

# *Internal Audit Report 2017/2018*

## Management of Section 106 Agreements

***Hinckley & Bosworth  
Borough Council***

FINAL

March 2018

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## Distribution list

For action: Nicola Smith, Planning Manager  
Gemma Dennis, Planning Team Leader  
Lesley Keal, Compliance & Monitoring Officer

For information: Audit Committee  
Ashley Wilson, Section 151 Officer

# Executive summary (1 of 3)

## Report classification



**Low Risk (5 points)**

## Trend

A review of this nature has not been performed in previous years

## Total number of findings

	Critical	High	Medium	Low	Advisory
Control design	0	0	1	0	2
Operating effectiveness	0	0	0	2	2
Total	0	0	1	2	4

## Executive summary (2 of 3)



### Headlines/summary of findings

Since April 2017 and the date of audit testing, 10 new section 106 agreements have been entered into in addition to ongoing agreements.

This review looked in detail at the arrangements for section 106 agreements. The outcome is a report with a low risk rating, as there was one medium and two low risk findings:

- **Finance reconciliation (medium risk):** There is a monthly meeting between the Compliance and Monitoring Officer and finance team to reconcile the financial records of amounts invoiced and spent with the underlying S106 documentation. We were unable to perform testing over this control as there is no evidence retained;
- **Invoicing (low risk):** testing identified one invoice was raised two months after the trigger date had occurred owing to a delay in the receipt of information received from the finance team; and
- **Aged debtor report (low risk):** between the months of March 2017 and August 2017 we understand that the aged debtors report was not received and follow up action could not be undertaken.

A number of other findings were also identified, but the underlying issue and risk has already been addressed by appropriate remedial action and we have classed these as advisory findings.

We would like to thank all the staff involved for their help in supporting this internal audit review.

## Executive summary (3 of 3)



### ***Management comments***

**Include overall management comments on the findings.**

**This section can be omitted if not required.**

# Current year findings (1 of 7)

## Finance reconciliation

### Control design

1

### Finding rating

Rating

Medium

### Finding and root cause

There is a monthly meeting between the Compliance and Monitoring Officer and finance team to reconcile the financial records of amounts invoiced (GL code: 5547) and amounts spent (GL code: 5548) with the underlying S106 documentation. We were unable to perform testing over this control as there is no evidence retained. We obtained the latest spreadsheet but we cannot determine if this was completed consistently across the year.

We also identified that there are no set thresholds used to determine whether a variance is significant. It may be beneficial to implement a set threshold and confirm that any variances above this value will be investigated.

### Implications

There may be inconsistency between the financial records and the underlying S106 agreement documentation which is not investigated on a timely basis.

### Action plan

Evidence of reconciliations being performed should be retained to demonstrate the process is being adhered to.

A threshold should be defined, above which variances on the reconciliation will be investigated.

Responsible person/title:

Lesley Keal, Compliance and Monitoring Officer

Target date:

March 2018

## Current year findings (2 of 7)

### Invoicing

#### Operating effectiveness

2

#### Finding rating

Rating

Low

#### Finding and root cause

Each agreement has specific trigger which prompts the Compliance and Monitoring Office to raise an invoice.

Our testing identified one invoice was raised two months after the trigger date. It is understood this is an isolated incident as the invoice required an indexation calculation from finance team which was delayed in being processed by two months.

#### Implications

Invoices are not raised on a timely basis leading to an delay in receipt of S106 monies

#### Action plan

Staff will be reminded of the importance of raising invoices on a timely basis and where additional information and support is required from other teams this will be forthcoming

Responsible person/title:

Ashley Wilson, Section 151 Officer

Target date:

1 April 2018

## Current year findings (3 of 7)

### Aged debtor report

#### Control design

3

#### Finding rating

Rating

Low

#### Finding and root cause

On a monthly basis, the Monitoring and Compliance Officer receives the "Aged debt report" from the finance team which will identify whether any outstanding debtors are aged significantly. If required, the Monitoring and Compliance Officer will ensure that appropriate steps are being taken to recover the debt.

However, between the months of March 2017 and August 2017 we understand that the aged debtors report was not received and follow up action could not be undertaken.

#### Implications

Debtors are not chased and investigated on a timely basis

#### Action plan

Ensure that the aged debtor report is shared with all individuals responsible for chasing debtors on a timely basis.

