

Report To: Corporate Governance Committee  
Date of Meeting: 05 June 2019  
Lead Member / Officer: Lisa Lovegrove – Chief Internal Auditor  
Report Author: Lisa Lovegrove – Chief Internal Auditor  
Title: Internal Audit of Section 106 Agreements

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1. What is the report about?  
This report provides details of a recent Internal Audit report on Section 106 Agreements that received a 'Low' Assurance rating.
2. What is the reason for making this report?  
Corporate Governance Committee has agreed that it will receive and discuss all Internal Audit reports receiving a 'Low' Assurance rating so that they can discuss the outcome and receive assurance that improvements will be made.
3. What are the Recommendations?  
The Committee comments on the report and decides whether it requires any further update reports on progress with the improvement action plan.
4. Report details  
Section 106 of the Town and Country Planning Act 1990 relates to agreements regulating the development or use of land. The S.106 process is initiated through the Planning team with involvement from Legal Services and ends with other departments in the Council e.g. Education Services. Agreements under Section 106 are legally binding and require that provisions be made at the landowner's expense for affordable housing and/or financial contributions towards: affordable housing; education; open spaces; in connection with granting of permission for development of any size or type. The Council uses two types of agreements as noted below: -
  - S.106 agreements - where both the Council and the developer/landowner enter into the agreement.
  - Unilateral Undertakings - where there is commitment by the developer/landowner only.

The review was requested by senior management and focused on the following areas of the Section 106 planning obligation: policy and guidance, negotiations, use of unilateral undertakings, monitoring and enforcement, and recording and processing.

Our review concludes that despite there being good processes in place for some elements of the S.106 process, there are a number of significant weaknesses that need to be addressed. Using root cause analysis, we highlight four risks issues in total, which are briefly summarised below:

- Need to establish a clear framework for the overarching S106 process

- Lack of a central register to record S106s so it is accessible to all relevant parties.
- Details captured against S106s were not up-to-date and therefore showing some inaccuracies
- Lack of resilience or suitable arrangements within some teams to ensure continuity of the S106 process.

The full Internal Audit report is included as Appendix 1.

5. How does the decision contribute to the Corporate Priorities?  
Not applicable - there is no decision required with this report.
6. What will it cost and how will it affect other services?  
Not applicable - there is no decision required with this report.
7. What are the main conclusions of the Well-being Impact Assessment?  
Not applicable – there is no decision of proposal for change associated with this report.
8. What consultations have been carried out with Scrutiny and others?  
Not applicable - there is no decision required with this report.
9. Chief Finance Officer Statement  
Not applicable - there is no decision required with this report.
10. What risks are there and is there anything we can do to reduce them?  
The work of internal audit gives assurance to the Council on the adequacy and effectiveness of controls in place to manage and mitigate risks. Internal Audit will follow up the agreed actions to ensure that necessary improvements are undertaken to reduce the risks identified. Corporate Governance Committee may request update reports to monitor progress with the implementation of the improvement action plan.
11. Power to make the Decision  
Not applicable - there is no decision required with this report.