

Ref	Observation	Risk / Opportunity	Priority Level	Recommendation	Actions for GCC	Owner	By when
1	<p>There are currently multiple owners and 'hand offs' of the S106 process, blurring ownership and accountability responsibilities.</p> <p><b>[Clarification:</b> the reference to "hand offs" is a reference to handovers of information and responsibility within the 106 Process]</p> <p>The previous Head of Place indicated that a review would be undertaken to examine utilising the CIL team to manage S106 agreements to be completed by June 2021. However, there was no evidence provided to confirm this review was completed.</p>	Lack of effective governance arrangements resulting in developer contributions not being collected promptly and mismanagement of S106 developer contributions.	High	<p>A review of the ownership and governance arrangements for S106 agreements should be completed. This should determine who is the overall owner(s) responsible for the maintenance and management of all S106 agreements, including subsidiary responsibilities for the various elements of the process. Following completion of the review the findings should be implemented.</p> <p>Developer contribution spend and adoptions should remain with the appropriate service areas (with the relevant expertise) but managed through Exacom.</p>	<p>Overall responsibility for S106 now sits with the Head of Place.</p> <p>Recruitment has commenced for the Open Spaces Officer who will oversee the delivery and completion of current and planned S106 projects in open spaces.</p> <p>Planning for the recruitment of the admin role is in progress.</p> <p>Quarterly reports will be developed once these staff are in post and reviewed by the Senior Management Team.</p>	<p>David Oakhill</p> <p>Mark Graham</p> <p>Ruth Saunders/ David Oakhill</p> <p>S106 Monitoring Officer and David Oakhill</p>	<p>Completed</p> <p>Officer starts 24<sup>th</sup> July</p> <p>Aiming for September 2023 start</p> <p>December 2023 Planning Committee</p>
2	Exacom is a dedicated and specialist system for	Records held and maintained	High	Exacom should be nominated the priority	Recruitment of a temporary resource to	David Oakhill	September 2023

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	<p>the administration of S106 agreements and CIL.</p> <p>The previous Head of Place anticipated that all S106 agreements, which were being administered on spreadsheets, would be updated, and managed on Exacom by June 2021. This was not completed by the time the cyber incident occurred and therefore the Exacom system S106 records are incomplete.</p>	<p>by the Council are not complete resulting in return of developer financial contributions or planning improvements not implemented.</p>		<p>system for the administration of S106 agreements and fully utilised.</p> <p>The use of spreadsheets, which can be manually intensive and have a heightened risk of data inaccuracy including a lack of an effective audit trail, should be stopped.</p> <p>Work should be undertaken to identify all operating S106 agreements (both financial and non-financial) and to update the appropriate information into the Exacom system.</p>	<p>complete data loading was not agreed as we would prefer to recruit one officer to do this and then manage the administration of the data going forward. This will be more efficient in the long run and require less down time due to training different staff.</p> <p>Exacom will be the system used by the s106 Monitoring Officer and for reporting and staff will be trained in its use.</p>		
3	<p>Regular reconciliations between the S106 Officer spreadsheet to Uniform, Exacom, HP&amp;STL and general ledger records were not performed before or after the cyber incident.</p> <p>A review by Internal Audit of the S106 Officer</p>	<p>Ineffective management of S106 agreements resulting in planning improvements not being implemented, adverse</p>	High	<p>As a minimum, quarterly reconciliations should be completed between Exacom, Uniform and the general ledger to confirm all records agree.</p> <p>The reconciliations should be subject to management review and sign off.</p>	<p>Now that the finance system is back up and running, we will look at opportunities to link to Exacom.</p>	Greg Maw	September-December 2023

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	spreadsheet to Exacom, general ledger and Team Leader records highlighted discrepancies relating to the agreements recorded, the developer contributions and expenditure. In addition, the S106 Officer confirmed to Internal Audit that his spreadsheet was not fully up to date and did not include non-financial S106 agreements.	publicity, and financial shortfalls.					
4	<p>A sample of seven S106 agreements was reviewed by Internal Audit to confirm the:</p> <p>Calculated developer contributions were correct against approved published charges;</p> <p>Calculations were fully documented; and</p> <p>Final agreed contributions were agreed and</p>	Unauthorised or incorrect charges are applied resulting in financial losses or an adverse impact on the community due to a reduction in the developer's obligations.	High	<p>Once the planning and document management systems have been successfully restored, management should provide Internal Audit with details of the developer contributions calculations and figures (including the monitoring fee).</p> <p>Documentary evidence of management review and approval should also be provided.</p>	Agreed, and this information will be included in reporting to SMT and Committee.	S106 Monitoring Officer and David Oakhill	By December 2023

