in June 2018.

Further detail is provided on pages 11 and 12.

Management Comments

The Council takes very seriously the concerns about children's services and transforming children's services is the Council's number one priority. An additional £5.2m was invested in the service in 2021/22 to support improvement activity and the Council endorsed an Improvement Plan in October 2021. An Improvement Board, chaired by the DfE Improvements Advisor has been in place since May 2021 and we were the recipients of a £1.7m grant from the DfE in December 2021. A new and permanent Director of Children's Services was appointed in November 2021 and is leading on the delivery of our three year transformation programme. Further additional and significant financial investment in the service is expected in 2022/23. In March 2022 Cabinet approved a further investment of £11.4m for 2022/23.

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



Key recommendations



2. Key Recommendation

The Council should progress the actions within its major contracts improvement plan, and to ensure delivery we recommend that performance against this plan should be reported to Cabinet.

Why/impact

Active monitoring by members should ensure arrangements improve.

Summary findings

In January 2020 a major capital contract review was undertaken by the Interim Capital Projects Director. This review considered the management arrangements of the Council's public realm and facilities management contracts held by Balfour Beatty Living Places Limited. The findings of this review were reported to Cabinet in September 2020 and included concerns over performance monitoring, financial and contract compliance monitoring.

Following this review, work was undertaken internally to review the Herefordshire City Centre Transport Package (HCCTP). This review concluded in January 2021, but was not reported to Cabinet until July 2021. Concerns were raised over the management of the contract and a range of recommendations were agreed by Cabinet in July 2021.

Cabinet agreed the establishment of the Major Contracts Improvement Board, acknowledged that there was insufficient budget to complete the remaining elements of the programme and further confirmed the earlier concerns that were reported in the previous review of the public realm and facilities management contract.

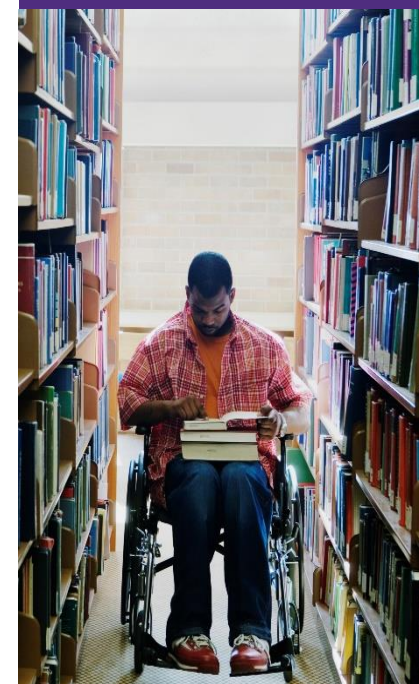
An improvement plan has been developed and was agreed by the Major Contracts Improvement Board on 1 March 2022, seven months after it was agreed to establish an Improvement Board. The Major Contract Improvement Board is an internal joint officer and member board responsible for monitoring performance, however, progress is not reported to Cabinet.

Further detail is provided on page 14.

Management comments

The Council will continue to progress the actions against the Major Contracts Improvement Plan and progress is reported through to the Major Contracts Improvement Board on which Council Members are represented.

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



Key recommendations



3. Key Recommendation

The Council should seek to regularise its contractual arrangements for its public realm contract with Balfour Beatty Living Places Limited and ensure it:

- obtains further legal advice beyond that already obtained to clarify the legitimacy validity of the current contract arrangements
- fully understands the implications of contracting and paying a dormant company
- undertakes appropriate due diligence before engaging in any major contracts; and
- reviews existing contracts to ensure they are operating within appropriate legal standards and internal policies.

Why/impact

These changes should ensure the risk to the Council is minimised.

Summary findings

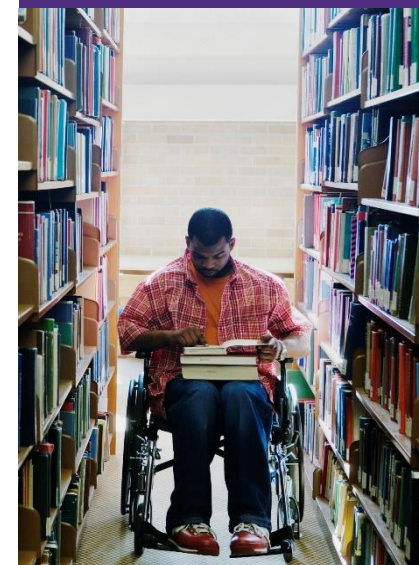
The Council identified in January 2021 that BBLP was a dormant company as evident at Companies House. This information was not reported to members and no action or legal advice was obtained by the Council to understand the implications of contracting with a dormant company until March 2022, following assurances requested as part of our value for money review. As a result this has highlighted the legitimacy validity of this arrangement and the increased risk to which the Council is exposed.

Further detail is provided on page 15.

Management comments

The Council has obtained further legal advice and are considering the recommendations made by the external advisors.

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



Commentary on the Council's arrangements to secure economy, efficiency and effectiveness in its 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.

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



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.



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).



Our commentary on each of these three areas, as well as the impact of COVID-19, is set out on pages 11 to 39, detail on how we approached our work is included 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, engages with stakeholders, monitors performance against expectations and ensures action is taken where necessary to improve
- ensures that it commissions or procures services in accordance with relevant legislation, professional standards and internal policies, and assesses whether it is realising the expected benefits.

Performance management

The Council set out its vision and objectives within its County Plan. The aim is that the County Plan should be reviewed annually, however due to COVID-19 the process was delayed and the County Plan agreed in 2019 covered 18 months with the new County Plan being agreed in February 2020. The County Plan was supported by a delivery plan which included the objectives against which the County Plan was monitored.

The Council had a performance management framework to enable a consistent approach and ensure everyone understands their role in the process. This identifies that the delivery plan is supported by Directorate Plans which are supported by Service Business Plans.

In 2020/21, performance against its delivery plan and objectives was reported to Cabinet on a quarterly basis within the quarterly budget monitoring reports. These reports included information on financial performance (capital and revenue) as well as service performance. The Council has been developing and improving its reporting to Cabinet during the year and as such the format of the reports have changed during the year.

Performance across the Council was formally assessed monthly, at Directorate level, followed by the Management Board before being reviewed by Cabinet on a quarterly basis.

The Council gained assurance over the accuracy of data in its performance reports through operational management review of the performance information. The Council also has a data quality policy which is maintained by the governance section. This policy sets out that all managers and employees have a personal responsibility and accountability for the accuracy and sound presentation of data freedom from duplication and confusion.

Children's Social Care Services

In June 2018 the Council's Children's Social Care services were inspected by Ofsted and received the overall judgment of 'requires improvement'. Following subsequent Ofsted inspections in January and December 2019 the Council had made limited progress in improving the quality of practice and service provision for children in need.

In March 2021 Mr Justice Keehan issued a court judgment in relation to a case which involved four children placed in foster care. Whilst in Council care the health of one of the children deteriorated and sadly died. The judgment found significant failings over an extended period, with regards to how to support the children in their care, the foster parents and the birth family of the children in care. Subsequent to this judgment the Council received a non-statutory improvement notice from the DfE in May 2021.

Ofsted undertook a focused visit in July 2021 and issued their findings in August 2021. Ofsted concluded that the Council had made little progress in improving the quality of practice for children in need and those subject to child protection planning since the inspection in June 2018.

The court judgment, the non-statutory notice and the latest Ofsted focused visit illustrate the Council's inability in 2020/21 to have effective arrangements in place and to improve performance following external third party inspections.

Improving economy, efficiency and effectiveness

Children's Social Care Services

In addition to the improvements required as a result of the court judgment and the DfE non-statutory notice, the Council is also examining its arrangements for safeguarding - peer on peer abuse within schools. In September 2020 a review of historical cases of peer on peer abuse within schools was undertaken. This review was reported to Cabinet in November 2020 and recommended that further work should be undertaken to understand why an original review in 2017 had not been shared with schools and members, so that lessons could be learnt from this incident. The outcome of this further work has yet to be reported to Cabinet, but does highlight the Council's historical difficulty in learning and enabling change from past issues and cases.

Action taken in 2021/22

During the Court hearing the Council began to take action and immediately after the release of the court judgment a statement was made by the Leader of the Council. An extraordinary Council meeting was held on the 27 April 2021. At this meeting the following actions were agreed:

- the establishment of the Improvement Board to be chaired by the improvement advisor for the Department for Education
- resources to the value of £5.2m were to be made available to fund the required changes. Cabinet agreed to increase this to £11.5m on the 31 March 2022 (further details on page 29 sets out the anticipated full cost at the time of writing).

The Improvement Board held its first meeting in June 2021. To date seven meetings have been held. The Improvement Board monitors performance against a range of indicators and include regular updates from the Director of Children's Services.

Improvements were firstly progressed by an interim Director prior to the appointment of a permanent Director of Children's Services in December 2021. The new Director began the process of developing the improvement strategy to make it more outcome focused and has now completed his review. The Council now has a better understanding of the actions and resources required to improve performance and has identified that it needs to temporarily improve its establishment in 2022/23 to support the transformation plan and improve activity.

In addition the Council's Chief Executive commissioned an independent audit of 1,000 live cases open to Early Help and Children's Social Care. Whilst this did not identify any serious safeguarding issues requiring immediate action, the majority were considered as being inadequate or requiring improvement to be good.

