

Kirklees Council

# Annual Governance Statement 2022/23

November 2023

## Overall Conclusion & Opinion

We have considered carefully the effectiveness of the Council's governance framework and have been advised by the Corporate Governance and Audit Committee. We are satisfied that the Council's overall governance arrangements are in accordance with our governance framework and Code of Corporate Governance.

We will continue to enhance our governance arrangements as recommended in the Action Plan that underpins this Statement. We are satisfied that these steps will address the need for improvements that were identified in our review and will monitor their implementation during 2023/24 and beyond in conjunction with the Corporate Governance & Audit Committee.



Signed:

Cllr. Catherine Scott, Leader of the Council



Steve Mawson, Chief Executive

## Significant Governance Issues during 2022/23

The annual corporate review process has identified and evaluated both progress with addressing ongoing issues from the 2021/22 Statement and some new areas of potential concern. Any of these that meets one or more of the following criteria (suggested by CIPFA / SOLACE) has been regarded as *significant* and included in this Statement:

- A) It undermines / threatens the achievement of organisational objectives.
- B) It is a significant failure to meet the principles of good governance.
- C) It is an area of significant concern to an inspector, external audit, or regulator.
- D) The head of internal audit, one of the statutory officers or the Corporate Governance & Audit Committee (CGAC) has recommended it be included.
- E) It is an issue of public or stakeholder concern.
- F) It is an issue that cuts across the organisation and requires cooperation to address it.

## Progress with the Significant Governance Issues in last year's Statement

Our previous Statements recognise that many issues are complex, and sometimes not solely under the Council's direct control. These often take longer than one year to address and some of these have featured in a similar form for a number of years, though some aspects can be resolved during the year. Good governance is about taking actions and making continuous improvement.

It should be noted that due to an unexpected and prolonged delay in the external auditing of the Statement of Accounts for 2021/22, reflecting national issues and performance, the applicability of last Year's Statement overlaps almost the entirety of this one, (April 2022 to September 2023). Where possible each Statement endeavours to delineate between the two financial years, both as regards the governance arrangements that applied and the Issues arising and management response.

Progress has been made since the 2021/22 Statement in addressing several of the issues highlighted last year, and consequently these have been omitted from the current Statement. There has also been a change of focus or circumstance this has resulted in several being combined and revised in this year's Statement.

No.	Governance Issue / Theme	Reason for Inclusion	Direction of Travel / Progress in 2022/23	Further Action Taken and Planned in 2023/24
1	<p>The Corporate Planning process needs further strengthening with improved linkages to both revenue and capital resource allocation and performance measures to ensure delivery of key Council objectives.</p> <p>(A, B, F)</p>	<p>Delivery of key Council objectives could be undermined.</p>	<p>Although work was conducted to ascertain the Administration's priorities, and this was reflected in the budget for 2023/24 approved by Council in March 2023, the challenging financial position meant that it was not possible to create a more robust arrangement that established a Corporate (Council) Plan first, and then developed a budget that expressed the priorities contained therein.</p>	<p>Recognising the challenging financial circumstances, the Council Plan approved by Council in July 2023, focused on the most significant priorities for the Council up to January 2024. A full, robust process to create a new Council Plan, for approval in January 2024 has already commenced. This will work to the principles of a strategic priority-led approach to planning and budgeting, based upon the key priorities outlined by the new Leader and incorporated in the medium-term financial plan that expresses those priorities in cost terms, utilising intelligence to establish an operational plan as approved by Council.</p>
2	<p>Strengthen and develop Partnership Governance and new relationships.</p> <p>(A, E, F)</p>	<p>Key outcomes require significant input from partners and others.</p>	<p>Although some areas of partnership working have continued to be strengthened, and areas such as the relationships with the West Yorkshire Mayoral Combined Authority, and Integrated Care Boards have been progressing well, there remain some concerns with associated parties at a more local level.</p>	<p>Work closely with the local partnership bodies to ensure that effective service delivery meets prioritised community needs, does not involve cost shifting or shunting, and does not, wherever possible, distort the Council's own policy priorities.</p>
3.	<p>Continue to develop and strengthen the governance arrangements for decision-making and</p>	<p>Having the right structures and mechanisms in place is key to achieving delivery</p>	<p>Consideration of proposals to review options around committee structures was completed and approved by Council. The Cabinet and Leader governance model was approved, and a number of</p>	<p>Continue to implement our current governance model with a focus on pre-decision scrutiny and improved communication and training.</p>

