

**AUDIT REPORTS WITH MODERATE OR LOW LEVEL OF ASSURANCE
ISSUED QUARTER 3 2014/15**

Payroll & Staff Expenses – 19 December 2014

1. Background

- 1.1 Warwick District Council uses the Oracle Human Resources Management System (HRMS) hosted by Warwickshire County Council for the processing of payroll functions. HRMS was developed in 2003/04 by the County and a number of partner organisations. Warwick District Council uses both the payroll and HR related functions within HRMS.
- 1.2 Staff costs account for a high percentage of expenditure, therefore it is important for there to be effective controls in place. Over 800 individuals have been paid during the current financial year, covering over 900 assignments (with some individuals having up to four different assignments), including permanent staff, casual staff and Councillors.
- 1.3 The core payroll duties are undertaken by members of staff in the Payroll team within HR. All staff are now paid by BACS on the monthly payroll, with the weekly payments having been terminated a number of years ago.

2. Scope and Objectives of the Audit

- 2.1 There is currently a project underway looking at how the payroll function will be operated in the future, covering issues such as self-service and whether the council continues to use the HRMS system hosted by the county council. As this project is still ongoing, however, it is the current processes that have been examined.
- 2.2 An extensive examination has been undertaken using the CIPFA systems-based control evaluation models. This entailed completion of Internal Control Questionnaires (ICQs) and testing of controls in accordance with evaluation programmes. Detailed testing was performed to confirm that controls identified have operated, with documentary evidence being obtained where possible, although some reliance has had to be placed on verbal discussions with relevant staff, including Payroll Officers and other HR staff.
- 2.3 The controls covered fall under the following main headings:
- Starters
 - Deductions
 - Variations to pay

- Leavers and transfers
- Payments
- Reconciliations
- Security of data
- Travel and subsistence
- Members' allowances

2.4 A set of 'general' questions was also included in the matrices. Some specific tests were not performed as they were either considered not relevant to the operations at the council or are covered under separate audits.

3. Findings

3.1 General Issues

3.1.1 At the time of the previous audit, the establishment was being maintained on a standalone system (Snowdrop). The use of this system has now been discontinued, however, with the establishment now being held on the HRMS system. As the establishment is on the same system as the payroll, there is no need for reconciliation between the two records, as staff cannot be paid by payroll if they do not have an assigned post.

3.1.2 It was flagged up during the course of the audit, however, that there are issues with maintaining the establishment at the moment. The HR Transactional Payroll Project Manager (PPM) highlighted that there was a lack of expertise in maintaining the establishment hierarchy on HRMS and also on setting up new posts. As a result, a number of posts are being set up as temporary posts on the system.

3.1.3 This has also impacted upon the checks that used to be performed by managers. In the past, HR would provide managers with quarterly establishment lists for their service areas to confirm that they were correct. These lists are no longer produced, however, as it is known that they are incorrect.

Risk

Errors go unnoticed.

Recommendations

The establishment on the HRMS system should be reviewed and updated to ensure that it reflects the current agreed structure of the council.

The quarterly reports to managers should be reinstated to enable managers to review their staffing lists.

3.1.4 The Code of Financial Practice indicates that all relevant staff-related payments, including those to Members, are made under the arrangements approved and controlled by the Head of Finance, with Senior Managers having a duty to ensure that all relevant issues relating to staff in their area are dealt with immediately and with regard to the Personnel (HR) Handbook.

3.1.5 The HR handbook contains some of the more detailed documents and procedures, although this needs to be updated as some items are no longer relevant (e.g. the honorarium guidance still makes reference to the 'purple book' and makes distinctions for craft and manual workers).

Risk

Staff and managers deal with HR and payroll issues incorrectly.

Recommendation

The HR Handbook should be reviewed to ensure that all details are still relevant.

3.1.6 Checklists are in place for certain tasks performed by Payroll and HR staff and various guidance notes for different tasks, along with a 'basic instructions' document, are held on the 'Payments' area of the network. Some of the guidance documents are quite old, although the basic instructions document was found to include recent amendments (e.g. details regarding changes to the national minimum and living wages and changes to processes following the incorporation of the Payroll team into the HR service area).