Improving Children's Social Care Services is a top priority for the Council and is reflected in its Annual Governance Statement and corporate risk register. The extent of the changes required mean that progress will take a number of years to introduce and the Council considers that it will take three years before a level of sustainable improvement is achieved. With the Council first having reviewed current practice, identified the changes required and is now in the difficult implementing and delivery stage.

Auditor judgment

We consider the Council's failure to meet the statutory needs of children in its care to be a significant weakness in arrangements for the audit year 2020/21.

This is evident from the findings in the court judgment, the DfE non-statutory improvement notice, the lack of progress made since Ofsted inspected in 2018 and the Ofsted focused visit following the court judgment. In addition, the peer on peer abuse review also illustrates the Council's inability to learn from and to share findings from previous reviews.

Improving economy, efficiency and effectiveness

Benchmarking and learning from others

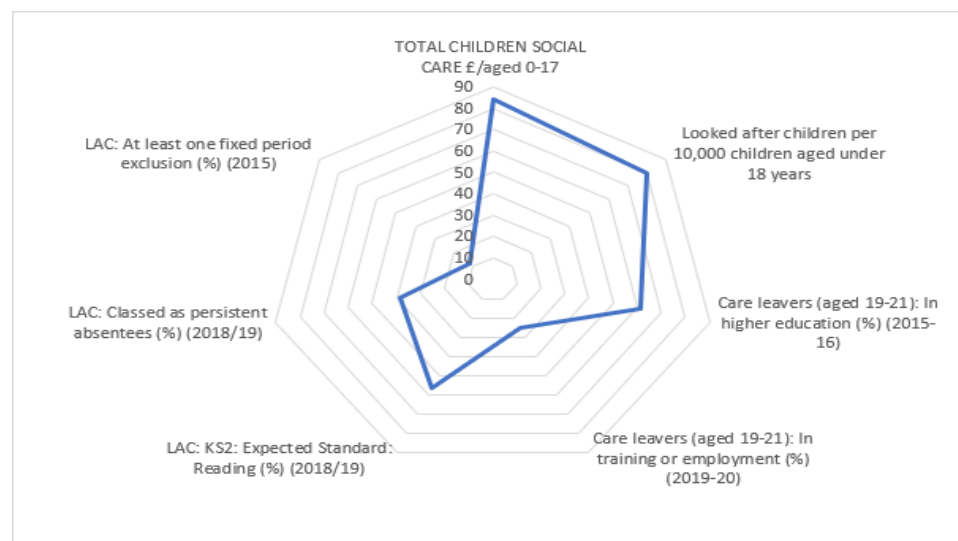
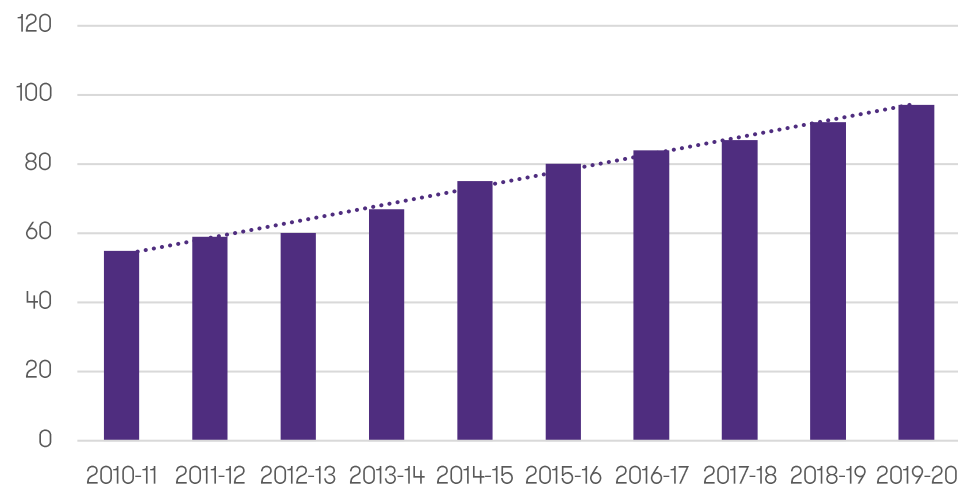
Benchmarking and comparing the Council's performance to others enables it to identify both areas of good performance but also those areas where performance could be improved. The Council has used benchmarking to identify high cost areas and has used the benchmarking services of LG futures in previous years. However, due to a lack of capacity in 2020/21, limited benchmarking has been undertaken. As part of our review we discussed a range of indicators produced by our management tool, 'CFO Insights'. The indicators compared the unit costs for a range of services. The indicators identified the following areas where the unit costs were high in comparison to other unitary authorities:

- Children's social care
- Highways and transport services

The high cost of children's social care is attributable to the high numbers and the very high cost of looked after children. The charts opposite show the increase in numbers of Looked After Children (LAC) since 2010/11 and the high costs and numbers along with a range of outcomes for these children. The Council has acknowledged these issues, which it considers should be addressed through the improvement plan for children's social care.

The Council is also aware that highways and transport service are high cost in comparison to others and in order to address this has identified savings within this service area. The Council should consider extending the use of benchmarking, in particular in those areas of high cost in comparison to others.

Looked after children per 10,000 aged under 18



Improving economy, efficiency and effectiveness

Procurement and contract management

The Council has a Commissioning and Procurement Strategy published on its website which was last updated in 2018 and is the forward plan to be updated in 2022. This strategy contains seven procurement aims and actions as to how these aims will be achieved. However, we are not aware of a formal process which monitors progress against these aims and ensures progress is achieved and remedial action taken as required. We recommend that the strategy should be reviewed, updated as necessary and the actions translated into a deliverable action plan. A mechanism against which progress against these deliverables can be monitored should then be implemented.

In our 2019/20 VfM work and in our initial planning we raised concerns about how the Council was managing its public realm contract and was responding to its review of the Herefordshire City Centre Transport Package (HCCTP).

In January 2020 a major capital contract review was undertaken by the Interim Capital Projects Director. This review considered the management arrangements of the Council's public realm and facilities management contracts. This contract is a framework contract and has been held by one contractor since 2013 when the contract was awarded. The findings of this review were reported to Cabinet in September 2020.

The review highlighted that there were concerns over performance monitoring, financial and contract compliance monitoring. Concerns included:

- risk management - as the risk register does not sufficiently log actions related to risks;
- relationship management - as there was "little constructive tension" between the two parties leading to a lack of competitive dialogue
- the contractor did not always provide 'proactive support, or the collaborative behaviour that would be expected from a strategic partner' and a lack of clear demarcation between the Council and its contractor, as both sides were co-located in the same office; and
- change management - as the framework agreements were not included in the contracts register.

Concerns were also highlighted around the Council's internal governance, whereby the Council did not appear to be adhering to the contract procedure rules, when commissioning works outside the core programme.

The main recommendations arising from this report were:

- build technical knowledge within the Council - the Council relies on its contractor for technical assistance which limits the Council's ability to scrutinise or monitor effectively;

- improve internal communication and education – the Council needed to better understand the contract in order to achieve value for money;
- increase the involvement of the Council's procurement team – to assist with governance and provide expertise;
- set up a contract management framework; and
- consider an appropriate contract management system.

Following this review, work was undertaken internally to review the Herefordshire City Centre Transport Package (HCCTP). Following initial work being undertaken by internal audit the Assistant Director Corporate Support and Head of Information Compliance undertook an independent review. This review concluded in January 2021, but was not reported to Cabinet until 29 July 2021.

Action taken in 2021/22

In July 2021 Cabinet were made aware of the concerns over the management of the contract and a range of recommendations were agreed. This meeting also agreed the establishment of the Major Contracts Improvement Board, acknowledged that there was insufficient budget to complete the remaining elements of the HCCTP programme and further confirmed the earlier concerns that were reported in the previous review of the public realm and facilities management contract. Cabinet also agreed to resource and facilitate the required improvements in contract management and commissioning, to strengthen the corporate centre and to provide capacity and support.

The Council has appointed an Interim Director of Environment and Place and an Interim Service Director for Highways. These individuals are responsible for ensuring changes are made and that arrangements are improved. We recognise that some changes have been made, such as building technical knowledge within the Council and the appointment of interim officers to support contract management and commissioning.

An improvement plan has been developed and was agreed by the Major Contracts Improvement Board on 1 March 2022, seven months after it was agreed to establish an improvement board. The improvement plan is published on the Council's website. The Major Contract Improvement Board is an internal joint officer and member board responsible for monitoring performance and progress against the improvement activities it oversees. Progress is not reported to a formal member committee or Cabinet.

We will review the improvements made as part of our value for money assessment for the 2021/22 financial year to evaluate if the inadequacy of arrangements in the contract management system have been addressed.

Improving economy, efficiency and effectiveness

Balfour Beatty Living Places Limited

In addition to the concerns relating to contract management, it should be noted that the public realm contract is held with a dormant company Balfour Beatty Living Places Limited (BBLP). This company was dormant at the time the contract was awarded in 2013 and remains dormant. Payments are also being made to BBLP, under invoices showing the company name of the dormant company.

