



**Rialtas na hÉireann**  
Government of Ireland

# **Statutory Audit Report to the Members of Kildare County Council for the Year Ended 31 December 2020**

## **Local Government Audit Service**

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# Auditor's Report to the Members of Kildare County Council

## 1 Introduction

I have audited the Annual Financial Statement (AFS) of Kildare County Council for the year ended 31 December 2020, which comprises the Statement of Accounting Policies, Statement of Comprehensive Income, Statement of Financial Position, Funds Flow Statement and notes to and forming part of the accounts. The financial reporting framework that has been applied in its preparation is the Code of Practice and Accounting Regulations for Local Authorities, as prescribed by the Minister for Housing, Local Government and Heritage.

My main statutory responsibility, following completion of the audit work, is to express my independent audit opinion on the AFS of the Council, as to whether it presents fairly the financial position at 31 December 2020 and its income and expenditure. My audit opinion, which is unmodified, is stated on page 6 of the AFS.

The Council is by law, responsible for the maintenance of all accounting records including the preparation of the AFS. It is my responsibility, based on my audit, to form an independent opinion on the statement and to report my opinion. I conducted my audit in accordance with the Code of Audit Practice. An audit includes examination, on a test basis, of evidence relevant to the amounts and disclosures in the AFS. It also includes an assessment of the significant estimates and judgments made by the Council's management in the preparation of the AFS, and of whether the accounting policies are appropriate to the Council's circumstances, consistently applied and adequately disclosed.

I planned and performed my audit so as to obtain all the information and explanations, which I considered necessary to provide sufficient evidence to give reasonable assurance that the financial statement is free from material misstatement, whether caused by fraud or error.

This report is prepared in accordance with Section 120(1) (c) of the Local Government Act, 2001 and should be read in conjunction with the audited AFS.

### **Chief Executive's Response**

The Council has once again received an unmodified opinion and the figures in the 2020 AFS that were presented to the elected members in April, 2021 have had no audit adjustments made.

## **2 COVID-19 – Impact on Local Authorities**

### **2.1 Overview**

The COVID-19 outbreak and the emergency measures taken to mitigate it have had a significant impact on the finances of local authorities during 2020. This has resulted in a reduction in income from some sources, an increased level of COVID-19 related expenditure and related government subvention for the Council.

At a national level, the Government introduced a number of schemes including the restart grant schemes and rates waiver scheme to support businesses, as noted in paragraphs 2.2 and 2.3 below. In addition, local authorities were reimbursed by the Department of Housing, Local Government and Heritage (the Department) for the loss of income from goods and services and for additional COVID-19 expenditure incurred by them (see paragraph 2.4).

In June 2021, it was agreed by the General Accounts Working Group to amend Note 23 and include an additional Note 24 in relation to Restart Grants / Plus in the audited Annual Financial Statements 2020.

### **2.2 Restart Grants Scheme**

During 2020, the Government decided to support commercial micro, small and medium businesses, through the Restart Grant Scheme and later the Restart Grant Plus Scheme. The qualifying businesses were required to have a rateable premises and experienced a loss of turnover due to the COVID-19 restrictions. The scheme provided for assistance with the costs of reconnecting with the marketplace, reopening their business and re-employing staff. Qualifying businesses who met the specified eligibility criteria could apply to the Council for grants under these schemes.

Under the service level agreement between Enterprise Ireland, Department of Enterprise, Trade and Employment, the Department and each local authority, the Council had responsibility to manage within its functional area the processing of applications and payments, in accordance with the criteria specified, and to make reports to the above Government departments to enable oversight and review of the scheme. Each business was responsible to self-certify in completing its application that it met these criteria.

The Council only verified the application against a rate account, where one existed, and confirmed that the applicant had fully completed the application including the declaration. The Council did not have to verify any other information included in the application. Where rates were not assessed in 2019 or 2020, estimates of liability were made by the Council. This was necessary to determine the support available to the relevant business.

Accordingly the audit of expenditure under these schemes, which amounted to approximately €25m in this Council for the year ended 31 December 2020, was limited to the specific responsibilities of local authorities, as set out above, and did not include the verification of other eligibility criteria declared by the applicants.

