

## The Highland Council

### Audit and Scrutiny Committee – 24<sup>th</sup> November 2016

Agenda Item	4
Report No	AS/20/16

#### Internal Audit Reviews and Progress Report – 21/09/16 to 11/11/16

#### Report by the Corporate Audit Manager

##### Summary

This report provides details of the final reports issued since the previous meeting of this Committee; work in progress and other information relevant to the operation of the Internal Audit section.

## 1. Audit Reports

### 1.1 Final Reports

There have been 5 final reports issued in this period as referred to below:

SERVICE	SUBJECT	OPINION
All Services	Rental Income	Limited
Community Services	Housing Rents	Full
Finance	Matters Arising from the Statement of Internal Control 2015/16	Substantial
Development & Infrastructure/	Leader Programme 2015/16	Substantial
Development & Infrastructure/ Community Services	Control of Road Bonds & Enforcement of Planning Conditions	Reasonable

Each report contains an audit opinion based upon the work performed in respect of the subject under review. The five audit opinions are set out as follows:

- (i) **Full Assurance:** There is a sound system of control designed to achieve the system objectives and the controls are being consistently applied.
- (ii) **Substantial Assurance:** While there is a generally a sound system, there are minor areas of weakness which put some of the system objectives at risk, and/ or there is evidence that the level of non-compliance with some of the controls may put some of the system objectives at risk.
- (iii) **Reasonable Assurance:** Whilst the system is broadly reliable, areas of weakness have been identified which put some of the system objectives at risk, and/ or there is evidence that the level of non-compliance with some of the controls may put some of the system objectives at risk.
- (iv) **Limited Assurance:** Weaknesses in the system of controls are such as to put the system objectives at risk, and/ or the level of non-compliance puts the system objectives at risk.
- (v) **No Assurance:** Control is generally weak, leaving the system open to

significant error or abuse, and/ or significant non-compliance with basic controls leaves the system open to error or abuse.

## **2. Other Work**

2.1 In addition to the reports referred to in the table at section 1.1 above, the Section has been involved in a variety of other work which is summarised below:

(i) Work for other Boards, Committees or Organisations

Audits have been undertaken on behalf of the Valuation Joint Board and HITRANS. In addition, ICT audit work has been undertaken for Western Isles Council as part of a shared service agreement.

(ii) Certification of grant claims

Work has been undertaken for HITRANS for the SPARA 2020 project and for the Development & Infrastructure Service in respect of the Northern Periphery Arctic Programme e-Lighthouse project.

(iii) Corporate Fraud activity

The corporate fraud work includes the on-going commitment as the Single Point of Contact in liaising with the DWP's Single Fraud Investigation Service and dealing with requests for information under the Data Protection Act from other organisations such as Police Scotland. The main areas of investigation have been cases where tenancy fraud and/ or no entitlement to on-going Council Tax Reduction are suspected, and a suspected fraudulent application for a housing grant.

(iv) Regulation of Investigatory Powers (Scotland) Act (RIPSA)

Following staffing changes arising from Voluntary Redundancy, it was recognised that a review of the officers who can approve RIPSA applications was required. This has been done and following training provided in June, the Corporate Audit Manager was approved as an Authorising Officer. The Council has also been subject to an inspection by the Office of Surveillance Commissioners which took place on 03/11/16. The Corporate Audit Manager is also part of the RIPSA Management Group which will be undertaking a review of the Council's current policy and procedures.

(v) External Assessment against the Public Sector Internal Audit Standards (PSIAS)

As previously advised to Committee, this Assessment is now in progress and Colin McDougall, Audit & Risk Manager, West Dunbartonshire Council undertook his site visit on 9<sup>th</sup> and 10<sup>th</sup> November in order to interview various stakeholders and to examine the various sources of evidence required to support the Assessment.

## **3. Progress Against the 2016/17 Plan**

3.1 The audit reviews that are in progress and which will be the subject of a future report to this Committee are shown in the table at **Appendix 2**.

#### 4. Performance Information

Quarters 1 and 2 performance for 2016/17 is provided in the tables below.