In January 2021 in the review undertaken by the Assistant Director Corporate Support and Head of Information Compliance senior officers became aware that the Council was contracting with a dormant company, BBLP. However, the findings of this report were not reported to members until July 2021 and omitted to report that BBLP was a dormant company. No action was taken by the Council at the time when the dormant company was discovered, such as obtaining legal advice to protect the Council's interests from it contracting with and paying a dormant company. Legal advice was not obtained until March 2022 following our enquiries. The Council has obtained third party legal advice and this advice has established that the validity of this arrangement is a matter of concern and the existing arrangement should be addressed by the Council. This arrangement is in the process of being resolved with Balfour Beatty Living Places Limited.

Having identified that the Council has an existing contract with a dormant company we reviewed the Council's current contract procedure rules to consider what guidance is included on tender evaluation and due diligence. However, we noted that the contract procedure rules did not cover the evaluation of tenders and the range of due diligence required of potential suppliers. In our experience basic due diligence of potential suppliers would include a review of accounts filed with Companies House and would have established if a potential supplier was operating through a dormant company. We understand the Council has since established that the Council had been aware that BBLP was a dormant company in 2013. However, due to the elapse of time and a change in officers this knowledge and historical background was not currently known to the Council until we raised and questioned this arrangement.

As a result we recommend that the contract procedure rules, documented within the Constitution, should be updated to include contract evaluation and the extent of appraisal of potential suppliers (due diligence) that should be undertaken before awarding a contract.

Auditor judgment

We have identified two significant weaknesses in relation to contract management of the Council's public realm and facilities contract in the audit year 2020/21:

- Firstly, the Council's lack of effective contract management arrangements, for its public realm and facilities management contracts, to hold its contractor to account. The Council has begun to improve arrangements, but these changes were either made in 2021/22 or are planned for 2022/23.

- Secondly, the Council is contracting with and making payments to a dormant company and these arrangements have been in place since 2013 when the contract was agreed. We therefore consider that the Council's contract appointment and management arrangements include a significant weakness in arrangements, as it did not establish the validity of contracting and continuing to trade with a company which was dormant or otherwise non-trading from a formal perspective. The Council's management arrangements did not ensure that the Council's public realm contract was awarded to an appropriate and legitimate company and as a result the Council has engaged and continues to engage with a dormant company – Balfour Beatty Living Places Limited (BBLP). More recently, action has not been taken by the Council to understand the implications and impact of contracting and making payments to a dormant company.

Performance managing subsidiaries

Hoople Limited is a joint venture (JV) subsidiary company of the Council created in April 2011 to deliver business support services to clients across the public and private sector. In 2020/21 Hoople Limited was wholly owned by the Council and Wye Valley NHS Trust, the Council being the majority shareholder.

Performance monitoring a subsidiary requires a different approach, as the JV should be able to operate commercially whilst delivering its services in line with any agreed contract or service level agreement.

Hoople Limited is managed through a service level agreement (SLA) which is reviewed and updated annually. Based on this SLA, key performance indicators were in place and were monitored by the individual service managers. Performance was not routinely and regularly reported to Members. Hoople Limited is viewed internally by management as another department of the Council as this enables greater flexibility and response to changes in service requirements. However, Hoople Limited is a separate legal entity and the Council should consider if these arrangements would be appropriate if circumstance were to change, such as if performance was deteriorating, and if existing good working relationships were to deteriorate.

Whilst the Council may consider that it is able to influence and be fully aware of Hoople's performance, it should also be mindful of potential conflicts of interest as some members and officers have to balance their duties as directors of Hoople with their duties as employee or elected representative of the Council. For example, if things were not to go as planned and additional funding or other support is needed to support Hoople through a difficult patch, the risk of a conflict might increase.

Whilst, we do not consider this to be a significant weakness in arrangements we do consider that arrangement could be strengthened by introducing more formal performance monitoring including formal performance reporting to members, such as an annual report.

Improving economy, efficiency and effectiveness

Significant partnerships

The Council's County Plan and Delivery Plan acknowledge the importance of partnership, such as the Local Enterprise Partnership, but do not always directly name the relevant partnership. In order to improve the Council's arrangements relating to significant partnerships the Council has defined significant partnerships, developed a partnership framework and introduced a partnership register. Both the partnership framework and register are available on the Council's website.

During 2020/21 the Council considered the effectiveness of its partnerships and changed the definition to move away from primarily contractual arrangements to include statutory partnerships.

The Council also introduced self assessments as part of the draft Annual Governance Statement for 2020/21. These self assessments were completed by the service departments and reviewed by the Audit and Governance Committee in July and September 2021. Whilst the self assessment demonstrated the Council's commitment to improving its understanding and partnership arrangements it demonstrated, in our opinion, some key areas for improvement are required, as shown below.

The self assessment did not clearly identify the strategic objective to which the partnership is linked and contributes. We found that in response to the question '*Which predominant council priority does the partnership meet?*', often the response given is just the name of the Directorate, such as Community or Economy. Detailed responses were often not given to a range of questions, with one word answers such as yes or no provided. These limited responses should be avoided as they do not enable officers and members to understand what arrangements were in place and provide effective challenge.

In addition we consider that the self assessment could be improved by reviewing the questions asked and whether all the questions are required to improve the clarity and understanding of the information, currently 44 questions are included. In addition whilst the Council has defined what it considers to be a significant partnership the following definitions are not clearly evident in the self assessment:

- financial responsibility – based on a threshold for the Council's annual contribution, or for directing Council funding of £100k (excluding staffing costs); and/or
- strategic importance – the partnership being critical to the delivery of key Council objectives or statutory obligations, or is a fundamental component of Council priorities and functions and the Council's reputation could be damaged by the partnership's failure to deliver.

The Council would benefit from clearly defining and responding to the questions as set out within the Council's own definition of a significant partnership.



Improvement recommendations



Improving economy, efficiency and effectiveness

1 Recommendation	The Council should consider extending the use of benchmarking, in particular in those areas which are high cost in comparison to others, such as highways and transport services.
Why/impact	Benchmarking enables services to be compared and potential savings and efficiencies to be identified.
Summary findings	The Council has used benchmarking to identify high cost areas and has used the benchmarking services of LG futures in previous years. However, due to a lack of capacity in 2020/21, limited benchmarking has been undertaken.
Management comment	<p>The Council, through its Corporate Management Team, uses a range of data and information to evaluate performance of the contract including that of:</p> <ol style="list-style-type: none"> the NHT National Highways and Transport Network (HTA) the Association of Directors of Environment, Economy, Planning and Transport (Adept). <p>The Council have recognised that this only provides a narrow optic into the overall performance of the contract and have built into its work programme for 22/23, which is committed as part of the contract Annual Plan, to undertake a “mid-term contract review” to fundamentally challenge and assess the contractor’s performance. The Council have commissioned APSE (Association of Performance Service Excellence) to participate in its Performance Networks Benchmarking service across all Public Realm contract functions. This will commence in April 22 on the 2021/22 data.</p>



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

Improvement recommendations



Improving economy, efficiency and effectiveness

2 Recommendation	The Council should review its Procurement and Commissioning Strategy, update it as necessary and ensure the actions are translated into a deliverable action plan. A mechanism against which progress against these deliverables can be monitored should then be implemented.
Why/impact	The strategy could be out of date and not reflect current Council policy. The Council and its members will be unaware if it is achieving the agreed objectives within the strategy and what actions are required to improve performance.
Summary findings	The Council has a Commissioning and Procurement Strategy published on its website which was last updated in 2018. This strategy contains seven procurement aims and actions which set out how these aims will be achieved. However, we are not aware of a formal process which monitors progress against these aims, ensures progress is achieved and remedial action taken as required.
Management comment	A review of the Procurement and Commissioning Strategy is already underway and nearing completion. There will be a clear action plan to accompany the Strategy and governance of the delivery of the action plan will be undertaken by Management Board.



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

Improvement recommendations



Improving economy, efficiency and effectiveness

- 3 Recommendation** The Council should review and update the contract procedure rules, documented within the Constitution, to include contract evaluation and the extent of appraisal of potential suppliers (due diligence) that should be undertaken before awarding a contract.

Why/impact

This should ensure that the Council identifies and is able to mitigate the risks of potential suppliers.

Summary findings

The contract procedure rules documented within the Constitution do not cover the evaluation of tenders and the range of due diligence required of potential suppliers.

Management comment

The Contract Procedure Rules (CPRs) will be updated to include guidance, checklists and a toolkit to ensure that potential suppliers are appraised before contracts are awarded.



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

Improvement recommendations



Improving economy, efficiency and effectiveness

4 Recommendation The Council should strengthen the performance monitoring arrangements for Hoople Limited to include formal reporting to members, such as an annual report.

Why/impact This would ensure that officers and members are able to effectively challenge and address any underperformance within its subsidiary.

Summary findings Hoople Limited is a separate legal entity of which the Council is a majority share holder. Hoople is managed through a SLA which is reviewed and updated annually. Based on this SLA KPIs are in place which are monitored by the individual service managers. Performance is not reported to Members.

Management comment The Council is going to strength its performance monitoring arrangements for Hoople Ltd which will include reporting via the Quarterly Performance Reports reported through to Cabinet.



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

Improvement recommendations



Improving economy, efficiency and effectiveness

- 5 Recommendation** The Council should review and improve the content of the significant partnerships' self assessment, both the questions asked and the replies received and consider:
- documenting the strategic objectives to which they contribute
 - ensure detailed responses are provided
 - define why the partnership is a significant partnership in line with the Council's own definition.

