



# Auditor's Annual Report on Herefordshire Council

2021/22

15 June 2023



# Contents

Section	Page
Executive summary	03
Opinion on the financial statements	05
Use of auditor's powers	06
Commentary on the Council's arrangements to secure economy, efficiency and effectiveness in its use of resources	07
Financial sustainability	08
Governance	14
Improving economy, efficiency and effectiveness	20
Follow-up of previous recommendations	28
<b>Appendices</b>	
Appendix A – Responsibilities of the Council	
Appendix B – Risks of significant weaknesses, our procedures and findings	
Appendix C – An explanatory note on recommendations	



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

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



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

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# Executive summary



## Value for money arrangements and key recommendations

This report focuses on the arrangements in place during the financial year 2021/22.

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

Auditors are required to report their commentary on the Council's arrangements under specified criteria and 2021/22 is the second year that we have reported our findings in this way. As part of our work, we considered whether there were any risks of significant weakness in the Council's arrangements for securing economy, efficiency and effectiveness in its use of resources. Our conclusions and the direction of travel between 2020-21 and 2021-22 are shown in the table below.

Criteria	Risk assessment	2020/21 Auditor Judgment	2021/22 Auditor Judgment	Direction of travel
Financial sustainability	No risk of significant weakness identified	No significant weaknesses in arrangements identified, but seven improvement recommendations made	No significant weaknesses identified; no improvement recommendation have been raised. Further details can be found on pages 8 to 13.	↑
Governance	Risk identified that the Council had not learnt from previous issues or followed-up on previous actions	No significant weaknesses in arrangements identified, two improvement recommendations made	We have also identified two improvement recommendations. Further details can be found on pages 14 to 17.	↔
Improving economy, efficiency and effectiveness	Risks identified: <ul style="list-style-type: none"> <li>Court judgement and non-statutory notice for Children's Social care Services</li> <li>Lack of effective contract management arrangements for public realm and facilities management contracts</li> <li>Continuing to contract with a dormant company, Balfour Beatty Living Places</li> </ul>	Three significant weaknesses identified and five improvement recommendations	Three significant weaknesses identified in 2020/21 remain: <ol style="list-style-type: none"> <li>Failure to meet the statutory needs of children within its Children's Social Care Services</li> <li>Not effectively contract managing its public realm contract</li> <li>Continuing to contract with a dormant company.</li> </ol> Two improvement recommendations raised. Further details can be found on pages 20 to 25.	↔

Our work has identified areas for improvement, particularly in the area of improving economy, efficiency and effectiveness where we have issued key recommendations. However, we have not raised any statutory recommendations, which as set out in Appendix C are reserved for the most serious concerns over VFM arrangements.

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

# Executive summary



## Value for money arrangements and key recommendations

2021/22 has been another challenging year for the Council. Children's Social Care Services continue to be a area of concern with inspectors concluding that the Council has made limited progress in improving the quality of practice for children in need and those subject to child protection, culminating in a inadequate Ofsted rating in July 2022. There have, however, been signs of improvement across other areas of the business, including the Market Town Investment initiative aimed increase investment in local economic and social projects. We also note the timely conclusion of the 2021/22 opinion audit of the Council's financial statements.



## Financial sustainability

The Council achieved an underspend of £0.54m against its annual 2021/22 budget of £161m, after receiving COVID-19 funding of £4.79m. The greatest pressure within year was within the Children's, Young People and Family Services which was overspent by £4.4m. Despite this, financial pressures remain and if not carefully managed will adversely impact on financial sustainability into the medium term. Specifically, the draft financial statements for 2022/23 report an overspend in 2022/23 of £5.6m. There is also a budget gap of £15.8 from 2024/25 to 2026/27.

We note that, unlike a number of other councils across England the Council has not accumulated a deficit balance within its Dedicated Schools Grant (DSG), within its high needs block (special educational needs and disability) and continues to actively manage this risk to prevent the entering a deficit.

We have not identified any risks of significant weaknesses in arrangements as part of our work on financial sustainability or improvement recommendations and consider that, subject to continued careful financial management, the Council has sufficient reserves to cover this overspend and mitigate against the uncertainty in the short to medium term.



## Governance

We found no evidence of significant weaknesses in the Council's governance arrangements for ensuring that it made informed decisions and properly managed its risks, although we have identified two areas for improvement. The Council needs:

- to make more progress in implementing the change required to bring about the desired improvements in respect of the key regulator and auditor recommendations
- consider appointing independent members to the Audit and Governance Committee.



## Improving economy, efficiency and effectiveness

In our 2020/21 report which was reported to Audit and Governance Committee in May 2022 we raised three areas of significant weakness and three corresponding key recommendations. These significant weaknesses and key recommendations remain valid for 2021/22. The key recommendations from our work in 2020/21 which relate to these significant weaknesses are set out on pages 29 and 30.

1. The Council's failure to meet the statutory needs of children in its care. This is evident from the findings in the court judgment issued in March 2022, the lack of progress made since Ofsted inspected in 2018 and the 'inadequate' Ofsted inspection rating provided in July 2022.
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.
3. The Council's continued contract management arrangements with Balfour Beatty Living Places Limited (BBLP), a dormant company and the Council's failure to seek further third party legal advice, document its decision to continue to contract with BBLP, consideration of the risks this might continue to pose and make Cabinet aware of this decision.

We recognise that these judgements relate to 2021/22 and that since then further progress has been made across a number of areas by the Council. This progress will be assessed when we review arrangements relating to the financial year 2022/23.

# Opinion on the financial statements



## Audit opinion on the financial statements

We gave an unqualified opinion on the Council's financial statements on 8 February 2023.

## Audit Findings Report

More detailed findings can be found in our AFR and subsequent addendum, which was published and reported to the Council's Audit & Governance Committee on 31 October 2022.

## 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. We are awaiting NAO guidance in this area.

## 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.

## Issues arising from the accounts:

Our work identified one material error and a resulting prior period adjustment. The error related to the reclassification of the council's Energy from Waste asset, previously reported as land and buildings, as an item of plant and machinery.

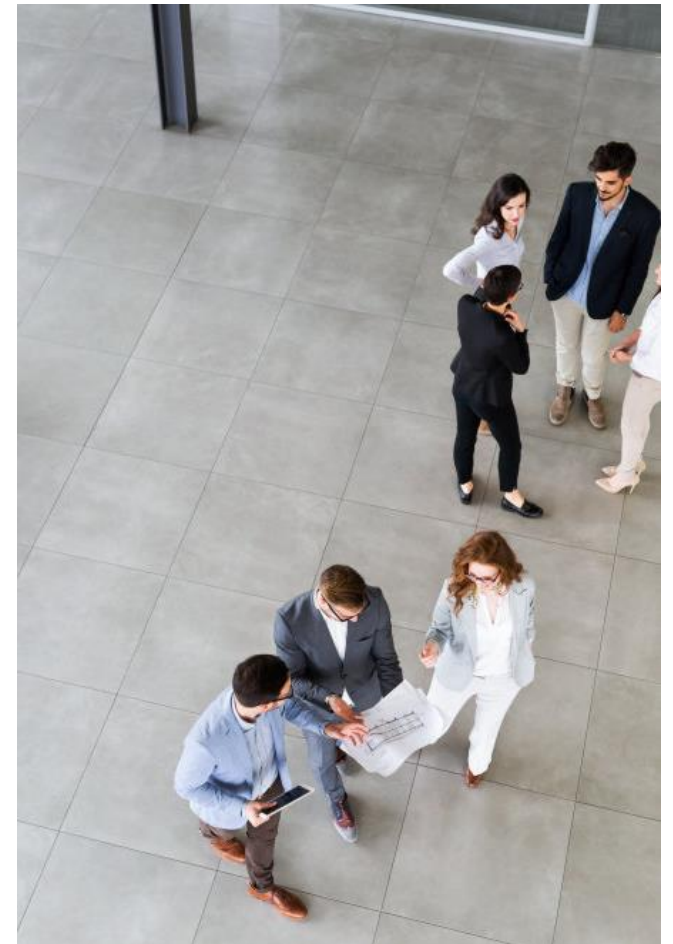
We also identified a number of other errors also corrected in the final statements that have resulted in a £143k adjustment to the Council's Comprehensive Income and Expenditure Statement.

Our subsequent addendum report highlighted two further issues in respect of infrastructure and the net pension liability disclosure both misstated but given that these amounts were below materiality, no changes were made and we concurred with managements view that these were not material to the reader.

The Council has strengthened its finance team in the year and we have noted an improvement in the quality of working papers and response to audit queries that have facilitated a more timely completion of the opinion audit in 2021/22.

## 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



# Use of 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 issue 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 a public interest report

## Application to the Court

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

We did not apply to the Court.

## Advisory notice

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

We did not issue an advisory notice.

- 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.