No.	Governance Issue / Theme	Reason for Inclusion	Direction of Travel / Progress in 2022/23	Further Action Taken and Planned in 2023/24
	<p>place-based working, including greater clarity to the roles and responsibilities of Members and officers.</p> <p>(B, C, F)</p>	<p>of the Council's priorities.</p>	<p>recommendations were agreed and are to be implemented throughout 2023/24.</p> <p>Alongside this we have held a number of sessions reviewing how well our existing member-officer protocol is, whether we might need to update it and how we might raise awareness of it.</p> <p>In relation to members working together, there have been changes in the scrutiny process, and at an administrative level, steps taken to ensure that officer delegated decisions are appropriately recorded.</p>	<p>Implementation of Council recommendations from the Democracy Commission.</p> <p>Complete the work highlighted from the member and officer protocol sessions.</p>
4.	<p>Address the health and safety issues raised in connection with housing properties and the complete buildings portfolio, ensuring that management and operational arrangements provide for the health and safety of all Council tenants, employees and residents.</p> <p>(A, C, E)</p>	<p>Work is ongoing to embed innovation and change but it has not yet reached a <i>business-as-usual</i> state.</p>	<p>In respect of the governance of housing services generally a Board has been established, independently chaired, and reporting directly to the cabinet committee, that is meant to address all areas of activity subject to oversight by the government regulator. Steps have also been taken to improve the governance oversight, and operational management of property related matters within the housing function.</p>	<p>Identifying areas of highest risk re fire safety and damp and progressing rectification of these in priority order.</p> <p>Develop an approach to the oversight and governance of housing management activities that reflects the requirements of the government's regulatory regime.</p>

The previous entries re transformational activity have been subsumed into the existing need to improve corporate planning, and the newly expressed need to strengthen changes in activity and operations to achieve financial savings. Additional effort has made substantial changes to risk management processes; the organisation now needs to learn how to use this to make choices. Governance of employment related areas and the cost-of-living crisis have become a matter for ongoing business, reported through the council’s risk management process and general business activity, and new revised policy arrangements look to address counter fraud, bribery and corruption, including new operational arrangements, and improved governance and reporting.

## **New Issues**

The annual review of the effectiveness of our governance arrangements has identified areas of heightened concern, risk, or significant uncertainty that require a corporate response. Where appropriate, these matters have been incorporated into exiting or slightly refocussed Issues brought forward from last year’s Statement.

Governance Issue / Theme	Reason for Inclusion	Action Required in 2023/24
<p>1A The Medium-Term Financial Plan shows a significant (minimum) funding deficit of £30m in 2024/25 after assuming £11m savings proposals are delivered in full. Given the significant overspend on the General Fund Budget in 2022/23, with the consequent use of £27m from unallocated reserves, combined with the significant use of unallocated reserves (c£25m) to balance the Council’s budget in 2023/24 in addition to a savings requirement of c£19m, the Council has no choice but to identify measures to reduce its net expenditure significantly to maintain a balance budget (and to avoid external intervention). The delivery of c£60m+ of savings in a 2-year period after 13</p>	<p>Could prevent achievement of any objectives.</p>	<p>Given the structure of the Council’s General Fund Revenue Budget in 2023/24, including the use of unallocated reserves totalling £25m (which has reduced reserves to the lower end of what is considered to be an acceptable Minimum Working Balance) and requirement to save c£19m, there are two key objectives - it is vital that all cost/income pressures are contained (which may require additional savings to be identified) so there is no overspend and all savings must be delivered in full. This will require detailed and timely financial and activity monitoring so that, if necessary, early remedial action can be taken if it is considered that either objective will not be achieved. Where such remedial action does not prove effective, consideration may need to be given to implementing some form of spending controls.</p>