The accounting treatment for this is set out in Note 24 in the AFS.

### **2.3 Rates Waiver Scheme**

In order to support both the local government sector and commercial ratepayers, a funding package of €900m was allocated by the Government to fund the cost of a waiver of commercial rates for nine months from 27 March 2020 to 27 December 2020.

The waiver was available to businesses, which were forced to close, and those, which experienced significant negative economic disruption due to public health restrictions, imposed in response to COVID-19.

The total net amount received by this Council for the year ended 31 December 2020 was €22m.

The accounting treatment for this is set out in Note 23 in the AFS and further disclosure is included in Appendix 7.

The methodology and manner for calculating rates income collection differs in 2020 compared to prior years.

### **2.4 Reimbursement for loss of goods and services income and COVID-19 related expenditure**

The Department reimbursed the Council for the loss of goods and services income and additional expenditure incurred by them as a result of COVID-19. The total amount received by this Council for the year ended 31 December 2020 was €3.2m, split between €1.1m for the loss of goods and services income and €2.1m for additional COVID-19 related expenditure.

#### **Chief Executive's Response**

The assistance from the Government in the form of Restart Grants, Rates Waivers, reimbursement for loss of goods and services income and the compensation for the additional expenditure incurred is very much acknowledged in assisting both businesses and the Council through the pandemic.

## **3 Financial Standing**

### **3.1 Statement of Comprehensive Income (Income and Expenditure Account)**

The Council recorded a surplus of €0.16m (2019: €0.17m) for the year ended 31 December 2020, which reduced the accumulated deficit to just €0.17m at that date. The elimination of the remaining deficit should remain a key objective of management.

The surplus recorded for 2020 confirms that the Council continues to adhere, in overall terms, to the strict budgetary requirements for the year.

### **3.2 Annual budget variances**

The elected members, at the Council meeting held in April 2021, approved (by resolution in accordance with section 104(2) of the Local Government Act 2001) the expenditure incurred in 2020 that was in excess of the adopted budget for the year.

The details of the divisional variances are outlined at note 16 to the AFS, the more material of which were in the development management division (€28.8m) and miscellaneous services (€22.3m). These significant increases refer, in the main, to the additional supports that were provided by the Council, and which were funded by the Government, to offset the impacts of COVID-19 to relevant local businesses in the form of the Restart Grants Scheme (€25m - see paragraph 2.2) and the Rates Waiver Scheme (€22m - see paragraph 2.3).

### **3.3 Local Property Tax**

As provided for in legislation, the Council passed a resolution to increase the basic rate of LPT for 2020 by 7.5%, resulting in a total allocation for the year of €19m, an increase on the pre-variation amount of €1.6m.

Due to the Council's surplus LPT position there remains a requirement to self-fund some services which for 2020 were delivered in the Housing divisional area.

In January 2020, the Department confirmed that the Council was required to self-fund housing services, encompassing both revenue and capital type expenditure, of €1.3m for 2020.

### **3.4 Statement of Financial Position (Balance Sheet)**

The Council had net assets of €3.15bn at 31 December 2020 (2019: €3.04bn) with fixed assets being the main contributor to the year-on-year increase, recording a balance of €2.95bn at the 2020 year-end (2019: €2.87bn). Cash investments increased to €205m at the 2020 year-end (2019: €179m).

The requirement to regularly review the need for holding such significant liquid funds has been discussed with management. It is acknowledged that there are detailed proposals in place for which these funds are ring-fenced such as capital projects (as outlined in the recently issued capital programme 2021-23), refundable bonds, RAS reserve and Part V receipts. The 2020 year-end balance also includes an element of deferred income and LPT funds carried forward to the current year.

### **3.5 Fixed Assets**

It was reported at previous audits that the required reconciliations between the amounts recorded in Agresso (the Council's financial management system) and those contained in the property interest register (PIR) had not been completed.

I acknowledge the progress made since the last audit with good improvements noted in respect of reconciling individual assets between the fixed assets register and the PIR. It is noted that most of the individual divisional registers, including the largest component in housing, are now practically complete.

The next phase of the work is to facilitate the data migration from the current Microsoft based databases to a more robust and integrated system that will allow for the web based geographic mapping of all property. I note that this important element of the development has recently been put out for tender through advertisement on the Government's eTenders website.