## 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.

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

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

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

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

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



## Financial Sustainability

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



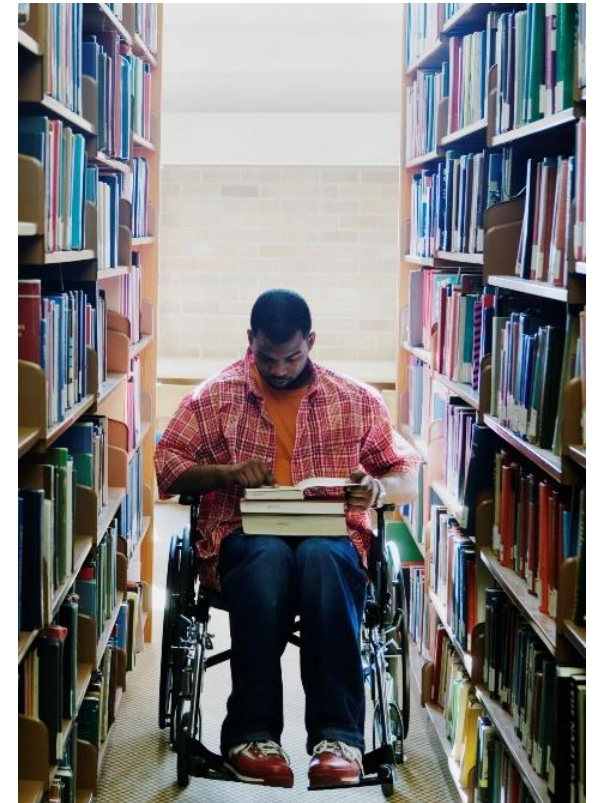
## Governance

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



## Improving economy, efficiency and effectiveness

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



Our commentary on the Council's arrangements in each of these three areas, is set out on pages 8 to 28. Further detail on how we approached our work is included in Appendix B.

# Financial sustainability



## We considered how the Council:

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

## Budget Outturn

The Council achieved an underspend of £0.54m against its annual 2021/22 budget of £161m. This underspend was delivered after receiving COVID-19 funding of £4.79m. The greatest pressure was within Children's, Young People and Family Services which was overspent by £4.4m, predominately due to the cost of residential placements.

Budget	2018/19 £m	2019/20 £m	2020/21 £m	2021/22 £m	2022/23 £m
Planned	144	151	157.12	161	175
Outturn	143.5	150.5	157.16	160.5	181*
(Over) underspend	0.5	0.5	0.04	0.5	(10)

\* Estimated 2022/23

The table above shows the budget compared to actual spend from 2018/19 to 2021/22 along with the latest estimate for 2022/23 and shows a good track record of delivering against its planned budget. Given the financial pressures facing all councils, the Council is finding it increasingly difficult to balance the books into the medium term and 2022/23 is no different. Officers continued to work to bring the 2022/23 budget back on track in the final part of the year, with a draft outturn position of a £5.6m overspend reported.

## Identifying and addressing financial pressures

The 2022/23 budget was agreed and reported to Cabinet in January 2022, along with the Medium-Term Financial Strategy (MTFS). The budget included Council tax increase of 2.99% (inclusive of 1% adult social care precept) and 2% for future years.

For 2022/23 Council identified the following budget pressures:

- Inflation and other contractual increases.
- Losses of income due to effects of COVID-19.
- Homecare staff shortages including social care workers
- High costs in Children and Young People Placements
- Pay inflation

The 2023/24 MTFS forecast an overspend of £6m (£5.6m actual overspend) in 2022/23 to be funded from the Council's earmarked reserves. It also shows a budget gap of £15.8m over the next three years of the MTFS, as illustrated below. This is a current area of challenge for the Council.

Budget	2022/23 £m	2023/24 £m	2024/25 £m	2025/26 £m	2026/27 £m	Total £m
Net	176	193	208	233	244	
Gap	-	-	9.11	0.18	6.51	15.8



## Identifying and addressing financial pressures (continued)

The MTFS, annual budget and the associated savings proposals and pressures are considered each year by the Scrutiny Management Board.

In 2020/21 we identified that the published MTFS did not provide financial forecasts beyond one year. The Council has looked to address this and as part of the 2022/23 budget setting process the MTFS showed only income projections for more than one year, but in 2023/24 the MTFS showed income and expenditure forecasts for three years as part of the appendices. The income and expenditure forecasts, along with any resulting budget gap is a key aspect of the MTFS and can be found within appendix M” of the 2023/24 to 2026/27 MTFS.

Currently the Council use a third party to model its MTFS plans which are refreshed throughout the year. Inputs are based on income sources together with latest data and assumptions specific to the Council and linked to government announcements. The Council has arrangements in place to ensure that budget assumptions are reasonable and that specific pressures are adequately reflected in the numbers along with the key sources of funding. An example of this is the additional monies allocated to children’s social care service over recent years.

The 2022/23 MTFS identified key risks including external risks that could affect the delivery of the Council’s planned savings, treasury management, capital strategy and reserves. The key risks identified were assessed in terms of likelihood and impact with mitigating actions. For example, high needs budgets which are funded by the dedicated school’s grant, where many other councils are in a deficit position. Whilst the Council anticipates increase in central government funding, it has managed to stay within budget to avoid a deficit position.

In response to the increased pressures, for example additional placement costs from unexpected demands, the financial resilience reserve was established to manage risks present in the base budget. This reserve will also fund the two year transformation programme the Council has embarked upon to improve the journey of the children social care services, as noted below.

The Council’s priority to improve the Children’s Social Care Service is also a significant financial pressure. Since the court judgement issued in April 2021 and the issue of statutory improvement notice from the DfE, the Council and the DfE have provided additional funds to the Council’s Children’s Social Care Service. In 2021/22 the Council agreed funding of £5.22m which has since been increased to £11.49m, which has been funded from the financial resilience reserve. The DfE have also provided funding of £1.7m.

The Council’s arrangements for budget setting an medium term financial planning continue to be refined and now provide more detail on assumptions reflecting the increased uncertainty of both funding and cost pressures. The Council’s 2023/24 budget setting process considered a range of assumptions and scenarios, such as a range of different Council Tax rises and movement in the pay award. For 2024/25 to 2026/27 a range of best/worst and most likely scenarios were considered for both income and expenditure. These scenarios have not been presented publicly within the MTFS, but have been discussed with members within the Council’s range of meetings, known as Star Chamber sessions.

## Financial planning aligned with strategic priorities

As discussed earlier within our governance section, the Council’s vision and objectives are set out within its County Plan, below which sits the delivery plan. The MTFS and budget are linked to the County Plan and provide the detail of how key priorities will be funded.

The current County Plan 2020-24 takes into consideration factors such as the Council’s rurality, the aging population profile and social mobility for young people, as challenges to service delivery.

In March 2022, Cabinet approved four Market Town Investment Plans (MTIPs) in order to increase investment in local economic and social projects. The development of the MTIPs highlights significant enhancement to infrastructure, public realm, shop fronts and buildings. This improved economic development should benefit both local residents and business owners and should also benefit the Council through increased revenue (business rates) and reduced dependency on Council Tax benefit.

## Plans to bridge the funding gaps and identify achievable savings

The Council does not have a track record of delivering all its planned savings. Delivery against planned savings is set out in the table opposite. In 2021/22 the Council had a savings target of £11m and only delivered savings of £8m (72%), additional income for central government, the most significant of which was covid funding offset this shortfall. For 2022/23 the savings target is significantly lower.

Throughout 2021/22 savings delivery performance was reported quarterly as part of the budget performance reports. As at September 2022, 74% of the savings target for 2022/23 has been achieved, recognising the much lower total.

Last year we recommended that the Council should ensure narrative is provided to explain any slippage in savings targets in its quarterly budget performance reports provided to Cabinet. We found that a narrative explaining the reason for the slippage was provided for the majority of saving schemes in 2022/23.

The 2023/24 indicative budget is predicated on the delivery of £14.1m of savings. In the following 3 years through to 2026/27 a total gap of £15.8m currently exists (as illustrated in the table on page 8) that will inevitably require further savings and efficiencies to balance the books. Delivering the full budget levels of savings and the importance of these being recurrent savings will only increase into the medium term given the gaps identified in the MTFS.

## Treasury management

The Council's three-year Treasury Management Strategy (TMS) includes investment and borrowing strategies with consideration to risks such as security, liquidity and interest rates, with the aim to maximise return on investments and minimise interest rate costs.

Cabinet received treasury management updates within the quarterly finance and performance reports. The TMS and a Capital Investment Strategy for 2022/23 was approved by Full Council in Feb 2022 as part of the budget. The Capital investment Strategy for 2022/23 indicates:

- a borrowing strategy to restrict short term loans to a total of 50% of loans required, thereby minimising the exposure on interest rate risk. It is estimated that this approach saves the council in excess of £1m of borrowing costs per annum
- £51.3m of capital spend requiring financing from prudential borrowing
- the Council's underlying need to borrow is expected to increase by £16.6m
- borrowing budget includes provision (£5.2m) to pay interest costs on short-term and existing fixed long-term borrowing
- capital investment budget of £99m in 2022/23 , £90m in 2023/24 and £45m in 2024/25.

## Planned savings compared delivered



### Long-term borrowing

The chart opposite shows that the Council in comparison to other similar councils has a low proportion of long term debt as a proportion of its long-term assets, illustrating that the Council has low levels of long-term debt. This will reduce the risk of exposure to increases in interest rates.