<p>years of austerity will present a significant challenge for the Council inevitably impacting on its ability to deliver on its strategic objectives. (A, B, C, D, E, F)</p>		<p>At the same time, and looking ahead to 2024/25, there will need to be:</p> <ul style="list-style-type: none"> <li>• A review of all reserves, earmarked or otherwise, to determine how much of any of those reserves can be moved to unallocated reserves to bolster the Minimum Working Balance (a review of the methodology for the Minimum Working Balance will be undertaken so that is founded on a risk-based analysis (as per CIPFA guidance) of what is needed and not a simple %age of Net Revenue Expenditure) and Unallocated Reserves in the event of an overspend in 2023/24;</li> <li>• A review of the strength of the Council’s Balance Sheet to determine the extent of any assets/liabilities that may have a bearing on the Council’s overall financial position bearing in mind the acute financial position of the Council</li> <li>• A review of the Council’s Capital Programme with a view to reducing the amount of the Council’s Prudential Borrowing given its impact on the General Fund Revenue Budget. In turn, this will necessitate a review of the Treasury Management Strategy not least because the Council, at a time of rising interest rates, is significantly (c£160m) under borrowed with any new borrowing likely to test the viability of projects previously agreed.</li> <li>• A review of the Medium-Term Financial Plan (MTFP) to ensure that it fully reflects both the anticipated income and expenditure of the Council in the period 2024/25 to 2028/29 and is based on a range of sound assumptions.</li> <li>• The early identification of a package of savings proposals to bridge the ‘In-Year Funding Gap’ reported in the MTFP of £47.8m,</li> </ul>
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		<p>that can be delivered in full in 2024/25 (and indeed, identifying any that can be delivered in 2023/24). This will include assessing the robustness of any such savings proposals to make sure they are deliverable, agreed through the appropriate governance mechanism and implemented as early as possible.</p>
<p>1B The effective implementation of the “Safety Valve” programme – to address overspending and historic deficit on special education needs (SEND) budgets as part of the Dedicated Schools Grant</p> <p>(A, C, D, F)</p>	<p>Affects the ability to achieve a balanced budget.</p>	<p>The Government has awarded additional grant (both capital and revenue) as part of a ‘Safety Valve’ agreement (over a 5-year period) to seek to address a historical deficit and in year overspending on support for children with additional needs. This activity is focused on increasing sufficiency of provision for children with Additional and Special Educational Needs and Disabilities and therefore involves both significant capital investment in creating a range of additional educational provision to enable children to be educated locally, as well as system-wide transformational changes in how SEND provision is delivered. Given the complexities of the programme and the complexity of need for our children, progress against the expectations that were set in the Safety Value Agreement with the DfE has been slower than anticipated. This has resulted in additional enhanced monitoring taking place with a revised plan to be submitted back to the Department for Education (DfE).</p> <p>Given the continuing dialogue with DfE, there is a clearer understanding of the Council’s plans and a robust plan both in the Childrens and Families Directorate, and, corporately of the need to work with the local area to deliver the plans necessary to reduce the deficit on the High Needs budget and more importantly to provide a service that is financially sustainable within the Dedicated Schools Grant funding provided by the DfE. The programme of work is being overseen by the SEND Programme Board and ultimately by the Executive Team.</p>