3.1.7 In the past, forms were received by Payroll to authorise amendments to the payroll (either permanent changes such as new starters or temporary changes such as monthly mileage claims), and these were required to be authorised by an authorised signatory.

3.1.8 Whilst some of the forms are retained at present for the temporary changes, some of the permanent changes are now notified to Payroll and HR by email. This process was agreed at the time of the previous audit following discussions between Internal Audit, Payments and HR. The agreement, however, was that all of the relevant details should still be included on the emails and these emails should only be accepted from authorised staff.

3.1.9 As part of the testing covered under other areas in this report, it was noted that the information is often received in a piecemeal fashion and, whilst authorised signatory lists are being maintained, they do not cover who these emails can be received from.

Risk

Unauthorised and inaccurate amendments to permanent payroll information.

Recommendations

Proforma email forms should be created for changes to permanent payroll information to ensure that all relevant information is received at the same time.

The authorised signatory list should be amended to include details of which officers can send through the email notifications.

3.2 Starters

- 3.2.1 A sample of staff that had recently been employed by the council was reviewed to ensure that the process of entering them onto the payroll had been undertaken appropriately.
- 3.2.2 The testing identified the issues as highlighted above (see 3.1.9). Following receipt of the information, however, testing confirmed that the process was operating effectively, with starter's checklists being in place for each new starter sampled and the employee being correctly set up on HRMS.

3.3 Deductions

- 3.3.1 All voluntary deductions require authorisation from the employee concerned. This authorisation is then retained in the electronic personal file for the relevant employee (now on FORTIS).
- 3.3.2 A sample of twenty voluntary deductions selected at random from payroll information extracted from HRMS was tested to ensure that there was appropriate documentary evidence held on the employee's file. This was found to be the case in all but one instance.
- 3.3.3 In this instance, the individual concerned confirmed that authorisation would have been given and that it may have been actioned whilst he was working at the county council (although employed by this council). Whilst this finding suggests that there has been a minor non-compliance with the control, it is acknowledged that an employee would be likely to have queried any unauthorised deductions from their pay.
- 3.3.4 The deductions extract was also interrogated to ascertain whether there were any positive amounts. One such instance was identified and an appropriate explanation was provided by the Payroll Officer.
- 3.3.5 When the deductions are made from the employees pay, the monies are placed into holding accounts on the TOTAL system. Testing was undertaken to ensure that the deductions were subsequently being paid over to the relevant creditors. This test proved satisfactory.

3.4 Variations to Pay

- 3.4.1 The 'variations' tested covered a whole range of different amendments to staff pay, from timesheets being submitted by casual staff to overtime claims, sick and maternity pay to honoraria and permanent pay awards.
- 3.4.2 Testing of timesheets was undertaken to ensure that the forms had been appropriately completed, that they had been signed appropriately by both the employee and by an authorising officer and that they had been annotated in some way to identify that they had been input to HRMS for payment.

3.4.3 Authorised timesheets were found in the majority of cases. Copies of timesheets could not, however, be found on FORTIS for one sampled individual in May 2014. Upon further investigation, it was noted that timesheets covering 17 individuals, including the sampled employee, were missing (all records for 15 staff members and some timesheets from two others at the start and end of the 'batch').

Risk

Queries cannot be resolved.

Recommendation

Checks should be undertaken to ensure that all documents have been saved correctly following scanning onto FORTIS.

4.4.4 Similar testing was undertaken in relation to overtime claims. All forms were found to have been appropriately signed and authorised. During the course of the testing, it was necessary to work out what hourly rates were being paid, so that payments could be related to the individual overtime claim forms. The testing confirmed that staff were generally being paid at the correct rates.

3.4.5 One issue was noted, however, that affected two sampled staff members: They are paid overtime at a certain point on the salary scale (SCP35). When their payments were checked, however, it was identified that the hourly rate paid did not agree to the correct hourly rate for the pay scale. Upon further investigation it was identified that the overtime element had not been increased in line with the latest pay award (one percent increase in April 2013). The Payroll Officer checked with the county council (as the system supplier) and it was highlighted that they hadn't been made aware of the need to change the relevant 'element'.