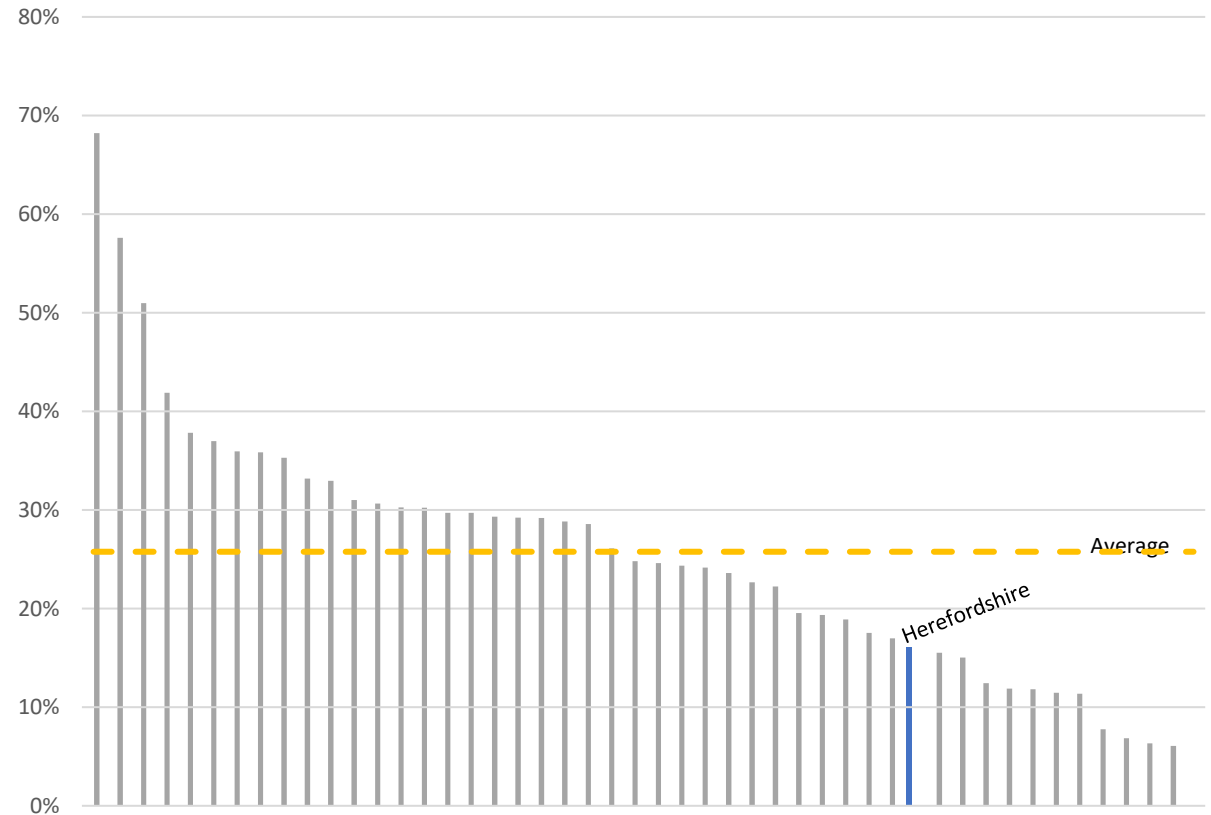
The average percentage of borrowing is 26%, the Council is below average at 16% and is at the lower end of the scale compared to other unitary councils.

### Workforce and strategy plans

The Council adopted its Workforce and Organisation Development Strategy (2021-2024) in January 2021. This strategy outlines the work the teams will do over the next four years to support the delivery of the County Plan. The workforce plan which would support this strategy has not been developed. Until the Council develops its workforce plans it cannot ensure the MTFS and budget is aligned to its future workforce proposals.

We recommend that the Council develop its workforce plans to understand what it requires and in turn ensures that the costs of such proposals are fully reflected in its MTFS and other financial plans can be amended to meet those needs. This was raised as an improvement recommendation last year and remains outstanding.

Long-term borrowing as a proportion of Long-term assets (%) 2020/21



## Workforce and strategy plans continued

A report on workforce issues within children's social care service was presented to scrutiny in February 2022 the report contained results of a staff survey which uncovered multiple areas including the issue of "Silo Working" as a theme area. The Council's Director of Human Resources informed us that the next steps would be to develop an action plan to address the issues raised. We recommend that as the Council work towards updating its workforce strategy in 2023, it continues to request and receive feedback from regular staff surveys and in addition to recruitment, it also focuses on retention strategies to ensure a sustained work force.

## Capital Investment

The Council's Capital Strategy approved in February 2022 clearly set out the process to approve capital projects and linked the capital projects to the County Plan aims. Each proposed Capital schemes is aligned a project delivery board, each delivery board report to the CLT .

It is standard practice to re-profile the capital budget in quarter one, as a result the Council's Capital investment budget in 2021/22 was reprofiled from £97m to £69m.

	2020/21	2021/22	2022/23
Original capital budget	£122m	£97m	£99m
Reprofiled	£99m	£69m	£67m
% reprofiled	19%	29%	32%
Outturn	£55m	£37m	£55m*
% shortfall to original budget	55%	62%	44%
% shortfall to reprofiled budget	44%	46%	18%

\* Forecasted outturn third quarter 2022/23.

At the end of the 2021/22 year, the shortfall (£32m) consisted of £4.79m for projects that have delivered below budget and the capital funds are no longer required. The remaining £26.7m has been rolled forward to 2022/23.

Capital Budget for 2022/23 - increased from £99m to £133.8m (due to £26.7m unspent budget carried forward from 2021/22 and £8m additional grants) and was reprofiled to £67m. The Council already forecasts an underspend of £12m against a reprofiled budget of £67m.

In prior year, we recommended that Council should report capital outturn against the original capital budget and ensure this budget more accurately reflects the expect capital spend in year. This recommendation has been addressed along with an explanation where slippage has occurred, see page 33.

## Level of Reserves

The first chart on the next page illustrates the level of general fund, earmarked reserves and school balances for the Council at the 31 March each year for 2017/18 to 2022/23. The Council has maintained its general fund (GF) reserve at a steady level, increasing from £9.1m to £9.6m (£0.5m increase due to underspend in the revenue budget). The Council's level of earmarked reserves since 2020/21 have begun to decline, recognising these are set aside for future pressures that are now arising, such as the resilience reserves having been used to fund overspends and cost pressures such as the children's social care service improvements. At the time of the original draft of this report in February 2023 the Council was projecting an in year overspend of £9.1m that would have placed further pressure on the level of reserves. Since then, the financial position for 2022/23 has improved with the draft financial statements for 2022/23 report an overspend in 2022/23 of £5.6m

The Council's specific earmarked reserves totalled £96.5m on 31 March 2022 (including £9.4m of School balances and £23.1m grant funding carried forward to 2022/23) and is estimated to be £67.8m at the end of 2022/23.

### Level of Reserves continued

The level of reserves and expected movement in reserves were set out in the MTFS as part of the annual budget setting process and were reported to Cabinet. The Chief Finance Officer completed his review of the reserves and concluded within the Section 25 Statement, that the balances held remain reasonable and prudent in addressing some of the current and future challenges.

The second chart opposite illustrates the Councils general fund reserves and non-schools earmarked reserves - rated as a percentage of net service revenue of expenditure. The Council is above average at 55% compared to other similar councils.

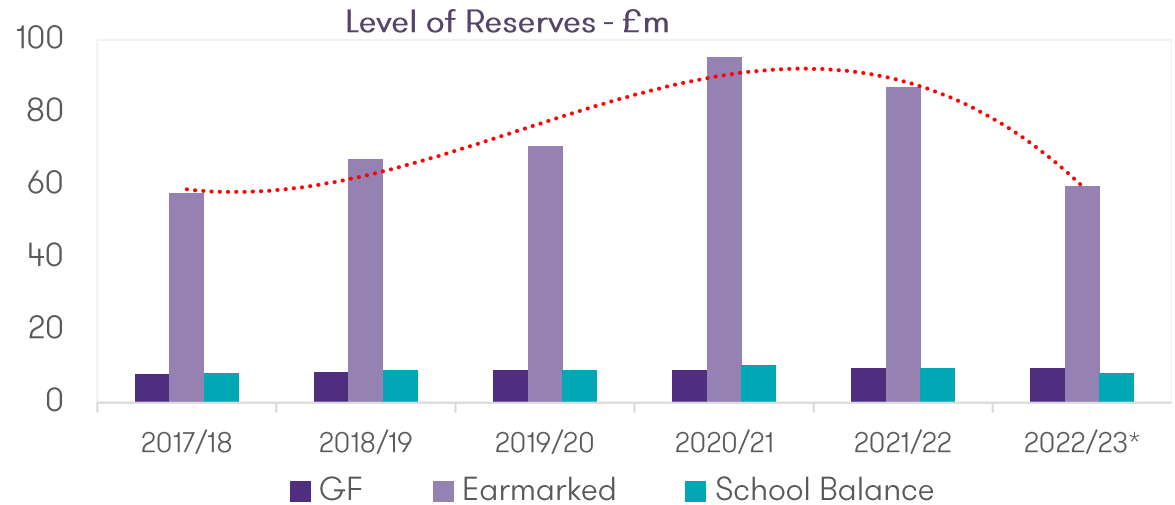
Overall, we consider that the Council has sufficient levels of reserves to meet existing financial pressures.

