Grant Thornton
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Review of s106 programme management processes

London Borough of Tower Hamlets

7 March 2016

Final Report

Grant Thornton
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Our Ref LBTH/GC/ER

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7 March 2016

FAO: Mr Andy Simpson, Business Improvement & Programme Manager

Dear Sir

Independent review of Section 106 programme management processes Final Report

We have pleasure in enclosing a copy of our report (the 'Report') containing the findings from our review of London Borough of Tower Hamlets' (the 'Council') Section 106 (s106) programme management processes (PMP). The scope of this review was agreed in Grant Thornton's proposal of January 2016 and the contract between Grant Thornton and the Council dated 10 February 2016.

Notwithstanding the scope of this engagement, responsibility for management decisions will remain with the Councils and not with Grant Thornton UK LLP.

Context

The Council has commissioned this review in response to the audit findings report provided by the Council's external auditors KPMG. In addition, in the face of a number of recent developments in the way the Council plans to manage s106 contributions, and owing to the scale and pace of development in Tower Hamlets and the large levels of s106 monies received, you have sought an independent review of your s106 PMP.

Limitation of liability

We draw the Councils' attention to the limitation of liability clauses in paragraphs 4.1.1 to 4.1.8.2 in the "Contract for the provision of consultancy services between the London Borough of Tower Hamlets and Grant Thornton UK LLP" dated 10 February 2016.

Forms of report

For the Council's convenience, this report may have been made available to the Council in electronic as well as hard copy format, multiple copies and versions of this report may therefore exist in different media and in the case of any discrepancy the final signed hard copy should be regarded as definitive.

Confidentiality and reliance

This report is for sole use of the Council. We stress that our report and other communications are confidential and prepared for the addressee(s) only. They should not be used, reproduced or circulated for any other purpose, whether in whole or in part without our prior written consent, which consent will only be given after full consideration of the circumstances at the time. We agree that an addressee may disclose our report to its employees, officers, Members, directors, insurers and professional advisers as required by law or regulation, the rules or order of a stock exchange, court or supervisory, regulatory, governmental or judicial authority without our prior written consent but in each case strictly on the basis that we owe no duties to any such persons.

To the fullest extent permitted by law, we do not accept or assume responsibility to anyone other than the addressee(s) for our work or for our report and other communications.

To the fullest extent permitted by law, we do not accept any responsibility for any loss or damages arising out of the use of the report or other communications by the addressee(s) for any purpose other than in connection with the Purpose.

General

The report is issued on the understanding that the management of the Council have drawn our attention to all matters, financial or otherwise, of which they are aware which may have an impact on our report up to the date of signature of this report. Events and circumstances occurring after the date of our report will, in due course, render our report out of date and, accordingly, we will not accept a duty of care nor assume a responsibility for decisions and actions which are based upon such an out of date report. Additionally, we have no responsibility to update this report for events and circumstances occurring after this date.

We would like to thank the Council's officers for making themselves available during the course of the review.

Yours faithfully

Grant Thornton UK LLP

Contents

Executive Summary

Executive summary

This review of Section 106 programme management processes was commissioned to provide the Council with an independent view on whether the controls it has in place for dealing with s106 planning obligations are robust, transparent, sound, and secure to achieve the objectives of the Council.

Summary

The Council can take assurance that its programme management processes (PMP) for Section 106 (s106) contributions effectively manage the current levels of challenge and risk faced by the programme and the current size of the s106 portfolio.

The s106 programme team's appreciation of the risks it faces is a strength. The most notable programme risks, such as inaccuracy of recording and monitoring of income and expenditure, and proximity to expiration of some time-limited contribution have been identified by the Council and the s106 programme has taken steps to manage them.

Whilst the identification and management of these risks is a strength, the processes themselves are not efficient. The use of locally held Microsoft Excel spread sheets that require frequent reconciliation with the Council's finance system leads to duplication of effort and are susceptible to human error. These risks are causing the Council concern, and it is considering investing in software that would help mitigating them further.

The critical success factor for the s106 programme is the coordination and drive provided by the programme team and the regularity and strength of collaboration between directorates. These are underpinned by the Council's rigorous approach to project management governance (based on PRINCE2 methodology), which is enforced throughout the s106 programme and ultimately by the Planning Contributions Overview Panel (PCOP).

The s106 programme's transparency is also a strength, and PCOP publishes decisions online. The s106 programme also publishes bi-annual newsletters on projects completed using s106 funding. The decision to develop a new governance and decision making structure for the approval of s106 contributions, the Infrastructure Delivery Framework (IDF), will make s106 allocation more transparent as funding decisions will be ratified by the Mayor in Cabinet from April 2016.

The s106 programme team should now look to raise its profile within the Council and demonstrate its transparency to internal stakeholders. It is important that PCOP decisions and successful project outcomes are shared with colleagues.

Going forward, the Council's key area for improvement and challenge will be ensuring it develops the capacity to manage the anticipated uplift in s106 and Community Infrastructure Levy (CIL) receipts. This uplift will further emphasise the need for accurate recording and monitoring of income and expenditure and exploit and highlight any issues in the Council's capital commissioning processes.

In order to meet this uplift the Council will need to exploit the opportunities available to develop efficiencies in its s106 governance processes. We recognise that the Council has gone some way to finding these efficiencies in their outline plans for the IDF. However, our review of current arrangements has identified three opportunities to drive improvements in this area. Firstly; the Council must ensure that its capital expenditure approval process is efficient. Secondly, the s106 funding approval processes must align with the capital expenditure approval process. Thirdly, the Council should look to integrate its approach to managing s106 and CIL.

In particular, the requirement to adopt the capital estimate for each aspect of the approved capital programme, which is required prior to project expenditure being authorised is contributing to delays in commissioning and the increasing balance in the Council's s106 account.

Recommendations

Recommendations

Our review has set out 11 recommendations for the Council to consider. In considering these recommendations it is important to note that this work was commissioned to review the Council's existing arrangements only. We recognise that the Council is developing an IDF and that new arrangements will to a certain extent, adopt some of the measures set our below.

1

Recording s106 income and expenditure

Finding: Despite effective recording of s106 contributions, Microsoft Excel may not be the most suitable tool monitoring tool for income and expenditure. It contributes to inaccuracy and is labour-intensive.

Recommendation: The Council should consider procuring integrated s106 and CIL Software. This information system should allow both income, expenditure and programming information to be co-located and should integrate the processes by which s106 and CIL are allocated, monitored and implemented across the Council.

2

Ring-fencing & Programming s106

Finding: Due to the unavailability of historic income data (owing to changes in your finance system in 2013) testing on this issue was restricted to income received post-2013. We found no evidence of 'teaming and lading' since 2013.

Recommendation: Should the Council forward-fund projects using the General Fund (whilst waiting for confirmed s106 income to be received), there should be a clear audit trail which records the decision and transaction. Such an audit trail should specify that the money used is from the Council's General Fund or reserves and not from another s106 contribution.

3

Ring-fencing & Programming s106

Finding: Adopting the capital estimate process to gain approval for the prior-approved capital programme is delaying commissioning of projects.

Recommendation: In implementing the IDF the Council should consider the requirement to adopt the capital estimate process to gain Cabinet approval for Capital expenditure previously approved as part of the Capital Programme or subsequently as an amendment to the Capital Programme.

4

Ring-fencing & Programming s106

Finding: The Register of Corporate Director's Actions (RCDA) process is contributing to delays to the commissioning of projects.

