



MANAGEMENT ACTION PLAN

12/3/2024

COMMUNITY INFRASTRUCTURE LEVY

This audit review is linked to the following Council priority(ies) and corporate risk(s):

- Management of infrastructure highways
- Capital programme

Assurance Opinion		Identified Recommendations	
Limited Assurance		Priority 1	0
		Priority 2	5
		Priority 3	1
Date of last review:	7/12/2020	Direction of travel	

Distribution List

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1. BACKGROUND

- 1.1 The Community Infrastructure Levy (CIL) should be viewed as a contribution to the Council's priorities. Unlike S106 funds which may be tied to a specific development or infrastructure provision, CIL funds can be used flexibly to fund any infrastructure provision prioritised by the Council that has been set out in its Infrastructure Funding Statement (IFS).
- 1.2 The local planning authorities are responsible for establishing the CIL rates within a given area and for administering and implementing the CIL levy within their respective jurisdictions, which can fluctuate based on location, type and size of development.
- 1.3 CIL regulations set out the legal definitions for spend and the protocol shapes the direction of spend, both of which need to be met for the spend to be allocated. Funds should be allocated in accordance with the Council's CIL spending protocol which sets out the allocation principles for managing the spending priorities in the IFS which is based on the adopted Local Plan policies relating to transport infrastructure, education facilities projects, social / community facilities, leisure and culture facilities, open spaces, sports, recreation, green infrastructure, public realm and environmental improvement projects, economic support, renewable energy infrastructure, and air quality.
- 1.4 Local authorities are required to ensure that CIL income is allocated on the following basis. Where councils do not have a parish council or neighbourhood plan, local authorities are required to spend their funds below: -
- 80% on infrastructure as set in the CIL Regulations 2010 (as amended), and in accordance with the authorised IFS.
 - At least 15% of CIL monies should be spent in the 'relevant local area' in which development is occurring.
 - 5% of receipts will be allocated to cover administration costs.

2. OBJECTIVES AND SCOPE OF THE AUDIT

- 2.1 The purpose of this audit was to evaluate the systems, records and controls in place to:
- Ensure the procedures and processes for collecting CIL monies are robust and meet the key CIL legislative requirements.
 - Ensure the procedures and processes for monitoring and reporting of CIL expenditure are documented.
 - Ensure CIL funds are used in accordance with the plans approved by the Council.

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3. CONCLUSIONS

- 3.1 We have issued a limited assurance opinion on the basis that, although the CIL is governed by legislation, it is administered within the council without any documented procedures, limited business continuity and separations of duties to ensure the collection of CIL monies are effectively monitored.
- 3.2 There are good controls in place to advise the payer how the CIL liability has been calculated so that this can be questioned before the demand notice is issued for payment, although the formula used by the Exacom¹ system to calculate the liability is more complex than the published charging schedule.
- 3.3 Although the Council's 'Spend Protocol' for the allocation of funds has been reviewed and approved by Policy, there are no documented procedures to clarify the requirements and processes for administering the CIL both on Exacom or on a day-to-day basis, or for ensuring business continuity e.g., land charge reconciliation, updating Exacom.
- 3.4 Separations of duties between the billing and recovery of the CIL remains a challenge for the service due to staffing resources and limited assistance from Legal Services and Accountancy.
- 3.5 From our random tests, we are satisfied that the Council's correct bank details were provided on the demand notices issued.
- 3.6 There is a lack of corporate coordination, documented procedures and legal support to ensure the effective and efficient recovery of CIL debts, which equates to approximately £0.5m per annum. Registered land charges currently account for approximately £1.5m. Failure to collect these debts may delay the Council's ability to fund specific projects.
- 3.7 There is a risk that the debtor report produced by the Exacom system is inaccurate because: -
- Payments are automatically posted to the suspense account on Fusion/E5; the accuracy and completeness of the Exacom debtor report is dependent on these payments being identified so that the system can be manually updated on a timely basis.
 - Technical assistance is required to investigate and resolve a few accounting reporting issues within Exacom.

¹ Exacom is a "multi-user CIL Administrator product is aimed at Community Infrastructure Levy charging and collection authorities and is designed to take the sting out of CIL administration, providing a work-flow interface to enable an administrator to capture information, calculate charges, levies, surcharges etc, generate notices and manage finance. It also provides alerting when due dates are reached."