### Auditor judgment

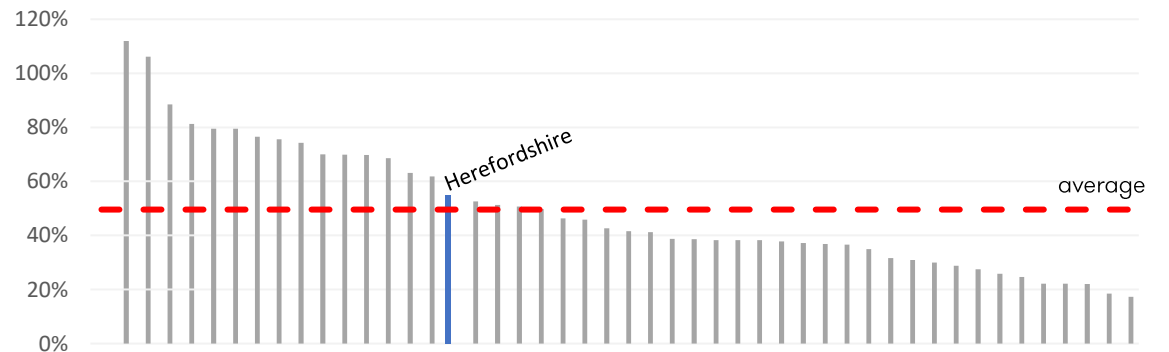
The Council achieved an underspend of £0.54m against its annual 2021/22 budget of £161m, after receiving COVID-19 funding of £4.79m. The greatest pressure within year was within the Children’s Young People and Family Services which was overspent by £4.4m. Despite this, financial pressures remain and if not carefully managed will adversely impact on financial sustainability into the medium term. Specifically, the draft financial statements for 2022/23 report an overspend in 2022/23 of £5.6m. There is also a budget gap of £15.8 from 2024/25 to 2026/27.

We note that, unlike a number of other councils across England the Council has not accumulated a deficit balance within its Dedicated Schools Grant (DSG), within its high needs block (special educational needs and disability) and continues to actively manage this risk to prevent the entering a deficit.

We have not identified any risks of significant weaknesses in arrangements as part of our work on financial sustainability or improvement recommendations and consider that, subject to continued careful financial management, the Council has sufficient reserves to cover this overspend and mitigate against the uncertainty in the short to medium term.



General fund and non-schools earmarked general fund reserves as a % of net service revenue expenditure 2021/22



# Governance



## We considered how the Council:

- monitors and assesses risk, gains assurance over the effective operation of internal controls and arrangements to prevent and detect fraud
- approaches and carries out its annual budget setting process
- Demonstrates leadership and governance and ensures corrective action is taken where needed, including in relation to significant partnerships
- ensures it makes properly informed decisions, supported by appropriate evidence and allowing for challenge and transparency. This includes arrangements for effective challenge from those charged with governance/audit committee
- monitors and ensures appropriate standards, meets legislative/regulatory requirements ) and where it procures and commissions services.

## Leadership

The Council appointed a new Chief Executive in 2020/21 and during 2021/22 the leadership team has stabilised as interim director posts have been replaced by permanent appointments.

During 2021/22 the Chief Executive conducted a restructure of the senior leadership team. The following appointments have been made:

- Children and Young People Director
- Economy and Environment Director
- Community Wellbeing Director
- Director of Governance and Legal Services.

As a result a number of the senior leadership are new to post and time will inevitably be needed for this new team to deliver on its priorities. The Chief Executive and his Corporate Leadership Team are committed to developing the culture, to move away from silo working and to create a collaborative leadership team, a one Council culture and way of working.

The high staff vacancy rate within the Children and Young People Directorate remains a real concern, resulting in the Council continuing to rely on costly temporary and agency staff. This situation has been compounded by staff leaving following the adverse court judgement and recent Ofsted inspection.

The Children's Commissioner's report has raised the issue that in her view the Council does not currently have the capacity and capability to improve children's services in a reasonable timeframe. The Commissioner has recommended that the leadership team of the children's services should be strengthened to ensure that the pace of improvement increases rapidly in line with its agreed improvement plan.

The Children's Commissioner has also raised concerns about the lack of strategic planning and that partnership working is very under-developed. This included the Children and Young People's partnership having only just met for the first time in over a year and the safeguarding partnership being ineffective in addressing key concerns.

Our findings along with those of the Children's Commissioner indicate that the Council has made limited progress in addressing the weaknesses within the Directorate and as a result the Council is failing to meet the statutory needs of children in its care. This remains a significant weakness in arrangements in 2021/22.

## Risk management

The Council has a Risk Management Plan (RMP) that sets out how risks are identified, assessed for likelihood, addressed, monitored and reported within risk registers.

In 2021/22 the Council reported risk registers at service, directorate and at corporate level. The RMP was reviewed in July 2022, in line with the Council's approach to review the RMP annually. The Corporate Risk Register was reviewed quarterly by the Audit and Governance Committee.

In 2021/22 the Council's Internal Auditor's, South West Audit Partnership (SWAP), undertook a high-level corporate review of risk maturity, this review did not identify any significant weaknesses, but did identify that risk management should be further improved and there remains a need to embed risk management across the Council. A more detailed risk management audit will be undertaken by SWAP in 2022/23.

The Council should therefore continue to look to strengthen this area and action the recommendation set out on page 23, relating to assessing the risks in relation to contracting with a dormant company. However, overall, we consider the arrangements in place to be adequate.

## Maintaining standards and internal controls

In 2021/22 there was no evidence of significant non-compliance with the body's constitution. We are not aware of any breaches of legislation or regulatory standards during the year.

The Internal Audit function, SWAP confirmed in their Annual Opinion Report (2021/22) that there were no areas of significant corporate risk reported during the year.

Internal Audit did, however, report that the Hereford City Centre Transport Package (HCCTP) was an area of concern with control weaknesses identified in how it operates. SWAP undertook a special investigation in January 2022 of the HCCTP to review compliance with the recommendations made on capital projects following an earlier audit in 2017/18 (Blue School House). SWAP concluded that budget monitoring arrangements were inadequate, together with a poor project governance structure and lack of escalation of key project issues. No evidence was provided to show the status of priority actions that followed from the investigation. The review raised 11 recommendations, of which one was priority 1 (findings are fundamental and require immediate action) and eight priority 2 (important and needs to be resolved by management). It is our understanding that these recommendations remain unresolved and an update has not been provided to the Audit and Governance Committee

## Learning from past weaknesses and following-up on past actions

As part of our 2021/22 VFM planning processes we identified a risk of significant weakness that the Council may not be learning or following-up and completing actions from past reviews and recommendations.

We considered how the Council has responded to significant weaknesses and the key recommendations raised in our previous report (issued in April 2022), changes in arrangements as well as the following reviews:

- Blue School House project
- Hereford City Centre Transport Package (HCCTP)
- Safeguarding Peer on Peer (now known as child on child) review.

The Council has strengthened its Project Management Office (PMO) to ensure past actions are not repeated, to address previously identified control weaknesses and apply lessons learnt to new projects. The PMO should ensure a consistent approach is adopted to addressing weaknesses and agreed actions are implemented. The PMO now tracks and monitors progress of both major capital projects but also key strategies and improvement reviews. The PMO provides monthly monitoring reports to the Executive Programme Board, which includes all Corporate Leadership Team members except the Chief Executive on cost and delivery. This has enabled the Council to separate its operational requirements from the assurance role.

The HCCTP review undertaken by Internal Audit in January 2022 also included consideration of compliance with the Blue School House recommendations, raised by the Council following an internal review in 2017. SWAP concluded that although there are some differences in the findings between the HCCTP review and the Blue School House findings and agreed actions there were strong similarities that can be seen through the audits since and including the Blue School House Refurbishment Investigation as follows:

- insufficient or clear audit trail to outline how budget figures have been derived and what budget figures are based on.
- insufficient detail and/or information to be included in governance decisions to ensure informed decision making takes place.
- a lack of robust budget monitoring and clarity on financial position.
- poor governance in relation to compensation events and increases in costs through the tender and contract award processes.
- insufficient recording in minutes and tracking of actions across the project governance structure, and
- lack of escalation of key project events/issues.

This illustrates that there were lessons to be learnt from the Blue School House project that could have been applied to the HCCTP project.

## Learning from past weaknesses and following-up on past actions continued

In March 2016 there was an alleged child on child sexual assault incident between two pupils who both attended the same school in Herefordshire. Following complaints received an investigation was undertaken in February 2017. This review was published in April 2017 and was released to the School and the Council. The findings and recommendations were not shared by the Council with other schools within Herefordshire, which were subsequently considered to be a weakness in arrangements and is an example of a missed opportunity of the Council not learning from previous mistakes and recommendations issued by others.

Further reviews were undertaken by the Children and Young People Scrutiny Commission. These reviews also led to a further external independent review that was commissioned in December 2020, with the terms of reference agreed in January 2021 and concluded in November 2022. We understand that the work took some time to conclude due to the complexity of the issues involved.

A key aim of the latest review was to assess the Council's handling of child on child sexual abuse allegations referred to its Multi-Agency Safeguarding Hub (MASH) in its schools since 2017, and what learning should it now embed into its processes in its engagement with schools, parents, pupils, its community and third parties when dealing with child on child abuse cases in Herefordshire schools.

The Leader, Deputy Leader, Cabinet Member Children and Families and Statutory Officers (S151 and Monitoring Officer) received a copy of the independent report and were updated by Chief Executive shortly after in November 2022. The report was also subsequently shared with the chair of the Children's Services Scrutiny Committee on 13 December 2022, at which it was confirmed that the Children's Commissioner considered the Council guidance issued to schools in respect of child on child abuse to be satisfactory. Further key members were also consulted and we understand that the Council that the Chief Executive intends to collate the feedback and consider the lessons learnt. Based on these findings we recognise that steps have been taken to strengthen processes in relation to child on child abuse.