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	<p>approved by management.</p> <p>At the point of this audit, officers were unable to provide Internal Audit with full details of the calculations of the developer contributions due to the cyber incident.</p>						
5	<p>Effective and robust management oversight and monitoring of the performance and status of S106 agreements was not evident through the audit trail provided.</p> <p>Internal Audit identified the following:</p> <p>The S106 Officer spreadsheet highlighted six agreements where the deadline for spending developers' contributions</p>	<p>Ineffective management oversight resulting in overspend and return of developer contributions due to deadlines being passed.</p>	High	<p>Management should at least quarterly obtain summary information of the status and position of all operating S106 agreements to confirm effective monitoring and that developer obligations are being fulfilled.</p> <p>In addition, a review of developer contributions spend should be undertaken to confirm deadlines are being met, there are no overspends and, where appropriate, developer money is returned.</p>	<p>A S106 report template will be developed which will include current and outstanding S106 agreements and funds to ensure that deadlines are being met, there are no overspends and that underspends are identified quickly.</p> <p>The Senior Management Team will receive and discuss quarterly S106 reports.</p> <p>The Head of Place will prepare 6 monthly</p>	<p>S106 Monitoring Officer</p> <p>SMT</p> <p>David Oakhill</p>	<p>September 2023</p> <p>October 2023</p> <p>December 2023</p>

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	<p>(approximately £220k) had passed;</p> <p>There were three S106 agreements where the Council had, in total, spent more than the developer had been committed to provide by approximately £50k;</p> <p>The S106 agreement spreadsheet did not fully detail the follow-up and actions taken by the S106 Officer with the developers to establish the status of the developments and therefore whether contributions were due;</p> <p>A developer approved a S106 agreement with the Council in September 2015. [The developer] agreed to pay a contribution of £75,000 (index linked) over a period of six</p>			<p>Consideration should be given to providing the Planning Committee with a half yearly report of the status of all S106 agreements.</p>	<p>reports to the Planning Committee initially. This may then become annual in line with other reporting.</p>		

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	<p>years commencing from the date of development commencement. As at the point of this audit no contributions have been received despite [the developer] agreeing in July 2022 to commence making payments in instalments; and</p> <p>Developer's contributions for three S106 agreements totalling approximately £85k for affordable homes received in 2018 have not yet been spent as no suitable schemes have been identified.</p>						
6	<p>Planning protocol states that S106 agreements <i>'should normally include clauses stating when and how funds will be used by and allow for their return, after an agreed period of time, where they are not'</i>.</p>	<p>Developer contributions are spent after the deadline resulting in claims from the developer for refunds and</p>	Medium	<p>The Council should fully comply with the Planning protocol and always record deadlines in the S106 agreement.</p>	<p>Training is being sourced to ensure appropriate knowledge of S106 legislation across the organisation.</p>	Ruth Saunders	December 2023

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	<p>A deadline for spending the developer contributions is not always recorded in the S106 agreement. Where no deadline date has been determined, the S106 Officer advised Internal Audit that he applies a five-year period whereas the Team Leader applies 10 years. However, Internal Audit was unable to establish where either of these periods were formally stated and approved.</p> <p>A review by Internal Audit of the S106 Officer spreadsheet highlighted that there are six S106 agreements where the deadline for spending the developer contributions has passed (total value of approximately £220k).</p>	additional costs to the Council.		<p>The Council should obtain clarification from One Legal, where no deadline has been detailed in the S106 agreement, as to the Council's position and obligations so that existing agreements can be managed accordingly.</p> <p>The Council should review the S106 Officer records to confirm for the identified cases, that the deadlines have passed and if proven, return the monies after taking advice from One Legal.</p>	<p>Clarification from One Legal has been requested.</p> <p>The identified cases will be included in the reporting of S106 for SMT and Planning Committee with information relating to action taken.</p> <p>A policy will be developed which includes the management of and charging arrangements for S106.</p>	<p>Ruth Saunders</p> <p>David Oakhill</p> <p>Adam Gooch</p>	<p>August 2023</p> <p>December 2023</p> <p>December 2023</p>
7	Since 2019 the Council charges developers a fee	Service area is not credited with	Medium	The Council should undertake the appropriate	A policy will be developed which	Adam Gooch	December 2023