Recommendation: When implementing the IDF the Council should review the RCDA procedure and investigate whether a more streamlined process which enables more rapid delegated funding approval will still achieve the same results without sacrificing the quality of oversight and accountability.

5

Ring-fencing & Programming s106

Finding: The Council's receipts from s106 and CIL are due to increase which may place a strain on programme support availability.

Recommendation: The Council should build flexible capacity within the s106 programme team and directorates in order to maintain pace with the Capital Programme. This capacity building could be through training, or increasing its officer resources, or through considering alternative methods of commissioning.

6

Governance & Decision Making

Finding: The Council will need to develop clear terms of reference for the Infrastructure Delivery Steering Group (IDSG).

Recommendation: Terms of Reference for the IDSG should clarify the distinction between those charged with governance and those with responsibility for delivering the programme. These are currently unclear in PCOP's Terms of Reference.

Recommendations (continued)

Our review has set out 11 recommendations for the Council to consider. In considering these recommendations it is important to note that this work was commissioned to review the Council's existing arrangements only. We recognise that the Council is developing Infrastructure Delivery Framework and that new arrangements will to a certain extent, adopt some of the measures set our below.

7

Governance & Decision Making

Finding: The Council has a pragmatic and proportional approach to governance that should be taken forward with the IDF.

Recommendation: Acknowledging the Council's pragmatism thus far, the Council should consider grouping small projects together into programme level PIDs for approval and monitoring purposes.

8

Governance & Decision Making

Finding: There have been occasions when receipt of payment and notice of discharge of obligations has not been provided by the Council to a developer.

Recommendation: The Council should consider receipting income and notifying developers of discharge of obligation in every case as standard procedure. This will improve transparency and strengthen the income recording process.

9

Monitoring & Reporting s106

Finding: The Council provides bi-annual exception reports to project slippage to PCOP.

Recommendation: Bi-annual exception reports to PCOP should be integrated with the s106 Portfolio Summary Report to form part of the standard report to the IDSG. This will actively manage the risk presented by time-sensitive contributions and ensure that the IDSG is proactive in driving corrective action by holding service managers to account for project slippage.

10

Monitoring & Reporting s106

Finding: The s106 programme team provides a high level report on time-limited contributions to PCOP.

Recommendation: The Council should further develop its reporting on time-limited contributions. A dashboard or traffic-light based report, setting out which time-limited contributions have been programmed and which have not, and similarly which projects funded by time-limited contributions have stalled would enable PCOP or IDSG to easily assess the risk they face and take prompt mitigating action.

11

Monitoring & Reporting s106

Finding: PCOP's standing agenda does not include the monitoring of non-financial contributions. (We understand from PCOP minutes that these reports are considered.)

Recommendation: In accordance with the August 2013 Internal Audit report's original recommendation, PCOP's agenda should include a regular item for monitoring and reporting non-financial agreements.

Background & Context

Background and context

Background

The Council's programme management of s106 obligations has been subject to a high degree of scrutiny in recent years. Internal Audit in particular has assessed s106 processes over the course of a number of audits, most recently in August 2013. These audits identified a range of issues and made recommendations for their rectification. These are explored further in the findings of this review.

In addition to Internal Audit scrutiny, the Council's external auditors KPMG, identified a number of issues relating to the operation of s106 payments. As a consequence of this they extended testing of payments and traced a sample of items from original planning consents through to current payments. Following this further testing, KPMG's consideration of the Council's s106 arrangements highlighted that:

- the spread sheet to record s106 receipts and payments did not cast;
- that certain items appear not to have been paid strictly in line with the original agreements;
- there were funds relating to one scheme that were tested that were close to the deadline for spending the s106 funds, and the plans in place would not be completed before the deadline; and
- there were instances where payments were made in advance of receiving s106 monies, temporarily utilizing other s106 funds.

As a consequence of these findings, which are further explored as part of this review, KPMG, in their "Final report to those charged with governance" of September 2015 recommended the council commission an independent review of s106 PMP.

Context

Against the back drop of this scrutiny and the recommendation for an independent review, the context in which s106 contributions are being managed is changing.

The Council's governance and decision making structure for s106 contributions is due to be updated in April 2016. This new framework (the IDF) will bring about a number of changes, including placing decision making responsibility for the allocation of s106 funding into the hands of the Mayor in Cabinet. There are a number of drivers for these changes. These include:

- Change in political leadership at the Council and the increased emphasis being placed on transparency and public accountability
- The increasing volume of CIL receipts that are starting to be generated and the Council's ambition to develop joined up processes
- The Council's commitment to continuous improvement and ambition to generate efficiencies in the processes they use to manage s106 contributions
- The increasing balance held in the s106 account. As of January 2016, the Council held in excess of £68.5 million in its s106 account. This is set against the £49.9 million as of October 2013. This figure is due to increase further as a result of the scale of development in the Borough. Of this amount, as of January 2016£13.4million has been ring-fenced or allocated to a project.

Recognising that the new governance and decision making structure was approved by Cabinet in January 2016,, this report sets out our review of existing arrangements and in so doing provides commentary on the areas of good practice that can be adopted under the new system.

Our approach

Our approach

The role of s106 policy in meeting the Council's objectives

Section 106 agreements (s106) are legally binding obligations between the local planning authority and developers under the Town and Country Planning Act 1990 to ensure developers make a reasonable cash or in kind contribution to local physical and social infrastructure.

The Council's approach to s106 is set out in its Planning Obligations Supplementary Planning Document (SPD) (2012) and is designed to meet the relevant objectives of the Core Strategy 2010, IDF and other relevant strategies to support the significant increase in population and employment over the next 15 years. For instance, by 2025 it is projected there will 43,275 more homes in the borough (equating to 2,885 per year).

Under the Council's existing s106 programme, s106 monies are paid at key stages of development ('trigger points') in accordance with the relevant terms of a particular obligation, to fund projects across a range of themes (e.g. affordable housing, education, community and leisure facilities, employment and enterprise, health, sustainable transport, environmental sustainability, and public realm and open spaces).

Methodology

This report summarises the findings from Grant Thornton's review of the s106 PMP within London Borough of Tower Hamlets. This review was conducted throughout February 2016. The methodology that we have used includes:

- a comprehensive desktop analysis of documents provided by the Council.
- financial testing of a sample of 10 planning applications (PAs). The sample of PAs was random and was selected using IDEA (random generator) software. This sample contained PAs that had funded already completed projects, projects that were still live, projects that had been identified but not formally authorised and therefore yet to spend, and finally contributions that had not be allocated to specific projects. Testing on PAs included:
  - verifying that Project Initiation Documents (PIDs) were allocated the funding specified in the PAs
  - ensuring that the correct Heads of Terms (HofTs) were applied to PIDs and s106 monitoring spread sheets
  - testing the dates at which income was received and expenditure authorised to determine if teeming and lading occurs within the programme
  - testing the accuracy of income and expenditure information against the s106 programme's monitoring spread sheets
- Stakeholder interviews with Council officers. A list of the officers and their positions within the Council can be found at Appendix 1.
- Telephone interviews with s106 and finance officers from other London Boroughs in order to provide context and benchmarking information against which to analyse our findings. As agreed with the Council, we will not provide the names of those Councils in this report.

Our approach (continued)

Our report will provide:

An independent view to management considering whether the controls you have in place for dealing with s106 planning obligations are robust, transparent, sound, and secure to achieve the objectives of the Council.