Whilst, we recognise that the pace of change needs to increase no other significant issues have arisen in 2021/22 and based on these findings we do not consider this to be a significant weakness in arrangements in 2021/22 and have raised an improvement recommendation on page 18.

## Effectiveness of the Audit and Governance Committee

The effectiveness of an audit committee is dependent on several factors, including the role of the chair, attendance of members, their level of training, and their commitment to their responsibilities. In 2021/22, there was a good level of attendance by members at Audit and Governance Committee meetings. Training included member training and specific member development training. We, as your external auditors attend all Audit and Governance Committees and overall consider it to be fit for purpose. However, there are areas for improvement as set out below.

The Audit and Governance Committee does not have a single record of all external regulator and Internal Audit priority recommendations. Internal Audit recommendations are monitored but those raised by external audit are not.

We are of the opinion that the Council's Audit and Governance Committee effectiveness could be further strengthened through the appointment of one or more independent members who could bring increased objectivity, expertise and accountability to help the committee make decisions that yield better outcomes for the Council.

During the year and as at January 2023, the Council's Audit and Governance Committee consisted of seven councillors, it did not include any independent members. The Chartered Institute of Public Finance and Accountancy (CIPFA) in its recent statement (May 2022) on Audit Committees in Local Authorities in England, recommend that each authority audit committee should include at least two co-opted independent members. This builds on Sir Tony Redmond's 2020 Independent Review into the *Oversight of Local Audit and the Transparency of Local Authority Financial Reporting* which recommended that local authorities appoint at least one independent member to audit committees.



## Budget setting, control and monitoring

The 2022/23 budget was first reported to Cabinet in January 2022, along with an accompanying 3-year Medium Term Financial Strategy (MTFS) plan, and treasury management and capital strategies. The budget setting process commenced with a review of the base budgets at directorate levels and identification of cost pressures, followed by discussions with the budget holders. These budgets were then scrutinised by the Corporate Leadership Team, who were also tasked with identifying the Council's underlying savings requirement.

The approved budget for 2022/23 included information on budget pressures faced by the Council, prior year outturn as well as MTFS strategies considering various scenarios.

The budget setting process involved external consultation with stakeholders as well as a variety of debates and internal discussions during the budget Council meeting. The 2022/23 Cabinet's budget recommendations were provided to Full Council for approval in February 2022.

Quarterly budget monitoring reports were provided to Cabinet following budget holders review of financial performance and risks during the year. The reports also included appendices which included detailed narrative to explain variations.

Our review of the governance arrangements in relation to budget setting, control and monitoring has not identified any risks of significant weakness in the 2021/22 financial year.

## Settlement agreements

In 2020/21 we recommended to that the Council should maintain a central record of confidential decisions relating to settlement agreements. The aim of such a record would have been to ensure that corporate knowledge was maintained regardless of changes in senior officers. The Council have reviewed existed arrangements and have concluded that a central record is not required, and existing records provide sufficient evidence and that all information to support a decision is retained in the individual's HR file.

## Auditor judgement

We found no evidence of significant weaknesses in the Council's governance arrangements for ensuring that it made informed decisions and properly managed its risks, although we have identified two areas for improvement. The Council needs:

- to make more progress in implementing the change required to bring about the desired improvements in respect of the key recommendations
- consider appointing independent members to the Audit and Governance Committee.

# Improvement recommendations



## Governance

### Improvement Recommendation 4

The Council needs to make more progress in implementing the change required to bring about the desired improvements in respect of the key recommendations. It should ensure:

- rigorous processes are in place so that recommendations are completed fully and on a timely basis
- a single record of all external regulator and Internal Audit priority recommendations so that, amongst others, the Audit and Governance Committee can proactively monitor implementation.

### Why/impact

A mature organisation ensures action is taken to address failures in service provision and learns from previous mistakes so that improvements are made and the likelihood of similar incidents occurring to reduce.

### Auditor judgement

The Council's processes could be improved to ensure action is taken at pace and to enable others learn from past mistakes and issues.

### Summary findings

Not all recommendations raised by regulators as well as by internal and external audit are being actioned in an effective and timely manner. The Children's Commissioner concluded that the Children's Improvement Board has not been robust enough to be able to assist in the acceleration of improvements. The issues facing the Children's Service have been long standing and the steps taken to date have not addressed previous identified failings. The Commissioner has concluded that the Council does not currently have the capacity and capability to improve children's services in a reasonable timeframe.

### Management Comments

We will review arrangements for 2023/24 to ensure that the completion of improvement recommendations from external and internal sources can be monitored proactively.



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

# Improvement recommendations



## Governance

### Improvement Recommendation 5

The Council should consider appointing independent members to the Audit and Governance Committee.

### Why/impact

Independent members can provide additional capacity, skills and knowledge

### Auditor judgement

The Audit and Governance Committee would benefit from independent members.

### Summary findings

The current committee does not have any independent members.

### Management Comments

The Audit & Governance Committee will consider the appointment of independent members for 2023/24.



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

# Improving economy, efficiency and effectiveness



## We considered how the Council:

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

## Children's Social Care Services

Last year we reported that since June 2018, the Council's Children's Social Care services have been assessed by Ofsted as 'requires improvement'. Limited progress was made in addressing the improvement areas and in March 2021 Mr Justice Keehan issued a court judgment in relation to a case which involved four children placed in foster care. The judgment found significant failings over an extended period in respect of how the Council supported the children, 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.

In July 2022 Ofsted undertook a detailed inspection and the service received an overall rating of 'Inadequate' and a statutory improvement notice was issued. This assessment was in line with the findings of Ofsted's earlier focused visits which 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 Council has established an improvement board which has met regularly and has been chaired by the Department for Education Advisor. The Children's Commissioner concluded that the Board has not been robust enough to be able to assist in the acceleration of improvements. The issues facing the Children's Service have been long standing and the steps taken to date have not addressed these. The Commissioner has concluded that the Council does not currently have the capacity and capability to improve children's services in a reasonable timeframe.

This represents a further deterioration in arrangements in the area of children's services since our review last year.

We consider the Council's failure to meet the statutory needs of children in its care and the failure to make improvements with sufficient speed to be a significant weakness in arrangements for the audit year 2021/22.

On page 14 we have commented on the governance arrangements around leadership and partnerships within the Children's Social Care Service and the impact they have had on the Council's ability to implement change.

## Performance management

The Council set out its vision and objectives within its County Plan. A five year plan that was supported by a delivery plan which included the objectives against which the County Plan was monitored.

Performance against these objectives was monitored and reported to Cabinet on a quarterly basis. However, we identified that the objectives within the County Plan and supporting delivery plan have not been updated to reflect changes in service delivery. For example, those indicators relating to children's services do not reflect the Court Judgement or the latest Ofsted inspection and do not provide the reader with an overall reflection of the Children's social care service.

Although we recognise that the Children's Services Improvement Plan was reported to Cabinet at the same meeting as the County Plan Delivery Plan Failure (February 2022), the Delivery Plan objectives were not updated to take into account that failures within the Children's Service would have an impact on the objectives of the Delivery Plan.

The Children's Commissioner's report also reported that the ambitions of the County Plan were not being realised. This failure and the inadequate Ofsted rating is not evident from the performance measures currently being used to assess performance against the County Plan Delivery Plan.

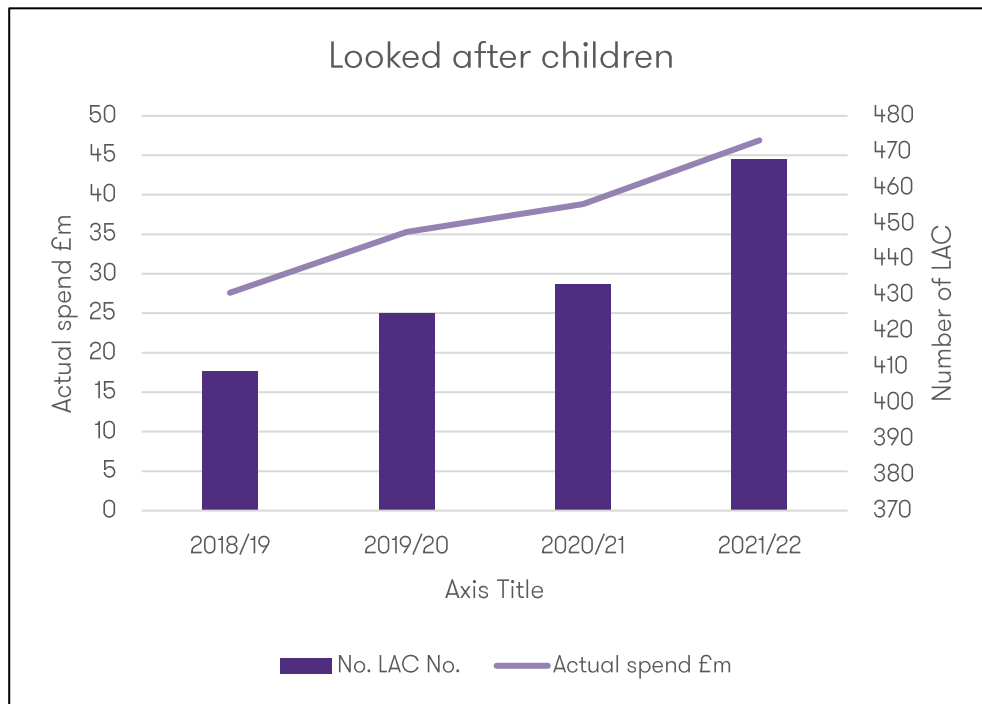
## Benchmarking

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. As part of our review we discussed a range of indicators produced by our management tool, ‘CFO Insights’. The Council has continued to use benchmarking to assess, amongst other things, its financial resilience and confirm the appropriateness of its level of reserves.