3.4.6 The element was updated during the course of the audit and reports were run to identify all relevant payments against the element identified. This identified payments to other staff outside of the sample chosen. These underpayments have now been processed on the system, with amendments being paid to the affected staff as part of the December payroll.

Risk

Incorrect staff payments.

Recommendation

Checks should be undertaken following any changes to pay rates to ensure that all affected elements on the system have been updated.

3.4.7 Where staff members had received sick pay, testing was undertaken to ensure that they had appeared as appropriate on the weekly absence returns. All payments were found to be appropriately supported.

- 3.4.8 Payments in respect of maternity leave were checked back to appropriate documentation and testing was also undertaken to ensure that the relevant rates of pay had been applied at the different stages of maternity leave and that statutory maternity pay (SMP) had been reclaimed as appropriate from HMRC. Again, this test proved satisfactory.
- 3.4.9 Honoraria payments had been made to eighteen individuals during the current financial year and a sample of payments were examined to ensure that appropriate authorisation had been received. Authorisation from the Chief Executive to make the payment was, eventually, found in each case, although copy documents had not been scanned against the correct individual in two of the sampled cases. The recommendation recorded against 3.4.3 is, therefore, also relevant in this case.
- 3.4.10 As there has not been any inflationary pay award made this year, the only pay rises received were as a result of changes to the minimum and living wages, incremental pay awards and establishment changes following restructures etc.
- 3.4.11 Incremental pay rises are automatically awarded, unless Payroll are informed otherwise. Reports are run in April and October showing the increments that have been 'awarded'.
- 3.4.12 Details of employees that were receiving payments against pay scales affected by the changes to the minimum wage were obtained and HRMS was reviewed for a sample of relevant staff to ensure that the change had been processed. The testing confirmed that the change had been processed appropriately.

3.5 Leavers and Transfers

- 3.5.1 A sample of staff who had left the employment of the council was chosen to ensure that the cessation of their employment had been appropriately processed on the payroll system.
- 3.5.2 The same types of issues were identified as had been noted during the starters testing (i.e. the piecemeal receipt of information and the lack of information as to who can authorise the notification – see 3.1.9). One piece of information that was often not retained was any detail of whether the employee had any leave owed either to them or by them.
- 3.5.3 Based on the information held, it was confirmed that all payments had ceased on the correct dates, P45s had been issued as appropriate and the Warwickshire County Council Pensions team had been informed in the relevant cases.
- 3.5.4 One of the sample had an outstanding amount to pay on a car loan. Paperwork was held to show that the employee had agreed for the loan to be settled from her redundancy pay.

- 3.5.5 The documentation on FORTIS showed how much of the principal sum was outstanding and this had been deducted from the final pay due to the employee. No evidence could be found, however, that showed how the outstanding interest amount had been calculated. It was suggested that the Principal Accountant (Revenue) may have assisted in arriving at this figure, but he could not recall having provided the figure.
- 3.5.6 Upon review of the information, he produced a figure which had appeared on the paperwork held by Payroll, but this was higher than the amount that had actually been deducted, leading to a potential shortfall in recovery of £147.42.
- 3.5.7 Due to the fact that the employee has left on redundancy grounds and that they would have been under the assumption that the car loan had been settled, it is considered by Internal Audit that this shortfall should not be recovered. It is up to management, however, to make this decision.

Risk

Loss of monies owed.

Recommendation

A formal decision should be made as to whether the shortfall in monies recovered in respect of the car loan interest payments should be pursued with the ex-employee.

- 3.5.8 No detailed testing was considered necessary for transfers, as they are dealt with in a similar manner to starters, with the associated issues being present in the one case that was reviewed.

3.6 Payments

- 3.6.1 When undertaking the monthly payroll runs, staff use checklists to ensure that all stages of the payroll process are completed and documented. A number of reports are produced at various stages of the process, including those to highlight where staff pay varies significantly (by more than fifteen percent) from one month to the next and to identify if Payroll and HR staff have made any changes to their own records.
- 3.6.2 The reports showing changes to a staff member's own record used to be checked by someone independent of the Payroll staff. No such independent check has been undertaken, however, following Payroll's move to the HR service area.

