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**FINAL INTERNAL AUDIT REPORT
CHIEF EXECUTIVE'S DEPARTMENT**

Community Infrastructure Levy (CIL) 2021-22

Issued to: **Infrastructure Delivery Team Leader
Head of Planning Policy and Strategy
Assistant Director Planning and Building Control
Director of Housing, Planning and Regeneration
Head of Finance ECS and Corporate Finance**

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Date of Issue: **13 June 2022**

Report No.: **PLA/07/2021**

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INTRODUCTION

1. This report sets out the results of our internal audit of the Community Infrastructure Levy (CIL). The audit was carried out as part of the work specified in the 2021-2022 Internal Audit Plan agreed by the Section 151 Officer and Audit Sub-Committee. The controls we expect to see in place are designed to minimise the Council's exposure to a range of risks. Weaknesses in controls that the audit has highlighted will increase the associated risks and should therefore be addressed by management.
2. The audit looked to review the arrangements in place for oversight and control over CIL activity, as well as the reliability of records, integrity of information and compliance with relevant regulations. The audit objective was to provide an independent opinion that the Council has appropriate controls in place to ensure that CIL charges due, are appropriately identified and amounts due are collected in full.
3. CIL is a non-negotiable levy charged to new developments in order help deliver infrastructure to support the needs of the Council and local community. It came into effect on 6 April 2010 through the Community Infrastructure Levy Regulations 2010.
4. Whilst the London Borough of Bromley has been a collecting authority for the Mayor of London's CIL since 2012, on 19 April 2021, proposals were approved for adoption by the London Borough of Bromley of its own CIL to support local infrastructure needs, with the charge effective on all relevant planning permissions determined on and after 15 June 2021.
5. This review was focused on the arrangements in place for London Borough of Bromley's CIL only. Due to the recent implementation of this process and the limited number of cases available for review, this audit sought primarily to provide an opinion on the design of the controls in place, and to assess effectiveness of these where appropriate.
6. Operationally, the Council's CIL follows the existing internal process followed for the Mayor of London's CIL.
7. The fieldwork for this review was completed remotely during the government measures put in place in response to COVID-19. While our review and testing were performed remotely, we have been able to obtain all relevant documents to complete the review, including through walkthrough exercises over Microsoft Teams.
8. We would like to thank all staff contacted during this review for their help and co-operation.

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AUDIT SCOPE

9. The scope of the audit was outlined in the Terms of Reference issued in February 2022.
10. The controls in place to mitigate the impact of the key risk areas were examined. Controls relating to corporate and departmental risks were also examined where applicable. The audit included a review of relevant documentation, interviews with key officers and testing of related procedures and processes.
11. The following were considered to be the key risks inherent to the CIL process:
 - Adequate and up to date policies and procedures are not in place, or up to date with relevant legislation, leading to inconsistent or incorrect processing of CIL;
 - CIL income is not maximised where eligible developments are not identified for CIL charges and/or charges are incorrectly calculated;
 - Invalid exemptions are applied for and granted;
 - Inefficient and ineffective charge collection and debt recovery, leading to a loss of income; and
 - Lack of process in respect of management of funds leads to inconsistent or insufficient decision making on the use of the funds.

AUDIT OPINION

12. Our overall audit opinion, number and rating of recommendations are as follows.

AUDIT OPINION	
Reasonable Assurance	(Definitions of the audit assurance level and recommendation ratings can be found in Appendix A)

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Number of recommendations by risk rating		
Priority 1	Priority 2	Priority 3
0	2	1

SUMMARY OF FINDINGS

13. Detailed below we have set out examples of where we have assessed controls to have been adequately designed. In addition, where we have identified issues, we have also highlighted these below:
 - We noted that CIL Operational Guidance dated April 2021 is documented and available on the Council’s website. This is intended for use by planning applicants only and provides advice on what CIL is, when it is applicable, how it is calculated and how the Council intends to spend income from CIL. The Council’s CIL came into effect in June 2021 and the current CIL Operational Guidance has not been reviewed to confirm that the content is fully up to date with current procedures (see *recommendation 1 in Detailed Findings*).
 - We confirmed through discussions with the Infrastructure Delivery Team Leader that there is currently no documented guidance available for internal use by the CIL officers on how to identify and process CIL (see *recommendation 2 in Detailed Findings*)
 - We confirmed through discussions with the Infrastructure Delivery Team Leader that staff involved with CIL are provided with on-the-job training. The CIL officers also have regular discussions with the Infrastructure Team Leader. However, we noted there is no CIL related training or professional development. The CIL process is governed by the Community Infrastructure Level Regulations 2010 (CIL Regulations) and there is no readily available external training or guidance.