##### 4.1 Internal Audit:

Category	Performance Indicator	Target	2016/17 Actuals			
			Q1	Q2	Q3	Q4
Quality						
Client Feedback	(i) % satisfaction from individual audit engagements expressed through Client Audit Questionnaires (CAQ)	90	80	80	-	-
	(ii) % of Client Audit Questionnaires returned	70	86	100	-	-
Business Processes						
Timeliness of Final Report	(iii) % of draft reports responded to by client within 20 days of issue	85	38	50	-	-
	(iv) % of final reports issued within 10 days of receipt of management response	90	89	100	-	-

There are 2 indicators where performance is less than the target:

- (i) The responses from management were mixed resulting in satisfaction levels ranging from 56 – 100%. The audit with the lowest score is also the one that took the longest to finalise as referred to at (ii) below.
- (ii) Only 3 of the 6 audit reports issued received a timely response with a further 2 received slightly beyond the deadline. For the last report, it was necessary to escalate these to more senior officers in order to obtain the required response. Furthermore, this report was complicated by the fact that it involved officers from 3 different Services.

##### 4.2 Corporate Fraud:

The table below gives details of the number and types of fraud which have been completed in each quarter. In considering this information, the following should be noted:

- Results mean that fraud was established and in the case of tenancy fraud, the property has been recovered.
- Closed cases are where no fraud was established which could be due to lack of evidence or in some cases, malicious allegations have been made.
- The open cases are those still in progress, including 13 which have been carried forward from last year.

Fraud Type	No. of results/ closed				Total results/ closed	No. open cases (incl. c/f)
	Q1	Q2	Q3	Q4		
Tenancy	9/14	7/11	-	-	16/25	25
Council Tax Reduction (CTR)	1/9	0/5	-	-	1/14	9
CTR & Tenancy	0/3	0/2	-	-	0/5	0
<b>Total</b>	<b>13/26</b>	<b>7/18</b>			<b>19/44</b>	<b>34</b>

## 5. Implications

5.1 There are no Resource; Legal; Equalities; Climate Change/Carbon Clever; Risk, Gaelic and Rural implications as a direct result of this report.

### Recommendation

The Committee is invited to consider the Final Reports referred to in Section 1.1 above and note the current work of the Internal Audit Section.

Designation: Corporate Audit Manager

Date: 14<sup>th</sup> November 2016

Author: Donna Sutherland, Corporate Audit Manager

## Internal Audit –Work in Progress

SERVICE	SUBJECT	PROGRESS
Care & Learning	Integrating Care in the Highlands	Fieldwork complete
Care & Learning	Review of Throughcare and Aftercare Services	Being planned
Care & Learning	Review of Financial Procedures operated in Schools	Being planned
Care & Learning/ Corporate Development	Network Capacity Management in Schools	Fieldwork complete
Care & Learning/ Development & Infrastructure	Cromarty Primary School	Being planned
Care & Learning/ Development & Infrastructure	Repairs and Maintenance in Schools	Being planned
Community Services	Review of the arrangements for the procurement and payment of Homeless services	Fieldwork complete
Community Services	Review of Burials and Cremations	Fieldwork complete
Community Services	Roads Maintenance – condition surveys	Terms of Reference issued
Community Services	Housing Information System	Fieldwork in progress
Community Services/ Development & Infrastructure Service	Replacement Heating Systems	Being planned
Corporate Development	Transformation Savings Programme Projects	Fieldwork complete
Corporate Development	Common Good Funds – rental income	Draft report issued
Development & Infrastructure	Compliance with the Carbon Reduction Commitment Energy Efficiency Scheme 2015-16	Fieldwork in progress