In so doing the review has focussed on the following areas:

- The council's current processes in place regarding the accurate recording of s106 income and expenditure.
- The council's current processes in relation to the ring-fencing and programming of s106 contributions to ensure teaming and lading does not occur.
- The council's current governance and decision making structures in relation to the management of s106 contributions, particularly with regard to processes around any variations to s106 agreements in terms of what money can be expended on.
- The suitability of the council's current monitoring and reporting in relation to s106 contributions to ensure monies are spent in accordance with s106 agreements and within the required timelines.
- The management of financial, reputational and operational risks within the s106 programme.

As we set out in our methodology, to inform our recommendations we have engaged with other London Boroughs. We have benchmarked our findings against some aspects of those Councils' arrangements and have set out how the Council's arrangements compare with its peers. These insights can be found within the detailed findings section of this report at Appendix 2.

We have set out concise summary findings relating to each aspect of the scope on **pages 16 to 19.**

Glossary of acronyms used in the report

Acronym	Full name
PMP	Programme Management Processes
PCOP	Planning Contributions Overview Panel
IDF	Infrastructure Delivery Framework
RCDA	Register of Corporate Director's Actions
IDSG	Infrastructure Delivery Steering Group
PID	Project Initiation Document
HofT	Head of Terms
D&R	Development & Renewal Directorate
CLC	Communities, Localities & Culture Directorate
PO Officer	Planning Obligations Officer
PA	Planning Application
SPD	Supplementary Planning Document
TORs	Terms of Reference

Summary Findings

Summary Findings

Income and expenditure processes

Summary: The effective liaison between the s106 programme manager within Development & Renewal (D&R), programme leads in other directorates and finance teams, ensures that the income and expenditure of s106 contributions is accurately recorded and up-to-date information in shared throughout the Council as required.

Despite this, the processes by which income and expenditure are recorded are labour-intensive and susceptible to the risk of inaccurate recording. This is borne out by our financial testing of PAs that revealed a minor discrepancy of £106 in the recording of the income received for one of the PAs we tested. As this expenditure occurred in this financial year, the Council is confident this would have been identified in the end-of-year reconciliation of s106 expenditure.

In order to accurately record expenditure and income officers must monitor, update, validate and share a number of spread sheets. As such the accuracy of recording is dependant on the individual rigour and attention to detail of key officers. The Council recognise this and set out the programme's risks in its 2015 risk assessment of the s106 programme.

As a result we have recommended that the Council fully consider investing in software that will dock with both their Agresso and Accolaid software systems and enable accurate recording of income and expenditure.

The Council's inability to allocate project expenditure to individual s106 contributions within each financial year (due to the annual reconciliation of capital expenditure) can prevent directorate programme managers from accurately planning funding for future capital projects. Whilst inconvenient for project and programme managers, this problem is mitigated by accurately profiling capital expenditure to allow managers to plan future project funding more effectively. In addition, all end-of-year reconciliation of expenditure should continue to be managed alongside the s106 programme manager and departmental s106 programme leads. It should be noted that other councils with which we consulted manage capital expenditure in a similar way.

From our conversations with other London Boroughs, we have found that other Councils also monitor and record income and expenditure using similar processes, i.e. using locally-held spread sheets which are shared periodically (or with Sharepoint) with other Directorates and reconciled with the financial system on a monthly basis. That being said, other Councils also expressed interest in specialist s106/CIL software.

Summary Findings

Ring-fencing and programming of s106 contributions

Summary: The Council has a robust system in place to ensure that s106 contributions are programmed and ring-fenced onto appropriate projects. The process is collaborative and encourages directorates to use s106 contributions as early as possible.

The participation of planning lawyers in the programming and PID development process is an identified strength. This practice has not been universally adopted in other Councils where the first exposure Legal Services has to s106 allocation is at the approval stage by the overview panel.

Preventing 'Teaming and Lading': The 2015/16 audit findings report produced by the Council's external auditors highlighted an example of teaming and lading at the Council. In this instance the Council forward-funded an s106-funded project using the General Fund whilst waiting for the appropriate s106 income to be received. Moving forward the Council recognises that it needs to have a clear audit trail in place and that such procedures are appropriately governed.

As part of our financial testing we undertook to determine whether the date at which s106 income was received always occurred prior to the date at which expenditure was authorised. Our testing has been unable to determine this as the Council cannot provide proof on the date at which income was received from developers. This is because the Council changed its finance system in 2013 and any income received prior to this is no longer available. The sample of PAs randomly selected for this study all received their income before 2013.

The Council is clear that it does not 'team or lade' using unallocated or inappropriate s106 contributions on the basis it conducts checks to ensure this does not occur. Should these checks reveal that funds from the chosen s106 have either yet to be transferred by the developer, are insufficient, or have been allocated elsewhere then a PID will not be submitted for approval and an alternative s106 contribution must be sought for funding.

Delays to commissioning: We have found that despite ring-fencing and programming activities by the s106 programme team, the Council's s106 account balance has recently increased. Further increases are anticipated. The Council is struggling to commission projects and authorise project expenditure at a pace sufficient to meet the rate at which income it receives into the account. This reflects the scale of development currently on-going in the Borough.

We have found a number of contributing factors to this. These include the Capital Estimate and Register of Corporate Director's Actions (RCDA) approval processes followed by the Council, both of which we have found could be streamlined with the s106 approval processes to allow faster authorisation of project expenditure. In addition more rigorous enforcement of the Council's procurement policy in recent years and insufficient officer project manager resource are contributing factors. These delays to commissioning are contributing to the number of s106 contributions that are being programmed to projects within 18 months of their expiry date.

Summary Findings

Governance and decision making structures

Summary: The Council has well-established governance and decision making structures and processes. These are led by the s106 programme manager and the PCOP and supported by key personnel in each directorate.

The level of documentation and guidance that sets out the governance arrangements of the s106 programme is significant and the quality is generally high. PCOP has detailed terms of reference and there are clear divisions of responsibility between the various members of the panel. The process maps and project-level templates are thorough and help ensure a consistent approach to judgement and allocation of contributions.

The Council's decision making structures and governance arrangements are similar to those of the other London Boroughs with which we consulted. Those councils also have a cross-directorate officer-led board as the primary decision-making body allocating s106 contributions to projects.

Aligning s106 governance and decision making processes to the Council's other capital related approval provides an opportunity to streamline governance. The requirement for officers to gain approval to commission the project and receive s106 funding via separate processes (i.e. two sets of approval) was identified as an area that could be further investigated. This challenge is not peculiar to the Council however and we understand from our benchmarking that aligning s106 funding allocation with the Council's capital expenditure approval process is a challenge elsewhere. This challenge is perhaps most stark in those directorates where s106 funding is just one of many sources of funding.

Transparency : The level of transparency demonstrated by the Council (under existing arrangements) compares favourably to that shown by other Councils we have approached during this review. Letters to developers confirming discharge of obligation (though not always issued), the publishing of PCOP allocations online and the bi-annual s106 newsletter all provide accountability to the public. The Council's move to the IDF, providing the Mayor in Cabinet with the decision making responsibilities for larger s106 funded projects – further strengthens the Council's transparency credentials.

Whilst the s106 programme demonstrates its transparency to the public, anecdotal evidence has indicated that the programme team could do more to highlight and disseminate the funding allocations taken by PCOP internally within the Council.