#### **Chief Executive's Response**

The auditor's comments in acknowledging the work done in this area since the last audit are welcomed. As recommended by the auditor, a number of other local authorities were contacted to get an understanding of what other systems are currently in place. It is noted that these other local authorities have similar difficulties to Kildare. In advance of a sectoral response to this matter, the Council is currently progressing a tender process for a new property interest system and it is hoped that the migration of data to the new system will commence in quarter 1, 2022.

### **3.6 Work in Progress**

At 31 December 2020, the accumulated expenditure on the work in progress and preliminary expenses account amounted to €24.5m (2019: €26.7m). The net



year-on-year decrease reflects the transfers to fixed assets during 2020 of the costs incurred on the completed Ann Street, Prosperous housing scheme (€4m approximately) and the new relief road in Newbridge (€3.2m).

The 2020 year-end balance on the account again included the costs of three sites acquired in recent years. Management has advised me that Departmental stage 1 approval has now been received for 57 housing units at the Oldtown Mill, Celbridge site, with stage 2 approvals currently being processed for 33 housing units at the former Ambassador hotel site in Kill and for 65 housing units at Greenfields, Maynooth.

In addition to the above sites that are now being developed there remain other undeveloped sites located across the county that need to be kept under regular review to ensure that the Council's economic interests are protected.

The final funding models for all relevant sites, both those currently being developed and those awaiting development proposals, will need to take account of the individual acquisition costs.

### **Chief Executive's Response**

The Council is currently in discussions with the Department with regard to the development of each site. The Housing Delivery Action plan 2022 – 2026 for the delivery of social and affordable housing is currently being prepared and the development of these sites will be examined in the context of the plan.

## **3.7 Development Contributions**

Included in trade debtors and prepayments at 31 December 2020 was €12.7m (2019: €12.0m) in respect of development contributions due to the Council (note 5 to the AFS refers).

While the bad debts provision in respect of the collectability of the 2020 year-end debtors was considered appropriate, it should be kept under regular review to ensure that it remains adequate in respect of the aged debt profile of this category of debtors.

## **3.8 Loans Payable**

At 31 December 2020, the Council owed €101m (2019: €113m) in the form of short to long term loans. Included in this year-end is the following:

- **Affordable Housing Loans**

The 2020 year-end balance again included six loans (with a combined balance of €12m) that remain on an interest only repayment schedule. As reported at previous audits, these loans refer to bridging facilities to fund the acquisition of

67 affordable housing units drawn down from the HFA over 10 years ago. The interest charged and paid on these loans in 2020 was approximately €150k.

All of the properties have been temporarily transferred for occupancy as social housing accommodation under the social leasing scheme (see paragraph 9).

### Chief Executive's Response

The Council is awaiting advice from the Department to finalise a long-term solution for these leased units and their associated loans.

## 4 Income Collection

### 4.1 Main revenue income collections

A summary of the collection performances showing the 31 December 2020 arrears position in respect of the main income categories with the comparative figures for the previous year were as follows:

Income Source	Yield %		Debtors €m	
	2020	2019	2020	2019
Rates	70	83	15.7	12.5
Rents & Annuities	92	92	1.2	1.2
Housing Loans	62	62	2.6	2.8

I acknowledge that the 2020 collection yield recorded in respect of rents & annuities of 92% was above the 2019 national average for local authorities (86%). However the returns for housing loans at 62% was again below the previous year's national average for this category of income collection.

As stated at paragraph 2.3, a rates waiver scheme was announced by the Government in 2020. Due to the accounting treatment of the income waived (see appendix 7 to the AFS), the 2020 yield percentage for this collection account, as recorded in the table above, is not comparable to the previous year. For comparison purposes, the Council's waiver adjusted rates yield for 2020 was 80%.

### 4.2 Rates

The arrears at 31 December 2020 for this important category of income recorded a significant increase to €15.7m (2019: €12.5m). COVID-19 has adversely impacted the Council's ability to collect outstanding balances from several businesses.