**INTERNAL AUDIT  
FINAL REPORT**

ALL SERVICES  
RENTAL INCOME

**AUTHOR**

Internal Audit  
Finance Service

**DISTRIBUTION**

Depute Chief Executive/ Director of Corporate Development  
Director of Care and Learning  
Director of Community Services  
Director of Development & Infrastructure  
Director of Finance  
Head of Resources, Care and Learning Service  
Estate Strategy Manager, Care and Learning Service  
Head of Roads and Transport, Community Services  
Head of Performance and Resources, Community Services  
Harbours Manager, Community Services  
Housing and Homeless Service Manager (Inverness), Community Services  
Head of Development & Regeneration, Development & Infrastructure Service  
Corporate Property Asset Manager, Development & Infrastructure Service  
Property Manager (Estates), Development & Infrastructure Service  
Principal Projects Officer, Development & Infrastructure Service

**REF:** HEE03/001.bf

**DRAFT DATE:** 30/09/16  
**FINAL DATE:** 15/11/16

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## **1. INTRODUCTION**

This audit was undertaken as part of the 2015/16 audit plan and was included following concerns raised by Members that the correct rental sums were not being charged and collected for all Council owned sites. This followed 2 reports issued in 2014/15 which showed that the Council had not collected the correct rental sums for 2 particular sites both of which belonged to Common Good Funds, and further details are provided within the separate report on Common Good Funds rental income.

A specific Member concern regarding failure to collect rental income at another site was also examined in this report under objective (ii) below.

Services across the Council are responsible for managing a wide range of sites for which rent is charged and the audit examined the systems in place for the collection of rental income. For sites where rent is charged there should be a lease stating the sum to be collected and frequency of payment. In addition, the lease will specify the basis and frequency of any rent reviews. It is the responsibility of the Service administering the site to ensure rent is charged in accordance with the terms of the lease so that the correct sums can be collected.

## **2. REVIEW OBJECTIVES**

The objectives of the review were to ensure that:

- (i) All chargeable properties and assets belonging to the Council have been identified and accurate details are held of the property/asset owner.
- (ii) The correct rental sums are charged. Rent reviews are undertaken in accordance with the relevant agreement and increases are correctly applied. Commercial rents are charged unless it has been agreed by the relevant Committee/ previous Authority that this should be reduced.
- (iii) Rental income is charged for the use of all Council assets and properties. Where the decision has been made to waive or reduce these charges then records are held to demonstrate that the appropriate authority was obtained and this is in accordance with Council policy.

## **3. SCOPE, METHOD AND COVERAGE**

The audit examined the current arrangements for collecting rent and applying rent reviews for all Services across the Highland Council. Rents from Council housing were excluded from this audit. Rental income from Common Good Fund assets has been examined in a separate audit.

## **4. MAIN FINDINGS**

The main findings of the review, referenced to the above review objectives, are as follows:

### **4.1 Identification and recording of assets and properties**

This objective was partially achieved as the accuracy and completeness of information, and standard of record keeping varies between Services. Each Service has its own local arrangements, with specific units being responsible for clearly defined lists of assets and these are detailed below.

#### **4.1.1 Care and Learning Service**

This Service has a large number of different chargeable assets including those inherited from different Services as a result of restructuring. The records held



reflect the different systems inherited and there is no central record or system. The chargeable assets are split as follows:

- Residential properties (former school and janitors houses)
- Properties occupied by NHS Highland under the integration agreement
- High Life Highland (HLH) properties and assets
- Other Community Learning and Leisure (CLL) properties and assets.

The audit did not examine the HLH properties or those occupied by NHS Highland. In accordance with the specific agreements in place for these assets, no charge is made for their use.

Details of the 225 residential properties were provided on a spreadsheet. There is an ongoing review of these properties, which has been subject of reports to the Education, Children and Adult Services Committee. Each individual tenancy is being reviewed, with input from legal services, and actions being progressed to standardise tenancy and income collection arrangements, recognising that historically there has not been a consistent approach taken. The review is also considering, where possible, the transfer of the property and tenancy to the Housing Revenue Account. The review requires a case by case approach, and discussion with the tenant, recognising the different circumstances applying to each. Progress has therefore not been as quick as had been hoped.