Summary Findings

Monitoring and reporting of s106 contributions

Summary: The Council's s106 programme produces both standing and exception reports that are delivered to PCOP in order to facilitate monitoring. These reports are generally of a high standard but we have recommended they be further integrated.

Those time-limited contributions close to expiring remain a key risk for the Council. This is evidenced by the testing we conducted. Of the ten PAs tested we found two of the s106 contributions were only programmed into projects within months of their expiry date.

Time-limited contributions are monitored and the Finance sub-committee drives action to ensure at-risk contributions are allocated and projects commissioned prior to expiry. Whilst the Council has been successful to date, as the s106 balance increases, the challenge of managing this risk presents will rise accordingly. We understand that the Council is mindful of this risk.

Responsibility to ensure projects spend in accordance with their PIDs rests with project managers and their directorates. As a control measure, Corporate Finance and s106 programme manager review a sample of project invoices at year-end prior to crediting service budgets with the relevant s106 contribution. This review focusses on ensuring that that projects have spent in accordance with their PID. PCOP's responsibilities for project monitoring focus on the approval and closure of projects. Information is collated for the s106 programme manager so that PCOP can maintain oversight.

The Infrastructure Planning Team produce monitoring reports that cover the delivery of non-financial contributions. Anecdotal evidence has revealed that these are considered at PCOP meetings, however they do not feature on the PCOP agendas or minutes we reviewed.

Monitoring and reporting of risk

The Council's s106 programme has a mature attitude to the risks it faces. It has identified both programme and project risks and the actions and control measures to mitigate them.

Programme risk – The Council has conducted a risk assessment of the Planning Obligations Collection System. This was developed in August 2015 with a view to highlighting the risks and attached to current processes and how they would be mitigated by a new system. This sets out eleven operational risks to which the current programme management processes of s106 are subject to, it provides details on the consequences of these risks and the control measures required to mitigate them. The management of s106 related risk is also contained within the D&R Resources Service Plan.

The s106 programme has taken active steps to mitigate its risks. Most notably, the quality and quantity of documentation relating to governance and the key processes that have mapped out have reduced the Council's reliance on the corporate knowledge on key officers and has ensured there is greater strength-in-depth in the organisation.

In addition, this approach to managing risk is evidenced by the s106 programme's willingness to commission and engage with this independent review.

Project risk - Risk is also identified at the project level. Each PID contains a risk register setting out its risks, their triggers, existing internal control measures and a risk score comprising likelihood and impact. The sample of PIDs reviewed in the course of this review demonstrates that risks are assessed on a case by case basis. Whilst some risks are common between some PIDs, it is clear that risk descriptions have been tailored to reflect the specific nature of the risk to that project.

Appendix 1: Detailed Findings

Recording s106 income and expenditure

How income is monitored and recorded at the Council

The Development & Renewal (D&R) (Resources) Planning Obligations (PO) Officer manages a schedule of s106 payments due from developers. These payments are based on the "trigger points" or project milestones at which developers pay the contributions.

Each directorate has a designated s106 Programme Lead Officer who is updated on the new contributions arriving in the account.

Should payment not be received the PO Officer liaises with the relevant programme lead to determine whether the trigger point has been reached before contacting the developer to prompt payment if required. In our conversations with other Councils we have found that a similar approach is taken elsewhere.

S106 income arrives at the Council by cheque or BACS payment. Cheques are sent to the PO Officer, who takes them to the Operational Team within Corporate Finance. BACS payments are processed directly into the suspense account by the Financial Systems Income team which notifies the Operational Team.

The Financial Systems Income Team transfers S106 income payments from the suspense account to the relevant s106 PA HofT on the Ledger on a monthly basis.

Historical delays in moving income from the suspense account following receipt of s106 contributions have improved as a result of the monthly reconciliation process between the PO Officer and the D&R Finance officer. These were instituted in response to recommendation of the Council's August 2013 Internal Audit report.

The reconciliation between the Operational Finance team, PO Officer and 106 Programme Manager ensures that monthly income status reports from the financial system tally with the Master Spread sheet maintained by the PO Officer. This reconciliation process mitigates the financial risk posed by not managing s106 income within the debtors system.

Both income and expenditure are recorded and monitored on the s106 Programme's master spread sheet. This spread sheet sets out:

- the income expected from each PA, that which has been received and that still expected from developers.
- which contributions are still available for allocation, those which are ring-fenced to schemes, and the balance that has been assigned to projects or PIDs in various stages of development and implementation.
- expenditure for each financial year and the balance remaining for expenditure and allocation.

Insights from other London Boroughs – A similar process, requiring frequent reconciliation between s106 officers and finance is in operation in other London Boroughs and the Council can take a small degree of assurance from this. Those councils also recognise that there may be improved ways of working that use bespoke programme management and financial software, however, their current arrangements also rely on Excel spread sheets and effective communication between different departments in the Councils. One Council has recently procured specialist software (Exacom) with which to manage their s106 and CIL receipts.

Recording s106 income and expenditure

How income is monitored and recorded at the Council(continued)

One finding within the Council's external auditor's final report of 2014/15 centred on the accuracy of recording of income and expenditure and in particular the suitability of a locally held Excel spread sheet as the primary monitoring tool of income and expenditure. These concerns are well founded, maintaining accurate records using spread sheets is labour intensive and increases the risk that contributions will be recorded or monitored inaccurately. Findings relating to the suitability of the 106 Programme's Excel spread sheet included:

- the spread sheet did not cast and certain items appear not to have been paid strictly in line with the original agreements; This is explained by the addition of interest and indexation on individual payments. However, the spread sheet is not setup to provide this information
- Excel does not allow effective version control or an audit trail in its monitoring of corrections and changes.

Our testing of the sample of PAs identified one discrepancy totalling £106 relating to the income received for one s106 contribution. Although this amount is small in comparison to the total s106 contribution, this demonstrates that the processes used are susceptible to inaccurate recording. It should be noted that this inaccuracy occurred in 2015/16 and the Council is clear that this would be have been identified in the annual end-of-year reconciliation.

Excel spread sheets are not the most suitable tools for managing complex programmes. Council officers are clear in that they consider the current system to be labour intensive and there may be alternative ways of working to reduce the effort required to accurately record income whilst ensuring the accuracy of recording.

The Council has already identified in their Planning Obligations Collection system risk assessment, the recording and validation of income requires significant manual and administrative officer input to ensure accuracy.

Under the current system income and expenditure spend are also documented on Agresso, a planning spread sheet (to match income to PA/HofT re: planning agreements) and also on a Programme Management spread sheet (to facilitate the programming of spend into projects). Data accuracy is subject to the risk of human error. This risk means that the various reconciliation exercises undertaken by the Council are necessary to ensure accuracy.

The Council has recognised that improved IT software, if integrated with Accolaid and Agresso would reduce the level of duplication and allow income to be pre-populated before being programmed. It would further reduce the risk of inaccurate recording, provide a more robust audit trail of changes and reduce the reliance on one or two key officers – without whose corporate understanding of the system, the programme would be at risk.

RECOMMENDATION 1: The Council should consider procuring integrated s106 / CIL Software. . This information system should allow both income, expenditure and programming information to be co-located and should integrate the processes by which s106 and CIL are allocated, monitored and implemented across the Council.

Recording s106 income and expenditure

How expenditure is monitored and recorded at the Council.