Why/impact Without more detailed and relevant information within the self assessment, those charged with governance are unable to gain assurance on the effectiveness of the partnership arrangements.

Summary findings The significant partnership self assessment we reviewed as part of this audit did not clearly identify the strategic objective to which the partnership is linked and contributes. Detailed responses were often not given to a range of questions, with one word answers such as yes or no often provided.

Management comment The Council will review and improve the self-assessment document itself and ensure that it complies with the Council's definition of a significant partnership. The Council will also revisit the guidance issued for the reviewing of the self-assessment document.



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

Governance



We considered how the Council:

- leadership and governance
- monitors and ensures appropriate standards
- monitors and assesses risk and gains assurance over the effective operation of internal controls, including arrangements to prevent and detect fraud
- approaches and carries out its annual budget setting process
- ensures effective processes and systems are in place to ensure budgetary control
- ensures it makes properly informed decisions, supported by appropriate evidence and allowing for challenge and transparency.

Continuity of senior officers

In our 2020/21 Audit Plan we identified the impact of changes in the management team as a governance risk and whereby, the loss of continuity and corporate memory could have adversely impacted on the management arrangements. As a result, we have considered the changes in Directors and senior officers in 2020/21 and 2021/2.

We established that there were two changes in senior posts in 2020/21, including the Chief Executive following his retirement, with more significant turnover in 2021/22.

The Council has sought to recruit permanent employees wherever possible and appointed interims whilst permanent employees are being sought.

The highest turnover is within the Children and Families Directorate, which is not unexpected when the Children's Social Care Service had received adverse findings and is undergoing an improvement journey. In addition the court judgment and the DfE improvement notice also identified failures in the leadership and management of children's services which had an impact on the Council's ability to effectively meet its statutory duties.

The Council has strengthened its leadership in the Children's Social Care Service and is now moving to the improvement and delivery stage.

We do not consider that the management changes have had an adverse impact on governance during 2020/21.

These leadership changes also provide an opportunity to strengthen the governance arrangements and develop effective delivery plans. We are aware that following the appointment of the new Chief Executive in 2021/22 the Council is reorganising its senior management and developing its corporate culture.

Monitoring standards and maintaining legislative requirements

The Council has a range of officers who are responsible for ensuring and monitoring compliance with statutory and legislative standards, such as the Monitoring Officer and the Section 151 Officer. Whilst no issues were evident with meeting financial regulatory requirements, the Children's Social Care issues referred to earlier in this report do represent a shortfall against relevant legislative standards. Further details on this judgment can be found on page 11 and the significant weaknesses we have identified.

A range of policies and standards are in place to ensure compliance, such as codes of conduct, gifts and hospitality and whistle-blowing policies. The whistleblowing policy is reviewed annually. In March 2021 Internal Audit reported to the Audit and Governance Committee on the Council's whistle-blowing arrangements. This review provided 'substantial' assurance and included a survey of 100 staff to support its findings.

Officers and members are required to annually declare any interests that they might have and any gifts and hospitality received during the year.

Settlement agreements

In 2020/21 two settlement agreements were approved, for officers in the Council's employment, with a third settlement agreement being made in 2021/22.

The first settlement agreement made in 2020/21 was approved by the Employment Panel. This decision was minuted and the decision recorded as a confidential decision.

The Council's Monitoring Officer has confirmed that the negotiations to reach the settlement agreements were carried out by the appropriate officers in conjunction with HR, Legal and Finance.

Governance

Settlement agreements continued

The second and third settlement agreements did not require member approval. The Council's scheme of delegation gives authority to the Monitoring Officer to approve settlement agreements and in the event of any conflict of interest, authority to approve the settlement agreement is delegated to the Deputy Monitoring Officer. However, we encountered difficulties in obtaining a clear audit trail to support the decisions.

Risk management

Our review of the governance arrangements in relation to risk management and internal control has not identified any risks of significant weakness in the 2020/21 financial year.

The Council has a Risk Framework which is documented within its Performance Management Framework. This framework is supported by its Risk Plan which sets out the Council's risk management process and provides guidance to enable officers to identify, assess and manage the risk.

The Council produces risk registers at service, directorate and at corporate level. Depending on the type and risk score will depend on which register the risk will be held and who is assigned as risk owner. The directorate and corporate risk registers were reviewed by the Management Board prior to be reviewed by the Audit and Governance Committee.

In 2020/21 the risk registers were reviewed three times by the Audit and Governance Committee. As part of this review process risks were added and removed from the corporate risk register. It is evident that the Council has significantly reduced the number of risks on its corporate risk register and removed a number of long standing risks to ensure members are focused on key strategic risks.

The risk registers rate each risk using a Red/Amber/Green (RAG) rating and assign a risk owner. However, the risks on the corporate risk register are not mapped to the Council's strategic priorities and objectives, as set out within the County Plan. In line with good practice we recommend that the corporate risk register should map to the Council's corporate objectives more specifically.

The internal audit function operating at the Council is provided by the South West Audit Partnership and, although the service experienced challenges as a result of COVID-19 during the year and priorities changed, a balance between providing direct assistance to the Council and maintaining audit work was achieved.

A "Reasonable Assurance" opinion was given by SWAP on the adequacy and effectiveness of the Council's internal control framework. No significant risks were identified in 2020/21 and as a result no priority one recommendations were raised.

Budget setting, control and monitoring

Our review of the governance arrangements in relation to budget setting, control and monitoring has not identified any risks of significant weakness in the 2020/21 financial year. The Council's budget setting, monitoring and reporting arrangements involved budget holders throughout the year and we observed close dialogue between budget holders and finance officers, which helped to achieve an agreed position. Members were involved through consultation with the scrutiny committees and external consultation was undertaken, the outcome of both was published within the budget papers.

The budget setting process for the 2021/22 began in July 2020 with a review of the base budgets and a review of all cost centres. Cost pressures were identified and discussions were held with the budget holders. These budgets were then scrutinised by the Management Board, who were also tasked with identifying the Council's underlying savings requirement.

Budget monitoring reports were produced monthly, beginning in May 2020. Closedown was the last day of the month and within three days of closedown the Section 151 officer receives the forecast outturn. Monthly budget reports were taken to the management Boards and quarterly reports were taken to Cabinet. These reports combine the financial position (capital and revenue) as well as corporate performance. These reports are received two to three months after the period end and in our opinion provide sufficient detail to enable Members to challenge performance.

The budget was approved in February 2021 alongside the Medium-Term Financial Strategy (MTFS), Capital Programme and Treasury Management Strategy. Reserves are also reviewed as part of the integrated budget setting process.

Governance

Informed decision-making and appropriate challenge

Our review of the governance arrangements in relation to informed decision making has not identified any risks of significant weakness. In the 2020/21 financial year, members were provided with multiple opportunities to review decisions before they were finalised, through reports which are published and submitted throughout the committee structure. There are specific Scrutiny Committees for the different services which scrutinise the plans and decisions of the Council before recommending them for approval to Cabinet.

The work of the Council's committees is governed by the constitution. The constitution is available on the Council's website and was last updated in May 2018. However, we are aware that the Constitution has been updated during the year but this is not reflected in what is recorded on the Council's website. The Council's website should be updated to reflect these reviews and updates.

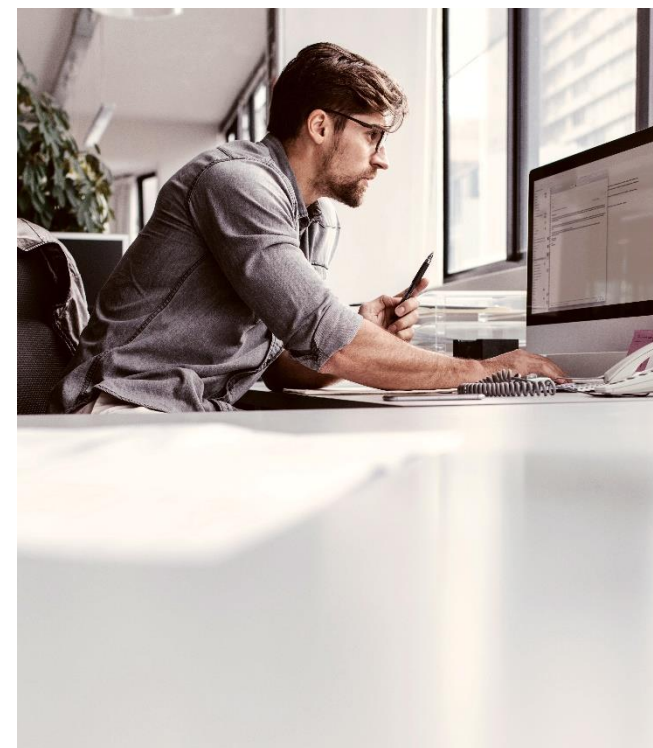
In order to assess the decision-making processes operating in 2020/21, we considered the decision made by Cabinet to stop the southern link road and stop the western bypass. The decision process began in 2019/20 progressed in 2020/21 with technical advice and peer review being commissioned with the final decision being made by Cabinet in July 2021. Scrutiny Committees were involved with their recommendations presented to Cabinet. The Council's advisors attended Committee and were available to answer members' questions. Financial costs and risks were also set out in the covering report. Based on this review we did not identify any areas of concern.