A spreadsheet listing the Community Learning and Leisure (CLL) 704 properties and assets was provided by the Estates Officer (Projects). A project has been proposed which will identify all rented properties, confirm the annual rent due and that it is in accordance with the lease terms, review the payment method (with a view to converting some payments to Direct Debit) and consider whether the property should be retained. A draft project brief has been produced but it is not clear if, or when, this project will commence. Pending that review concluding, there is uncertainty in relation to the arrangements in place for collection of income and setting of rents.

There is a second project underway to examine a list of properties which were the responsibility of the former Education, Culture and Sport Service. These properties were listed in a 2002 report entitled "The Old Treasures" and it is the view of Care and Learning that it may be that in future these assets, most of which are not core service assets, could be better managed in another Service.

In addition, a number of assets are listed on the K2 property system which came into operation in February 2015. However, it could not be established who was responsible for collecting rental income for these assets and this information is not recorded on K2.

#### 4.1.2 Community Services

Again, this Service does not hold a central record and there are several functions responsible for their individual assets and the rent collection.

Piers and Harbours:

The Harbours Manager is responsible for 135 sites where rent is charged. A cardex system (folder with cards for tenants and amounts to be billed) is used to determine when to bill tenants. In addition, a spreadsheet is maintained which lists all chargeable assets and summarises the cardex information. However, this contained out of date information and it is considered that there is unnecessary duplication of systems.

Telecommunication masts:

18 hill top telecommunication mast sites have site share agreements between the Council and telecommunication companies. The Communications Manager maintains a list of the sites showing which companies use each site, the annual

rental amount due and updates this as necessary. On an annual basis he provides a list of charges for the forthcoming year to the Service Finance Team for invoicing purposes.

#### Stores and Depots:

The Stores and Purchasing Manager was responsible for 2 depots (shared with an external organisation), for which rent is charged.

3 other sites, depots in Lochaber, Inverness and Headquarters were identified by the Stores and Purchasing Manager and Service Finance Manager as assets where rent was being charged to external parties. Details of the cost centres were provided but it could not be established who is responsible for administering the rent collection.

#### 4.1.3 Corporate Development

This Service has 1 chargeable asset in Drumnadrochit currently used as a Tourist Information Centre let to a sole tenant. The Senior Business Support Officer was responsible for administering rental income at this site.

Legal Services have a title database used to record details of titles and leases to which the Council is party to. The Legal Manager said this cannot be guaranteed to be comprehensive, nor can it be certain all original leases are held. These leases are held in a number of locations, primarily Area offices which is due to historical reasons.

#### 4.1.4 Development and Infrastructure (D&I)

##### Corporate Property:

The Corporate Property Asset Management Team (CPAM) is responsible for 7 Accommodation Account properties comprising of 5 office buildings, 1 store and 1 shop. This was managed by the Acting Property Manager and details are held on the K2 property database including the rental sums charged.

##### Industrial and Investment managed properties:

The majority of chargeable assets within D&I are the responsibility of the Industrial and Investment Team who manage 604 sites belonging to the Council. These consist of Property Account properties which are mainly industrial estates. The Team previously used a Property Database to assist with lease management but in 2015/16 a data migration exercise transferred asset details to the K2 system which the Team now use to manage sites. K2 shows which sites are charging rent, when the rent reviews are due and when these were undertaken. The Team also maintains a spreadsheet showing all assets where rent is charged, the amounts charged and details of when rent reviews are due or took place.

##### Community and Countryside Properties:

The Principal Projects Officer is currently responsible for 12 sites for which rent is charged as 1 site was sold this year. These are diverse in nature covering stores and sites used by community groups, visitor attractions and 1 used by a communications company. Details of these are held on a spreadsheet which lists the tenants, sums charged and when reviews are due. There are plans to migrate this information to the Community Services WDM Database. The information is also held on K2 as a record of assets but the Principal Projects Officer confirmed that this information requires updating.

## 4.2 Charging and Collection

This objective was partially achieved as most of the Services are collecting rental income as expected. However, this is not consistent and there are instances of rent reviews not taking place. In addition, some of the officers responsible for administering the rental income have now left the Council and it is not clear in all cases who will take over these responsibilities.

