

Contingent Liabilities

In addition to amounts recognised on the Balance Sheet, the Council is aware of the following contingent liabilities at 31 December 2021:

Guarantees

Aberdeen Science Centre (formerly Satrosphere)

The Council has agreed to provide a guarantee to the Bank of Scotland for the sum of £127,654 in support of an overdraft facility and card guarantee facility until 30 September 2022, as approved at a meeting of full Council on 10 March 2021.

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 Council on 10 March 2021. This guarantee will remain in force until 30 September 2022.

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 Performing Arts

The Council has agreed to provide a guarantee to Aberdeen Performing Arts up to a maximum of £356,000 until 31 March 2022, as approved at Council on 10 March 2021.

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 a number of 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 for 25 years.

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 expected to come online in summer 2022 and will run for 20 years.

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 in order to “cashflow” a legally committed project. Costs could apply to the short, medium or long-term depending on the circumstances.

The risk board agreed that the Developer Obligations working group would escalate to CMT any developers who fall behind on payments, and where necessary this will be reported to City Growth & Resources Committee in this report. 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 Planning 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, Social Distancing and the Capital Programmes

The emergence of Covid has 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 may also restrict numbers of staff on site which may slow 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 ongoing to determine liability for additional costs. The Council are aware that the Construction Industry is now 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. There is evidence of a contraction in the Construction Industry particularly in terms of small to medium sized suppliers.

Our Generation – Solar Panels

A contractual dispute exists in relation to this contract which may give rise to a future financial liability. On 23 July 2019 the Council successfully defended an appeal by Our Generation to the Court of Session on the findings of the original judgement. The matter remains outstanding and is subject to further legal proceedings.

Aberdeen Art Gallery

A contractual dispute exists in relation to who bears the cost of the delays in respect of the refurbishment of the Art Gallery. A Court of Session action was raised against the Council by McLaughlin & Harvey “MCLH”, the main contractor, following adjudication in favour of the Council.

Following consideration of the outcome of the second adjudication, the Council raised a new Court of Session action in May 2020. MCLH lodged defences, and made a counterclaim against the Council, which the Council has defended. MCLH subsequently dropped their earlier action raised against the Council. The court action will reconsider the previous adjudication decisions. This may give rise to a future financial liability.

Scottish Child Abuse Enquiry

The Scottish Parliament introduced a redress Bill on 13 August 2020 for survivors of abuse in care in Scotland. Survivors as an alternative to civil litigation may choose to apply for redress. Local Authorities, as a Local Government sector, will 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.

The Council may still receive civil claims relating to periods of time in care. The costs of these are unquantifiable at this time, but will give rise to a future financial liability.

Structural Safety (RAAC)

As a result of the Standing Committee on Structural Safety (SCPSS) releasing an alert in connection with Reinforced Autoclaved Aerated Concrete (RAAC) Planks, which were commonly used in public buildings in the 1960's, 1970's and 1980's, the Council has put in place a programme of inspections to give some assurance over whether these materials are present within any of their properties. At this time, it is not known the extent of the issue (if any) or any remedial costs. This may create a future financial liability.

COVID-19 Impact

Statute and government guidance restricting the movement of people and effectively locking down the country has now eased; however, restrictions have not yet been fully lifted. Whilst the Council has prepared its 2021/22 budget to include known Covid-19 related implications, there remains the possibility that further costs may arise that were not previously identified.