The status of the rates accounts that were in arrears at 31 December 2020 is summarised as follows:

	Number of customers	Amount owed €m	% of total arrears
Collectable and being pursued	2,162	10.1	64%
Legal proceedings commenced	124	2.8	18%
Customers in liquidation / receivership or administration	336	2.6	17%
Accounts in an agreed payment plan	18	0.2	1%

It is noteworthy that accounts with collective arrears of €2.8m (representing 18% of the total amounts owed to the Council at the 2020 year-end) have been referred to the Council's law agent which is indicative of management's continuing commitment to debt collection.

The current debt book was reviewed with management during the audit and I am satisfied that the level of bad debts provision is currently adequate. However, it should be kept under regular review.

The level of arrears remain significant and the outstanding accounts should continue to be pursued.

### **Chief Executive's Response**

The last two years have been particularly challenging to businesses due to the ongoing impacts of the pandemic. The Council will continue to try and improve the collection percentage and seek to reduce the arrears.

## **4.3 Housing rents and annuities**

The year-on-year arrears recorded another reduction to €1.16m at 31 December 2020 (2019: €1.23m). The cash collections in 2020 amounted to €14.1m (2019: €13.3m) and continues the improved performances recorded in recent years.

## **4.4 Housing Loans**

The recent improved collections performance in the housing loans income category continued in 2020 with arrears reducing to €2.57m (2019: €2.83m) and is acknowledged.

However, the returns achieved for 2020 at 62% was similar to that recorded in 2019 and the most recent annual performance was below the previous year's national average returns for this category of income.

The current arrears remain significant and should continue to be pursued.

### **Chief Executive's Response**

Every reasonable effort will continue to be made to improve this collection rate.

## **5 Capital Account**

### **5.1 Capital Account Overview**

The capital account recorded a net credit balance of €203m at 31 December 2020, an increase on the previous year of approximately €18m.

The latest iteration of the capital programme, covering the three year period 2021-23, anticipates a total capital investment by the Council of €501m. The report has identified that over 37% of the projects (across a wide range of activities including housing, parks and the environment) are climate related. This reflects the Council's commitment to this area and to its role as a centre for one of the four climate action regional offices for the local government sector. The housing division accounts for 46% of the total anticipated programme of activity.

The ability of the Council to deliver on this programme of activity is dependent on the expected availability of external sources of funding such as Government grants and the timely payment of development contributions. Given the current uncertain impacts of COVID-19, I have recommended to management that the continuing availability of individual project funding needs to be carefully considered, through regular reviews and updates, to ensure that the risks to the Council are adequately mitigated.

In addition to a large diverse range of housing projects, the schemes currently being progressed include the following:

- Kerdiffstown Landfill Remediation (€33m - see paragraph 5.2);
- Maynooth Eastern Ring Road (€29m) and;
- Athy Distributor Road (€25m).

The amounts quoted above are the expected costs to be incurred during the 2021-23 period only.

### **5.2 Kerdiffstown Landfill Remediation**

As reported at the previous audit, the Council took responsibility for the management of the Kerdiffstown Landfill remediation project in 2015 under a Memorandum of Understanding (MoU) with the then Department of Environment, Community & Local Government (now the Department of the Environment, Climate & Communications (DECC)).

The main aspect of the scheme is the remediation of the former landfill site, comprising over 31 hectares, located at Kerdiffstown, Naas. It is intended to provide a multi-use public park to include all-weather sports pitches, a playground, and walking pathways.

The governance and oversight controls currently in place to mitigate the many risks associated with this complex development appear to be operating effectively.

The legal registration of title to the Council, of the relevant lands located at the site of the former landfill, remains an ongoing process but I am satisfied with management attempts to complete the deeds of transfer.

There are significant inherent risks associated with this complex development, including the identification and treatment of a large unknown quantity of waste as a result of the site not being adequately supervised for a considerable period of time prior to its transfer to the Council. Consequently, I have recommended to management that the current governance arrangements should remain in place and be further strengthened where considered necessary and appropriate.

### **Chief Executive's Response**

As highlighted by the auditor above, the Kerdiffstown landfill remediation is a major capital project which when complete will bring significant benefits to the area in terms of sports and recreational facilities. Works are now well ahead of schedule which in turn has significantly reduced the broader environmental risks. There are strong governance arrangements in place including full compliance with procurement regulations. The compulsory purchase order has been confirmed and the vesting order was made in January, 2021. All outstanding conveyancing issues are being resolved with the Property Registration Authority.