### 4.2.1 Care and Learning

The process for the collection of rental income could not be examined as it could not be established who was responsible for this due to the issues outlined at section 4.1.1.

### 4.2.2 Community Services

Harbours:

The Harbours Manager provided the list of cost centres where income is received. This was examined to identify the income received during 2015/16 compared to the information recorded on the spreadsheet provided. The spreadsheet showed 135 sites being rented and the majority of income was collected as recorded except for the following:

- At the time of the audit 33 invoices whose due date had passed, were unpaid. The debt recovery process had been followed with reminder letters issued. However, the Harbours office was not aware of these non-payments.
- It was also established that the spreadsheet was inaccurate as it had not been updated to reflect the current charges for some sites.

There were also some concerns about the current method of income collection:

- Invoices have been issued for sums less than £10, contrary to the guidance in Financial Regulations.
- 19 sites are recorded as having no formal lease agreement in place although rent is collected. Therefore, the basis of the rental sum and when this should be reviewed is unknown.
- No rent reviews have taken place for some time and the Harbours Manager said that these were "years out of date" with requests for rent review unanswered.
- There is no consistency in the payment method; some are made by Direct Debit and others by invoice (this ranges from monthly, to quarterly, biannual or annual). According to the Harbours Manager this varies to suit customers' needs. This means that each month a considerable number of invoices are raised for relatively small unchanging sums, rather than taking payment by Direct Debit.

No original leases were examined due to the fact that rent reviews have not taken place for some time and it could not be confirmed that the amounts charged match the expected charges in all cases.

Telecommunication Masts:

A copy of the site sharing agreement between the Council and customers was provided by the Communications Manager. Section 5 of this outlines the conditions for rent reviews which take place annually for all customers. Rents are increased annually by the Retail Price Index (RPI) or an Open Market Value review.

A list of customers was provided with invoice amounts for 2015/16 and examination of the invoices raised showed that the correct sums were charged. However, no invoices were paid by the due date and 3 invoices were partially paid with substantial balances owing. It was also noted that in 2 instances rent payments had been made in advance so invoices were issued unnecessarily.

#### Stores and Depots:

For the 2 shared sites, payment is collected annually in arrears. To date the 2015/16 invoices for rent were issued but not paid, despite reminder letters being issued.

The rent for both sites should be increased by the RPI each year and a calculation showing the expected income increase for 2014/15 was provided. However, the income has remained the same for the last 3 financial years (2013/14 - 2015/16) despite an email being sent on 01/05/14 from the Surveyor to the Service Finance Manager, suggesting rent increases. Also, no copies of original agreements/ leases were provided for these sites.

Whilst income was received for the other 3 sites, it could not be established if this was correct due to the lack of information available.

#### Dalneigh Pitches:

In response to concerns raised by a Member, the arrangements for the collection of rental income for the Dalneigh sports pitches were examined. The email information provided by the Member was examined which showed the following:

- The Council entered into an agreement with the tenant in 2006 and the rental income amount was £950 per annum. However, the lease was never signed.
- The Council had failed to invoice the tenant since 2010 and 5 years of rental income had not been collected.
- The football pitches were actually used by another organisation which was a separate legal entity to the tenant organisation which went into administration in 2011. As a result, the user of the pitches refused to pay the outstanding rent.

Further enquiries were made with the then Area Community Services Manager. The response, which takes into account the original questions from the Member can be summarised as follows:

1. No information could be found by officers as to whether ECS had reimbursed Housing for the income mistakenly collected by ECS.
2. The tenant was not up to date with payments for the reasons outlined at 3 below.
3. The last invoice was issued in 2010 by ECS and was paid by the tenant. An invoice was raised by Housing on 20/03/15 for the income due for 2010/11 but the tenant refused to pay this invoice (for the reason stated above).
4. It could not be established why there was a failure to issue invoices and which officer was responsible for this. There was only anecdotal evidence to suggest an officer who has now retired from the Council was responsible for monitoring the previous leasing arrangements.