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- 3.8 Although there is feedback on the completion of works for neighbourhood projects, better protocols are required for monitoring and recovering any unspent balances where the funds are allocated and managed outside of the Council's budget framework.

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Control Objective	Ensure the procedures and processes for collecting CIL monies are robust and meet the key CIL legislative requirements.
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Risk	CIL monies may not be collected on a timely basis.
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Rec No	1	Risk Priority	2
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Audit Recommendation

A list of all the technical issues that require assurance on or assistance from Exacom should be prepared and submitted for investigation e.g.,

- Ensure the outstanding balance between demand and finance sums are reconciled.
- Rounding off the calculation index ratio factor (CIL).
- Debt report feeder (S106)

Management Response	Responsible person
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<p>Not all of these issues are necessarily an issue with Exacom. The following will be undertaken.</p> <p>We will raise a technical issue with Exacom on reporting of demand status, after further investigation of where the issue is arising.</p> <p>We will undertake further investigation of how the issue with the S106 debt report has arisen and also raise this with Exacom if the investigation shows that it is a fault with the system.</p> <p>The issue with rounding off is not an error with the Exacom system (which is simply following the legislation), rather it is an error in how the index-linked charge is shown on the Council's own website, where it is rounded to whole pence. It will not be possible to show the figure in a different way, but some text should be added to the publication of the new index figure (annually) to highlight that the full index-linked figure should be use rather than the rounded figure.</p>	<p style="text-align: center;">Principal Infrastructure and Monitoring Officer</p> <hr/> <p style="text-align: center;">Target date</p> <p style="text-align: center;">End of April 2024</p>
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Risk	CIL monies may not be collected on a timely basis.		
Rec No	2	Risk Priority	2
Audit Recommendation			
<p>The procedures and processes for producing the CIL Demand Notice, recovering, and accounting for the payment, including enforcement should be documented.</p> <p>To ensure CIL debts are recovered on a timely basis, a SWOT / cost-benefit analysis should be completed to ascertain if legal assistance is required to help enforce recovery before these are placed on land charges.</p>			
Management Response		Responsible person	
<p>A process document will be prepared to cover the monitoring, collection, enforcement and spend of CIL.</p> <p>Regarding land charges, it is the law that a CIL liability must be registered as a land charge, and as such there is no scope to undertake such an analysis before it is registered. In any case, the point at which a land charge is registered is well before the point where any expected difficulties in collection, or even the full scale of the charge (due to possible relief applications) will become apparent.</p> <p>However, it is agreed that better information on CIL debts is required, and it is proposed that a quarterly report on unrecoverable debt (as well as highlighting when the end of the 6-year period after which CIL can no longer be collected) should be produced taking account of the results of a SWOT/cos-benefit analysis and shared with the Assistant Director, Legal and Democratic Services and Assistant Director, Planning, Transport and Public Protection, starting for Q2 2024.</p>		Target date	
		<p>End of Q2 2024 (for initiating quarterly report)</p> <p>End of December 2024 (for full process document)</p>	

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Risk	CIL monies may not be collected on a timely basis.		
Rec No	3	Risk Priority	2
Audit Recommendation			
The recovery status of the CIL debt should be reported to the Accountancy Service and the Assistant Director of Planning, Transport & Regulatory Services each month for monitoring and reporting purposes.			
Management Response		Responsible person	
Agreed that a report showing the recovery status of all CIL debt (which can be combined with the report outlined in response to recommendation 2) will be provided monthly to the section 151 officer and Assistant Director, Planning, Transport and Public Protection, starting end of Q2 2024.		Principal Infrastructure and Monitoring Officer	
		Target date	
		End of Q2 2024	

Risk	Monitoring separations of duties are not fully enforced.		
Rec No	4	Risk Priority	2
Audit Recommendation			
A certified copy of the reconciliation of cash receipts between the E5 and Exacom systems for CIL and S106 monies should be completed and forwarded to the Policy Planning Manager and the Accountancy reconciliation team quarterly.			
Management Response		Responsible person	
This is wholly reliant on timely provision of information from the finance systems to allow reconciliation to be carried out. Agreed that, subject to this information being provided, the reconciliation can be carried out quarterly with input from Principal Infrastructure Monitoring Officer		Capital Accountant Technical Officer	
		Target date	
		End of Q2 2024	