		<p>If the DfE do not allow the Council to continue participating in the Safety Valve Programme there is a risk that the agreed funding may be withdrawn and which would need to be funded from reserves. There is a further risk that once the statutory override that allows Councils to carry DSG deficits expires (currently planned to be March 2026), the Council would be required to fund any remaining deficit from its own resources at that time. A requirement to charge this to the Council's general fund would need to be funded from reserves.</p>
<p>2A During 2023/24 a number of senior managers have retired or taken up new employment elsewhere, including the Chief Executive, two strategic directors and the Service Director of Finance.</p> <p>(A, C, F)</p>	<p>This may present a significant risk to the Council's ability to respond rapidly to the issues.</p>	<p>The changes referenced here have, in the main, been planned (and therefore known about) for some time. The new Chief Executive started at the beginning of October. An interim role will replace one of the Strategic Directors, whilst the other strategic director post is expected to be unfilled. Following the unplanned resignation of her short term predecessor, an Interim Service Director of Finance (Section 151 Officer) is now in place, which will be advertised in November 2023, the replacement is expected to start in May 2024. The serious financial position does create a particular tension, which needs to be addressed by a positive handover to the new post holders wherever possible.</p>
<p>2B The Council's usage of data and intelligence is not always effective, meaning that it does not always support decisions about efficiency, economy and value for money, as well as creating unintended risks.</p> <p>(A, F)</p>	<p>Strategic decision making should be supported by valid intelligence</p>	<p>Ensuring that there is a structured approach to collecting, handling, processing and disposing of data to ensure that this is not duplicated, delayed or misinterpreted. This relates to all kinds of information; not just the areas that are subject to governance and oversight by the Information Commissioner.</p> <p>In response to this, the Council has in place an agreed Data and Insight Strategy which seeks to address how the Council's collects, stores, uses and deletes data so that there is an organisation-wide consistency in this area. The implementation of the Strategy is at its</p>

		<p>early stages and is being overseen by the Modern Organisation Board.</p> <p>This Strategy works alongside and in tandem with the Council's Technology and Information Governance Strategies.</p>
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A more detailed Action Plan sits behind this summary and the Executive Leadership Team and Corporate Governance & Audit Committee will monitor progress during 2023/24 and beyond.

## Statement Scope

Kirklees Council is responsible for ensuring that its business is conducted in accordance with the law and proper standards, and that public money is safeguarded, properly accounted for and used economically, efficiently and effectively. The Council also has a duty under the Local Government Act 1999 to make arrangements to secure continuous improvement in the way in which its functions are exercised.

Kirklees Council has a Local Code of Corporate Governance, which is consistent with the principles of the CIPFA / SOLACE framework *Delivering Good Governance in Local Government 2016*. A copy of the Code is available from the Monitoring Officer. The current version following annual review can be found at

<https://www.kirklees.gov.uk/beta/council-and-democracy.aspx#your-council>

This Statement explains how the Council has complied with the Code during 2022/23 and up to the date that the Statement of Accounts is approved (September 2023) and thus meets the requirements of the Accounts and Audit Regulations 2015, and the Accounts and Audit (Amendment) Regulations 2020. It provides assurance about the Council's governance framework, including the other entity in the Group Accounts, a joint venture, Kirklees Stadium Development Limited, to enable readers of the consolidated Accounts to be satisfied that arrangements are in place to govern spending and safeguard assets. Where specific improvements and/ actions are ongoing or needed, brief information is provided about the key issues and the main areas of work that have been progressed during 2022/23 and those which are planned or ongoing in 2023/24.

## The purpose of the governance framework

Corporate governance is a phrase used to describe how organisations direct and control what they do. For local authorities this also includes how a Council relates to the communities that it serves. The governance framework comprises the systems and processes, culture and values by which the Council is directed and controlled and through which it engages with, leads and accounts to its communities. Effective governance should enable the Council to monitor the achievement of its strategic objectives and to assess if this has led to the delivery of appropriate services and value for money.

System of internal control are a significant part of any organisations governance framework, designed to manage risk to a reasonable level. They cannot eliminate all risk of failure to achieve policies, aims and objectives and provide reasonable, but not absolute, assurance of effectiveness.