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- We confirmed through discussion and walkthrough of the system with the Infrastructure Delivery Team Leader, that eligible developments for CIL charges are identified during the building planning stage. The system downloads overnight all data on the planning case management system that has been tagged as being CIL liable (Address, liable parties, development description etc.). A 'CIL Additional Information Form' is a national validation requirement for all relevant applications, which the developer is legally required to complete at the point of applying for planning permission – this contains the floorspace amounts proposed.
- CIL officers run weekly reports to identify planning applications where the CIL charge is applicable. We confirmed through walkthrough of the system that running reports on outstanding cases was possible.
- The CIL charge is calculated manually by the CIL officers. In addition to the CIL calculator on the system, there is a spreadsheet calculator in place that was implemented by the Infrastructure Team Leader that allows a manual CIL calculation cross referenced to the formula in the CIL regulations.
- As there have not yet been any Council CIL liabilities at the time of our testing, we tested a sample of ten Mayoral CIL liabilities from all surcharges (in context, Council CIL was to follow the same process) and found that:
 - CIL Additional Information Form was retained in all cases;
 - CIL calculation observed was appropriate; and
 - CIL Decision notice was sent to the applicant detailing the CIL charge.
- The CIL Regulations make a number of provisions for charging authorities to give relief or grant exemptions from the levy. Some types of relief are compulsory; others are offered at the Council's discretion.
- A form is completed by the planning applicant to claim charitable relief, social housing relief, and/or exceptional circumstances relief prior to the commencement of development. All forms are completed on the national online Planning Portal, which is referred to on the Council's website, and interfaces the information to the Council's system. Any relief must be granted and a Commencement Notice sent to, and received by, the Council prior to the commencement of the development. Otherwise, the full levy charge will be payable. We confirmed Claim forms are available on the council's website.

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- As there have not yet been any Council CIL reliefs or exemptions, we tested a sample of ten Mayoral CIL Reliefs/Exemptions since 2016 and found that:
 - The claim reason as recorded was appropriate in line with the CIL Operational Guidance;
 - A Decision notice was sent in all cases; and
 - Claim forms were only observed in eight out of the ten cases. In the remaining two cases, the claim form was not retained on Exacom due to misfiling error. It was noted the filing errors are in relation to relief claims made in 2016 and 2018. There is likely to be physical copies in the office, however given current remote working circumstances, staff are unable to obtain these and we have not raised a recommendation to this regard.
- We confirmed through discussions with the Infrastructure Delivery team leader that debt recovery is outsourced to a third party. A list of liabilities is provided to the contractor on a weekly basis by the Finance team. The Council engage in weekly email exchanges with the contractor to track progress. However, we were informed that CIL liabilities are never written off and the liability remains on the property as surcharges.
- In accordance with statutory guidance, the Council are required to report to Transport for London (TFL) on all Mayoral CIL charges and collection. We were provided with the TFL Report Bromley Council-Q3-2022 to confirm this had occurred.
- CIL Liabilities are reported on annually via the Infrastructure Funding Statement. We confirmed the statement for 2020/21 is published on the Council's website.
- As highlighted above, statutory reporting to TFL and the Council is in place. However, we noted that there is currently no CIL performance reporting to Senior Management and Board.

DETAILED FINDINGS / MANAGEMENT ACTION PLAN

14. The findings of this report, together with an assessment of the risk associated with any control weaknesses identified, are detailed below. Any recommendations to management are prioritised in line with the criteria set within Appendix A.

