

Contingent Liabilities

In addition to amounts recognised on the Balance Sheet, the Council is aware of the following contingent liabilities at 31 December 2023:

Guarantees

Transition Extreme Sports Ltd

The Council has agreed to provide a guarantee to the Bank of Scotland in respect of a maximum overdraft facility of £250,000, as approved at City Growth & Resources Committee on 21 September 2022. This guarantee will remain in force until 31 March 2024.

The guarantee was extended by the Finance & Resources Committee on 30 January 2024. Terms of the extension are for a maximum overdraft facility of £125,000 for the 12 months to 31 March 2025.

Sport Aberdeen

The Council agreed to provide a bank guarantee to Sport Aberdeen up to a maximum of £5 million as approved at the 7 June 2016 Finance, Policy and Resources Committee. There is currently a Revolving Credit Facility for £1.4 million in place.

Aberdeen Heat & Power

The Council has agreed to provide a bank guarantee to Aberdeen Heat and Power up to a maximum of £1 million as approved at City Growth and Resources Committee on 21 September 2022. This guarantee will be in place from 1 November 2022 to 31 March 2024.

External Organisations - Guarantor in relation to North East Scotland Pension Fund (NESPF)

As the administering authority, the Council may admit a body to the Pension Fund as an 'admitted body' provided (i) the organisation can confirm they have sufficient links with a Scheme employer for the body and the Scheme employer to be regarded as having a community of interest; and (ii) the Scheme employer is prepared to act as guarantor in the event the admitted body should cease to exist. If this situation was to occur and staff made redundant the staff over 50 years old would become entitled to immediate payment of their pension benefits. The Council has agreed several such guarantees to organisations that include Aberdeen Sports Village, Sport Aberdeen, Aberdeen Performing Arts, Aberdeen International Youth Festival, Aberdeen Heat and Power, Bon Accord Support Services and Bon Accord Care Ltd. The potential values guaranteed are subject to a range of actuarial assumptions.

SEEMIS Group LLP

The Council has agreed to fund any additional pension liability payments arising from its membership of the SEEMIS organisation (the provider of our schools' Management Information System). To date there has been no call on the guarantee.

Integration Joint Board (IJB)

The IJB is responsible for the strategic planning of the functions delegated to it by Aberdeen City Council and NHS Grampian. The Aberdeen City IJB Integration Scheme provides the framework in which the IJB operates including information on funding and what should happen if the IJB is projecting to overspend its budget at the

year-end. Whilst steps will be taken to address this (through a Recovery Plan), ultimately the parties to the arrangement may be potentially liable should the IJB overspend.

Contractual

Waste Disposal

The Council has a long-term contract with an external contractor for the disposal of all relevant waste arising in the City and the operation and maintenance of waste transfer stations, recycling facilities and landfill sites. The contract commenced in September 2000 and is due to run until April 2029.

The fire at Altens East Recycling and Resource Facility on 8 July 2022 has resulted in business continuity plans being implemented and changes made to the processing of some waste streams. There have therefore been a wide range of the implications arising from the events. The financial impact of known implications has been assessed and incorporated into the full year forecast for 2023/24. There will remain contractual matters to be addressed that will take time and the Council continues to work closely with the Contractor and representatives to determine the full extent of those.

The Council is lead partner in a three-authority project with Aberdeenshire and Moray Councils to procure an energy from waste facility which will deal with all residual waste from the three authorities. The contract commenced on 8 August 2019 with the facility now online and will run for 20 years.

Litigation in connection with the above

There are currently several adjudications regarding performance, delivery and delay of the energy from waste project and sums due under the contract as a result. Parties are too far apart at present to put an exact figure on any liability or quantum.

Landfill Allowance Scheme (LAS)

The Scottish Government had previously introduced a scheme under which Local Authorities were to be penalised for exceeding landfill tonnage targets. The Landfill Allowance Scheme in Scotland is currently suspended, and it is expected that the Waste (Scotland) Regulations 2012 will take over the requirement for the control of landfilling biodegradable municipal waste. However, until such a repeal is formalised there remains a potential liability on the Council.

Section 75 agreements

Section 75 agreements (developer obligations) are frequently sought by the Council in relation to the award of planning permission. The possibility of liabilities arises in cases where the developer is not adhering to the agreed payment schedule and the Council elects to proceed with a project where that developer obligation funding is due. In these cases, unless a resolution can be found with the developer, the Council may be exposed to additional costs due to higher levels of borrowing than originally anticipated to “cashflow” a legally committed project. Costs could apply to the short, medium, or long-term depending on the circumstances.