Improvement recommendations

Governance

6 Recommendation	The Council should ensure that appropriate records are maintained for settlement agreements and an audit trail is established. We suggest a central record should be maintained which includes confidential decisions so that corporate knowledge is maintained regardless of changes in Senior Officers.
Why/impact	Records should be maintained to enable the Council to demonstrate that appropriate procedures have been followed.
Summary findings	The Council provided us with copies of the settlement agreements as a record of the decisions for the second settlement agreement made in 2020/21 along with a settlement agreement made in August 2021. We encountered difficulties in obtaining a clear audit trail to support the decisions.
Management comment	Procedures will be reviewed and appropriate records will be maintained going forward of all decisions in relation to settlement agreements.

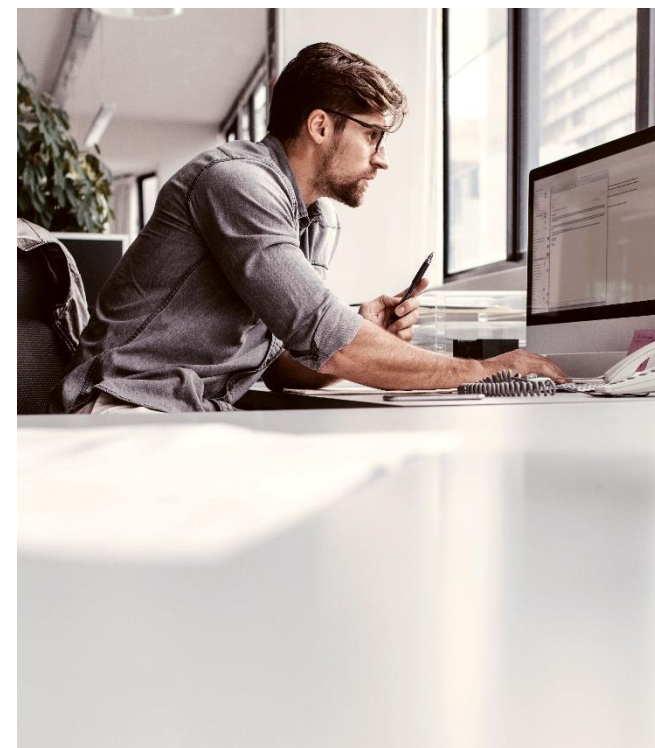


The range of recommendations that external auditors can make is explained in Appendix C.

Improvement recommendations

Governance

7 Recommendation	The corporate risk register should be updated to map each corporate risk to the relevant corporate objective.
Why/impact	This will ensure that officers and members are aware of the corporate objective that could be impacted should the risk not be effectively managed.
Summary findings	The risks within the corporate risk register are RAG rated and assigned a risk owner but are not mapped to the Council's corporate objectives.
Management comment	The review of the Corporate Risk Register and the approach to strategic risks is already in the forward plan for review by Management Board. This will including linking strategic risks to the global risk landscape and corporate objectives.



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

Financial sustainability



We considered how the Council:

- identifies all the significant financial pressures it is facing and builds these into its plans
- plans to bridge its funding gaps and identify achievable savings
- plans its finances to support the sustainable delivery of services in accordance with strategic and statutory priorities
- ensures its financial plan is consistent with other plans such as workforce, capital, investment and other operational planning
- identifies and manages risk to financial resilience, such as unplanned changes in demand and assumptions underlying its plans.

Identifying and addressing financial pressures

For the financial year 2020/21 the Council reported to Cabinet a revenue overspend of £38,000 in June 2021, including delivery of £1.9m of savings against an original target of £2.35m, 81% delivery rate. This overspend was funded from reserves. This overspend was as a result of underspends in the Adults and Communities Directorate (£1.96m) and central treasury and capital financing reserves (£1.9m) and overspends of £3.7m in the Children and Families Directorate and £0.8m within Economy and Place.

The year end performance was an improvement on the forecast outturn position reported throughout the year and has been achieved due to the receipt of additional COVID-19 funding and the shortfall in achieving planned savings being funded from reserves.

The Council's capital expenditure was £55m, an underspend of £35m against the revised budget of £90m for 2020/21.

The Medium-Term Financial Strategy (MTFS) and budget for 2021/22 were approved by Full Council in February 2021. A net budget of £157.117m was approved. This net budget excluded the Better Care Fund, public health and the Dedicated Schools Grant (DSG) budgets and included challenging savings of £11.1m, although significant savings are not anticipated for 2022/23 and 2023/24.

The MTFS published by the Council does not provide a financial forecast beyond one year. Although funding has been modelled over three years, the cost of services was not and the budget deficit has not been projected beyond one year.

A three year forecast was developed internally but this was not published and provided to members. The Council's rationale for not providing a financial strategy for longer than one year for members is the uncertainty of only receiving annual financial settlements.

Although it is recognised that the forecasts become more uncertain the further out in time the forecasts go, medium and long term financial planning is required to provide a basis for future policy and decisions. The Council should move to a MTFS which models financial plans over three to five years in accordance with current best practice.

Uncertainty can be better understood by quantifying the uncertainty of the data or by providing scenarios and sensitivity analysis which would provide a forecast outcome from a change in forecast parameters. For example forecasting the budget gap if pay costs were to increase by 1, 2 or 3%. The sensitivity analysis and scenario analysis has been limited to income.

The Budget and MTFS included a range of assumptions which in our view were reasonable based on the amount of uncertainty faced by the sector, although more recent pressures, such as the energy and inflationary pressures may put these into question for subsequent years.

Assumptions included:

- Council Tax (CT) increase of 2% from 2022/23, with a decline in the base for one year only as additional households claimed relief
- no increase in adult social care precept
- pay inflation 3% in 2020/21, 2% thereafter
- non-pay (contract) inflation, this includes a variety of anticipated increases across a range of different contracts, such as spot contracts for care market.

Financial sustainability

Identifying and addressing financial pressures

In 2020/21 the Council had a savings target of £2.35m and achieved 81% of this target (£1.9m). For 2021/22 the savings target was significantly higher and the Council required £11.205m of savings, an increase of over £8m compared to 2020/21. As at quarter 3 the Council has delivered £7.417m and has forecasted to deliver £8.336m (74%) by the year end. For 2022/23 the savings target has reduced to £2.37m.

The Council recognised that its arrangements for achieving better delivery of savings targets needed to be strengthened and as a result has introduced 'Star Chambers' to provide greater challenge and the requirement for all savings plans to be supported by a business case and an equality impact assessment.

The MTFP contained a list of savings and income generation schemes. The progress against the savings targets is reported quarterly to Cabinet and clearly highlights those savings yet to be delivered and at risk of non-delivery. However, a clear explanation is not always provided such as why slippage has occurred and if any mitigating actions are required. The savings are also reviewed by the Management Board prior to review by Cabinet.

The Dedicated Schools Grant (DSG) is a ring fenced budget which is allocated in four blocks; schools, early years, high need and central school services. The Council, along with other authorities across the country is facing high demand and increased costs within the high needs block. However, unlike many other authorities the Council is fortunate not to have an overspend on its high needs block in 2020/21, although the DSG high needs block budget remains a challenge in 2021/22.

The financial position on the DSG is not routinely reported to members and was not included within the quarterly budget reports. This information was discussed and agreed with the Schools Forum and budget decisions are taken by the relevant Cabinet Lead.

During 2020/21 and in early 2021/22 a number of issues have occurred that have had a financial impact on the Council in 2020/21 and beyond. These include:

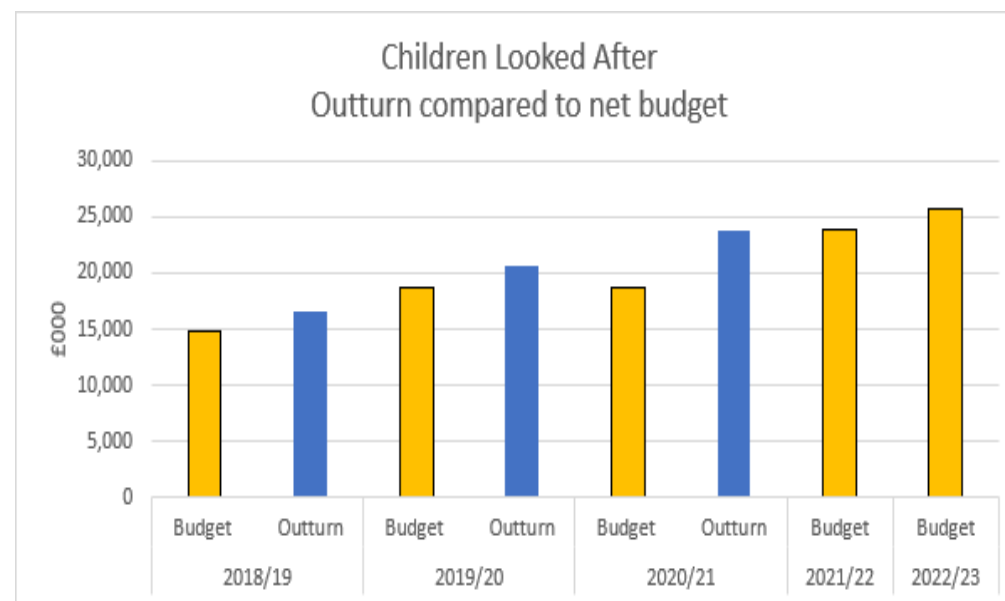
- Herefordshire Transport Strategy – a decision was made to stop the western by-pass and southern link roads
- the increasing costs and overspends for Looked After Children (LAC) by the Council
- Children's social care - the court judgment issued by The Hon Mr Justice Keehan and the subsequent non-statutory notice from DfE.