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	<p>to monitor compliance with the S106 agreement. As at the point of the audit, monitoring fees of approximately £7k have been charged and received by the Council.</p> <p>These fees have been posted to the developer contributions balance sheet account rather than the appropriate service areas' cost centre to support the staff costs of managing S106 agreements.</p>	<p>appropriate income resulting in budgetary pressures and a reduction in service delivery.</p> <p>Monitoring fees are absorbed into project costs resulting in an overspend of developer contributions and a reduction in Council income.</p>		<p>accounting adjustments from the S106 balance sheet general ledger account for monitoring fees.</p>	<p>includes the management of and charging arrangements for S106.</p> <p>Finance to confirm they have made the accounting adjustments to ensure consistency of reporting and monitoring of funds.</p>	Greg maw	December 2023
8	<p>The Land Charges register is not updated to reflect the developer's discharge of their S106 agreement obligations.</p>	<p>Incomplete records at held by the Council.</p>	Medium	<p>The Council should update the Land Charges register to reflect the discharge of a developer's obligations following agreement from management that they have successfully completed the requirements of the S106 agreement.</p> <p>This should then be maintained going forward</p>	<p>A review of the Land Charges Register will be undertaken to ensure an accurate reflection of developer obligations.</p> <p>Exacom will be used for monitoring and reporting and include historical cases where</p>	<p>S106 Monitoring Officer</p> <p>S106 Monitoring Officer</p>	<p>January 2024</p> <p>December 2023</p>



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				and as a minimum, a quarterly reconciliation should be undertaken between the two systems to confirm agreement.  The completed reconciliations should be subject to management review and formal approval.	there is still unspent S106 or ongoing work.		
9	The Council introduced S106 monitoring fees for developers from September 2019 following publication of the Government Planning Obligations guidance.  This monitoring fee has not been included in the Council's Fees and Charges schedule approved by Members.	Incorrect or unauthorised fees are charged.	Medium	Monitoring fees and design and management fees (if proven to be applied) should be recorded on the Council's Fees and Charges schedule and subject to annual review and approval by Members.	A policy will be developed which includes the management of and charging arrangements for S106.	Adam Gooch	December 2023
10	A review by Internal Audit of the Council's 2020-21 IFS was undertaken to confirm the S106 agreements data was published in accordance with the Community	Incorrect S106 agreement information is published resulting in censure and	Medium	The Council should clearly record the value of monitoring fees collected from developers on the 2021-22 IFS and subsequently thereafter.	A policy will be developed which includes the management of and charging arrangements for S106.	Adam Gooch	December 2023

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	<p>Infrastructure Levy regulations (2010).</p> <p>Monitoring fees are required to be separately documented on the IFS. This was not undertaken for 2020-21 (monitoring fees total – approximately £10k).</p> <p>A difference was noted in the 2019-20 carried forward figures for retained developer contributions of £1,724,283.73 to that brought forward to the 2020-21 IFS of £1,659,129.53.</p>	adverse publicity.		The Council should ensure for future IFS, carried, and brought forward figures agree.	Monitoring fees will be separately documented on the 2022-23 IFS.	Paul Hardiman	September 2024
11	<p>One operational risk relating to S106 agreements has been documented, which is in the Waste Recycling and Streetscene service area.</p> <p>The operational risk relates to inadequate staff resources to manage land</p>	Risks to the service are not managed resulting in financial, regulatory, reputational, and adverse publicity exposure.	Medium	<p>The Council should establish ownership of the S106 agreements process (see recommendation 1 above).</p> <p>A full review of the S106 process should be undertaken and the risks and mitigating controls</p>	Agreed, this work has begun and will continue as we implement these actions.	Ruth Saunders and David Oakhill	<p>Ownership agreed, review complete.</p> <p>Risks to be updated as part of reporting</p>

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	adoptions and S106 agreements. There are other risks relating to S106 agreements, for instance, developer contributions not being spent by the deadline and incomplete record of S106 agreements.			identified. The risk register should then be updated. In addition, the risk appetite should also be documented particularly where risks are accepted.			December 2023
12	Following the adoption of the Gloucester City Plan in January 2023, the City Council is collecting developer contributions for mitigation of European protected sites and Biodiversity Net Gain.	Needs to be a clear audit trail for the collection of spending of contributions,	Medium	Continue working with One Legal to ensure appropriate legal mechanisms are in place for the collection and spending of contributions.	Continue with current approach.	Adam Gooch and Jon Bishop	Ongoing