The CFO Insights indicators are based on 2022/23 budget information and 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:

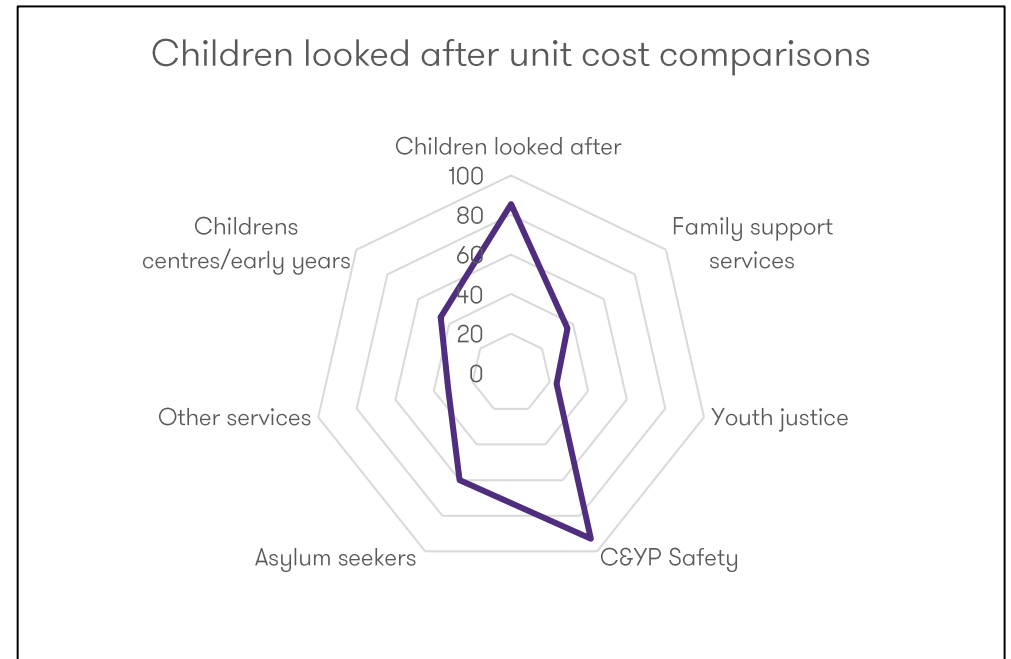
- Children’s social care
- Planning and development control services.

### Children’s social care



Children’s social care remains very high cost and is as expected due to the high numbers of high cost looked after children and additional funds having been allocated to improve this service area following the adverse court judgement and inadequate Ofsted rating. The chart opposite illustrates the increasing numbers and costs.

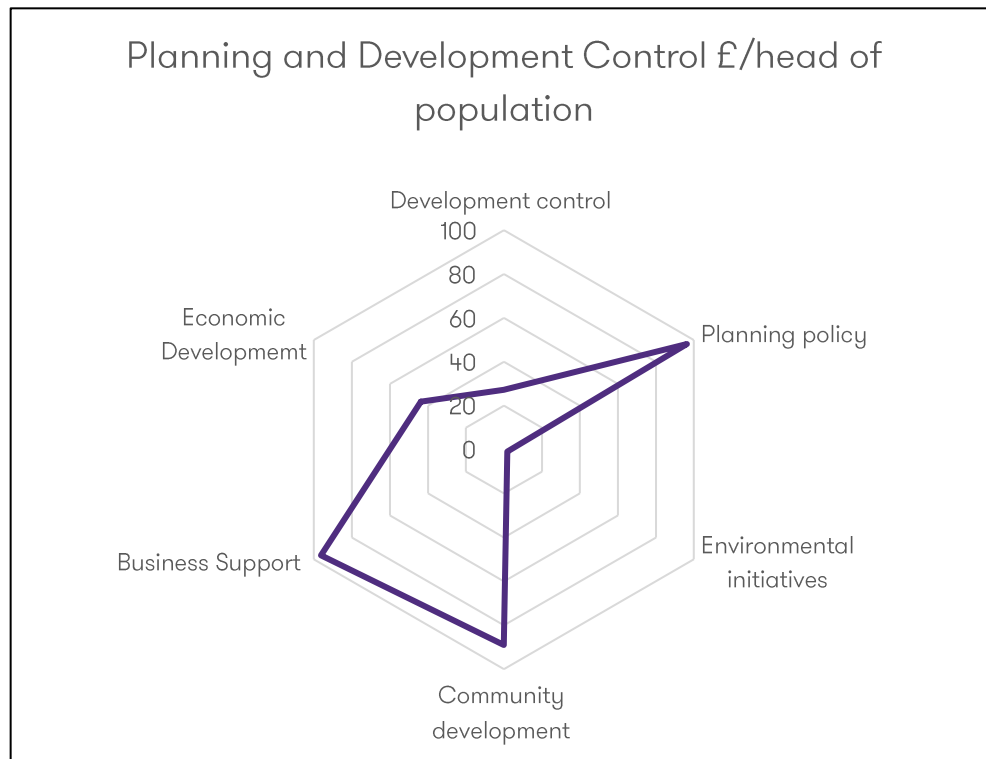
The chart below illustrate the issue within Children’s Social care. The rate of improvement has been raised as a concern by Children’s Commissioner, as progress has been slow with limited outcomes for children.



On the chart above 50 represents the group median. The group in this case is all unitary councils. If a measure is closer to the outside of the chart it would be classed as 'very high cost', whereas if the line is closer to zero, then it would be classed as 'very low cost' in comparison to the group. Indicating that children looked after and children and young people safety are very high costs.

### Planning and development control

The high unit costs for planning and development control are attributable by the Council, to three areas, planning policy, community development and business support. We understand that the Council has explore why these areas are high cost in comparison to others and are attributable to additional planning costs attributable to phosphate contamination.



On the chart above 50 represents the group median. The group in this case is all unitary councils. If a measure is closer to the outside of the chart it would be classed as 'very high cost', whereas if the line is closer to zero, then it would be classed as 'very low cost' in comparison to the group. Indicating that business support, planning policy and community develop are very high cost.

### Procurement

The Council current procurement strategy which is available on the Council's website is dated 2018. The Council has developed a revised strategy 2022-25, which has been reviewed and ratified by Cabinet. We are not aware of any significant commercial or procurement undertakings during 2021/22, although the Council has been collaborating with Worcestershire County Council to develop a Joint Municipal Waste Strategy for Herefordshire and Worcestershire 2021 to 2035. The procurement for this new strategy will commence in 2022/23.

In order to remain compliant with procurement legislation the Council should follow its procurement rules and re-tender in line with current legislation. If these rules are not followed then this would constitute a procurement breach. The number of breaches should be recorded and formally reported to ensure compliance with procurement rules.

The Constitution sets out that exemptions from the Contract Procedure Rules should be by exception only and should be documented and completed in consultation with commercial, finance and legal services.

In 2022/23 the Council granted 40 contract waivers compared to 46 recorded in 2021/22. The Council has agreed procedures which should be followed and these procedures were documented within the Council's contract procedure rules. There were no significant instances of non-compliance within 2022/23.

### Contract management

In 2020/21 we identified a significant weakness in this area and raised a key recommendation relating to the management of the Council's public realm and facilities contracts with Balfour Beatty. This was following concerns raised in a number of reviews under taken by the Interim Capital Projects Director and Internal Audit.

Cabinet were formally made aware of the concerns raised within these internal reviews in July 2021. The Council then agreed a number of its own recommendations and actions. Cabinet also agreed the establishment of the Major Contracts Improvement Board to resource and facilitate the required improvements in contract management and commissioning, to strengthen the corporate centre and to provide capacity and support.

An improvement plan was developed in March 2022, seven months after it was agreed to establish an improvement board. The improvement plan is available on the Council's website.

## Contract management continued

The Major Contract Improvement Board, an internal joint officer and member board is responsible for monitoring performance and progress against the improvement activities. Progress is not being reported to a formal member committee or Cabinet.

In 2022/23, outside our year of review the Major Contracts Improvement Board met monthly between April 2022 and September 2022. The last meeting was held in September 2022 and included a Close Out Statement on the Major Contract Improvement Plan which showed that out of 39 actions across 11 improvement plans, 27 actions have been fully completed (70%), while the remaining 12 (30%) are in progress with expected completion dates of October 2022. The remaining actions are expected to be completed in 2023/24 when additional resources are available.

In our view, as progress to address this significant weakness were initiated late in 2021/22, the significant weakness in contract management arrangements for 2021/22 remains.

## Balfour Beatty Living Places Limited

Last year, in addition to the concerns relating to contract management, we reported 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, have continued throughout 2021/22 and as at the date of drafting this report BBLP remains registered as a dormant company at Companies House. Contract payments continue to be made to BBLP with invoices showing the company name of the dormant company.