## **5.3 M7 Interchange upgrade and Sallins by-pass**

This major road scheme provided for the widening of the M7 motorway from two to three lanes both east and west bound for approximately 15km, the construction of a new interchange at Osberstown and the by-passing of Sallins village with the construction of new dual and single carriageways as well as a new link road from the by-pass to the village.

In addition to the availability of development contributions funding from the Council, the scheme also received Government grants from the Department of Transport, Tourism & Sport and Transport Infrastructure Ireland.

Due to a number of disputes between the Council and the main contractor (a joint venture comprising two firms established to tender for the works), a Standing Conciliator, as provided for in the contract, was appointed in an attempt to seek settlement. While some disputes were resolved by means of the

Contract Disputes Management Procedures, a significant number were referred to conciliation. Following both parties' acceptance of the Conciliator's interim recommendations, negotiations were entered into in respect of the final account settlement agreement.

Management has advised me that on substantial completion of the works on the M7 widening phase in November, 2020, the Conciliator recommended a final account settlement agreement amounting to approximately €85.5m (exclusive of VAT), resulting in an increase over the contract sum of €23.8m (equivalent to a 39% increase). As neither party rejected the Conciliator's recommendation, it became binding on both.

I have been further advised that the Council retained the contractor to undertake additional works that were considered necessary subsequent to the completion of the conciliation process. This has resulted in additional costs, totalling €1.16m, being paid by the Council during 2021. I also note that additional costs have been claimed by the contractor but these are currently the subject of ongoing negotiations. I intend to review the outcome of these discussions at the next audit.

#### **Chief Executive's Response**

As highlighted by the auditor above, the M7 upgrade and Sallins by-pass scheme was a major capital project that like most major capital projects resulted in conciliation.

## **5.4 Deficit balances**

Notwithstanding the overall credit balance on the capital account at 31 December 2020, there remain a small number of schemes, mainly referring to housing developments, which continue to carry individual account deficits. I acknowledge the elimination of some account deficits during 2020.

The elimination of the remaining deficits should remain a priority for management.

#### **Chief Executive's Response**

The auditor has acknowledged the work that has been done by the Housing Department in relation to the deficit accounts. A review of all capital balances is conducted annually as part of the preparation of the AFS.

## **6 Irish Water**

### **6.1 Transfer of Water and Sewerage functions to Irish Water**

The Council continues to deliver services on behalf of Irish Water (IW) under a service level agreement. A review carried out during the current audit of the internal procedures adopted in this area indicated that the service appears to continue to be effectively managed.

Section 12 of the Water Services (no.2) Act 2013 provided for the transfer to IW of all underground water services assets previously vested in the Council.

The statutory transfers of the above ground water related assets to IW are given legal effect by Ministerial Orders that are issued by the Department in consultation with the Council and IW.

Management has advised that there have been no further assets transferred to the utility company either during 2020 or to date in 2021. I also note that there are no staff currently assigned to progress this work.

I have been advised that the remaining assets for transfer appear to be problematic in terms of identification, establishment of title, and in some cases require the completion of first registration.

The resources currently assigned to this area should be reviewed to ensure that the remaining sites for transfer to IW are completed in a timely manner.

#### **Chief Executive's Response**

Responsibility for this area is assigned to an administrative officer. Most of the remaining assets are complex and so require a specialised technical resource who resigned during the year. Arrangements are now being made to fill this position. In the interim, an existing member of the technical team has been assigned on a part-time basis.

## **7 Non Pay Expenditure**

### **7.1 Purchasing and the payments of invoices**

The timely raising and approving of purchase orders and the subsequent recording of the receipts of the related goods and services can greatly contribute to the accuracy and relevance of an organisation's budgetary and financial reporting.

The improvements in compliance with the Council's own internal procedures reported at previous audits have again been sustained during 2020. The average level of compliance (in respect of the timely raising of purchase orders) for the year was approximately 90%.