The decision to stop the western by-pass and southern link roads was made by Cabinet in December 2020. This decision is discussed in more detail on page 24.

The total cost was £11.4m and it was agreed that this would be funded from earmarked reserves. In addition a repayment of growth deal funds was made to the Marches Local Enterprise Partnership (LEP).

This additional cost was funded from reserves, so that the financial impact of this decision was a reduction in reserves in 2020/21 with no financial impact on subsequent years.

The chart below compared the budget compared to outturn for LAC. It illustrates the increasing costs year on year and that although the budget has increased the Council has still consistently overspent. This financial pressure is being experienced by councils across England and Wales, but the situation is compounded further by the recognition that the services provided by the Council were in considerable and urgent need of improvement. This has been highlighted on pages 11 and 12.



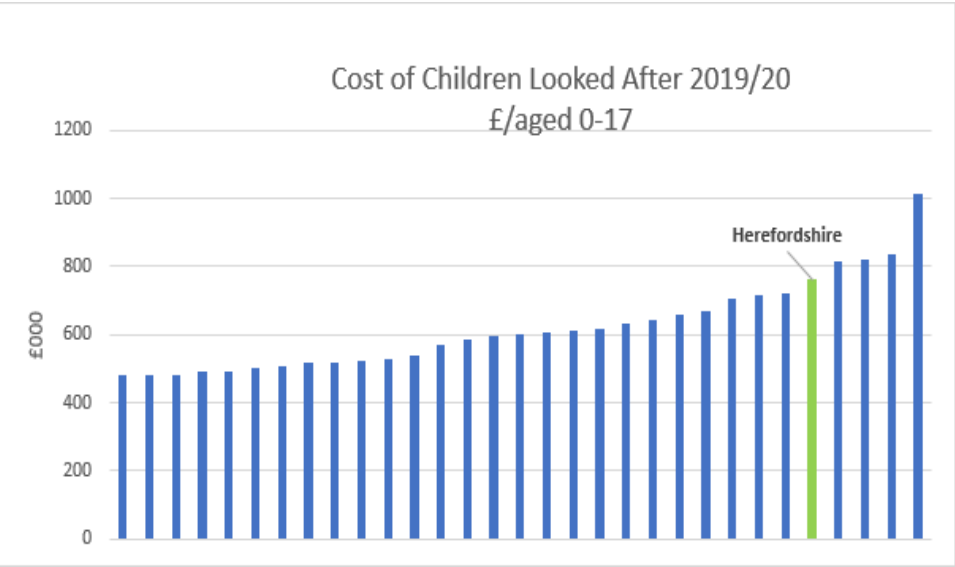
Financial sustainability

Identifying and addressing financial pressures

The MTFS for 2021/22 onwards does not take into account the financial impact of the court judgment and the non-statutory notice, as these occurred after the budget and MTFS were agreed. An update was taken to Cabinet in June 2021 highlighting the non-statutory improvement notice and the establishment of an Improvement Board and agreement to fund the improvements at a cost of £5.2m. The majority of this would be funded from earmarked reserves, with a contribution of £1.6m from the Department for Education. At this stage it was acknowledged that additional funding would be required and it was anticipated that this will be in the region of another £5m. Following completion of the Director of Children’s Services review, Cabinet agreed on the 31 March 2022 to provide £11.5m to fund the improvement journey. This will be funded from the Financial Resilience Reserve. The funds will be drawn down in two tranches; £5m in April 2022 and £6.5m from July 2022. A resources board has been established to monitor performance against this additional funding.

The Council’s view is that implementing the actions within its Children’s Social Care improvement plan should improve the issues identified within its non-statutory notice, including the cost of LAC and the quality of the service which the Council provides.

The chart below compares the cost of LAC across 30 other unitary authorities and illustrates that the costs are already high in Herefordshire, compared to the majority of other unitary authorities.



Consistency with workforce strategy plans

Ensuring the Council’s financial plans are consistent with its workforce strategy and plans ensures that workforce financial pressures are understood and reflected. However, we established that the Council did not have a workforce strategy in place until January 2021 and its workforce plans have yet to be developed.

Whilst we recognise that the Council is aware of the workforce issues within its Adult Social Care and Children’s Social Care Services, the workforce plans which were in place for 2020/21 did not fully address all aspects of workforce planning, such as:

- analysis of current workforce
- future workforce needs
- analysis of current to future need and action required to achieve future need.

Capital Strategy

The capital programme for 2020/21 was £122m, as agreed in February 2020. In line with the Council’s standard practice the budgets were re-profiled following quarter one actual outturn and were consequently reduced to £99m for the year. At the year end the capital budget had reduced further to £90m, as a result of the adjustments following the decision to stop the western by-pass and southern link roads.

The Council delivered £55m of its capital programme, 61% of the quarter four budget, but only 45% of the original budget agreed by Council in February 2020 and 55% of the re-profiled quarter one budget. Although the Council has delivered a number of significant projects - Marlbrook Primary School extension; construction of the Shell Store, part of the Enterprise Zone and the purchase of Maylord Orchards Shopping Centre.

It is the Council’s formal approach to re-profile the budget in quarter one, as the capital budgets are often based on estimates prior to the final budget being confirmed at a later stage. Whilst we would anticipate an element of re-phasing of capital budget during the year for unforeseen circumstances, we would recommend that performance is monitored against the original budget and that the Council works towards ensuring the original budget more accurately reflects expect spend in year.

Performance against the capital budget is reported quarterly to Cabinet, who receive summary narrative and performance reports by individual projects. However, we note that the narrative report does not always provide an explanation for slippage and we suggest that, in future, Cabinet members should be provided with an explanation for slippage, including the underlying reasons and service implications for any project delays.

In 2021/22 officers have made us aware that Hereford has been successful in securing £22.4m to invest in the City’s Town Investment Plan.

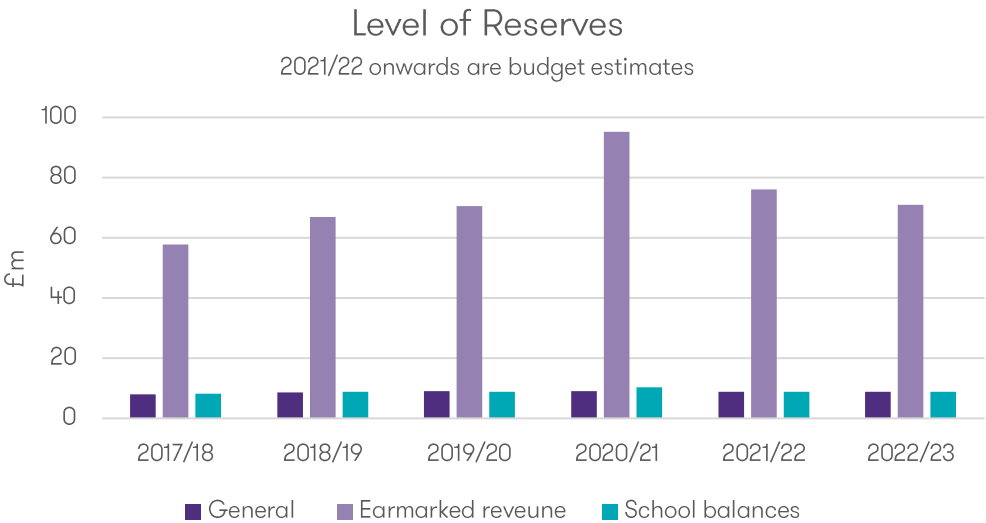
Financial sustainability

Managing financial resilience

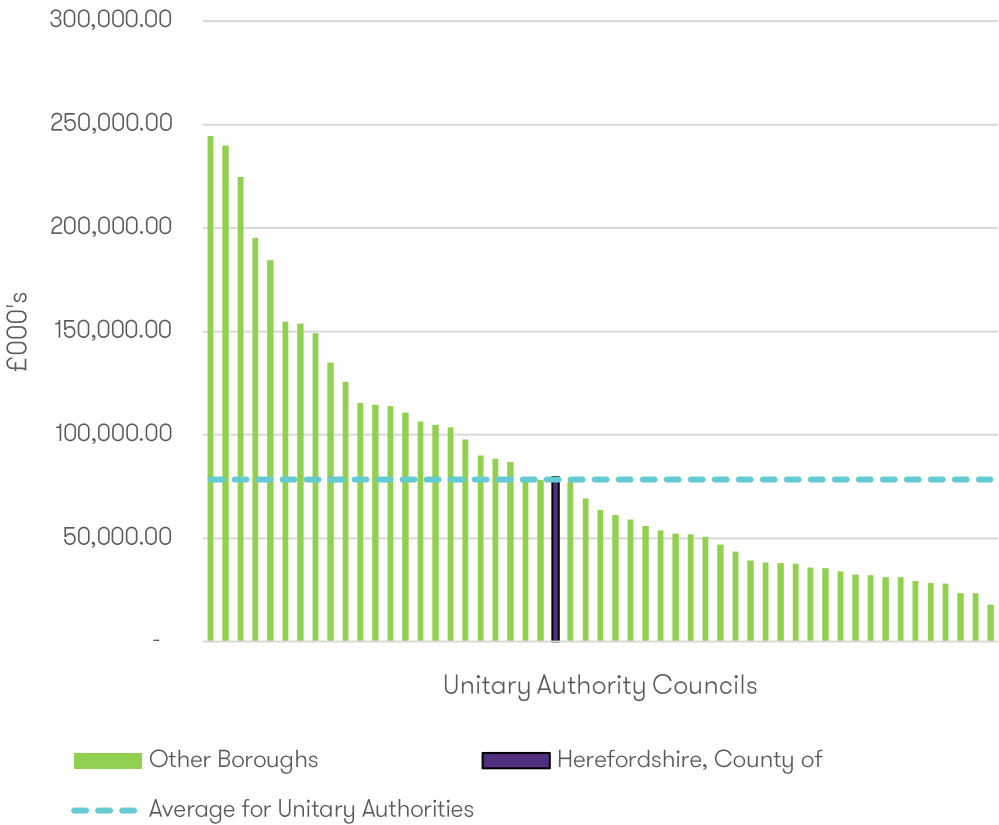
The general fund reserve is to cover uncertainties in future years' budgets, whereas earmarked reserves are set aside for specific purposes. Whilst the Council maintains its general fund reserve at a steady level, it has also used its earmarked reserves (its earmarked business resilience reserves) to meet future expenditure commitments, such as service overspends and shortfalls in planned savings.