## The key parts of the governance framework

- A Local Code of Corporate Governance overseen by the Service Director Legal, Governance & Commissioning and the Corporate Governance and Audit Committee, to assess operational practice and behaviour, and prepare this Statement.
- A Council Constitution.
- A Corporate Plan that outlines how officers will seek to run the Council to meet our community commitments and objectives.
- A Leader and Cabinet model of governance.
- A corporate governance, audit and scrutiny process as set out in the Constitution.
- Oversight and delivery of the Council Programme, including several officer boards as described in the Constitution, notably the Children's Board.
- Statutory officer roles performed by the Chief Executive as Head of Paid Service, the Service Director Legal, Governance & Commissioning as Monitoring Officer and the Service Director Finance as Section 151 Officer. The S151 Officer is a professionally qualified accountant and reports directly on financial matters to the Chief Executive as a member of the Executive Team (ET).
- The Monitoring Officer who has responsibility for the Constitution and ensuring the legality of Council actions and decision making.
- The S151 Officer who has responsibility for ensuring that the financial management arrangements conform with all of the governance requirements of the five principles that define the core activities and behaviours that belong to the role in the CIPFA *Statement on The Role of the Chief Financial Officer in Local Authorities (2014)*.
- Codes of conduct defining the standards of behaviour for Members and employees.
- A Counter Fraud, Bribery and Corruption Policy and arrangements that endeavour to comply with the CIPFA Code and best practice.

- A Risk Management Strategy.
- Systems of financial and business internal control.
- An internal audit section, which is compliant with the Public Sector Internal Audit Standards and Code of Ethics.
- Whistle blowing arrangements.
- A complaints system for residents and service users.
- Business continuity arrangements.
- A senior manager to act as the Caldicott Guardian to protect the confidentiality of patient and service-user information.
- A Data Protection Officer reporting directly to the Chief Executive and a Senior Information Risk Officer (Monitoring Officer).
- Arrangements to manage other parts of the Council's (financial) Group. The S151 Officer monitors and reports on the financial effectiveness of the subsidiary and joint venture companies, whose accounts are subject to external audit.

## **2022/23 Review of effectiveness**

Kirklees Council has a legal responsibility for conducting, at least annually, a review of the effectiveness of its governance framework. The review is informed by several sources including the work of the executive managers, the Head of Audit & Risk's annual report, the external auditor and other review agencies and inspectorates and Member Committees. The Council has four bodies / committees jointly responsible for monitoring and reviewing governance. These are:

- The Executive (Cabinet)
- The Corporate Governance & Audit Committee (CGAC)
- The Overview & Scrutiny Committee; and
- The Standards Committee.

The main parts of the review process are described below:

### **1. Annual Review of effectiveness of the system of internal control**

In accordance with the requirements of the Accounts and Audit Regulations 2015 and Public Sector Internal Audit Standards (PSIAS), the CGAC approved the annual review of the effectiveness of its system of internal control and internal audit. The Head of Audit & Risk's self-assessment of current compliance with the Public Sector Internal Audit Standards & Code of Ethics and revised CIPFA Local Government

Application Note 2019, concluded that overall Internal Audit does conform to these Standards and in December 2022, an external assessment as part of a regional peer review process concluded that Internal Audit “Generally Conforms” to PSIAS, this being the highest level of compliance opinion.

2. Head of Audit and Risk’s Annual Assurance Opinion

Other than in respect of a small number of control issues that have arisen during the year, the Head of Audit and Risk has provided assurance that overall, the Council’s systems of governance, risk management and internal control are generally sound and operate reasonably consistently across Services.

3. External Auditor’s Review

The audit of the Council's 2022/23 financial statements was completed for approval from the November 2023 meeting of the Corporate Governance & Audit Committee.

As noted in the delayed 2021/22 Annual Governance Statement, the External Auditor’s Interim Annual Report in July 2023 reported a significant weakness in the Council's arrangements to secure financial sustainability as part of the delayed 2021/22 audit and recommended the Council take prompt and appropriate action so as to return to a sustainable position in the medium term.

The previous Chief Executive introduced a set of measures including suspending non-essential expenditure and a recruitment freeze to help address the budget situation whilst longer term changes are designed and implemented, and these measures have been maintained since.