Risk

Fraudulent amendment of an officer's own pay.

Recommendation

An independent review of the 'update own record' report should be reinstated.

3.6.3 Other reports detail the actual payments to be made to each staff member and this is then summarised to show the total amounts being paid by BACS (originally Bankers' Automated Clearing Services). This used to also show payments made by other methods (e.g. cheques), but this is no longer relevant as all employees are now paid by BACS.

3.6.4 The total payments made by BACS were checked to the transmission reports and then to the bank statements received. This confirmed that the payments were being made appropriately, as per the information input onto the HRMS system.

3.7 Reconciliations

3.7.1 As highlighted above, the HRMS system is now used for both payroll and HR and, therefore, includes the establishment, so there is no need to reconcile the two records, although there have been issues raised (see 3.1.2 & 3 above).

3.7.2 Reconciliations are performed on a monthly basis between the figures that are paid by Payroll against each 'element' and the related control codes on the TOTAL financial ledger system. Spreadsheets were viewed which highlighted that the reconciliations had been performed each month.

3.8 Security of Data

3.8.1 The council's Data Handling Policy (which is a sub-policy of the Information Security and Conduct Policy) includes general details regarding information classification and the principles that must be adhered to. It does not, however, mention specific systems. The PPM was unsure if the data held had been specifically classified or whether this was required.

3.8.2 This had also been raised during the previous audit but, due to the departure of relevant staff, it is not clear whether this had been addressed. The PPM highlighted, however, that he was looking into the general areas of data retention as part of his project, so this would be covered.

3.8.3 Payroll staff were not aware if there was a formally documented business continuity plan for processing the payroll, although advised that a plan of sorts was in place. Data could be transferred to the county council for processing (as the system is hosted by them) or it could be run from their homes as they both have homeworking capability. The only part of the process that cannot be done from elsewhere is the BACS payment, as specific terminals are required. They also advised that if the paperwork (e.g. travel claims) could not be processed, everyone would be paid either their basic salary or the same as they had been paid in the previous month.

3.8.4 Relevant records relating to payroll information (such as taxation details, birth certificates, pension details etc.) are stored on FORTIS.

Access to the system is restricted with only limited, relevant, staff having access.

- 3.8.5 Access to the system is secured via the network log-in details as opposed to usernames and passwords for the specific piece of software.

3.9 Travel and Subsistence

- 3.9.1 Samples of travel and expenses claims submitted were checked to ensure that appropriately detailed 'official' claim forms were being submitted which had been appropriately signed by the claimant, an authorising officer and a member of Payroll staff upon input, that the claims were being submitted in a timely manner and that the payments were accurate based on these claims. This test did not highlight any issues.

- 3.9.2 One issue was noted in that one of the sampled travel claims included a number of journeys of very short distances (including a one mile round trip). The nature of the journeys was queried with the Head of Service who had authorised the claim. He was unsure why these journeys would have necessitated the use of a vehicle and agreed that future claims would be given closer scrutiny and would be queried as appropriate. No specific recommendation is to be raised in this report, as Payroll staff had processed an authorised travel claim appropriately.

3.10 Members' Allowances

- 3.10.1 Members are entitled to re-claim travel and subsistence costs incurred in performing their official duties. They are also able to claim an allowance for the provision of broadband internet.

- 3.10.2 As with the travel and expenses claims for staff, testing was undertaken to ensure that payments made related to appropriately submitted claims which were on official forms, which had been appropriately signed by the claimant, an authorising officer and a member of Payroll staff upon input, that the claims were being submitted in a timely manner and that the payments were accurate based on these claims. Checks were also undertaken to ensure that the claims were for official, approved duties.

- 3.10.3 One of them claims reviewed had been submitted on an old form. This included claims for meetings for which no specific reasons were recorded. The Democratic Service Manager and Deputy Monitoring Officer advised that Members are now being asked to confirm which part of the scheme the meetings fall under where it is not apparent. All other claims were relevant and timely.

- 3.10.4 Payments for broadband expenses were not generally supported by claim forms, unless there had been a change in the amount being claimed. This is the normal practice.

