

FINAL INTERNAL AUDIT REPORT
ENVIRONMENT & COMMUNITY SERVICES

FOLLOW UP AUDIT SECTION106 AGREEMENTS FOR 2016-17

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FOLLOW UP AUDIT OF SECTION 106 AUDIT FOR 2016-17

INTRODUCTION

1. This report sets out the results of our systems based audit of Section106 Follow Up Audit for 2016-7. The audit was carried out in quarter 3 as part of the programmed work specified in the 2016-17 Internal Audit Plan agreed by the Section 151 Officer and Audit Sub-Committee.
2. The controls we expect to see in place are designed to minimise the department's exposure to a range of risks. Weaknesses in controls that have been highlighted will increase the associated risks and should therefore be corrected to assist overall effective operations.

AUDIT SCOPE

3. The follow up review concentrated on the progress of implementation of the previous audit recommendations made in the 2015-16 report issued on January 26th 2016.

MANAGEMENT SUMMARY

4. From the previous review, 3 recommendations were made of which it was found through audit testing that 2 recommendations had been fully implemented. The third recommendation related to electronic copies of the S106 agreements been filed on the Council's planning application pages. Through audit testing, it was found that the format and document type was not always correct and therefore not readily accessible by members of the public. Therefore, this has been re-recommended.

SIGNIFICANT FINDINGS (PRIORITY 1)

5. None.

DETAILED FINDINGS/MANAGEMENT ACTION PLAN

6. Appendix A provides information on the recommendations that have been followed-up. Appendix B of this report details recommendations that are being progressed for completion and are re-recommended. The progress made on these recommendations has been acknowledged in the follow up comments but a revised target date should be detailed on the management action plan. Appendix C gives definitions of the priority categories.

ACKNOWLEDGEMENT

7. We would like to thank all staff contacted during this review for their help and co-operation.

Recommendation	Management Comment	Target Date	Priority	Responsibility	Follow-up comments	Status
<p><u>1. Public Access to S106 Agreements</u></p> <p>A check should be made to ensure that a signed copy of all S106 Agreements are electronically filed on the Council's Planning Applications webpages.</p>	<p>We will modify the system to ensure that all the S106 Agreements appear on the website.</p>	<p>April 26th 2016.</p>	<p>3</p>	<p>Chief Planner</p>	<p>Following the audit, it was confirmed by the Planning Development & Control Manager (PD & CM) that internal procedures to ensure that all agreements were uploaded to the electronic casefile were put in place, so all new agreements since the previous audit will have been uploaded and are available to the public. It was confirmed by the PD & C M that they were in the process of working through all of the previous agreements on the register to ensure that they are firstly uploaded, but secondly that the upload is visible on our website. Previously the agreement that could not be seen was actually on the document management system, but set to sensitive so it couldn't be viewed on the public website but was available to officers.</p> <p>Testing for five cases showed that :- 375 – 16/01544 – Online and</p>	<p>Outstanding</p>

Recommendation	Management Comment	Target Date	Priority	Responsibility	Follow-up comments	Status
					<p>listed as 'Unilateral Undertaking Pursuant' 376 – 15/04400 – Online and listed as 'Section 106 Agreement' 377 – 16/01091 – In Idox but marked as sensitive 378 – 16/03569 – In Idox but marked as sensitive 379 – 15/00508 – Online and listed as 'Agreement Pursuant to Section 106 Of The Town And Country Planning Act 1990'</p> <p>The PD & CM advised that the status of some of the records had been marked as sensitive so therefore were not accessible. A decision has been made as a result to start working backwards from the most the recent agreements to check the format and status of the S106 agreements on the Idox file. The Auditor was informed that although the documents were there, the format or document type is wrong, which is preventing them displaying in some cases.</p>	

Recommendation	Management Comment	Target Date	Priority	Responsibility	Follow-up comments	Status
<p><u>2. Registering as a Local Land Charge</u></p> <p>A check should be made to ensure that a Local Land Charge has been registered for all S106 agreements.</p>	<p>We will modify the system to ensure that a Local Land Charge is registered to all S106 agreements.</p>	<p>April 26th 2016.</p>	<p>2</p>	<p>Chief Planner</p>	<p>The PD & CM has since discussed this with the Local Land Charges Manager (LLCM) has agreed to provide a list of all S.106 agreements so that Land Charges can check their register against each. The LLCM advised that this date would be the date that each Agreement was registered as a Local Land Charge.</p> <ul style="list-style-type: none"> • 16/01544- Date of registration 20.05.2016 • 15/04400- Date of registration 03.10.2016 • 16/01091/FULL1- Date of registration 03.10.2016 • 16/03569/RESPA- Date of registration 02.12.2016 • 15/00508/FULL1- Date of registration 12.08.2016 	<p>Implemented</p>
<p><u>3. Receipt of Funds</u></p> <p>Management should clarify the status of this substantial debt given</p>	<p>We will make a final attempt to receive payment then refer this to the Council's</p>	<p>April 26th 2016.</p>	<p>2</p>	<p>Chief Planner</p>	<p>Audit testing showed that in respect of the invoice 70055908, this was the original invoice for Contractor A for £105K. From discussions with</p>	<p>Implemented</p>

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APPENDIX A

Recommendation	Management Comment	Target Date	Priority	Responsibility	Follow-up comments	Status
<p>the time that has evolved since the invoice was first issued in April 2013.</p>	<p>Legal team under the terms of the S106 agreement.</p>				<p>Chief Planner, it was confirmed that the invoice was cancelled and reissued as the debt was taken on by the new party and the new invoice is 70089033 Contractor B for £105k. This has since been paid.</p>	

Recommendation	Priority *Raised in Previous Audit	Risk	Management Comment	Responsibility	Agreed Timescale
<p>1. <u>Public Access to S106 Agreements</u> A check should be made to ensure that a signed copy of all S106 Agreements are electronically filed on the Council's Planning Application webpages. The S106 agreements or Unilateral Undertaking should be in the correct format and document type to enable public access, as necessary.</p>	<p>3*</p>	<p>If members of the community do not have easy access to agreed planning obligations which may be of interest to them, any concerns about the impact of a new development may not be dispelled and/or the Council is not openly demonstrating that obligations are being used solely for the purpose of making developments acceptable.</p>	<p>It is recognised that there remain some S.106 agreements which are not visible to the public. This is for a number of reasons including some being set to not allow public viewing in the document management system. It is proposed to work backwards from the latest S.106 agreement to check all agreements are available online. This is a significant task and it is proposed to carry out the work by checking a small number of agreements each day over a longer period.</p>	<p>Development Control Manager.</p>	<p>By 1st May 2017.</p>

Priority 1

**Required to address major weaknesses
and should be implemented as soon as
possible**

Priority 2

**Required to address issues which do
not
represent good practice**

Priority 3

**Identification of suggested
areas for improvement**