Departmental programme leads monitor project spend alongside their project managers on an on-going basis. Programme leads then provide the s106 programme manager with an update on project spend for their s106 projects, based on the reconciliation exercise they have conducted with the capital finance report, on project expenditure in the period.

Projects within Public Health & Education are subsumed within D&R department reports due to the small number of Public Health Education and Education projects being delivered. These spread sheets are synthesised into a report that provides an overview of project spend for every live project with allocated s106. These reports are presented to PCOP on a quarterly basis.

Monitoring is validated and reconciled with the Council's quarterly capital expenditure monitoring reports which are able to allocate expenditure to individual project codes.

This validation is a manual process that can be achieved alongside Corporate Finance or using the VLOOKUP function within Microsoft Excel to track the expenditure against individual project cost codes. This process can be labour intensive if a directorate has a large number of live projects.

Accurate validation of the recording and monitoring of project expenditure relies on project managers allocating expenditure to the correct project cost-code when raising invoices. Anecdotal evidence has shown that project managers infrequently use incorrect cost-codes. Should the incorrect project cost-code be used then the s106 programme is reliant on the reconciliation exercises with corporate finance, alongside other department's budget monitoring activities to identify inaccurate expenditure recording.

Following the quarterly reconciliation with Capital Expenditure reports, the s106 Programme Manager updates the Master "Planning Application Status" spread sheet. This spread sheet captures the spend for PAs and the level of funds remaining with each PA. The reconciliation at this stage is indicative only and as set out above the s106 programme manager must wait until the end of the financial year to reconcile expenditure of individual contributions with the Council's financial system.

Recording s106 income and expenditure

How expenditure is monitored and recorded at the Council (continued)

S106 quarterly monitoring reports cannot indicate which s106 contribution, (or alternative funding sources) was used to fund each element of project spend. This reconciliation occurs annually at year-end in collaboration with the S106 Programme Manager and directorate programme leads. As such, programme leads cannot determine how much funding remains in each of the funding sources used.

This is potentially problematic in larger, long-term projects where s106 contributions and CIL are only two of a range of funding sources for capital expenditure. As a result of this directorates may not know how much funding they have remaining in the s106 contributions allocated to their HofT at any point within year. This may impact on long-term planning, slow commissioning times and increase the financial risk to the Council of s106 contributions expiring before they are spent. Whilst the Council has a large s106 balance, and directorates have a number of PAs from which to plan future project funding, this problem may not present. However, once the s106 balance and the number of available PAs reduces, it will be important for the Council to profile the use of funds from each PA accurately and to conduct the end of year draw down in a collaborative manner.

For smaller projects – or projects funded solely from one s106 contributions this is less problematic as the S106 Programme Manager and directorate programme leads can manually reconcile individual project spend, as provided by the capital monitoring report, with their own spread sheets in order to attribute project spend to funding sources. However, this monitoring is conducted outside the Council's Agresso finance system and the expenditure from individual s106 contributions cannot be ascertained with certainty until the accounts are drawn-down at the year-end reconciliation.

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Ring-fencing and programming s106 contributions.

Background

The process by which the Council calculates the S106 contribution for each PA is set out in the S106 Planning Obligations Supplementary Planning Document (SPD). This was adopted by the Council in 2012. This guidance explains how each S106 Contribution is calculated using a funding formula and how each S106 contribution is assigned to HofTs. The HofT to which an S106 is assigned is mandated by the nature of the development contained in the PA. Following assignment to a HofT each S106 contribution is ring-fenced and the funds attached to each contribution can only be used by the directorate responsible for that HofT on projects that are focussed on delivering the outcomes attached to that HofT.

Supporting narrative detailing more specific conditions for the use of each s106 contribution are included in each s106 agreement. This narrative description and the HofTs that they support are agreed through a negotiation between the developer and both Planning and Legal Services at the Council. We heard that the wording chosen aims to provide the Council with some flexibility in the way that they use the s106 contribution whilst adhering to the letter and the spirit of the s106 agreement.

Programming s106 contributions

The s106 Programme Manager maintains a spread sheet that details the funds available in the S106 account. This can be analysed by HofT or by PA. Sections of this spread sheet are shared with the Programme leads responsible for managing s106 contributions assigned to their HofTs in each directorate.

When a project is identified and an officer appointed as project manager (PM) to deliver it, that PM is responsible for compiling a Project Initiation Document (PID). The purpose of the PID is to provide a description of the project and what it will achieve (specific and measurable objectives). The PID also sets out the relevant clauses contained in the S106 agreement(s) that justify their expenditure on that project.

The directorate s106 programme lead and s106 programme manager allocate the funding to each project, ensuring tat they use funding from PAs who s106 contribution is allocated to their HofT and that the desired outcomes of the project are aligned to further provisions set out in the s106 agreement. In allocating s106 contributions to projects, s106 contributions that are closest to expiring are prioritised.

Anecdotal evidence has revealed that s106 agreements have become more flexible as the Council has sought to engage with developers in a collaborative manner. Whereas historically, s106 agreements were perceived as inflexible, the planning department now engages with developers and negotiates the agreement with them to build in more flexibility on how the contribution can be spent.

Ring-fencing and programming s106 contributions.

Programming s106 contributions (continued)

Following the allocation of s106 contributions to PIDs and their verification by directorate programme leads and the council-wide s106 programme manager, the PID is submitted to a Planning Lawyer within Legal Services to provide commentary and an independent opinion on the suitability of the s106s contributions allocated to the PID.

Based on this opinion, and following further advice from the s106 Programme Manager the PID can then be submitted to PCOP or returned to the project manager for reconsideration. We heard of instances where, having been unsure of the suitability of an s106 contribution, the PO Officer has consulted with the developer to obtain their consent for its use on a project. This consent having been provided in writing; the PID could proceed to PCOP.

We have found the quality of the information and level of project and programme governance contained in PIDs to be sufficient for their purpose. The PIDs follow a recognised template, based on PRINCE2 methodology. They are consistently thorough and the quality and detail of the information provide in each PID reflects what is required for the large scale of some of the capital projects being commissioned. We noted a marked improvement in the quality of the PIDs from 2013 to present.

Teaming and Lading

The Council's most recent External Audit report found "the re were instances where payments were made in advance of receiving s106 monies, temporarily utilizing other s106 funds." We conducted testing on a sampling of PA at the Council.

The report highlighted the reputational and legal risk of using inappropriate s106 contributions to forward-fund projects whilst waiting for the allocated s106 income to be received from the developer. The Council is cognisant of this risk and has control measures in place to ensure it does not 'team and lade' s106 income.

This control measure involves programme leads verifying that the s106 funds to be used have been received and are in the Council's s106 account, are sufficient for the project and have not been allocated elsewhere. We heard that should any of these checks reveal the funds from the chosen s106 have either yet to be transferred by the developer, are insufficient or have been allocated elsewhere then a PID will not be submitted for approval. These checks help ensure that teaming and lading does not occur.

RECOMMENDATION 2: In the future, should the Council use the General Fund to forward-fund projects whilst waiting for conformed s106 income to be received, there should be a clear audit trail which records the decision and transaction. Such audit trail should specify that the funds used are from the Council's General Fund or reserves and not from another s106 contribution.

As part of our financial testing we undertook to determine whether the date at which s106 income was received always occurred prior to the date at which expenditure was authorised. Our testing has been unable to determine this as the Council can not provide proof on the date at which income was received from developers. This is because the Council changed its finance system in 2013 and any income received prior to this is no longer available. The sample of PAs randomly selected for this study all received their income before 2013.