- 3.10.5 A sample of allowance payments (both basic and special responsibility allowances) was also reviewed to ensure that the payments were being made appropriately, and ensuring that Members were actually entitled to the payments (i.e. they were serving on the relevant committees at the time of the payment).
- 3.10.6 It was confirmed that all payments were made to current Members, who filled the relevant roles where special responsibility payments had been made. Sampled payments to two councillors in respect of special responsibility allowances were, however, incorrect.
- 3.10.7 In one instance, an incorrect calculation was made with regards to how much a Member should have been paid in 2013/14 when he took over as Chair of one of the committees. This figure has also been erroneously carried forward into payments made in 2014/15 resulting in a total underpayment of £609.84.
- 3.10.8 In the other instance an overpayment had already been identified and monthly deductions should have been taken from the Member for three months to recover this. The deductions had, however, erroneously continued for a further three months resulting in an underpayment of £182.67.
- 3.10.9 These issues were flagged with the Payroll staff during the course of the audit. They then checked all other special responsibility payments and identified a further three Members who had been underpaid. All of the identified underpayments have now been processed on the system, with amendments being paid to the affected Members as part of the December payroll.
- 3.10.10 Where changes to special allowances had occurred during a financial year, manual calculations had been undertaken to work out how much the Member should be paid each month. The sampled documents did not generally include any evidence of the calculations being checked by the other Payroll staff member.

Risk

Incorrect payments may be made.

Recommendation

All manual calculations should be checked by another member of Payroll staff.

4. Summary & Conclusion

- 4.1 Following our review, we are able to give a **MODERATE** degree of assurance that the systems and controls in place in respect of Payroll & Staff Expenses are appropriate and are working effectively.
- 4.2 A number of issues were identified during the course of the audit relating to:

- The maintenance of the establishment hierarchy on HRMS and management reviews of their establishment.
- The currency of information on the HR Handbook.
- The lack of checking as to whether the notification of changes to permanent payroll information are being received from authorised staff and the piecemeal receipt of such information.
- Missing documents on FORTIS.
- Errors in payments to staff and Members.
- A lack of independent checks on reports detailing instances of staff members updating their own records.

5. Management Action

- 5.1 Recommendations to address the issues raised are reproduced in the Action Plan for management response.
- 5.2 It may be that some of the actions will be superseded following the outcome of the current payroll review project. Some of the issues raised may, however, still be relevant no matter what future direction is taken, or the points may need to be noted to ensure that they are addressed if the payroll and the establishment are migrated to another system.

Section 106 Agreements – 14 January 2015

1. Background

- 1.1 The Government's Planning Advisory Service highlights that "planning obligations under Section 106 of the Town and Country Planning Act 1990, commonly known as s106 agreements, are a mechanism which make a development proposal acceptable in planning terms, that would not otherwise be acceptable. They are focused on site specific mitigation of the impact of development."
- 1.2 As well as the 'full' s106 agreements, Unilateral Undertakings can also be entered into under the Act, although these are just agreed by the developers and the relevant parties, with the council not being required to sign up to them.

2. Scope and Objectives of the Audit

- 2.1 The audit was undertaken to test the management and financial controls in place.

2.2 In terms of scope, the audit covered the following areas:

- Development identification
- Consultation
- Agreements
- Monitoring
- Financial control.

2.3 The audit programme identified the expected controls. The control objectives examined were:

- Developments which should give rise to S106 agreements are appropriately identified.
- All relevant elements are appropriately included within the agreements.
- Justification is available where S106 agreements are not entered into on viability grounds.
- Agreements are enforceable.
- Agreements ensure developments fit in with the emerging local plan.
- The council is aware when relevant milestones are reached in the development.
- Monies received are accounted for as appropriate.
- Communities benefit as intended from the monies received.

3. Findings

3.1 Development Identification

3.1.1 The Development Manager (DM) and the Development Team Leader (DTL) advised that developments that may be subject to requests for s106 contributions are identified through the application of criteria set out by the relevant statutory organisations.