Finally, in September 2023, the 2021/22 financial statements were approved unqualified too.

4. Corporate Governance & Audit Committee (CGAC)

During 2022/23 the CGAC reviewed a number of aspects of the Council’s constitution and governance arrangements and noted or approved revisions or made recommendations to Council as appropriate.

CGAC also received assurance from various 2022/23 annual reports such as health and safety, emergency planning and business continuity, information governance and customer corporate standards on complaint handling, and a review of the Ombudsman and Third Stage Complaints received, together with details of the Whistleblowing concerns that have been received.

Recognising the need to ensure that both new and existing members of the Committee have the appropriate support and skills to conduct their role, training sessions are provided at various intervals, and this includes treasury management, over which the Committee has corporate oversight.

The Democracy Commission undertook a piece of work on behalf of the Committee in relation to the committee system proposal motion submitted to Annual Council May 2021. The Commission's recommendations were approved by the Committee (December 2022) and subsequently Council in January 2023. The recommendations are to be implemented throughout 2023 with a review of the recommendations set for March 2024. The recommendations continue to retain the Cabinet and Leader model, with some improvements to recognise the key role of the scrutiny function within key strategy formation and in engaging non-cabinet members in the decision-making process.

#### 5 Overview & Scrutiny Management Committee

During 2022/23 the Committee and its four Panels were themselves reviewed following a review of the Council's governance arrangements and key issues faced and strategies and responses to manage these. Revised panels were agreed at Council in May 2023, retaining the same number but changing some of the areas of focus and making one of the ad hoc panels permanent.

#### 6. Standards Committee

During the year the Committee reviewed various aspects of Member conduct and supported the work reviewing the Member Officer protocol.

#### 7 Role of the Chief Financial Officer

The role of the Service Director of Finance (SDF) continues to reflect the governance arrangements set out in the CIPFA Statement, which are required to ensure she is able to operate effectively and perform her core duties as part of the review of the Constitution. The Council's financial management arrangements continue to fully conform to those set out in the Statement.

The SDF and an Internal Audit assessment have confirmed that the Council is compliant with the CIPFA Financial Management Code, although there are some aspects of operations that can be strengthened further in line with recommendations made in the report.

#### 8 External Inspections & Peer Reviews

A central repository of the outcome and future timetable of all external inspections, audits, accreditations and reviews has been established during the year by colleagues in the Policy Team from information provided by Service Directors. Areas for improvement and recommendations

to be implemented can be identified quickly and progress monitored accordingly to ensure complete corporate oversight, including any areas that may represent significant governance issues for inclusion herein. All Strategic Directors are set an annual objective of participating in LGA Peer Reviews to ensure organisation learning from best in class.

## 9 Officer Governance

Officer Boards as prescribed in the Constitution have continued to drive forward the Transformation Programme with strategic oversight from the Executive Team and escalation of appropriate issues, with particular emphasis on revenue budget and capital plan management. These arrangements are subject to both Cabinet and Scrutiny oversight.

## 10 Significant Partnerships

Partnerships range from joint venture partnerships, thematic partnerships and their subsidiaries to key contractual agreements managing substantial amounts of public money. The main contact officer for each Partnership is responsible for assessment of the governance arrangements and providing details of any significant changes to the membership and circumstances of the partnership. This information is used by senior officers of the Council to assess the potential risk that the partnership presents to the reputation or financial standing of the Council. The Council is continuing to work on a number of areas where arrangements need to be revised to strengthen and embed the governance framework, as identified in the Action Plan for this Statement.

## 11 Monitoring Officer / Senior Information Risk Owner

Reviewed information governance and security matters as Chair of the Information Governance Board within the context of an internal review of the Board's terms of reference and increasing focus on an enabling and supportive role, as well as wider assurance concerning organisational governance and compliance with the Constitution. A review of the effectiveness of the Member Officer Protocol in the Council's Constitution has been undertaken.