Ring-fencing and programming s106 contributions.

Delays in commissioning

We have found that the process by which the Council approves capital expenditure is contributing to delays in the time it takes for projects to be commissioned and project expenditure fully authorised. These delays do not reflect inefficiencies within s106 programme processes. These delays can be common to all capital projects, regardless of the funding source. Some contributing factors for these delays are set out below:

The Council's capital estimate process requires an additional level of Member approval for capital projects. Following Member approval of the Capital Programme in its entirety at the start of the financial year, the Council adopts the capital estimate process for all subsequent capital projects it approves. This includes those funded by s106 contributions. The lead time for a report to be issued to Council can be in excess of 4 months – this can lead to a significant delay in approving expenditure that has been approved as part of the Capital programme.

RECOMMENDATION 3: When implementing the IDF the Council should consider the requirement to adopt the capital estimate process to gain Cabinet approval for Capital expenditure previously approved as part of the Capital Programme or subsequently as an amendment to the Capital Programme.

This is possible whilst maintaining an appropriate level of governance and transparency. This will require the appetite to work differently and embrace change. One solution provided by a stakeholder set out that at the point where those PIDs whose value is below the delegated threshold are presented to IDSG and go to Cabinet for noting – they should approve the capital estimate at the noting. Where above the threshold they should approve the PID's, allocation and the capital estimate at the same time to make the process a lot quicker.

The RCDA system contributes to delays. If the value of capital investment is below £250,000 a report is provided to Cabinet for noting and the expenditure approved by a Corporate Director via the RCDA process. This process requires comments and signatures from Council officers in different departments prior to authorisation from a Corporate Director. We have heard of occasions where thus has led to delays to project start.

RECOMMENDATION 4: When implementing the IDF the Council should review the RCDA procedure and investigate whether a more stream-lined process which enables more rapid delegated funding approval will still achieve the same results without sacrificing the quality of oversight and accountability.

Insights from other London Boroughs - We heard from one Council that was confident that it was effectively managing its s106 budget by promptly and efficiently programming s106 funds and commissioning new projects. We heard how their oversight board only accepts proposals that are in that year's capital programme or form part of the wider Infrastructure Delivery Plan for that year, In this way the Council was able to commence projects immediately without requiring further Member approval for Capital Expenditure. An additional advantage was that it forced Service managers and Directors to plan ahead strategically and schedule their capital projects for the next year.

Ring-fencing and programming s106 contributions.

The increasing s106 balance

The Council is not able to commission projects quickly enough to maintain pace with increasing s106 and CIL receipts. The Council needs to consider ways in which it can facilitate faster commissioning whilst maintaining accountability for project spend in order to help mitigate the financial risk that s106 agreements will expire before the projects to which they are allocated go live. In addition, prompt use of s106 monies will improve developer and public perception of the Council's management of s106.

We recognise that there are other contributing factors to the increasing s106 account and these are set out below. These factors have placed the Council in an almost unique situation.

- The Council receives a high allocation of funds from the New Homes Bonus as well as having very high business rates receipts. These sources of funding have meant that s106 contributions have not been used where they might have been at other local authorities
- the perceived previous difficulties in political decision making in relation to commissioning large-scale capital projects
- the reduction of officer/project manager resource in some directorates
- the lag-time caused by the inefficiencies in the capital approval processes as set out above and
- more rigorous enforcement of compliance with EU Procurement policy at the Council have all helped contribute to the Council having an increasing balance in its s106 account.

It is important that the Council recognises the challenges that these circumstances present and find ways to ensure strategic commissioning of capital projects can be taken forward in an efficient manner.

RECOMMENDATION 5: The Council should build flexible capacity, with commissioning expertise, within the s106 programme team and directorates in order to maintain pace with the Capital Programme. This capacity building could be through training, or increasing its officer resources, or through considering alternative methods of commissioning.

Insights from other London Boroughs – One council we spoke to recognised that not having enough project management resource to commission projects at a sufficient pace was a key challenge. This council looks to spread its match-funding as widely as possible across its portfolio and pay for additional project management expertise to deliver s106 funded projects.

Governance and decision making structures in relation to the management of s106 contributions.

Planning Contributions Overview Panel (PCOP)

PCOP is the Council's accountable decision making body that has responsibility for governing the allocation of s106 contributions. The PCOP meets every six weeks and is responsible for approving Section 106 delivery, monitoring progress of the delivery of S106 projects and programmes, ensuring the accountability and transparency of the Planning Obligations process for developers, elected Members and the wider public. PCOP has established Terms of Reference (ToRs). These were updated in 2015 and updates capture the changes that were recommended following the Internal Audit report of 2013.

PCOP is well supported by the Finance sub-committee. The sub-committee meets two weeks before PCOP and facilitates effective PCOP meetings and the PID approval process.

The composition of PCOP panel changed following a recommendation of the Internal Audit report of 2013. The recommendation set out that those with PCOP governance responsibilities should be separate from those who plan, manage and deliver s106 planning obligations. This change is reflected in the composition of the panel required to form a quorum at PCOP.

PCOP remains an officer-led board. Supporting text has been included to support this change in paragraph 5.9 of the TORs. This paragraph is misleading, and sets out that; " S106 officers are independent from officers who plan, manage and deliver Section 106 planning obligations." This is unclear as s106 officers who manage the programme. It doesn't accurately capture divisions in responsibility, missing the point that those with governance responsibilities should be separate from those who plan, manage and deliver s106 contributions, not the s106 officers themselves.

RECOMMENDATION 6 – When the Terms of Reference for the Infrastructure Delivery Steering Group are fully developed they should clarify the distinction between those charged with governance and those with responsibility for delivering the programme.

Anecdotal evidence and the quality of PIDs demonstrates that PCOP is rigorous in ensuring the s106 contributions allocated to PIDs are appropriate. This quality control is a key action to mitigate both legal and reputational risks attached to the s106 programme.

The panel has similarly demonstrated that it is stringent in its consideration of change notices and additional funds being allocated to existing projects. This is evidenced by the December 2015 submission of the Bromley-on-Bow redevelopment PID, requesting an additional £75,000 of suitable funding be allocated to the project in addition to the £9,000,000 already allocated as well as the use of change notes to govern the process by which s106 contributions are re-allocated to different projects.

Governance and decision making structures in relation to the management of s106 contributions.

Planning Contributions Overview Panel (PCOP) (continued)

One of the strengths identified in the 2013 Internal Audit report was PCOP's flexibility in managing its portfolio. In particular by accruing similar HofTs together for bulk delivery rather than on an agreement–by-agreement basis. The Council does this already by grouping together a number of small projects in "Foot way carriage way" (FWCW) & Cycling & pedestrian Improvement Schemes. This pragmatic and proportional approach to governance should be taken forward with the IDF.

RECOMMENDATION 7 - In order to aid commissioning the Council might consider grouping small projects together into programme-level PIDs for approval and monitoring purposes. Any such grouping must be proportional to project size and there must be a clear link between individual s106 contributions and the projects they are funding. This would ease the burden on those charged with governance whilst maintaining an effective audit trail and accountability.

Insights from other London Boroughs - One council's106 overview panel only authorises the allocation of s106 contributions to projects on the proviso that project spending starts within twelve months of approval. Therefore if the project team does not use its funds and start the project within one year they have to reapply for authorisation. This is used as incentive to ensure that projects are delivered to schedule.