The Council's Risk Board agreed that the Developer Obligations working group would escalate to Corporate Management Team any developers who fall behind on payments, and where necessary this will be reported to Finance & Resources

Committee. This is a risk which may crystalize in the current housing market conditions due to high supply costs and reduced supply of labour.

The inherent risk with all developer obligation funded projects is whether the build rate of the development is triggering financial contributions at the rate required to fund the Council projects involved. Where the Council project advances more quickly than the development, the Council may have to step in to “cashflow” the necessary funding requirement. Where a project has not been legally committed, a failure to receive the supporting developer obligation funding may require a discussion to determine whether the project should be paused, or even stopped completely. More detailed monitoring is therefore required by the Planning service to forecast expected build rates on developments and map out the timelines of expected trigger points for release of funding.

Impact of Covid on Working Practices, Global events and High inflation environment

Almost all restrictions that were in place for the Covid-19 pandemic have now been lifted, and although the virus continues to circulate it no longer presents the health risk that previously existed. However, the consequences of the pandemic have been far reaching and recovery has been slow. The Council has prepared its 2023/24 budget to include known Covid-19 related implications, however, there remains the possibility that further costs may arise that were not previously identified.

The emergence of Covid resulted in new working practice guidelines being issued by the Scottish Government, to set new standards to allow consultants, contractors, sub-contractors and their suppliers to work safely during the pandemic. These unforeseen changes resulted in the construction industry incurring additional costs for compliance with the risk of delays to projects. These measures also restricted numbers of staff on site which slowed down progress on works. These impacts have manifested in projects which were on site at the time of the initial lockdown, and discussions between the Council and the relevant contractors are on-going to determine liability for additional costs. It is noted that this impact is now constrained to a small number of large projects where the construction period extended over a number of years.

The Council are also aware that the construction industry is experiencing shortage of products, raw materials, staffing and logistical support which is impacting on current and future costs across the UK. Ordering lead times are extending across the sector with the risk of increased delay impacts to projects. Advance order of materials continues to be a project mitigation strategy where it can be applied.

There is evidence of a contraction in the construction industry particularly in terms of small to medium sized suppliers. The Russian invasion of Ukraine and resulting economic sanctions placed on Russia and Belarus has further exacerbated supply chain issues for some commodities e.g. bituminous materials, steel etc. which were sourced from eastern Europe. Now there is added risk of escalation in the Middle East due to the Palestine/Israel conflict.

Taken altogether, this had manifested as the highest level of cost inflation experienced for around 30 years, though there were signs the inflation rate was starting to stabilise by the summer of 2023. This volatility has created new risks around capital projects.

A review of project timeline delivery and financial viability was reported to the City Growth and Resources committee and full Council in August 2022, and again in September 2023, and any significant programme/project impacts continue to be updated through updates to this committee.

Reinforced Autoclaved Aerated Concrete (RAAC)

Following a published update regarding the risk of failure with Reinforced Autoclaved Aerated Concrete (RAAC) Planks, the Council has completed its review of its public buildings where the presence of RAAC has been identified. RAAC was found in a small number of them and mitigation is now in place. As reported previously a similar programme of work is being conducted across the Council housing estate.

As part of this housing review, we have already identified a housing type with RAAC, located to the south of the city in the Balnagask area. The full review across the whole housing estate is on-going.

At this stage, across the whole Council portfolio (public buildings and housing) it is still not known the extent of the issue or any remedial costs. This is expected to result in future financial liability to both the General Fund and the Housing Revenue Account.

Scottish Child Abuse Inquiry

The Redress for Survivors (Historical Child Abuse in Care) (Scotland) Act 2021 (“the Act”) received Royal Assent on 23 April 2021. Scotland’s Redress Scheme opened on 8 December 2021.

Although Redress Scotland works with guidance and funding from the Scottish Government, it is not part of any Government department. Survivors, as an alternative to civil litigation, may choose to apply for redress. Local Authorities, as a Local Government sector, pay financial contributions towards the redress scheme and this has now been agreed as part of the Local Government Settlement and will be applied for the next 10 years.

Civil Litigation claims are still being received by the Council, both as lead authority for the former Grampian Regional Council and Aberdeen District Council as well as claims solely against Aberdeen City Council. Any uninsured claims or associated costs in respect of Aberdeen District Council or Aberdeen City Council will require to be met by Aberdeen City Council. The costs of these are unquantifiable at this time but will give rise to a future financial liability.