

## **Contingent Liabilities**

The Council is aware of the following contingent liabilities at 31 December 2024:

### **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 £125,000, as approved at Finance & Resources Committee on 30 January 2024. This guarantee will remain in force until 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.

#### **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 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. 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 and cost of these.

The Energy from Waste (EfW) facility at Ness formally moved into operation on 12 December 2023 and will run for 20 years. The Council was the lead partner in a project carried out in collaboration with Aberdeenshire and Moray Councils, to procure an EfW facility that will deal with all residual waste from the three authorities.

#### Litigation in connection with the above

There are currently no outstanding adjudication/litigation actions following settlement.

#### Decommissioning costs

The inter-authority agreement covering the EfW plant states that the parties will share any decommissioning costs not taken by the contractor at the end of the project in accordance with their project share percentages. The Council is currently seeking specialists to provide a valuation for these costs which will result in a future financial liability.

#### **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. Continued 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**

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 prepared its 2024/25 budget to include taking cognisance of external environments, which could have an adverse impact on the price of commodities. 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.

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, these external factors continue to have a risk volatility on inflation rates. This creates risks around capital projects which continue to be present to the current day. A review of project timeline delivery and financial viability for programmes/projects is an ongoing task whereby any significant programme/project impacts continue to be updated through updates to the appropriate committee.

### **Reinforced Autoclaved Aerated Concrete (RAAC)**

Following a published update regarding the risk of failure with Reinforced Autoclaved Aerated Concrete (RAAC) panels, the Council initially carried out and 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.

Similarly, as reported previously a programme of work was conducted across the whole Council housing stock and this work is now complete. The outcome of this

review across the whole housing stock has resulted in the identification of a housing type with RAAC, located to the south of the city in the Balnagask area.

The outcome of the above has been reported to Council and an options appraisal for the affected housing at Balnagask is now ongoing. This appraisal will consider mitigation options such as remedial works or demolition. At a meeting of Council on 21 August 2024, demolition followed by a rebuilding programme was approved as the preferred option. The Chief Officer – Capital was instructed to proceed with the demolition aspect of this, and report back to the next appropriate meeting of the Communities, Housing and Public Protection Committee on the initial phasing of demolition and landscape details. It is expected that there will be 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 opened on 8 December 2021 to provide financial and non-financial redress to survivors of historical child abuse in care in Scotland. Fair and meaningful financial contributions are made from organisations historically involved in the care of children. The local government contribution is made on the basis that payments are made to survivors who enter into a waiver which means that litigation cannot then be pursued as a separate matter. The scheme is delivered by Redress Scotland and the Scottish Government (SG). Following negotiation between the COSLA Resources Spokesperson and the now First Minister Mr Swinney MSP, in October 2021 Leaders agreed Local Authorities will contribute £100m to the cost of the Redress Scheme over a 10-year period.

Civil Litigation claims continue, both as lead authority to 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 these 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.

### **Litigation against APSE (Association for Public Sector Excellence)**

This Council is a member of APSE. Thurrock Council has raised a Court action against 23 member Councils seeking damages in respect of their reliance on APSE advice which they say led to significant losses. Whilst no Scottish Councils are involved in the Court Action there is a potential risk that all Members will become involved in the dispute with a potential liability per Council of up to £200,000.