3.1.2 As a general rule, it is anticipated that most 'major applications' (e.g. large scale housing developments) will require s106 contributions, due to the additional demands that will be placed on infrastructure and services. In most cases early discussions will be held with developers, including at the pre-application stage, in order to expedite the process.

3.2 Consultation

3.2.1 Consultation is undertaken as part of the processing of all planning applications, regardless of whether s106 contributions will ultimately be required. The organisations and individuals consulted will vary, however, depending on the type of application.

3.2.2 The DTL highlighted that the starting point for determining the consultees for planning applications is the National Planning Practice Guidance which sets out the circumstances in which specific organisations are to be consulted.

- 3.2.3 The consultees for each application are identified when the application is plotted on the GIS system via Acolaid. The GIS Manager advised that when the application is being plotted, relevant constraints on the system would be pulled through based on the layers that had been selected and these had generally been set some time ago, although the DM indicated that they would be updated as and when criteria change.
- 3.2.4 The Administration Support Manager (ASM) and the DTL advised that some of the consultees identified by the system may not need to be consulted, depending on the nature of the specific applications, and they would, therefore, be removed. Others may also be added from the drop down lists available on Acolaid based on the nature of the development proposal and any additional constraints arising from its location.
- 3.2.5 It was also highlighted that some individuals and bodies are made aware of all applications received on a weekly basis in order that they can determine whether they wish to respond on specific cases. The ASM provided details of the weekly list recipients which are set up as Outlook contact groups. The weekly list is also available on the council's website.
- 3.2.6 During discussions with one of the Senior Planning Officers (SPO) regarding sampled applications (see testing details below), he advised that some consultees may not respond, depending on the scale of the application. For example, NHS bodies may not respond to the smaller 'major' applications if the scale of the development will not have major implications on their services and there are no relevant issues or requirements that they wish to raise.
- 3.2.7 Testing was undertaken on a sample of major applications, that had been approved during 2014, to check whether all relevant consultees were being given the opportunity to comment on the applications and, where relevant, whether their responses and any subsequent negotiations were being appropriately reflected in the s106 agreements reached.
- 3.2.8 As suggested during the discussions prior to the testing, the number of individuals / organisations consulted on each application, as per the consultation screen on Acolaid for each application, varied considerably, as did the actual consultees. Other potential consultees were covered by the weekly lists, so would have been aware of the applications and were able to respond should they have wished.
- 3.2.9 Whilst it is understandable that there will be some differences, it was not clear why different consultees were included on the lists where similar developments were sampled (i.e. the applications that related to large housing developments). The DTL explained that in the cases identified, different consultees had been included on the lists because of additional consultations over and above the statutory consultees. However, Internal Audit suggest that a standard approach could be adopted to ensure that relevant parties are given the same chance to respond to each application.

Risk**Relevant bodies are unable to secure relevant contributions.****Recommendation****A standard list of consultees should be drawn up for major applications.**

- 3.2.10 In the two cases where formal s106 agreements were required, evidence was generally in place to show that the requests received were being included in the agreements, or there was correspondence held relating to why certain items were not included. There were, however, some anomalies, with some items being included in agreements which were not supported by responses included on IDOX. The DTL explained that this can occasionally arise where consultation responses have not been received but where it is known that a requirement is to be included in an agreement, for example in relation to the provision of open space.
- 3.2.11 The SPO advised that some sections do not always respond to individual applications, but have standard responses in place. Individual responses, however, should be received to provide justification for each relevant case, as they need to be able to confirm that the requests are compliant with the regulations set out in relation to the Community Infrastructure Levy (CIL).

Risk**Challenges to s106 agreements.****Recommendation****Evidence should be obtained to support all requests for s106 contributions for each individual application as appropriate.**

- 3.2.12 One of the applications reviewed did not lead to a s106 agreement because the scheme would not have been viable if contributions had been required. The developer submitted an assessment to set out their viability case and this was appropriately confirmed by an independent consultant.
- 3.2.13 During discussions with the SPO, it was identified that consultees that had asked for contributions would not be formally advised as to whether this had been agreed (e.g. if a viability assessment had been submitted which led to no agreements being entered into on viability grounds).
- 3.2.14 Separate discussions on financial controls (see 3.5 below) with the Green Space Team Leader (GSTL) also flagged this as an issue, as he highlighted that he was not aware whether to expect any contributions. (NB this is relevant to contributions secured by condition as well as those included within s106 agreements.)