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APPENDIX A

No.	Finding	Risk	Recommendation and Priority	Management Response	Agreed Timescale and Responsible Manager
1	<p><u>Operational Guidance</u></p> <p>We noted that CIL Operational Guidance dated April 2021 is documented and available on the Council's website. This document is intended for use by planning applicants and provides advice on what CIL is, when it is applicable, how it is calculated and how the Council intends to spend income from CIL.</p> <p>However, the Council's CIL came into effect in June 2021 and the current CIL Operational Guidance has not been updated following this. It was also noted for example that Section 14 on Reporting states at 14.2 that "the Council does not yet collect its own CIL".</p>	<p>Where guidance documentation is out of date or inaccurate, there is a risk of regulatory non-compliance, due to officers not following the most up to date procedures.</p>	<p>Review and update the CIL Operational Guidance to ensure it is line with current Council processes including the Council's CIL scheme.</p> <p>Priority 3</p>	<p>Agreed. We will review the operational guidance to ensure it is up-to-date, and ensure it is kept up to date, for example to reflect new legislation.</p>	<p>December 2022</p> <p>Responsible Manager - Infrastructure Delivery Team Leader</p>

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No.	Finding	Risk	Recommendation and Priority	Management Response	Agreed Timescale and Responsible Manager
2	<p><u>Procedural Guidance</u></p> <p>Our fieldwork established that, whilst information about CIL is available within the Operational Guidance document, this is intended for use by planning applicants only and therefore does not cover the internal review process. Further, whilst the requirements and conditions of the CIL process are largely detailed in legislation on the Mayor of London website, there is no procedural guidance related to CIL for internal use at the Council.</p>	<p>Where the Council's process on identifying and processing CIL is unclear, there is a risk of regulatory non-compliance, due to officers not following the correct policy internally.</p> <p>There is a further risk that the Council will be unable to demonstrate that proper procedure has been followed should a dissatisfied applicant appeal.</p>	<p>The Council should develop internal procedural guidance to process CIL, which should be available to all relevant staff.</p> <p>Priority 2</p>	<p>Agreed. We will introduce internal procedural guidance document, and ensure it is kept up to date, for example to reflect changes to procedures as a result of new legislation.</p>	<p>December 2022</p> <p>Responsible Manager - Infrastructure Delivery Team Leader</p>
3	<p><u>Management Reporting</u></p> <p>We confirmed the Council produced and published an Annual Funding statement for 2020/21.</p>	<p>Where CIL is not reported to management/ board, there is increased risk that the council are unaware of fraud risk or fraud risk</p>	<p>Introduce regular reporting to senior management.</p> <p>There are a number of ways that this can be fulfilled, including:</p> <ul style="list-style-type: none"> • Reports on CIL Liabilities/ exemptions 	<p>Agreed. We will introduce a regular reporting mechanism to the Chief Officers Executive (COE) group; the intention would be to report on various facets of CIL, at least twice per</p>	<p>There are currently few Bromley CIL liabilities to report but it is expected that these will pick up over the next year. We will</p>

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No.	Finding	Risk	Recommendation and Priority	Management Response	Agreed Timescale and Responsible Manager
	<p>However, through discussions with the Infrastructure Delivery Team Leader and review of the meeting minutes of Development and Control meetings for March 2022, January 2022 and December 2021, we confirmed that CIL liabilities are not reported to or discussed at senior management meetings.</p>	<p>exposures, which could lead to potential financial loss to the Council.</p>	<ul style="list-style-type: none"> • Debt Recovery progress • Any other issues. <p>Priority 2</p>	<p>year but potentially at more regular intervals</p>	<p>therefore look to commence a regular reporting mechanism early in the May 2023.</p> <p>Responsible Manager - Infrastructure Delivery Team Leader</p>

Assurance Level

Assurance Level	Definition
Substantial Assurance	There is a sound system of control in place to achieve the service or system objectives. Risks are being managed effectively and any issues identified are minor in nature.
Reasonable Assurance	There is generally a sound system of control in place but there are weaknesses which put some of the service or system objectives at risk. Management attention is required.
Limited Assurance	There are significant control weaknesses which put the service or system objectives at risk. If unresolved these may result in error, abuse, loss or reputational damage and therefore require urgent management attention.
No Assurance	There are major weaknesses in the control environment. The service or system is exposed to the risk of significant error, abuse, loss or reputational damage. Immediate action must be taken by management to resolve the issues identified.

Recommendation ratings

Risk rating	Definition
Priority 1	A high priority finding which indicates a fundamental weakness or failure in control which could lead to service or system objectives not being achieved. The Council is exposed to significant risk and management should address the recommendation urgently.
Priority 2	A medium priority finding which indicates a weakness in control that could lead to service or system objectives not being achieved. Timely management action is required to address the recommendation and mitigate the risk.
Priority 3	A low priority finding which has identified that the efficiency or effectiveness of the control environment could be improved. Management action is suggested to enhance existing controls.