Responsible person/title:

Ashley Wilson – Section 151 Officer

Target date:

1 April 2018

## Current year findings (4 of 7)

### Identification of trigger points

Operating effectiveness

4

#### Finding rating

Rating

Advisory

#### Finding and root cause

Each agreement has specific trigger points at which invoices should be raised. The Compliance and Monitoring Officer completes a number of checks to monitor progress and ensure invoices are raised when appropriate, including monitoring Building Control records and reviewing Discharge of Conditions application. On a monthly basis the Monitoring and Compliance Officer uploads the Section 104 monitoring spreadsheet with latest details and estimates when trigger points will be achieved.

There is no documentation that the checks are being performed; however we could see that the monitoring spreadsheet has been appropriately updated. We identified that in August 2017 checks were not performed until October 2017 as the Compliance and Monitoring Officer was absent from work and no one else was trained to do the checks. Since then, another member of the team has been trained to perform these checks to ensure they are undertaken on a timely basis.

#### Action plan

Ensure that there are adequate staff trained to perform checks and identify whether trigger conditions have been satisfied on a timely basis.

## Current year findings (5 of 7)

### Funding requests

#### Control design

5

#### Finding rating

Rating

Advisory

#### Finding and root cause

When requests for funding are made supporting documentation is provided to demonstrate what the money will be spent on. The Compliance & Monitoring Officer verifies the proposed expenditure is appropriate and in line with the agreement terms. This information is then provided electronically by email using a S106 Forum Electronic Meeting to the relevant people who have 7 days to raise any opposition. Currently a reply is only required when an objection is being raised to the proposed funding request. This may mean that requests are considered approved but actually individuals have just not reviewed the request.

Whilst supporting documentation is required when the original request is made no subsequent checks performed to confirm the final costs, whether they were in line with budget and whether spend was in line with the original agreement.

From September 2017, the Council is asking Parishes to provide a confirmation of works have been performed and supporting invoices for work completed to address this issue. Since this has only recently been introduced we were not in a position to test the effectiveness of this control.

#### Action plan

The Council has already introduced a control to address this risk and going forward will reconcile invoices received for work performed to funding requests received.

## Current year findings (6 of 7)

### Coding of invoices

#### Operating Effectiveness

6

#### Finding and root cause

When funds are requested, the Compliance and Monitoring Officer will raise an internal invoice. The internal invoice must be designated with a “T” code to align the invoice with each specific S106 application.

Our testing identified that a “T” code was omitted from one internal invoice; however, this was identified by Finance when they processed the request and investigated. We have reviewed the associated evidence which demonstrated that this was appropriately identified and resolved internally within the Council.

#### Action plan

Ensure that “T” codes are included on all internal invoices raised to ensure that they can be attributed to a specific S106 application and there is no delay in the timely processing of invoices.

#### Finding rating

Rating

Advisory

## Current year findings (7 of 7)

### Refunds process

#### Control design

7

#### Finding rating

Rating

Advisory

#### Finding and root cause

The Council has never experienced a situation in which funds are required to be repaid to developers. As a result, there is no formal process in place to ensure that where refunds are made they are appropriately authorised and the reasoning is documented. To ensure that the Council is prepared should the situation arise it may be beneficial to include a section on the existing process notes.

#### Action plan

The Council should develop a refunds process and document this in the existing process notes to ensure a procedure is in place should the situation arise in the future.



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**Appendix A: Basis of our  
classifications**

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**Appendix B: Terms of  
reference**

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**Appendix C: Limitations  
and responsibilities**

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# *Appendices*

## Appendix A: Basis of our classifications

### Individual finding ratings

#### Critical

A finding that could have a:

- **Critical** impact on operational performance; or
- **Critical** monetary or financial statement impact; or
- **Critical** breach in laws and regulations that could result in material fines or consequences; or
- **Critical** impact on the reputation or brand of the organisation which could threaten its future viability.

#### High

A finding that could have a:

- **Significant** impact on operational performance; or
- **Significant** monetary or financial statement impact; or
- **Significant** breach in laws and regulations resulting in significant fines and consequences; or
- **Significant** impact on the reputation or brand of the organisation.

#### Medium

A finding that could have a:

- **Moderate** impact on operational performance; or
- **Moderate** monetary or financial statement impact; or
- **Moderate** breach in laws and regulations resulting in fines and consequences; or
- **Moderate** impact on the reputation or brand of the organisation.