The MTFS included the Council's reserves policy, which set out that general fund reserves should be maintained at 3-5% of the net budget requirement. At the close of 2020/21 the balance was £9.1m, 5.7% of the Council's net budget. The following charts show that in recent years the Council has increased its level of reserves (albeit, note that 2020/21 is high due to rate relief funding and central government COVID-19 funding). The chart opposite also illustrates that the total level of reserves is in line with the average when compared to other unitary authorities. Whilst these comparisons are reassuring, in line with best practice, the Council should quantify the financial assumptions and risks within its MTFS and formally assess if the level of reserves is sufficient to meet these possible future pressures.

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Total general fund and non-schools earmarked general fund reserves as at 31 March 2020



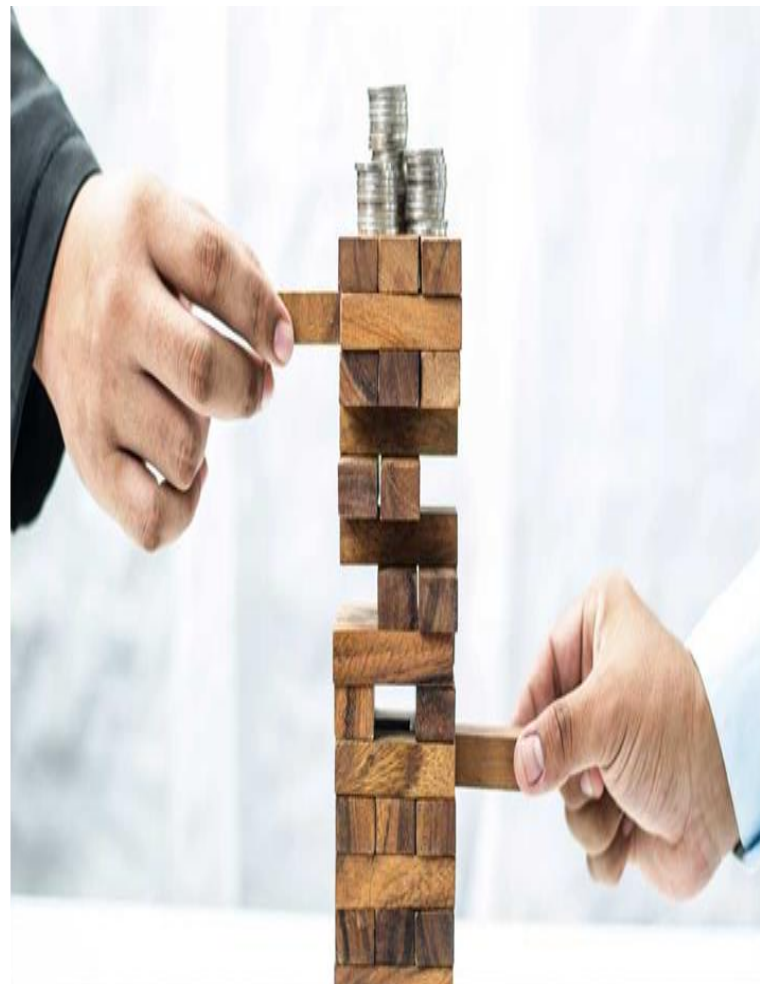
Financial sustainability

Auditor judgment

Like all public sector bodies, the Council continues to face financial challenges and uncertainty over the medium term. These challenges are compounded by an overspend and not being able to deliver its planned savings targets, the additional financial pressures of addressing service improvements within its Children's Social Care Services and contract management arrangements.

Going forward there will also be major national cost pressures from energy costs and inflation. Despite these challenges, we have not identified any risks of significant weaknesses in arrangements as part of our work on financial sustainability. Although the Council has delivered an in-year deficit we consider that the Council has sufficient reserves to cover this overspend and mitigate against the uncertainty in the short to medium term, but will need to maintain effective financial control to ensure the position remains manageable.

We have, however, made some improvement recommendations based on our understanding of best practice.



Improvement recommendations



Financial sustainability

- 8 Recommendation** The Council should strengthen its financial planning. The Council should:
- increase the financial planning timeframe in the MTFS from one year to three or five years and ensure the longer horizon MTFS is reviewed and agreed by members
 - introduce scenario and sensitivity analysis within the MTFS

Why/impact Financial planning would be strengthened by extending the period of the MTFS. Scenario and sensitivity analysis can assist in illustrating the impact of uncertainty.

Summary findings The Council's MTFS currently covers current year. CIPFA best practice is for a financial planning horizon of current year plus five. Although longer term forecasts become inherently more difficult, a longer horizon would help identify years where significant budget gaps are forecast and allow longer term consideration of mitigating strategies. The MTFS should provide a basis on which members can better understand the Council's financial position and provide a catalyst for future policy and decisions.

Management comment A refresh of the MTFS is planned for July 2022 and this will include a 3-year projection of both income and expenditure. Sensitivity analysis will also be undertaken on significant costs which could be subject to volatility and/or uncertainty as well as income streams.



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

Improvement recommendations

Financial sustainability

9 Recommendation	The Council should ensure narrative is provided to explain any slippage or shortfall in savings targets in the quarterly budget performance reports provided to Cabinet.
Why/impact	Detailed explanations should enable members to understand the reasons for any shortfalls and enable them to more effectively challenge the shortfall
Summary Findings	The progress against savings targets is reported quarterly to Cabinet and clearly highlight those savings yet to be delivered and at risk of non-delivery. However, a clear explanation is not always provided such as why slippage has occurred and if any mitigating actions are required.
Management comment	For 2021/22 the budget setting document included a specific appendix in relation to savings targets and this appendix was reported on during 21/22 through the in-year financial monitoring reports.



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

Improvement recommendations



Financial sustainability

10 Recommendation	The Council should include its performance against budget for the Dedicated Schools Grant (DSG) within its quarterly Cabinet budget reports.
Why/impact	Whilst performance for the high needs block is positive this might not always be the case and members should be aware of the budget performance for the DSG.
Summary findings	The financial position on the DSG is not routinely reported to members and was not included within the quarterly budget reports. This information was discussed and agreed with the Schools Forum and budget decisions are taken by the relevant Cabinet Lead.
Management comment	The Council will include monitoring of the Dedicated Schools Grant financial performance in quarterly monitoring report from 2022/23.



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

Improvement recommendations

Financial sustainability

11 Recommendation	The Council should quantify the financial assumptions and risks within its MTFS and assess if the level of reserves is sufficient to meet these possible pressures.
Why/impact	This is recognised good practice and enable the Council to better understand if its reserves are sufficient to meet possible risks and pressures.
Summary findings	The Council does not quantify the financial assumptions and risks within its MTFS and formally assess if the level of reserves is sufficient to meet these possible future pressures.
Management comment	This recommendation will be implemented in the refresh of the MTFS and ongoing. Thereafter financial assumptions will be clearly stated in any formal report and a specific section on financial risk will be included together with an explanation as to how those risks will be managed, including potential use of reserves.



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

Improvement recommendations



Financial sustainability

12 Recommendation The Council should develop more comprehensive and integrated workforce plans which support its recently developed workforce strategy.

Why/impact

A good workforce plan understands the current workforce, determines the future needs and aims to address any shortages/surpluses or skills and expertise mismatches. Financial plans can then take into account any workforce requirements.

Summary findings

The Directorate workforce plans which the Council had in place during 2020/21 did not fully consider all aspects of a good workforce plan:

- Analysis of the current workforce
- Future workforce needs
- Workforce gaps mapped to future needs
- Actions to monitor the shortfalls

Management comment

A review of the existing workforce plans will be undertaken during 2022/23 with a view to supplementing these with an overarching workforce plan aligned with the Workforce Strategy.