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Control Objective	Ensure the procedures and processes for monitoring and reporting of CIL expenditure are documented.
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Risk	There is a risk that funds may not be spent appropriately		
Rec No	5	Risk Priority	3
Audit Recommendation			
All website information together with the CIL Spend Protocol should be reviewed and approved as this was last completed in 2021 e.g., inspection of completed works and the recovery of unspent allocations.			
Management Response		Responsible person	
<p>CIL Spend Protocol to be reviewed early 2025 to tie in with potential changes to the way that 15% local CIL is allocated after experience in 2024, and this should also cover how unspent funds are monitored.</p> <p>Historic versions of the Infrastructure Funding Statement to be added to the website,</p> <p>Full review of the information available on the website to be carried out.</p>		Policy Planning Manager	
		Target date	
		<p>Early 2025 – website review and spend protocol.</p> <p>End of April 2024 – IFS versions on website</p>	

Risk	There is a risk that funds may not be spent appropriately		
Rec No	6	Risk Priority	2
Audit Recommendation			
The requirement for a protocol/procedure to verify CIL allocations that have been paid to organisations should be considered.			
Management Response		Responsible person	
<p>Agreed that a procedure for verifying CIL allocations that have been paid to outside organisations should be prepared. This will require input from colleagues from Finance.</p>		Capital Accountant Policy Planning Manager	
		Target date	
		End of December 2024	

4. FINDINGS

4.1 BILLING

4.1.1 The 'Charging Schedule' dated January 2015, and the 'Annual CIL Rate Summary'² published by the Council explain the basis, and how the CIL is calculated in line with indexation since 2015.

4.1.2 An examination of 10 CIL liability calculations to confirm the integrity of CIL Liability and the Demand Notice for billing purposes found: -

- The gross CIL calculation described on the CIL Liability Notice document, satisfactorily matched the gross balance on the Exacom system.
- We are satisfied that a copy of the CIL Liability Notice issued to the applicant, provides a breakdown of the details, the basis for the calculation, and how³ the liability has been calculated, and is held on the Exacom system.
- We noted a few rounding variations between the inflation index calculation made by Exacom and that described in the 'Annual CIL Rate Summary'.
(See Rec 1)

4.1.3 Following the planning applicant's (liable party) agreement with the CIL Liability Notice, a Demand Notice is issued for payment. A test sample of 10 out of 48 Demand Notices issued between 1/4/2022 and 30/11/2023 totalling £10,465,359.36 found: -

- Copies of the Demand Notices held on Exacom were correctly addressed.
- All the Demand Notices were satisfactorily created after the decision date.
- All the Demand Notices recorded the correct liable sum.
- The Council's banking details were correctly provided on the copy of Demand Notices held on file.

² The summary shows the index factor and the respective rate that is applied to calculate the charge for every year since 2015.

³ The area charged before relief is calculated by multiplying the chargeable area by the rate per square meter for 2015 e.g., £120.00, and then the index factor e.g., 1.302 (322/255).

FINDINGS

4.2 COLLECTION / PAYMENT

4.2.1 Exacom is used instead of Fusion/E5 for raising the demand notice and accounting for CIL. There are no documented standard operating procedures to explain the processes for raising the invoice, income collection or accounting for the payment within Exacom. (**See Rec 2**).

4.2.2 Although we agree that a unique 'payment reference' is created and prominently displayed on the Demand Notice to help identify the payment on the bank statement and the accounting systems, both Planning and Finance have informed us this reference is often omitted by the payer on payment. For investigative purposes, the Principal Infrastructure and Monitoring Officer (PIMO) has 'read-only' access to the Council's bank statement and the Main Accounting system to help trace any payments that are posted to the 'suspense account'.

4.2.3 The Systems Finance Team has proposed that a new fund account could be created to differentiate CIL from other income, as the references used by Planning are not recognised by the cash receipting system (Civica) and all receipts are posted to 'suspense'. Planning and Accountancy have advised this would not help to identify those payments that were made without the required payment reference.