An update on the current arrangements was requested and a new lease has now been drawn up with the tenant using the facilities. The tenant is to be charged £1 per annum for use of the pitches and will be responsible for grass cutting and maintenance of the site. The lease was signed in October 2016 and this will be monitored by the Housing and Homelessness Manager.

#### 4.2.3 Corporate Development

This was satisfactory as a copy of the original lease was provided and it was established that income has been collected in accordance with the lease terms and was correctly recorded in Integra. Also, rent reviews have taken place at the intervals specified in the lease.

#### 4.2.4 Development and Infrastructure

##### Industrial and Investment Properties:

A sample of 20 sites was selected to check that income was collected correctly and this was the case for 18 of the sites. With regard to the others issues occurred after the scheduled rent reviews. For 1 site the instruction to increase the Direct Debit was not passed to Finance which meant the rental charge was not adjusted accordingly. This was overlooked by the Team who only became aware of this in response to the audit query. The Lettings Administrator has since confirmed that this oversight has been corrected with all outstanding rent collected. For another site, the Finance Service overcharged the tenant and a refund had to be provided.

Copies of the leases are held in the K2 property system, but due to time constraints these were not examined.

##### Community and Countryside Properties:

13 sites, including the recently sold site are recorded on the spreadsheet. Review of this information showed that payment was collected as expected for 4 sites and another 4 were subject to the nominal charge of £1. Also, 1 site charges zero rent, this is due to a historic formal agreement which is currently being renegotiated as part of a wider review of the site and tenancy.

For 1 site the tenant previously paid by cheque but as the Council no longer accepts this method of payment it was agreed as one off for 2015/16 that the tenant would provide maintenance services in lieu of rent. From 2016/17 onwards payment is to be made by BACS.

For 2 sites income was collected as expected in 2015/16 but the Direct Debits set up to collect payments were not processed correctly by Finance. This resulted in income being uncollected for 1 site and for the other site, this was overcharged by officers from the Finance Service so refunds had to be made. These oversights have now been corrected with all income collected. For the final site no evidence of payment could be found, this is being investigated by the Principal Projects Officer who explained the income should have been received but may have been miscoded.

Due to time constraints it was not possible to check the leases for these sites.

#### 4.3 Rent Waivers and Reductions

- 4.3.1 This objective was not achieved as there is no Council policy for the waiving or reduction of rent. Furthermore, it was established that a number of nominal rents are not collected as the cost of collection is higher than the sum received. In addition, the following was noted:

## 5. CONCLUSION

It is not possible to provide assurance that the Council has a reliable system for the identification of all chargeable assets to ensure that the correct rental amounts are charged and collected as expected. Furthermore, there is no Council policy as to when rents should be reduced and/ or waived. This also has implications for the Community Empowerment Act (Scotland) 2015 which allows community bodies to request the ownership, lease, management or use of Council assets and there is an expectation that the Council can provide details of this for public inspection.

As a consequence of the audit findings, the Council is not collecting all rental income due, including that due from rent reviews. However, on the basis of the information gathered any lost income is estimated to be less than £10,000 and is not material in the overall context of the total rental income received across the Council which is in excess of £3 Million per annum. It should be noted that this estimate does not include the Care and Learning Service due to the issues outlined at sections 4.1.1 and 4.2.1 of this report.

The fact that there are various different officers and disparate systems across Council Services hampered the audit and a significant amount of time was spent trying to identify the appropriate responsible officers. As a result, it was not possible to check a number of lease agreements as originally planned.

Much of the knowledge about rents rests with individual officers but during the audit a number these officers left the Council as a result of Voluntary Redundancy and it is unclear who has taken over their responsibilities. All Services need to ensure that there are sufficient systems in place to ensure rent collection continues if a responsible officer leaves the Council.

There is scope to use the K2 system to maintain a comprehensive record of all assets and some Services are exploring this option. However, this could be expanded as this is a corporate system and it could either be used across all Services or alternatively by a single Council Service which is made responsible for all rental income across the Council.