## Appendix A: Basis of our classifications

### Individual finding ratings

#### Low

A finding that could have a:

- **Minor** impact on the organisation's operational performance; or
- **Minor** monetary or financial statement impact; or
- **Minor** breach in laws and regulations with limited consequences; or
- **Minor** impact on the reputation of the organisation.





#### Advisory

A finding that does not have a risk impact but has been raised to highlight areas of inefficiencies or good practice.

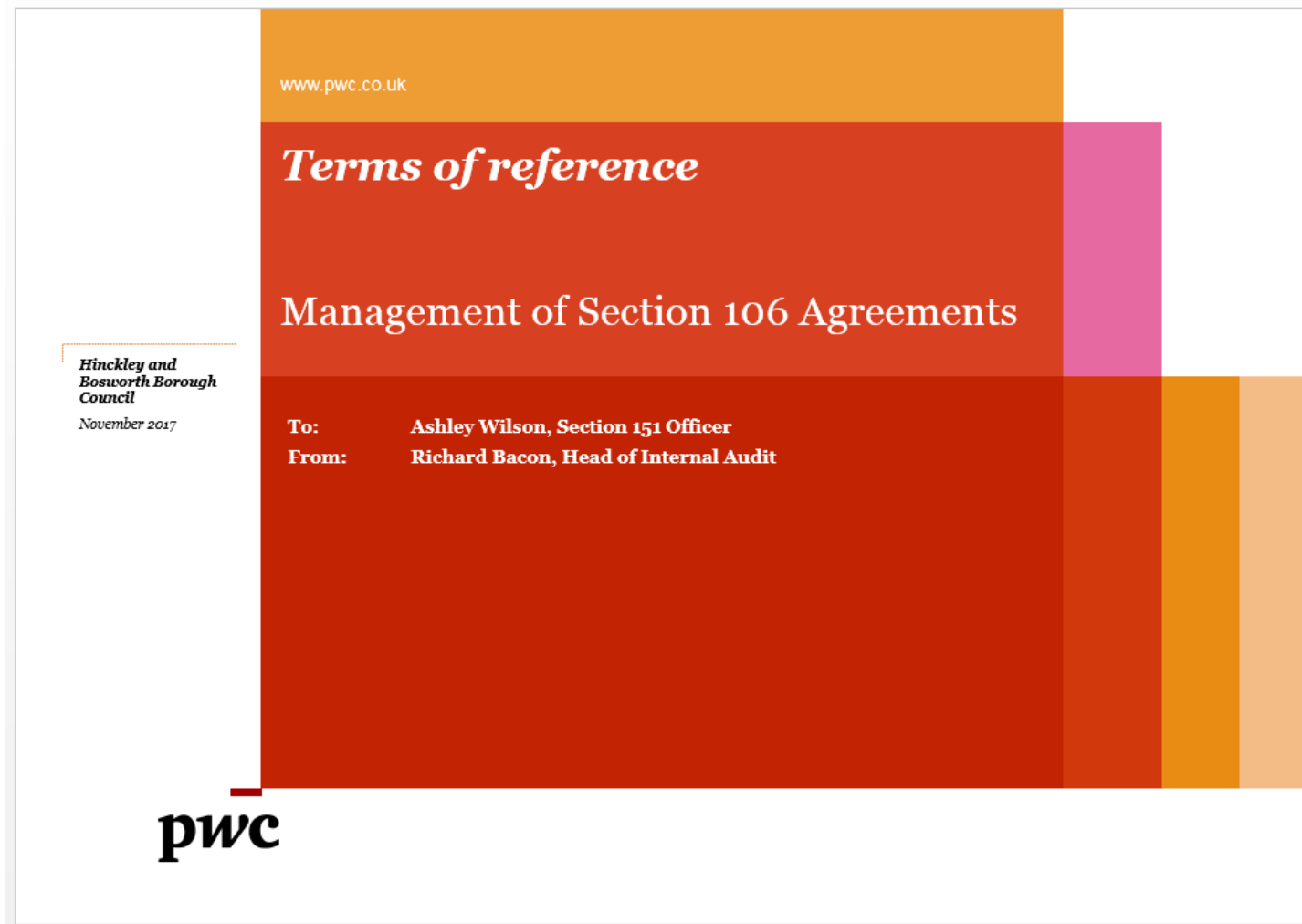
### Report classifications

The report classification is determined by allocating points to each of the findings included in the report.