Current management at the Council became aware that BBLP was a dormant company in January 2021. In 2020/21 no action was taken by the Council to better understand the risks posed to the Council as a result of this contractual arrangement and what if any mitigating actions might be required.

The Council only began to take action at the end of 2021/22, when legal advice was obtained in March 2022 following our enquiries. This advice included the following statement: - *'Our overall view is that the Council is not fundamentally legally exposed and the Contract is not invalidated by these arrangements, but we maintain the view that these arrangements are of dubious validity and could cause issues in the event that there was a major dispute between the parties.'*

In March 2022 the Council wrote to BBLP asking them to either:

- commence trading through BBLP; or
- novate the public realm contract to BB Group.

The Council subsequently received correspondence from BBLP which explained that BBLP is an agency company of Balfour Beatty Group and *"when contracting with an agency company, a customer is contracting with Balfour Beatty Group Ltd as a legal matter"*.

The Council were also informed that they were made aware of this in the initial contract submission. This letter provided the submission made by BBLP in 2012 as part of the PQQ process and a letter from the Company secretary dated 4 November 2020 setting out the legal status of the agency company structure. Balfour Beatty Group explained that BBLP is an agency company which enables it to *'sign contracts, place orders and otherwise operate like any other conventional trading company, the key difference being that they do so for and on behalf of the group'* and *'can be sued, in both civil and criminal litigation'*.

This correspondence was not shared with the Council's legal advisors and further advice has not been sought. Whilst the information provided by BBLP may have legitimate standing, the Council has not formally confirmed this. Council Officers have verbally confirmed that in their view they do not consider this arrangement to be a risk to the Council and intend to take no further action with regards to the dormant company. However, this decision has not been documented and we remained concerned that in the absence of a proper documented risk assessment and conclusion on whether any further action is required that the Council remains exposed should a major dispute occur. As a minimum we would expect that legal advice was sought as to the view posed by Balfour Beatty Group and the decision and risks to be documented and presented to Cabinet.

Based on these findings we consider that the Council's contract management arrangements remain a significant weakness in arrangements, as it has not sought further third party legal advice, documented the potential risks and formally communicated this officer decision to Cabinet.

## Contract procedure rule

In 2020/21 we identified that the Council's existing contract procedure rules did not cover the evaluation of tenders and the range of due diligence required of potential suppliers. 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. As a result, the contract procedure rules were updated in July 2022 setting out the additional due diligence required including Companies House searches, Fraud checks and credit history. However, for the year under review these arrangements were not in place.

## Performance managing subsidiaries

Hoople Ltd 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 Ltd was wholly owned by the Council and Wye Valley NHS Trust, the Council being the majority shareholder.

Performance monitoring and ensuring appropriate governance over 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.

In 2020/21 we recommended that the Council should strengthen the performance monitoring arrangements for Hoople Ltd to include formal reporting to members, such as an annual report. The arrangements remained the same in 2021/22, but in 2022/23 the Council began reporting on the financial performance of Hoople within its quarterly budget performance reports to Cabinet.

However, Hoople's performance in relation to the service it delivers which is covered by Service Level Agreements (SLAs) has not yet been reported to Cabinet. We understand that this is reviewed by individual service managers. In order to ensure an appropriate level of performance is delivered and members are aware of how Hoople is performing we recommend that the Council should also consider reporting performance inline with key performance indicators within the SLAs to Cabinet.

During 2021/22 the responsibility for overseeing the Council's interests and shareholder responsibility sat with the Council's Audit and Governance Committee. However, throughout 2021/22 the Council's Audit and Governance Committee did not review or consider Hoople's performance, neither were scrutiny involved. Based on these arrangements it is unclear who fulfilled the shareholder function during 2021/22. In early 2023 the Council has improved arrangements and established a shareholder committee.

The Council's S151 Officer and the Leader of the Council, are members of the Hoople Board and receive regular reports on Hoople. Specifically the company's trading position, financial position and key risks. In our experience, members and officers of the Council who are also appointed directors of a separate legal entity can present a risk of conflict of interest. This arrangement makes it difficult for the Council to challenge the commercial operations of the company and ensure that the company operates in the best interest of the Council.

Conflicts of interest can arise from acting as a director of the company and also when acting as a councillor or officer of the company. As a result we have raised an improvement recommendation on page 27.

## Significant partnerships

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.

The Council has entered into the following significant partnership in 2021/22 and updates have been provided to Cabinet:

- the Integrated Care System work with NHS and Public Health partners to implement for Herefordshire and Worcestershire.
- Herefordshire Climate and Nature Partnership - which focuses on six areas: housing and buildings; energy; transport; food consumption; farming and land use; and waste management
- Herefordshire Stronger Towns Partnership was awarded £22.4m from the Government's Towns Fund for a range of projects that support post-covid recovery and enhance economic growth. The programme is being delivered through a Towns Fund Board, the Stronger Hereford Board of which the Council is a key partner and the accountable body.



## Significant partnerships continued

In 2020/21 the Council introduced a self assessment for each partnerships 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, a number of areas for improvement and we raised the following improvement 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.

This recommendation remains outstanding.

## Auditor judgement

In our 2020/21 report which was reported to Audit and Governance Committee in May 2022 we raised three areas of significant weakness and three corresponding key recommendations. These significant weaknesses and key recommendations remain valid for 2021/22.

1. The Council's failure to meet the statutory needs of children in its care. This is evident from the findings in the court judgment issued in March 2022, the lack of progress made since Ofsted inspected in 2018 and the 'inadequate' Ofsted inspection rating provided in July 2022.
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.
3. The Council's continued contract management arrangements with Balfour Beatty Living Places Limited (BBLP), a dormant company and the Council's failure to seek further third party legal advice, document its decision to continue to contract with BBLP, consideration of the risks this might continue to pose and make Cabinet aware of this decision.



# Improvement recommendations



Improving economy, efficiency and effectiveness

## Improvement Recommendation 6

The Council should review and consider updating the indicators used to assess delivery and progress on ambitions and objectives within the County Plan 2020-2024 and its supporting delivery plan to ensure they take account of the Children's Services Improvement Plan.

## Why/impact

Performance objectives do not appear to take account of other key priorities which have occurred after the objectives were first agreed.

## Auditor judgement

Currently performance monitoring of the County Plan Delivery Plan does not directly take account of the improvements required within the Children's Improvement Plan.

## Summary findings

The Council separately reports performance against its Children's Improvement Plan and its County Plan Delivery Plan to Cabinet. Although both items are reported at the same time the County Plan's Delivery Plan does not reflect how failures within the Children's Services may impact on the Delivery Plan objectives and indicators.

The Delivery plan indicators relating to children's services do not reflect the Court Judgement and latest Ofsted inspection and do not provide the reader with an overall reflection of the Children's social care service.

## Management Comments

We will review arrangements from 2023/24 to ensure that routine monitoring and reporting includes performance against the Children's Improvement Plan.



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

# Improvement recommendations



## Improving economy, efficiency and effectiveness

### Improvement Recommendation 7

The Council should review its governance arrangements for Hoople Ltd considering the role of:

- the shareholder
- members and officers on the company board to ensure the scope for conflicts of interest is minimised to ensure there is a clear divide between those responsible for holding them to account and or overseeing them
- scrutiny.

### Why/impact

Hoople may not be effectively held to account and conflicts of interest may occur.

### Auditor judgement

The arrangements in place during 2021/22 did not ensure members had oversight of Hoople.

### Summary findings

The Hoople Board includes the Council's S151 Officer and the Leader of the Council. The November 2022 report to Cabinet indicated that the Council gains assurance from these two individuals' providing management with regular reports on the company's trading position, financial position and key risks as the membership. This might cause a conflict of interest.

During 2021/22 the responsibility for overseeing the Council's interests and shareholder responsibility sat with the Council's Audit and Governance Committee. However, throughout 2021/22 the Council's Audit and Governance Committee did not review or consider Hoople's performance, neither were scrutiny involved. Based on these arrangements it is unclear who fulfilled the shareholder function during 2021/22. In early 2023 the Council has improved arrangements and established a shareholder committee.

### Management Comments

The Shareholder Committee was established by resolution of Cabinet on 12 January 2023. Following guidance from external lawyers, the creation of a formal member led Shareholder Committee will provide robust, structured governance arrangements for the council as shareholder and enable greater oversight of the council's interest in the company from 2023/24.



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

# Follow-up of previous key recommendations

Recommendation	Type	Date raised	Progress to date	Addressed	Further action?
<p>1 <b>Key recommendation – children’s</b> The Council should continue to work with the Department for Education to improve its Children’s Social Care Services.</p>	Key	April 2022	<p>In June 2018 the Council’s Children’s Social Care services were reported by Ofsted as ‘requires improvement’. Limited progress had been made and in March 2021 Mr Justice Keehan issued a court judgment in relation to a case which involved four children placed in foster care.</p> <p>In July 2022 Ofsted undertook a detailed inspection and the service received an overall rating of ‘Inadequate’.</p> <p>Performance has deteriorated.</p>	No	<p>Yes – recommendations have been raised by the Children’s Commissioner.</p> <p>The Council needs to improve the quality of the service provided.</p>
<p>2 <b>Key recommendation – contract management</b> <b>The</b> 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.</p>	Key	April 2022	<p>Limited progress in 2021/22 as the Major Contracts Improvement Board (MCIB) was not established until April 2022.</p> <p>The MCIB concluded in September 2022 with the majority of actions noted as complete, but a number of actions requiring funding before they can be completed.</p> <p>AECOM report completed in 2022/23 which concluded that the HCCTP contract - <i>had not been managed fully in accordance with the contract and in line with good NEC project management practice.</i></p>	No	Completion of the outstanding actions and consideration of application to other major contracts.