Risk**Relevant parties are unable to undertake appropriate budgetary planning.**

Recommendation

Consultees should be formally made aware of the outcome of relevant applications including in relation to any contributions that are to be paid to them.

3.3 Agreements

- 3.3.1 The Senior Solicitor at Warwickshire Legal Services advised that agreements will be either be drawn up by the developer's solicitors or will be drafted by Legal Services. His colleague also advised that no 'model' document is maintained, but standard clauses are used, and these include a specific section on the legal basis of the agreements. This section makes reference to the relevant Acts and the appropriate sections therein.
- 3.3.2 The Senior Solicitor also indicated that any draft documents would be reviewed to ensure that any amendments were acceptable, although these would not generally affect the legal basis sections.
- 3.3.3 Where planning applications are to be subject to s106 agreements, the applications have to be decided by Planning Committee, as the council will be a signatory to the agreements reached. In the two relevant sampled cases, the applications had been appropriately reported to the committee.
- 3.3.4 The testing also checked to ensure that the applications had been appropriately signed and sealed. Copies of documents were held in one instance containing all of the relevant signatures and seals. In the other case, the copies held only contained the signatures of the owner and developer and did not bear the seals of the relevant councils.
- 3.3.5 The Land Charges Officer (LCO) advised that Legal Services now generally get the different parties to sign / seal different copies (counterpart agreements) and then send through all relevant copies. These have the same effect as a single copy with all of the signatures and are legally enforceable.
- 3.3.6 In the one case where all signatories were evident, these were covered on three separate copies of the agreement held by the LCO (awaiting scanning prior to be placed in the document store). In the other case, two copies were held in the document store containing the abovementioned signatures, but it was not clear if the sealed copies of this agreement had ever been provided.

Risk

Agreements are not enforceable.

Recommendation

A sealed copy of the relevant s106 agreement should be obtained.

- 3.3.7 The DM advised that, on the whole, the agreements reflect the infrastructure needs related to the new developments and this would

generally be the case no matter which local plan was being worked to. The approval of the applications themselves (as opposed to the agreements being reached) is where the main impact of the emerging plan is highlighted, although the agreements are obviously forward looking and will aim to support the plan as it moves forward.

3.4 Monitoring

- 3.4.1 The DM advised at the outset of the audit that the monitoring process is not currently functioning appropriately. He highlighted that plans are in place, however, to remedy this and subsequently provided a copy of a draft service improvement plan which included this commitment. As a result, it was agreed that it would not be of benefit to undertake full testing of the process, but a sample application was chosen to ascertain how the process will work when the planned processes are adopted.
- 3.4.2 At the time of the audit testing, an immediate issue was noted in that Development Management staff were not able to provide a list of 'active' s106 agreements in order for a sample agreement to be chosen.
- 3.4.3 A list of a sample of potentially relevant applications was subsequently provided and a sample application was chosen from this list (W/11/0074), although the process described was more generic, with little specific reference being made to the chosen application.
- 3.4.4 The DM advised that the Enforcement team; the new Major Sites Monitoring Officer; and the Information and Improvement Officer will be at the forefront of monitoring. A spreadsheet will be maintained, listing all s106 requirements along with the key dates and thresholds and an early version of this spreadsheet was provided to Internal Audit after the audit testing. Monitoring files will also be in place, with reminders being set up to prompt for action to be taken.
- 3.4.5 Ongoing monitoring including, regular liaison with relevant partners at other organisations, staff within WDC (e.g. Building Control and Planning Policy staff) and the developers, will be undertaken to identify whether a development has commenced and, if so, the stage that the development has reached and whether the requirements of the s106 agreement have been triggered and/or received.
- 3.4.6 The DM highlighted that a monitoring system would be set up using Acolaid to ensure that the requirements of s106 agreements are rigorously monitored and followed up, making more effective use of systems already in place. In that respect, the DM also highlighted that the ability to give system access to other relevant bodies, including Warwickshire County Council in particular, is being investigated to allow them to play an integral role in the monitoring process.
- 3.4.7 Following completion of the audit, Development Management staff have been instructed to start inputting the agreements onto Acolaid, in order for this monitoring to be undertaken.