While the average compliance rate continues to be high, I have again recommended to management that reminders should issue to all staff with assigned purchasing responsibilities to highlight the requirements to comply with the Council's own purchasing policy. This is a critical internal control area where some improvements are still needed to ensure that adequate budgetary compliance is being implemented across all of the Council's administrative divisions.

## 7.2 Public Spending Code

To comply with the requirements of the Public Spending Code (PSC), the Council's internal audit unit (IAU) issued a report covering the financial transactions incurred in 2020 in the following areas of activity:

- Capital expenditure: Construction of Prosperous Town Park
- Revenue expenditure: Purchase of library books.

The findings and recommendations contained in the PSC reports were taken into account as part of this audit. The report found that both areas were substantially in compliance with the requirements of the PSC.

## 8 Procurement

### 8.1 Procurement non-compliance

Previous audit reports have highlighted instances of the Council's non-compliance with the national procurement regulations and guidelines.

Another review undertaken during the current audit, which comprised an examination of both revenue and capital type payments made during 2020, has resulted in a sustained level of compliance being noted across a number of divisions including transportation & roads and housing. The Council's improved focus on procurement compliance has resulted in substantially more tender submissions being made on the Government's eTenders website, up from 39 in 2018 to 279 currently in 2021.

As a public organisation, the Council (including its subsidiary and related companies) is required to comply, in all respects, with both the national and EU procurement regulations and directives.

- Transportation and Roads

I again acknowledge the efforts made by management and staff of this directorate in addressing the non-compliant areas of expenditure that have been highlighted at previous audits. The results of the current audit review identified that the revenue type expenditure incurred during 2020 was substantially in compliance with the procurement regulations.



### **Chief Executive's Response**

The auditor has acknowledged the work that has been done on procurement by this Department and the work is ongoing

- [Housing](#)

As reported at the previous audit, the Council was successful in its defence, in the Commercial High Court, of a challenge against the establishment of a multi-party framework agreement for planned building maintenance works. Management has advised me that the notice of appeal against the original court decision was dismissed.

While further improvements are still required, particularly in respect of response maintenance works, I remain satisfied with the level of improvement again noted in this directorate.

### **Chief Executive's Response**

The auditor's comments regarding the planned maintenance framework are noted and work on establishing a framework for response maintenance is ongoing.

- [Provision of dog wardens and dog pound services](#)

I note that the day to day operations relating to the Control of Dogs Act 1986 have been provided, under a service level agreement, by the one service provider since 1987. I have advised the relevant divisional management to consider putting this service out to tender and in advance of such a decision to seek legal advice on the most appropriate procurement model to adopt.

### **Chief Executive's Response**

The Council has a service level agreement with the Irish Society for the Prevention of Cruelty to Animals (ISPCA) which has operated continuously since 1987. The Council will seek legal advice as to whether or not this service should be put out to tender.

- [Property valuation services](#)

The framework agreement for the provision of property valuation services established in 2013 has long since lapsed. A new procurement compliant framework is now required.

### **Chief Executive's Response**

Preparatory work has commenced on a new tender to establish a framework for valuations services. A senior member of staff has been re-assigned to this project for three months to progress a new valuation services tender.

## 9 Provision of Social Housing by Approved Housing Bodies

At 31 December 2020, the Council had contractual arrangements with 35 approved housing bodies (AHBs) for the provision of social housing to tenants on the Council's housing waiting lists. At that date, 2,127 properties were managed by the AHBs under the following national schemes:

- Capital assistance scheme (CAS)
- Capital loan and subsidy scheme (CLSS)
- Social housing leasing initiative (SLI).

The Approved Housing Body Regulatory Authority (AHBRA) was formally established in February, 2021 and is responsible for providing the regulation of AHBs for the purpose of protecting housing assets that are managed by such bodies. The AHBRA has stated that its powers and functions are to be introduced on a phased basis during 2021 with an operational date of early 2022.

In respect of the Council's interests and current responsibilities in this area, I note the following:

- Twelve properties at Ballymakealy, Celbridge

As outlined in previous audit reports, the properties located in Celbridge were previously owned and managed by an AHB that ceased trading some years ago. The relevant deeds of transfer and mortgage documentation were never formally executed and I have been advised that the land on which the properties were constructed remains in the beneficial ownership of the Council.