4.2.4 From our sample test of identified payments received via the 'Civica' Cash Receipting system, and accounted⁴ for on the Main Accounting system⁵ we were unable to quantify how frequently the 'reference' was omitted from the payment, however:

- The payment reference had been satisfactorily referenced against the transactions for our test sample of payments and a copy of the receipt for the correct sum was held on Exacom.
- We are satisfied that an audit log is held on the Exacom system for each application, and that the outstanding balance has been correctly reduced, however, we noted there was a one-penny variance between the funds receipted on Fusion/E5 and Exacom (Ref: 201532).

4.2.5 The CIL debt monitoring and reporting controls could be improved, and we have made two recommendations to address this (See Recs 2 & 3). An examination of the Exacom 'Debtor Finance' report records there are 22 applications with a total outstanding debt of £617,837.41 as of 30/11/2023 and highlighted the following: -

⁴ A Fusion income transaction code (FA 9485) was created to account for all CIL receipts, which are held centrally under the cost centre used for accounting for CIL.

⁵ E5 replaced Fusion as the Council's main accounting system on 30/11/2023.

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- Although not related to CIL finances, the PPM highlighted that s106 contributions are not being pulled through. Exacom is used for both CIL and s106 contributions and therefore assurance is needed on CIL payments (**See Rec 1**).
- We were unable to determine if CIL is subject to the Council's corporate bad debt and write-off controls as there are two debts totalling £12,727.78 that exceed the Council's corporate 6-year write-off policy. We noted the age and the legal recovery status on Exacom were not profiled on a 'dunning'⁶ basis, although we appreciate this considers the 'decision expiry date'.
- There are 17 applications listed in the debtor report with an outstanding zero balance. Further investigations with the Principal Infrastructure and Monitoring Officer identified there is an issue that needs to be reported to Exacom as the system is not updating the information tab to report the correct information. These cases should be investigated to confirm that the application has been removed (**See Rec 1**).
- Unlike other income received by the Council (sundry debtor, penalty charge notice systems), the PPM is not aware of any reporting requirements to inform Finance of the debt recovery status, or of the regulatory restrictions that prevent this, albeit debts are placed on Land Charges. For context, approximately £5.4m has been placed on land charges since 2015, of which £3.8m has since been paid or clawed back (**See Rec 3**).
- The PPM has commented "The CIL debt report is a bit simplistic and in real terms not all Demands are debt. The area that I think we need to focus on is the debt that has reached the part in the CIL regulations of needing to take court action. It is this bit that is outstanding debt and needs Legal support. There are measures in the CIL regulations before that point that can be used to collect debt. Also, not all Demand Notices are debt, if someone pays in accordance with eh demand instalment dates, then it's not really debt. Also, CIL regulations require us to list all Demand notices on Local Land Charges, which the swot feels like is relevant to the above that has reached the court stage".

⁶ **Dunning** is the process of methodically communicating with customers to ensure the collection of [accounts receivable](#). Communications progress from gentle reminders to threatening letters and phone calls and more or less intimidating location visits as accounts become more [overdue](#). Laws in each country regulate the form that dunning can take. It is generally unlawful to harass or threaten [consumers](#). It is acceptable to issue firm reminders and to take all allowable collection options.

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- Planning has confirmed that it lacks resource support from Legal Services to assist with enforcement before the debt is placed on Land Charges (**See Rec 2**).

4.2.6 There are poor procedures in place to ensure the CIL reconciliation between Exacom and Fusion/e5 is completed on a timely basis and any issues arising from this are investigated. Accountancy has informed us that the quarterly reconciliations have not been completed regularly during 2023/24 (**See Rec 4**): -

- The reconciliation for 2022/23 and 2023/24 were both dated 27/11/2023. We are satisfied the systems reports are provided to substantiate that there are no balance variances.
- The accountant, who is independent of Planning, and responsible for completing the reconciliation will share the reconciliation with the Policy Planning Manager in the future.
- Despite the significant sums involved, there is no remit in place for the Reconciliation Team to monitor and report upon the completion and balance status of the CIL (and S106) reconciliations (**See Rec 4**).