Findings rating	Points
Critical	40 points per finding
High	10 points per finding
Medium	3 points per finding
Low	1 point per finding

Report classification	Option A	Points
	Low risk	6 points or less
	Medium risk	7 – 15 points
	High risk	16 – 39 points
	Critical risk	40 points and over

## Appendix B: Terms of reference



## Background and audit objectives



This review is being undertaken as part of the 2017/18 internal audit plan approved by the Audit Committee.

### Background and audit objectives

Section 106 (S106) Agreements allow a local planning authority to enter into a legally-binding agreement or planning obligation with a landowner in association with the granting of planning permission. S106 agreements are used to help offset the pressure of new developments with improvements to local infrastructure and facilities. S106 agreements can only be used on projects laid down in the legal agreement with the developer, within an agreed period of time.

The overall objective of this audit is to review and assess the process for capturing and recording S106 agreements information, monitoring of S106 agreement triggers and the collection of monies, management and spending of monies received and S106 reporting.

There are no specific areas of concern identified and the review will consider the existing process in place to provide assurance that the process is operating as designed and supports the Council with an effective system of governance and control.

# Audit scope and approach (1 of 3)



## Scope

We will review the design and operating effectiveness of key controls in place relating to the auditable unit during the period April 2017 to the date audit fieldwork.

The sub-processes, risks and related control objectives included in this review are:

Sub-process	Risks	Objectives
Agreement information	Where S106 Agreement information is not recorded in a consistent manner across the Council, this may result in ineffective monitoring and reporting of S106 Agreements resulting in financial loss and reputational damage to the Council.	<ul style="list-style-type: none"> <li>• Policies, procedures and guidance is readily available to key staff</li> <li>• All S106 agreements are added to the database in a consistent manner with all relevant information attached</li> <li>• There are adequate records and audit trails between departments to ensure that financial contributions due are collected</li> </ul>
Monitoring of agreements	Failure to ensure S106 contributions are collected as per the terms of agreements prior to the Council completing developments/works may result in the Council being required to provide the funding where developers became insolvent or do not ultimately provide the contributions agreed.	<ul style="list-style-type: none"> <li>• Mechanisms are in place to ensure contributions are collected as per the agreements</li> <li>• Invoices are raised to collect S106 monies in line with the agreements</li> <li>• There is a strategy in place to manage/monitor the use of S106 Agreement contributions to ensure appropriate schemes and developments are funded</li> <li>• Reconciliations are performed between the financial ledger and the database</li> </ul>

## Audit scope and approach (2 of 3)



### Scope continued

Sub-process	Risks	Objectives
Approval for the release of agreement monies	Failure to have an efficient, appropriate and timely process in place for the release of S106 monies may lead to delays in starting projects, or projects not starting at all. This may result in S106 contributions being returned to developers, which may have a reputational impact on the Council.	<ul style="list-style-type: none"> <li>There is an efficient and effective process in place for the release of monies</li> <li>Funds are approved prior to being released to project codes</li> </ul>
Ordering S106 agreement works	Failure to ensure that monies held from agreements are spent in accordance with those agreements may result in monies being returned to developers in the event that the Authority is challenged on the application of S106 funding.	<ul style="list-style-type: none"> <li>There is appropriate review of funds drawn down to projects to ensure that the funds allocated to projects are appropriate based on terms of the agreement</li> <li>When monies are returned to developers the reason is accurately categorised and reported in a central location to allow for ease of monitoring</li> <li>Returns are appropriately authorised prior to being processed</li> </ul>
Financial accounting and reporting	Failure to reconcile records with those maintained by other teams involved in the S106 process may result in contributions being drawn down or returned erroneously/inappropriately without the appropriate approval.	<ul style="list-style-type: none"> <li>There is a clear audit trail of the S106 funds received, allocated and spent</li> <li>There is timely monitoring of contributions due and monies received</li> <li>Appropriate processes are in place to ensure that development monies are accurately recorded on the financial ledger</li> </ul>

## Audit scope and approach (3 of 3)



### Limitations of scope

The scope of our work will be limited to those areas outlined above. Our review will be performed in the context of the information provided to us. Where circumstances change the review outputs may no longer be applicable.

We will select a sample of agreements and focus on the activities which have taken place from April 2017 to the date of fieldwork rather than considering each agreement in its entirety dating back a number of years.