The resolution of this matter remains the subject of ongoing legal advice and a meeting with the Chief State Solicitors Office has been sought by the Council. The balance of the loan with the HFA of €348k (as at 31 December 2020), originally drawn down to fund the acquisition of these properties, remains outstanding.

- Registration of Mortgages

The ongoing efforts by the Housing directorate staff to ensure that all of the relevant mortgages are appropriately registered is acknowledged. However, there are 16 schemes identified that have not yet had their mortgages legally registered.

Management has been requested to again follow up with the relevant AHBs to ensure that their contractual obligations are fulfilled in all respects.

- Annual Compliance statements

It is acknowledged that annual compliance statements are requested from every AHB with which the Council is currently contracted and those failing to submit the requested documentation are regularly contacted by staff of the Housing directorate.

Of the 36 AHBs that were contacted by the Council to submit an annual compliance statement for 2020, I note that 32 have made submissions to date and that 4 of these returns were regarded as incomplete.

I have requested Council management to follow up with the relevant company management to ensure that all organisations comply with the Council's requests.

- Affordable Housing units under lease to AHBs

As previously reported, the Council has also contractually engaged with two AHBs to manage 67 Council owned properties that were acquired for resale under the former Affordable Housing Scheme. The 2020 year-end balance on loans drawn down to fund these properties amounted to €12m.

The properties are managed under lease agreements with the relevant AHBs. Management has advised me that the Council is awaiting direction from the Department in relation to the future use of these properties.

### **Chief Executive's Response**

The auditor's comments regarding AHBs are noted. Housing department staff will continue to work to resolve outstanding issues within their control and will follow up with third parties where warranted. The establishment of the AHBRA is welcomed.

## **10 Local Authority Companies**

### **10.1 Interest in companies associated with the Council**

The Council has an interest in a number of connected companies, the details of which, together with the relevant 2020 trading results, are disclosed at appendix 8 to the AFS.

All of the companies, listed therein, are audited by private firms of auditors having been appointed by the respective board of directors to undertake the annual audits. The companies' board of directors, whose primary functions under the Companies Act, 2014 is to manage the businesses on behalf of the shareholders, include representatives of the Council's senior management team and also the elected members who act in ex-officio capacities. The Council is the sole shareholder of Kildare Sports & Leisure Facilities Ltd.

## **10.2 Kildare Sports and Leisure Facilities Ltd.**

This company oversees the day-to-day management of leisure facilities located at Naas, Newbridge and Athy. It is a limited liability company with issued shares of €100, all of which are in the beneficial ownership of the Council.

The company's audited accounts for the year ended 31 December 2020 recorded a loss for the year of €20k (2019 profit: €555k), thereby reducing the shareholders' funds at that date to approximately €2.1m. Turnover in 2020 was €1.5m, representing a 58% decrease on the previous year. The directors' report included a statement on the negative impact that COVID-19 has had on the company

The company auditors have again included an Emphasis of Matter paragraph in the audit report to the 2020 AFS. The paragraph notes that discussions are ongoing between the Council and a third party to have the lease of the building assigned to the company. I have again discussed this matter with the Council's representative on the board and I note that the new lease has not yet been signed. As previously reported, this issue needs to be regularised as soon as is practicable.

### **Chief Executive's Response**

The Council has been working to resolve this matter in 2021 and will continue to endeavour to put a lease in place as soon as possible.

## **10.3 Riverbank Arts Centre Company Limited by Guarantee**

This company oversees the day-to-day management of the Riverbank Arts Centre, located in Newbridge. It is a company limited by guarantee and not having a share capital.

The company's audited accounts for the year ended 31 December 2020 recorded a net profit for the year of approximately €156k (2019 net loss: €9.9k), thereby increasing the unrestricted accumulated net funds at that date to €284k. The total amount of grant assistance provided by the Council to the company in 2020 was €262k (2019: €267k).

The directors' report to the AFS outlined the impact that COVID-19 has had on the company's operations with trading to the public ceasing from 13 March, 2020. During the period April to December, 2020, the company presented a range of events online.