As a result of the audit, 3 high grade recommendations have been made. These consist of 1 recommendation for the Council moving forward with a more corporate approach to rental income which was discussed with the Executive Leadership Team on 07/11/16 and this was agreed. A more detailed action plan will be produced and will come back to the Audit & Scrutiny Committee for consideration on 02/03/17. However, before this can be progressed action must be taken by individual Services to address their specific issues in order to ensure that the information held is complete and accurate. A number of detailed actions have been agreed with the respective Services and the final actions are due to be completed by 31/03/17.

## 6. AUDIT OPINION

The opinion is based upon, and limited to, the work performed in respect of the subject under review. Internal Audit cannot provide total assurance that control weaknesses or irregularities do not exist. It is the opinion that **Limited Assurance** can be given in that weaknesses in the system of controls are such as to put the system objectives at risk, and/ or the level of non-compliance puts the system objectives at risk. The levels of assurance and their definitions can be found at Appendix 1.

## 7. ACTION PLAN

The Action Plan contains **3** recommendations as follows:

Description	Priority	Number
Major issues that managers need to address as a matter of urgency.	High	3
Important issues that managers should address and will benefit the Organisation if implemented.	Medium	0
Minor issues that are not critical but managers should address.	Low	0
<b>Total recommendations</b>		<b>3</b>

REPORT REF.	GRADE	FINDING	RECOMMENDATION	MANAGEMENT AGREED ACTION	IMPLEMENTATION	
					RESPONSIBLE OFFICER	TARGET DATE
All	High	<p>Moving forward, there is a need to ensure that corporately the Council arrangements for rental income ensure that:</p> <ul style="list-style-type: none"> <li>• All chargeable assets are identified and accurately recorded;</li> <li>• The correct rental sums are charged and collected on time using the most efficient collection method;</li> <li>• Rent reviews are undertaken in accordance with the lease agreements and on time;</li> <li>• Copies of all leases are held and the necessary information is provided to Legal Services;</li> <li>• There is clarity over roles and responsibilities.</li> </ul>	<p>A strategic and corporate approach to rental income must be taken within the Council which supports the objectives of the Council's redesign programme, particularly outcome 5 by ensuring that the process is effective and a more commercial approach is adopted. It is also important that this supports the implementation of the Community Empowerment Act.</p>	<p>The audit has addressed a number of issues across the Council that clearly need to be addressed. The first stage is to correct to weaknesses identified at an individual Service level. However the clear recommendation to establish a central unit is accepted and will be developed as soon as possible. This clearly needs to take account of current work around Service Re-design, and a more commercial approach to charging, combined with efficiency improvements in the way in which income is charged and collected. A detailed action plan will be produced for consideration by the A &amp; S Committee.</p>	Director of Finance	02/03/17

REPORT REF.	GRADE	FINDING	RECOMMENDATION	MANAGEMENT AGREED ACTION	IMPLEMENTATION	
					RESPONSIBLE OFFICER	TARGET DATE
		There is no Council policy for the waiving or reduction of rent. Despite this there are a number of leases charged at nominal sums, usually £1, which are usually not collected as this would be uneconomic.	It is recommended that the K2 CPAM system is used to maintain the required information which will ensure that it is held in a single place. Consideration should also be given to whether individual Services should continue to be responsible for their own rental income or whether this should rest within a single Council Service. If the latter option is considered the best approach then this should move to the Development & Infrastructure Service as part of the new Property service.	All property assets and lease details to be entered onto the K2 property system.	Director of Development & Infrastructure	31/03/17
			A policy should be produced for rent waivers/ reduction of rent. This should detail the circumstances as to when this is appropriate, who has the authority to approve such arrangements, what nominal sums/ reductions should be applied and how these should be collected.	Policy to be produced.	Corporate Property Asset Manager	31/03/17