PCOP has a range of standing agenda items that enable effective oversight. This provides structure and allows the panel to identify trends in the portfolio and consistently consider and approve PIDs. In addition to the standing items on the agenda the board considers a range of other reports that are submitted. The content and suitability of these monitoring reports are considered more fully later in this report.

Governance and decision making structures in relation to the management of s106 contributions.

Transparency

Under current arrangements PCOP is an officer-led board and Members' involvement with s106 allocation is provided by the approval of the capital programme (and subsequently) with the Capital Estimate Process. This may have contributed to anecdotal evidence that some Members have felt that funding allocation decisions are made 'behind closed doors' and that transparency and accountability to the public could be further improved. This is reflected in the design of the IDF.

Under the IDF, funding decisions that have hitherto been taken by PCOP will, above a certain threshold, from April 2016 be made by the Mayor in Council in a public forum. This decision aligns with the Mayor's Transparency Framework and is designed to make the allocation of s106 funding more transparent. The Council recognises the requirement for transparency in its management of s106 contributions. The Council's S106 programme has adopted a number of measures in order to improve its transparency and accountability to the public. These are set out below.

Insights from other London Boroughs - Other councils with which have engaged have retained officer-led boards as the key decision making body. Member involvement is maintained through strategic oversight of the Capital Programme. The Council is the only organisation consulted in this review, where members will be responsible for the allocation of s106 contributions (albeit above the yet to be determined threshold).

Receipt of income to developers - Letters or emails are sent to developers to provide them with receipt of payment and notification that they have discharged their s106 responsibility set out in their Planning Agreement. We heard that although this occurs on the majority of occasions – this only happens when D&R has the contact details of the developer. There have been occasions when receipt of payment and notice of discharge of obligations has not been provided.

RECOMMENDATION 8 –The Council should consider receipting income and notifying developers of discharge of obligation in every case as standard procedure. This will improve transparency and strengthen the income recording process.

Publishing decisions online - Following each six-weekly meeting of PCOP, decisions regarding the allocation of funding to Council projects are published online following the decision to approve funding. Our experience of s106 programmes in other London Boroughs has shown that this is not common place and whilst there are examples of other Councils that provide similar information to the public, this is not always the case.

Bi-annual Newsletters - The Council produces six-monthly Planning Obligations Newsletters that are published online for the public. These newsletters provide a summary on s106 obligations, what contributions are spent on, a look ahead at future projects in the pipeline and selection of more detailed case studies of active projects and the outcomes they are looking to achieve in the community. Again – we have seen examples elsewhere of a similar approach but not all Councils produce these newsletters.

Governance and decision making structures in relation to the management of s106 contributions.

Managing s106 variations

The Council recognises the importance of managing change and has established control measures to ensure change is governed and there is an audit trail to demonstrate accountability and transparency.

The Council uses 'Change notes' to manage variations within the s106 programme in the following ways:

- **When requesting additional s106 funding to an existing project** - Should additional budget be required project PM's liaise with the directorate programme lead and s106 programme manager to determine whether sufficient s106 funds are available within an appropriate PA. The project and programme manager will complete the Change note, providing detail on the change in circumstances and the reasons for additional funding and append it to the existing PID for approval by PCOP. Should a new PA be required in order to meet the demand for funds then Legal Services are again consulted to ensure that the proposed expenditure is in line with the conditions set out in the s106 contribution of the PA. Changes made to funding are monitored on the s106 programme manager's master spread sheet.
- **When deciding to allocate previously allocated funding to different projects –** S106 contributions already allocated to a project can be changed and allocated to a different project. They change can occur due to a change in scheduling of projects, delays to existing projects, to maximise use of contributions or other similar reasons. When this occurs a change note is used in a similar way to the above. This change note moved the allocation of those funds from the old project to the new project, accompanies he PID of the new project when presented to PCOP for approval. These changes are monitored on the s106 programme manager's master spread sheet.
- **Gaining developers' consent to use s106 contributions differently –** Where the Council is unsure whether an s106 contribution can be used on a project, where possible it approaches the developer to gain written consent on the use of the s106 contribution for that project. This written consent supplements the legal justification for using the funds in the project and allows the Council to allocate funds more flexibly. This approach can be used when s106 contributions are nearing the expiration date.

Monitoring and reporting s106 contributions

Ensuring monies are spent in accordance with conditions and timelines

In this section we have set out the s106 related monitoring and reporting functions undertaken by the Council. Monitoring and reporting is led by the s106 Programme Manager and is focussed on ensuring that s106 contributions allocated to PIDs are being spent in accordance within tolerance for timeframe, scope and quality as set out in the PIDs. . This section will provide commentary on the suitability of the control measures and reports the Council has in place to ensure that projects funded by s106 contributions deliver their objectives.

Each programme lead is responsible for monitoring the performance of the s106-funded projects in their directorate as they are delivered. Each departmental programme lead is responsible for

- ensuring that s106 contributions ring-fenced to their HofT are allocated to projects,
- that those projects in their directorate to which s106 money have been allocated have a developed PID and proceed to PCOP, and
- ensuring that live projects remain active, spend their allocated s106 contribution within the scope of the arrangement and completed within the prearranged time frame.

The Council has published project management guidance (based on the PRINCE2 methodology). All project managers are responsible for delivering their projects in line with this guidance and the PID. The control measure to ensure s106 contributions are spent in accordance with the PID is the control exercised by Corporate Finance prior to the release of funds at project closure. Corporate Finance do not release s106 funds to project managers unless expenditure (as proven by invoices) is in line with what is set out in the PIDs. As such should expenditure not be aligned to PIDs then the Service Budget is used to finance expenditure. This eradicates the legal risk of in appropriate use of s106 funds and incentives Service Managers to ensure projects are delivered within tolerances.

The s106 Programme Manager is responsible for managing, collating and reporting the s106 monitoring activities across the departments. The s106 Programme Manager maintains a spread sheet containing information relating to all live projects. He liaises with each programme lead in each directorate to collate and quality –assure the information and help identify those projects that may stall, are at risk of stalling, or are at risk of using their s106 funding outside the scope of the original s106 agreement (due to some form of project change).

Monitoring and reporting s106 contributions

Standing monitoring reports to PCOP

S106 monitoring at the council is driven by the six-weekly meetings of the PCOP. There is a standing agenda at PCOP meetings and papers are provided to the panel in advance of the meeting. The primary report provided the Council consists of the s106 portfolio summary report. This sets out:

- the balance of the s106 account including the proportion allocated to each HofT
- analysis of the balance – setting out the value within each HofT that is yet to be programmed to a scheme that is ring-fenced., allocated to a PID or allocated to a live project currently being delivered.
- a forecast of current s106 income based on the Council's understanding of the upcoming trigger points.
- a comparison of the amount of funds available in comparison with 2 years previously. This sets out the variance from that position and highlights the increasing or decreasing trend in HofT balance. This helps identify those directorates which may need to increase their rate of commissioning.