4.3 ALLOCATION OF CIL FUNDS

4.3.1 The 'CIL Spend Protocol' dated February 2021, was approved by the Policy Committee on 15/2/2021. The protocol sets out proposed procedures for dealing with the allocation and monitoring of the spending of income arising from the CIL (**See Rec 5**).

4.3.2 We can confirm the Council's CIL Spend Protocol clarifies the methodology for calculating the levy due and the principles for allocating CIL funds, and it is available to the public from various pages on the Council's website, which was updated 8/12/2023. Government guidance to explain what CIL is, and how it operates, is provided by the Department for Levelling Up, Housing and Communities (Gov.UK).

4.3.3 The decisions approved by the Council for 80% of the allocation of CIL and priorities are published in the Council's Infrastructure Funding Statement (IFS). We can confirm the decisions approved by the Policy Committee for 15% of the allocation of CIL receipts to be spent on local priorities are minuted in the 'decision notice.' Following the relevant meeting: -

- These allocations are accounted for on the Fusion/E5 and Capital Programme spreadsheet by location.

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- Outcomes and progress of these allocation decisions are published in the annual Infrastructure Funding Statement which is produced on the 31st of December each year.

4.4 MONITORING OF CIL EXPENDITURE

4.4.1 Although accounting codes have been created to account for the allocation of funds in part: -

- 80% is accounted for through the Council's capital programme⁷. Details of the capital programme are published in the Budget Book for 2023/24.
- 15% of neighbourhood CIL is accounted for on Fusion/E5 by the location of the project using the corporate analysis/project codes which are supported by the 'CIL Local Info' spreadsheet maintained by the Capital Accountant.

4.4.2 Although Exacom provides a profiled split of the allocation of funds received, based on an application basis, the system is not used to account for what has been spent. As an example, Exacom records the proportional allocation of the total funds collected for the IFS period 1/4/2022 to 31/3/2023 accordingly: -

<u>Fund Allocation</u>	<u>Proportion</u>
Administration (5%)	£ 314,565.46
Neighbourhood CIL (15%)	£ 936,140.41
Strategic CIL (80%)	<u>£5,040,603.27</u>
Total Funds Received	£6,291,309.14

4.4.3 Although the IFS follows a regulated format, we are satisfied that the collected funds reported on the IFS (paragraph 2.3) for 2022/23 are reflected in Exacom⁸. We note: -

- Although unspent balances are accounted for on the 'CIL info' spreadsheet maintained by the Capital Account, the IFS does not make it clear if any spent or surplus balances issued to community projects (neighbourhood CIL) require repayment. The Principal Planning and Infrastructure Monitoring Officer agreed that the protocols for verifying unspent allocations that have been issued to parties outside of the council require review (**See Rec 6**).

⁷ Capital is money the Council spends on improving its assets. This can include purchasing new assets, such as land and buildings, but also refurbishing and improving existing ones. Capital expenditure is funded through capital income sources such as grants, borrowing, capital receipts and S106 or Community Infrastructure Levy money. The Capital Programme is the authority's plan of capital expenditure and investment for future years, including details on the funding of the schemes. The Capital Programme 2023/24 - 2025/26 was approved as part of the Council's Medium Term Financial Strategy (MTFS) in February 2023.

⁸ [Infrastructure Funding Statement 2023-24](#)

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- The IFS is not required to report the age or the level of bad debt. These funds may have been paid but remain unidentified in the suspense account. Liabilities remain on the Exacom system until payments are identified and the system up dated.
- Section 4 of the IFS provides feedback and in some cases photographs to confirm the use and completion of infrastructure projects.
- Although the IFS records the date of completion of a project, it does not record if this was delivered on time, nor the service or project team responsible. This information should be detailed in the monitoring report provided to senior management.
- Although we confirm the IFS for 2020/21 and 2022/23 were produced, we have been unable to locate a published copy of the IFS for 2021/22.

4.4.4 Within all processes of administering and managing the community infrastructure levy, including billing, payment collection and recording, and the monitoring of funds, there is over-reliance upon the Principal Infrastructure and Monitoring Officer, as there is no other officer with the experience or knowledge to step up should the need arise. This is further exacerbated by the lack of documented procedures. Whilst the system is working, basic controls are not in place to ensure it remains a stable process should key officers leave the Council.