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

Improvement recommendations



Financial sustainability

13 Recommendation	The Council should report capital outturn against the original capital budget and ensure this budget more accurately reflects the expected capital spend in year.
Why/impact	Reprofiling the capital budget in quarter one does not provide an incentive to accurately set the budget at the start of the year.
Summary findings	It is standard practice to reprofile the capital budgets in quarter one. In 2020/21 the capital budget was reduced by £23m to £99m as a result, 19% reduction from the original budget.
Management comment	<p>The Council will increase its due diligence on proposed capital budgets to inform the next formally approved budget. However, the capital budgets, by their project nature, often include estimates of capital spend with the final budgetary requirements being confirmed at a slightly later stage. There is, therefore, likely to be an ongoing need to confirm the final budget requirements after the budget has been approved. It can become less meaningful to report against a budget which all stakeholders know does not reflect the final proposed cost of the project.</p> <p>For this reason, it is proposed that, where capital projects, can be quantified and confirmed prior to the start of the financial year, budgets will not be re-profiled. However, where capital budgets are purely estimates, this will be made clear in the budget setting report. It is proposed that these budgets will be re-profiled at 30 September but financial reporting to clearly show both the original and revised budget with detailed explanations for any proposed changes to the budget.</p>



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

Improvement recommendations

Financial sustainability

14 Recommendation	The Council should ensure that quarterly performance reports to Cabinet provide an explanation for slippage of the capital programme.
Why/impact	Cabinet members require this information to be able to effectively challenge the forecast and outturn capital position.
Summary findings	The narrative report does not always provide an explanation for slippage and suggest that going forward the Cabinet members should be provided with an explanation for spillage. Where the slippage is as a result of delay in the project consideration should be give to providing an explanation for the delay.
Management comment	Cabinet members are briefed separately during their briefing sessions on project progress during the year and reasons for slippage but is recognised that this is an area of formal reporting which needs improving. The Council's finance and programme manager teams will work together to improve the explanation provided for slippage on capital projects by better utilising information contained within the Verto system.



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

COVID-19 arrangements



Since March 2020 COVID-19 has had a significant impact on the population as a whole and how Council services are delivered.

We have considered how the Council's arrangements have adapted to respond to the new risks they are facing.

The Council began 2020/21 operating under emergency powers which it introduced on 23 March 2020. At the time a high number (99) emergency decisions were taken and these decisions were recorded as officer decisions and reported to the Council. In September 2020 the Council agreed changes to the Constitution to introduce COVID-19 interim standing orders.

The Council adopted new ways of working with staff working remotely where possible and as result enabling the Council to reduce its office footprint. Staff who worked in non-critical services were redeployed to support the emergency response, such as delivering emergency supplies and supporting the most vulnerable.

Governance arrangements were strengthened during the pandemic with the previous Chief Executive appointing two deputy chief executives to focus on the operational role of the chief executive whilst he focused on COVID-19 arrangements. The Council maintained a separate risk register for COVID-19 risk, the rationale for this being that it enabled a more flexible recording and response to the risks. This risk register was reported to Cabinet on four occasions and was provided as an appendix to the performance and budget monitoring reports.

The Council had planned to update and revise its business continuity plans in early 2020. However, as this coincided with the start of the COVID-19 pandemic the process halted, the Council's operating model changed and bespoke continuity plans were implemented with the focus on critical services. During 2020/21 no business continuity plans were developed and following a change in Chief Executive and internal re-structuring in 2021/22 it has been recognised that the previous business continuity plans are no longer valid. As a result a new critical service structure has been identified and updated business continuity plans are being developed.

In 2020/21 the Council received £163m in grant funding, to fund both the extra costs within the Council and to fund and support businesses and local residents. As a result the Council was able to pay over £100m to over 9,000 local businesses, £26m in business rate relief and over £1m in council tax relief. The Council did not change its payments processes to ensure efficient and speedy payments, instead introduced more payment runs and agreed to pay suppliers immediately, instead of waiting the normal 30 days.

COVID-19 posed a significant financial challenge to the Council's financial sustainability, and the Council monitored closely the increased costs throughout the year, at Directorate level and to the Management Board. Costs in the region of £9.9m were directly attributable to COVID-19, with increase in costs attributable to reductions in income, increased demand and increase in placement costs.

Actions taken in 2021/22

In June 2021 a detailed report was presented to the general Scrutiny Committee reflecting on how the Council had responded to the pandemic. This was an opportunity to reflect on what didn't go so well as well as what went well. As part of this report the Committee received details on digital campaigns, a breakdown of the COVID-19 grants received, emergency decisions made and the COVID-19 risk register.

In June 2021 Cabinet agreed its COVID-19 recovery plan with approval of £6.144m to deliver the immediate action to enable economic recovery. The recovery plan is to be funded from central government set aside in an earmarked reserve and £2m from the Covid 19 Outbreak Management Fund.

Auditor judgment

During 2020/21 the officers and members of the Council have worked hard to support their local residents and business during these unprecedented times. Our review of how the Council responded to the COVID-19 pandemic has not identified any evidence of significant weaknesses in arrangements. Overall we concluded that the Council's response to the COVID-19 pandemic was appropriate and effective.

Opinion on the financial statements



Audit opinion on the financial statements

We gave an unqualified opinion on the financial statements on 10 December 2021.

Audit Findings Report

More detailed findings can be found in our Audit Findings Report, which was published and reported to the Council's Audit and Governance Committee on 24 November 2021.

Whole of Government Accounts

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

Our work in this area remains outstanding while we wait the Audit Instructions from the National Audit Office.

Preparation of the accounts

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

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

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



Appendices

Appendix A - Responsibilities of the Council



Role of the Chief Financial Officer (or equivalent):

- Preparation of the statement of accounts
- Assessing the Council's ability to continue to operate as a going concern

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 - Risks of significant weaknesses - our procedures and findings

As part of our planning and assessment 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 that we needed to perform further procedures on. The risks we identified are detailed in the table below, along with the further procedures we performed, our findings and the final outcome of our work:

Risk of significant weakness	Procedures undertaken	Findings	Outcome
<p>Financial sustainability</p> <p>Whilst the Council has secured a sound financial base, recent events raise risks that the Council can not effectively plan and manage its resources to meet these financial pressures. Additional financial pressures have arisen as a result of :</p> <ul style="list-style-type: none"> • The court judgment for Children's Services • The write back of the by-pass costs 	<p>We reviewed:</p> <ul style="list-style-type: none"> • the financial pressures identified by management when setting the 2020/21 budget and the planned mitigations • the process for identifying the budget gaps in the medium term and the plans the Council has in place to address these shortfalls • The impact of the unforeseen financial pressures i.e. the costs of setting up the Improvement Board in Children's Services and the reversal of the by-pass decision • the significant in year overspends such as Looked After Children's Services. 	<p>Despite the financial challenges, we have not identified any risks of significant weaknesses in arrangements as part of our work on financial sustainability. Although the Council has delivered an in-year deficit and faces ongoing financial pressures we consider that the Council has sufficient reserves to cover this overspend and mitigate against the uncertainty in the short to medium term, but will need to maintain effective financial control to ensure the position remains manageable.</p>	<p>Appropriate arrangements in place eight improvement recommendations raised.</p>
<p>Governance</p> <p>Risk that Council has not made informed decisions and is not effectively managing its risks, as reflected in previous years VfM audits. In 2020/21 there were changes to the officer leadership team which will be finalised in 2021/22.</p>	<p>We reviewed:</p> <ul style="list-style-type: none"> • how the Council responds to the independent review of its public realm contract • the Council's response to the internal review of the HCCTP • the impact that the court judgment had had on the Children's Services Department and review the Council's actions taken to date • considered the impact of the changes in the management team in 2020/21 on the governance arrangements 	<p>Whilst we have not identified any significant weaknesses within the governance section we recognise that failures in the leadership and management of children's services have had an impact on the Children's Social Care Services and the Council's ability to effectively meet its statutory duties.</p>	<p>Appropriate arrangements in place and two improvement recommendations raised.</p>
<p>Economy, Efficiency and effectiveness</p> <p>Risk that the Council is not using its cost and performance data to improve the way that it manages and delivers its services.</p>	<p>We reviewed:</p> <ul style="list-style-type: none"> • the Council's response to the internal review of the HCCTP • how the Council is responding to the regulatory engagement regarding Children's Services. 	<p>Although we established that the Council has begun the improvement journey the arrangements in place during 2020/21 had not yet improved its Children's Social Care Services and its management of its public realm contract with Balfour Beatty Living Places Limited.</p>	<p>Appropriate arrangements not in place, three key recommendations and five improvement recommendations raised.</p>

Appendix C - An explanatory note on recommendations

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

Type of recommendation	Background	Raised within this report	Page reference
Statutory	Written recommendations to the Council under Section 24 (Schedule 7) of the Local Audit and Accountability Act 2014. A recommendation under schedule 7 requires the Council to discuss and respond publicly to the report.	No	
Key	The NAO Code of Audit Practice requires that where auditors identify significant weaknesses as part of their arrangements to secure value for money they should make recommendations setting out the actions that should be taken by the Council. We have defined these recommendations as 'key recommendations'.	Yes	Pages 7, 8 and 9
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	Pages 17 – 21 Pages 25 and 26 Pages 32 - 38

Appendix D - Use of formal auditor's powers

We bring the following matters to your attention:

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 statutory recommendations

Public interest report

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

We did not issue any public interest reports

Application to the Court

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

We did not apply to the Courts

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 apply for judicial review