Exception Reports to PCOP

These reports focus on providing an update to the panel on blockages in the identification, programming and spending of s106 contributes. These reports cover two types of delays, and are presented to PCOP on an approximate bi-annual basis, these are:

- projects for which section 106 contributions have been ring-fenced (for over 6 months) but have not yet come forward to PCOP in a PID. (i.e. delays in developing the PID); and,
- those projects with a lifetime budget of over £250,000 and where there have been minimal spend over the previous financial year

RECOMMENDATION 9 – It is recommended that the content of the s106 programme manager's bi-annual exception reports is integrated with the s106 Portfolio Summary Report and forms part of the standard report to the IDSG on a more regular basis. This will help actively manage the risk presented by time-sensitive contributions and ensure that the IDSG is proactive in driving corrective action by holding service managers to account for project slippage.

Insights from other London Boroughs - In discussion with other councils – we have heard that their s106 overview panel directly holds the service managers and/or directors to account for project slippage identified through monitoring. We heard this can be effective in helping to ensure project slippage is minimised and corrective action is driven from the top .

Monitoring and reporting s106 contributions

Managing & reporting time-limited contributions

The expiration of time-limited contributions is a key risk to the Council, as highlighted in KPMG's audit findings report. The auditor's report set out that they had identified a number of s106 contributions that were due to expire .

The Council is aware of this risk and understand it may grow as s106 and CIL income increases. The s106 programme manager maintains a register on those contributions due to expire in the next 18 months. Similarly, it considers those projects that have yet to start that have funds allocated them that are due to expire in the next 18 months. This report is provided to the Council as a Gantt chart and is updated for every PCOP meeting. Whilst this report demonstrates that PCOP manage this risk, the report itself could be further developed to allow PCOP to easily assess the state of time limited contributions.

RECOMMENDATION 10 – The Council should further develop its report on time-limited contributions. A dashboard or traffic-light based report, setting out which time-limited contributions have been programmed and which have not, and similarly which projects funded by time-limited contributions have stalled would enable PCOP or IDSG to easily assess the risk they face and take prompt mitigating action.

Whilst the report evidences monitoring of time limited contributions, it is the active management of these contributions that will mitigate their risk. We heard the Finance Sub Committee does actively prioritise those s106 contributions with fewer than 18 months remaining. In doing so they look to allocate those that expire soonest and/or those with the highest value, and facilitate the productions of the PIDs in which they are allocated. We heard that to-date, the Council has been successful in ensuring all s106 contributions have been allocated to projects and have been spent.

Of the ten PAs tested as part of this review, we found that two contributions were programmed into projects within six months of expiry. This highlights the risk that time-limited contributions pose to the Council and how this risk may further develop should s106 and CIL receipts increase.

Monitoring and reporting s106 contributions

Other reporting

Although exception reports are only presented at PCOP bi-annually individual directorates monitor project progress through departmental governance boards. As such programme and project managers are held to account for project progress within their directorate, and whilst each directorate may not directly ensure that monies are spent in accordance with s106 agreements, they are focussed on ensuring that projects progress in accordance with agreed timelines.

Non-financial contributions - The August 2013 Internal Audit report identified the lack of monitoring of non-financial contributions as a financial risk. The report recommended that the PCOP agenda should include a regular item for monitoring and reporting of non-financial agreements. Following that review s106 officers established a monitoring framework across all council directorates to monitor live non-financial contributions and completed a review of the status of non-financial planning obligations in s106 agreements.

It is clear that significant progress has been made in implementing this framework. Non-financial contributions are now monitored and reported by the Infrastructure Planning Team's Planning Obligations Officer. Monitoring reports provide:

- an overview of new non-financial contribution
- an overview of the status of each HofT's non-financial planning contributions to ensure compliance with the s106 agreement

Whilst these quarterly monitoring reports are produced and some PCOP minutes record that these reports were reviewed, they are not on PCOP's Standing Agenda.

RECOMMENDATION 11 – In accordance with the August 2013 Internal Audit report's original recommendation, PCOP's agenda should include a regular item for monitoring and reporting non-financial agreements.

Project closure reports – Historically, benefits measurement and realisation has been a weakness of programme management in the local government sector. This is characterized by lack of rigour by programme and project managers in not enforcing governance around project closure . Project closure reports such as those produced by the Council demonstrate that its s106 programme manager exercises control over project closure processes and helps enable benefits measurement and realisation. Whilst we have not been able to ascertain whether project closure reports have been completed on all projects – those we have seen demonstrate that the Council considers project performance against tolerances, management of risks and crucially, lessons to be learned from each project.

Additional findings pertinent to this review

Whilst not included in the immediate scope of this study, our review of programme management processes has revealed additional findings that we feel should add value to this report. These are set out below for the Council's consideration.

Infrastructure or Capital Strategy

We have heard there may be a disconnect between the Council's capital strategy, the allocation of funding by directorates and the approval of s106 funding by PCOP. This is not a reflection on the s106 programme but is a wider issue – relating to the Council's infrastructure delivery plan and capital strategy. The extent to which capital commissioning is strategically considered and prioritised may need to be further considered in order to ensure the Council maximises the opportunity presented by the scale of s106 and CIL funds available. It has been identified that there may be a policy vacuum at the most senior level regardless of resources – a capital strategy and borough-wide Infrastructure Development Plan should be driving the expenditure of s106 (notwithstanding the constraints applied to allocation).

Capital Reporting

Challenge was given to the ease with which information can be extracted from capital monitoring reports. S106 contributions and CIL are only two funding mechanism for capital expenditure, and where managers have responsibility covering a number of funding sources they are having to conduct reconciliation exercises across a number of local spread sheets. This is inefficient and the Council's capital reporting should allow those with monitoring responsibilities to easily access the management information they require without conducting manual reconciliation exercises outside the finance system.

Accepting that it may not be possible to overhaul capital reporting within the current finance system – a more rigorous approach to profiling capital expenditure over the course of the year will improve the accuracy of capital monitoring and allow directorates to plan ahead with more certainty. Quarterly variations in capital expenditure in certain departments should be taken into account and profiled accordingly.

Unrealistic spending and commissioning targets by individual directorates are contributing to inaccurate expenditure profiles that do not reflect realistic or achievable capital expenditure. Accurate profiling will also mitigate the need for the kind of monitoring that allows programme managers to identify in-year spending within s106 contributions.

In addition to the findings set out above, a number of Council officers noted the four month time-lag between the issuing and finalising Capital expenditure monitoring reports. We heard that this is largely due to the process by which the Council chooses to review its financial monitoring information and the level of rigour and robust challenge this information is given by Department management teams, Corporate Finance and Corporate Management.

Appendix 2: List of stakeholders interviewed

Appendix 2: Stakeholder interviews

We would like to thank the Council's officers for making themselves available during the course of the review.

Name	Position
Aman Dalvi	(D&R) Corporate Director
Zena Cooke	(RES) Corporate Director
Barry Scarr	(RES) Head of Service - Finance & Procurement
Chris Holme	(D&R) Head of Service - Resources / Finance
David Williams	(D&R) Deputy Head of Service – Planning & Building Control
Dave Clark	(D&R) Programmes & Business Assurance Manager
Marcus Woody	(LPG) Senior Planning Lawyer
Matthew Pullen	(D&R) Infrastructure Planning Team Manager
Pat Watson	(CSF) - Head of Building Development (& s106 Programme Lead)
Tim Madelin	(AHWB) - Senior Public Health Strategist (& s106 Programme Lead)
Thorsten Dreyer	(CLC) Business Development Manager (s106 Programme Lead)
Helen Green	(D&R) Planning Obligations Officer
Danny Warren	(RES) Senior Accountant
Dilwar Hussain	(RES) Finance Officer

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