### Audit approach

Our audit approach is as follows:

- Obtain an understanding of the auditable unit through discussions with key personnel and review of systems documentation;
- Identify the key risks of the auditable unit;
- Evaluate the design of the controls in place to address the key risks; and
- Test the operating effectiveness of the key controls.

## Internal audit team and key contacts



### Internal audit team

Name	Role	Contact details
Richard Bacon	Head of Internal Audit	richard.f.bacon@pwc.com
Jodie Stead	Internal Audit Manager	jodie.a.stead@pwc.com
Mark Vu	Internal Audit Team Member	bach.h.vu@pwc.com

### Key contacts – Hinckley and Bosworth Borough Council

Name	Title
Ashley Wilson	Section 151 Officer
Nicola Smith	Planning manager
Gemma Dennis	Planning team leader
Lesley Keal	Compliance & Monitoring Officer

# Timetable and information request



## Timetable

Fieldwork start	27 November 2017
Fieldwork completed	1 December 2017
Draft report to client	15 December 2017
Response from client	22 December 2017
Final report to client	5 January 2018

Agreed timescales are subject to the following assumptions:

- All relevant documentation, including source data, reports and procedures, will be made available to us promptly on request.
- Staff and management will make reasonable time available for interviews and will respond promptly to follow-up questions or requests for documentation.

*Please note that if Hinckley and Bosworth Borough Council requests the audit timing to be changed at short notice and the audit staff cannot be deployed to other client work, Hinckley and Bosworth Borough Council may still be charged for all/some of this time. PwC will make every effort to redeploy audit staff in such circumstances.*

## Information request

Access to the spreadsheet used to monitor section 106 monies

Copies of any process or procedure notes

Reconciliation between the section 106 spreadsheet and financial information

## Appendix C: Limitations and responsibilities

### Limitations inherent to the internal auditor's work

We have undertaken this review subject to the limitations outlined below:

#### Internal control

Internal control systems, no matter how well designed and operated, are affected by inherent limitations. These include the possibility of poor judgment in decision-making, human error, control processes being deliberately circumvented by employees and others, management overriding controls and the occurrence of unforeseeable circumstances.

#### Future periods

Our assessment of controls is for the period specified only. Historic evaluation of effectiveness is not relevant to future periods due to the risk that:

- The design of controls may become inadequate because of changes in operating environment, law, regulation or other changes; or
- The degree of compliance with policies and procedures may deteriorate.

### Responsibilities of management and internal auditors

It is management's responsibility to develop and maintain sound systems of risk management, internal control and governance and for the prevention and detection of irregularities and fraud. Internal audit work should not be seen as a substitute for management's responsibilities for the design and operation of these systems.

We endeavour to plan our work so that we have a reasonable expectation of detecting significant control weaknesses and, if detected, we carry out additional work directed towards identification of consequent fraud or other irregularities. However, internal audit procedures alone, even when carried out with due professional care, do not guarantee that fraud will be detected.

Accordingly, our examinations as internal auditors should not be relied upon solely to disclose fraud, defalcations or other irregularities which may exist.

This document has been prepared only for Hinckley and Bosworth Borough Council and solely for the purpose and on the terms agreed with Hinckley and Bosworth Borough Council in our agreement dated 10 May 2016. We accept no liability (including for negligence) to anyone else in connection with this document, and it may not be provided to anyone else.

Internal audit work was performed in accordance with PwC's Internal Audit methodology which is aligned to Public Sector Internal Audit Standards. As a result, our work and deliverables are not designed or intended to comply with the International Auditing and Assurance Standards Board (IAASB), International Framework for Assurance Engagements (IFAE) and International Standard on Assurance Engagements (ISAE) 3000.

In the event that, pursuant to a request which Hinckley and Bosworth Borough Council has received under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004 (as the same may be amended or re-enacted from time to time) or any subordinate legislation made thereunder (collectively, the "Legislation"), Hinckley and Bosworth Borough Council is required to disclose any information contained in this document, it will notify PwC promptly and will consult with PwC prior to disclosing such document. Hinckley and Bosworth Borough Council agrees to pay due regard to any representations which PwC may make in connection with such disclosure and to apply any relevant exemptions which may exist under the Legislation to such report. If, following consultation with PwC, Hinckley and Bosworth Borough Council discloses any this document or any part thereof, it shall ensure that any disclaimer which PwC has included or may subsequently wish to include in the information is reproduced in full in any copies disclosed.

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