## **10.4 County Kildare Community Network Company CLG**

As outlined in the directors' report to the annual financial statement, this company was established to manage the community network in the county by

way of the provision of the kildare.ie website. The company also serves, through the development of regional sector hubs, emerging and growing entrepreneurs by connecting organisations and people. The directors' report further states that the company will act as a centre of excellence in supporting innovative companies across the region. It is a company limited by guarantee and not having a share capital.

The company's audited accounts for the year ended 31 December, 2020 recorded a surplus for the year of €35k (2019 deficit: €218), thereby reducing the members' deficit at that date to approximately €5k.

As reported at the previous audit, the company has signed a 25 year lease for the use of Council owned land located adjacent to the civic offices in Naas. I have been advised that the company has secured Regional Enterprise Development funding from Enterprise Ireland, in the amount of €1.9m, for the purpose of constructing a purpose built premises. When complete, it will be the centre for the Mid-East Regional Innovation Think Space (MERITS). The Council has also committed to providing grant aid to the company as well as a benefit-in-kind for the lease of the land and security for a bank loan and overdraft facilities. During 2020, the Council provided approximately €2m in funding to the company.

The Council continues to have a strong representation on the board of the company, which should be maintained to ensure its interests are safeguarded and its commitments are protected.

### **Chief Executive's Response**

The MERITS building is now completed and ready for occupation. This hub will be used as a regional innovation centre and has a business model that will result in an income stream. However, it is expected that the Council will be providing some financial aid annually.

## **11 Governance and Propriety**

### **11.1 Governance overview**

Corporate governance comprises the systems and procedures by which enterprises are directed and controlled. The Chief Executive, her management team and the Council's elected members all have a role in ensuring there are sound systems of financial management and internal controls in place.

### **11.2 Risk Management**

An effective risk management framework provides the elected members and the Council management with assurances that the major organisational risks are identified and appropriately managed.

There is currently a robust internal control mechanism in place that is being implemented across the various administrative divisions to ensure that the individual divisional registers are regularly reviewed and updated.

It is important that the current resources assigned to this area remain in place and is particularly relevant given the recent additional areas of responsibility taken on by the Council and the staff changes made at senior management level.

### **11.3 Internal Audit**

The position of head of the internal audit unit has remained vacant for over a year, following the resignation of the previous office holder in 2020. A competition organised through the Public Appointments Service failed to identify a suitable candidate. I note and acknowledge management's efforts to ensure another competition is convened as early as possible.

The work undertaken by the unit during 2020 included the annual detailed checking of cash receipting procedures at the various cash desks of the Council and the findings and results from this important internal control procedure were taken into account as part of this audit.

It is a critical element of good corporate governance that the internal audit function for an organisation the size and complexity of the Council is adequately resourced with professionally trained staff.

#### **Chief Executive's Response**

The Public Appointments Service re-advertised this position in October, 2021 and the results of that competition are expected by December, 2021.

### **11.4 Audit Committee**

The Council's audit committee met on three occasions during 2020 and issued its annual report for that year in April, 2021. The December, 2020 scheduled meeting was postponed to January, 2021 to facilitate discussion on the 2019 audit report.

I commend the work of the committee which continues to make significant contributions to the independent oversight of governance within the Council.

#### **Chief Executive's Response**

The work of the audit committee and its contributions to improved governance arrangement throughout the organisation are acknowledged. The auditor presented his 2019 report to the audit committee at the January, 2021 meeting.

## 11.5 Annual declarations of interest

Part 15 of the Local Government Act, 2001 (as amended) imposes obligations on all Council members and staff of a certain grade or assigned certain duties to make annual declarations to the designated Ethics Registrar of the Council.

The returns made in respect of the period ended 29 February 2021 were examined during the current audit and it was again noted that there is generally a high level of compliance from those required to make returns.

However, it was noted that while all elected members and relevant staff have made a declaration, some were received late.

All elected members and relevant staff grades should be reminded of their statutory obligations to furnish appropriate declarations by the annual deadlines date. The declarations, when made, should be completed in full.

### **Chief Executive's Response**

All elected members and staff are contacted regularly to submit their annual declarations.

## Acknowledgement

I wish to record my appreciation for the courtesy and co-operation extended to audit by the management and staff of the Council.



Eamonn Daly,

Local Government Auditor,

21 October 2021.

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