# Follow-up of previous key recommendations

Recommendation	Type	Date raised	Progress to date	Addressed	Further action?
<p><b>3 Key recommendation – dormant company</b></p> <p>The Council should seek to regularise its contractual arrangements for its public realm contract with Balfour Beatty Living Places Limited and ensure it:</p> <ul style="list-style-type: none"> <li>• obtains further legal advice beyond that already obtained to clarify the validity of the current contract arrangements</li> <li>• fully understands the implications of contracting and paying a dormant company</li> <li>• undertakes appropriate due diligence before engaging in any major contracts; and</li> <li>• reviews existing contracts to ensure they are operating within appropriate legal standards and internal policies.</li> </ul>	Key	April 2022	<p>The Council obtained legal advice in March 2022. This advice provided the following statement: - <i>‘Our overall view is that the Council is not fundamentally legally exposed and the Contract is not invalidated by these arrangements, but we maintain the view that these arrangements are of dubious validity and could cause issues in the event that there was a major dispute between the parties.’</i></p> <p>In March 2022 the Council wrote to BBLP asking them to either:</p> <ul style="list-style-type: none"> <li>- commence trading through BBLP; or</li> <li>- novate the public realm contract to BB Group.</li> </ul> <p>The Council subsequently received correspondence from BBLP which explained that BBLP is an agency company of Balfour Beatty Group and "when contracting with an agency company, a customer is contracting with Balfour Beatty Group Ltd as a legal matter". The Council were also informed that they were made aware of this in the contract submission. This letter provided the submission made by BBLP in 2012 as part of the PQQ process and a letter from the Company secretary dated 4 November 2020 setting out the legal status of the agency company structure. Balfour Beatty Group explained that BBLP is an agency company which enables it to <i>‘sign contracts, place orders and otherwise operate like any other conventional trading company, the key difference being that they do so for and on behalf of the group’</i> and <i>‘can be sued, in both civil and criminal litigation’</i>.</p> <p>This correspondence was not shared with the Council’s legal advisors and further advice has not been sought, whilst the information provided by BBLP may have legitimate standing, the Council has not formally confirmed this. Council Officers have verbally confirmed that in their view they do not consider this arrangement to be a risk to the Council and intend to take no further action with regards to the dormant company. This decision has not been documented and there is no evidence that the Council is not exposed should a major dispute occur.</p>	No	<p>The Council should review its arrangements and document its decision and related risks if it plans to continue to contract with BBLP. The decision should be formally communicated and signed off by Cabinet.</p>

# Follow-up of previous improvement recommendations

Recommendation	Type	Date raised	Progress to date	Addressed	Further action?
4 The Council should consider extending the use of benchmarking, in particular those areas which are high cost in comparison to others, such as highways and transport services.	Improvement	April 2022	The Council used benchmarking to assess its financial resilience and confirm its level of reserves, spend and performance of neighbouring and similar authorities.	Yes	Another improvement recommendation raised
5 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.	Improvement	April 2022	A new procurement strategy has been developed and now covers 2022-2025.	Yes	No
6 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.	Improvement	April 2022	The Contract procedure rules were updated in July 2022 setting out the additional due diligence required including Companies House searches, Fraud checks, credit history.	Yes	No
7 The Council should strengthen the performance monitoring arrangements for Hoople Ltd to include formal reporting to members, such as an annual report.	Improvement	April 2022	Performance was monitored and reported through (Service level Agreements (SLAs). Hoople's financial performance was reported to Cabinet in Quarter 2 2022/23 budget and performance report.	Partial	The Council should also consider reporting to Cabinet performance inline with key performance indicators as set out in the SLA.s.
8 The Council should review and improve the content of the significant partnerships' self assessment, both the questions asked and the replies received and consider: <ul style="list-style-type: none"> <li>documenting the strategic objectives to which they contribute</li> <li>ensure detailed responses are provided</li> <li>define why the partnership is a significant partnership in line with the Council's own definition.</li> </ul>	Improvement	April 2022	These actions have not been addressed. The Council considers that its governance are appropriate and does not intend to implement this recommendation.	No	The Council does not plan any further action.

# Follow-up of previous improvement recommendations

Recommendation	Type	Date raised	Progress to date	Addressed?	Further action?
9 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.	Improvement	April 2022	The Council have informed us that they have considered this recommendation and are of the view that appropriate records are held and do not consider that a central record is required.	No	The Council are of the view that no further action is required.
10 The corporate risk register should be updated to map each corporate risk to the relevant corporate objective.	Improvement	April 2022	Corporate risks within the corporate risk register have not been mapped to the corporate objectives.	No	Implement the original recommendation.
11 The Council should strengthen its financial planning. The Council should: <ul style="list-style-type: none"> <li>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</li> </ul>	Improvement	April 2022	Financial planning timeframe in the MTFS increased from one year to three years for 2021/22 and 2022/23 and four-years from 2023/24; MTFS is reviewed and agreed by members; further analysis is not reported as part of the MTFS but part of internal working papers as informed by Council.	Yes	No
12 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.	Improvement	April 2022	Narrative is provided to explain slippage or shortfall in savings targets for savings.	Yes	No

# Follow-up of previous improvement recommendations

Recommendation	Type of recommendation	Date raised	Progress to date	Addressed?	Further action?
13 The Council should include its performance against budget for the Dedicated Schools Grant (DSG) within its quarterly Cabinet budget reports.	Improvement	April 2022	Unlike a number of other councils across England the Council has not accumulated a deficit balance within its Dedicated Schools Grant (DSG), within its high needs block (those with a disability or special education need). However, this information is not reported to Cabinet. Outstanding	No	Implement the original recommendation.
14 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.	Improvement	April 2022	This has been introduced within the budget for 2023/24.	Yes	No
15 The Council should develop more comprehensive and integrated workforce plans which support its recently developed workforce strategy.	Improvement	April 2022	Outstanding	No	Implement the original recommendation.
16 The Council should report capital outturn against the original capital budget and ensure this budget more accurately reflects the expect capital spend in year.	Improvement	April 2022	The quarterly reports to Cabinet provide detail of the original budget and the revised budget.	Yes	No
17 The Council should ensure that quarterly performance reports to Cabinet provide an explanation for slippage of the capital programme.	Improvement	April 2022	Narrative I provided within the quarterly reports to cabinet	Yes	No



# Appendices

# Appendix A – Responsibilities of the Council

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

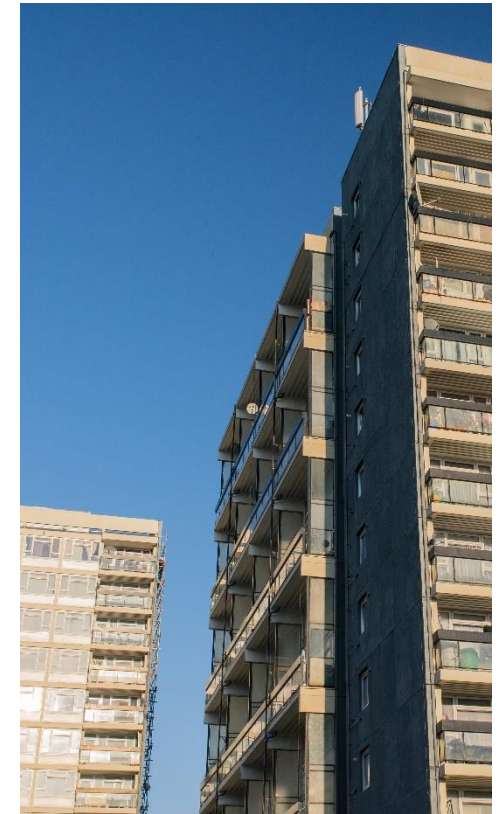
Financial statements are the main way in which local public bodies account for how they use their resources. Local public bodies are required to prepare and publish financial statements setting out their financial performance for the year. To do this, bodies need to maintain proper accounting records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

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

The Chief Financial Officer 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 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
The Council's failure to meet the statutory needs of children in its care. Further details can be found on page 20.	We reviewed the Council's progress in this area including the Children's Commissioner report.	Significant weakness identified	Appropriate arrangements not in place, the key recommendation raised in 2020/21 remains outstanding.
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. Further details can be found on pages 22 and 23.	We reviewed the actions taken by the Council following the legal advice received and review the progress made since March 2021.	Significant weakness identified	Appropriate arrangements not in place, the key recommendation raised in 2020/21 remains outstanding.
The Council continues to contract with Balfour Beatty Living Places (BBLP) a dormant company. Further details can be found on page 23.	We reviewed the actions taken by the Council following the legal advice received and the progress made since March 2021.	Significant weakness identified	Appropriate arrangements not in place, the key recommendation raised in 2020/21 remains outstanding.

# 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.	No	N/A
Key	The NAO Code of Audit Practice requires that where auditors identify significant weaknesses as part of their arrangements to secure value for money they should make recommendations setting out the actions that should be taken by the Council. We have defined these recommendations as ‘key recommendations’.	Yes	Pages 29 and 30.
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 18, 19, 26, 27 and 28.