3.4.8 He also suggested that the possibility of setting up a webpage was being looked into, detailing the stage that each relevant development has reached along with the requirements of the associated s106 agreement. This is to be progressed once the spreadsheet has been established. It is intended that the webpage will enable members of the public and other interested parties to access this information and understand the position in relation to each agreement.

3.4.9 It is considered by Internal Audit that the processes set out above should allow for appropriate monitoring to be performed when supported by relevant site visits etc. A general recommendation in relation to this issue is included, and it is suggested that this area will be re-examined in a follow-up audit to be included in the audit plan for 2015/16, allowing time for the processes to be set up.

Risk

The terms of the s106 agreements are not adhered to by developers.

Recommendation

The planned monitoring processes set out should be put in place as a key priority.

3.4.10 Whilst the DM was aware that the current monitoring situation was not acceptable, the planned processes highlighted above are intended to overcome that. He also suggested that he took assurance from others, such as Warwickshire County Council and the Strategic Housing Team (in respect of affordable housing provision), that contributions are being made.

3.4.11 He also highlighted that s106 contributions are now being included in relevant applications relating to major housing developments towards the costs of monitoring the developments.

3.5 Financial Control

3.5.1 The Assistant Accountant (AA) for Development Services advised that monies received in respect of s106 agreements are often originally coded to the main Development Control – Fees and Charges code or the capital receipt codes and are then transferred by journal to the relevant cost centre.

3.5.2 One of the main types of receipts at the council is for open space contributions. The GSTL advised that he is not generally aware of when the monies are received and will only find out upon receipt of spreadsheets from the Principal Accountant (Capital) which are received on, roughly, a quarterly basis. He highlighted that these spreadsheets cover both monies secured via s106 agreements and those arising from standard conditions included in other planning applications (see recommendation at 3.2.14 above).

- 3.5.3 The AA also highlighted that the first monitoring contribution (as highlighted at 3.4.11 above) had been received and this had been transferred from the main fees and charges code to the Planning Policy cost centre.
- 3.5.4 Due to the lack of monitoring information available, no specific sample testing was possible to ensure that monies were being received as appropriate in line with the agreements in place.
- 3.5.5 Where contributions are due to other bodies, e.g. Warwickshire County Council who receive the significant proportion of s106 monies, the DM advised that most contributions will be paid by the developers directly to them, whereas some may come in to us first.
- 4.5.6 One such payment made during the current financial year was identified on the capital receipts code (re a highways contribution) and this was subsequently paid across to Warwickshire County Council as appropriate.
- 3.5.7 The DM advised that, as with the monitoring of developments to ensure contributions are received, there is currently no monitoring being performed to ensure that monies are being used as intended by the various infrastructure providers.
- 3.5.8 As the s106 agreements identify the purposes for which contributions are required, there is, therefore, an ability to monitor this. The DM advised that a key element of the forthcoming monitoring programme will be the monitoring of the use of funds for the purposes identified.

4. Summary & Conclusion

- 4.1 Following our review, in overall terms we are able to give a **MODERATE** degree of assurance that the systems and controls in place in respect of Section 106 Agreements are appropriate and are working effectively.
- 4.2 The procedures in place for entering into the agreements are generally sound and the issues raised in relation to this area only generate a small number of recommendations.
- 4.3 Internal Audit have concerns that there are no formal controls operating at present with regards to the monitoring of the agreements once they have been entered into and this may, ordinarily, lead to an overall limited level of assurance being given. The Development Manager has, however, set out the processes that are to be introduced to address these issues and, consequently, it is considered that the assurance can be increased.
- 4.4 It is proposed that a follow-up audit on the monitoring aspects will be undertaken in the next financial year to ensure that the proposals have been implemented.

5. Management Action

5.1 Recommendations to address the issues raised are reproduced in the Action Plan for management response.