REPORT REF.	GRADE	FINDING	RECOMMENDATION	MANAGEMENT AGREED ACTION	IMPLEMENTATION	
					RESPONSIBLE OFFICER	TARGET DATE
4.1.1 – 4.1.3	High	<p>Each Service has its own arrangements and it cannot be established if complete and accurate records of all chargeable assets are held. The following issues were identified:</p> <p>(1) It was not clear from enquiries who in the Care and Learning Service is currently responsible for administering chargeable assets and whether the information held is accurate and complete. A project to identify all chargeable assets was proposed but this has yet to take place.</p> <p>(2) The spreadsheet used by Harbours service contained out of date rental amounts and duplicates the information held on the Cardex system.</p>	<p>(1) Action needs to be taken within the Service to identify all chargeable assets, the responsible officer(s) and maintain the appropriate records.</p> <p>(2) The Harbours service should use a single system to record rental income details and ensure that this is accurate and up to date.</p>	<p>A new structure within the Care &amp; Learning Estates Team has been agreed, and additional staff resources, once filled, will take on responsibility for reviewing current arrangements, and maintaining records going forward.</p> <p>Harbour property details will be moved on to the K2 system.</p> <p>In the meantime rental accounts will be checked and updated as necessary.</p>	<p>Estates Strategy Manager</p> <p>Harbours Manager</p> <p>Harbours Manager</p>	<p>28/02/17</p> <p>31/03/17</p> <p>30/11/16</p>

REPORT REF.	GRADE	FINDING	RECOMMENDATION	MANAGEMENT AGREED ACTION	IMPLEMENTATION	
					RESPONSIBLE OFFICER	TARGET DATE
4.1.1 – 4.1.3 (cont'd)		(3) It is not clear who administers rent collection for 3 shared depots.	(3) This should be investigated within Community Services to identify who is responsible for these depots. The responsible officer should then ensure that the necessary rental information is held and administered correctly.	Following restructuring and the departure of the Stores Manager, it has been agreed that the Head of Performance and Resources (HoP&R) is responsible for rent collection for the 3 shared depots.  One of these leases has a 5 year rent review period. It was reviewed in 2013 and the District Valuer found no scope for increase. The next review is due in 2018.	Head of Performance and Resources.	31/12/16
4.2.1 – 4.2.4	High	A number of issues were found in regard to income collection: (1) The income collection processes could not be reviewed within the Care and Learning Service as the responsible officers could not be identified.	(1) As part of the recommendation at 4.1.1 above, the Service should ensure that appropriate records are held detailing the rental amounts and when rent reviews are due.	Responsibility will sit within the Care and Learning Estates Team. Refer to action at 4.1.1 – 4.1.3.	Estates Strategy Manager	28/02/17

REPORT REF.	GRADE	FINDING	RECOMMENDATION	MANAGEMENT AGREED ACTION	IMPLEMENTATION	
					RESPONSIBLE OFFICER	TARGET DATE
4.2.1 – 4.2.4 (cont'd)		<p>(2) The majority of harbours income was collected as expected except for the following:</p> <ul style="list-style-type: none"> <li>A number of invoices have not been paid. Whilst the debt recovery process had been followed, the Harbours office was unaware of the outstanding payments.</li> <li>The spreadsheet record was inaccurate and duplicates the cardex system.</li> <li>Invoices are issued for amounts below the level stipulated in Financial Regulations. Also, there is no consistency of payment method with a large number of invoices for relatively small amounts issued each month.</li> </ul>	<p>(2) The current charging arrangements and systems should be reviewed to ensure that:</p> <ul style="list-style-type: none"> <li>The Budget Holder contacts customers to resolve reasons for unpaid invoices. Outstanding invoices should be paid or written off with the Budget Holder reviewing debt on a regular basis and stopping service provision if payments are not made.</li> <li>A single income record is maintained which contains details of the correct rental sums to be charged.</li> <li>Income is collected using the most efficient methods e.g. by Direct Debit or accumulating small sums into a larger value invoice.</li> </ul>	<p>The Harbours Manager will support the debt recovery teams as they contact customers who have unpaid invoices.</p> <p>In addition to reports from Debt Recovery the Debt position is reviewed weekly by the Harbours Manager.</p>	Harbours Manager	31/10/16
				<p>All Harbours assets to be recorded on to the Corporate Property Asset Management database.</p>	Harbours Manager	31/03/17
				<p>For rental income, all leaseholders will be written to and asked to transfer to DD payments. For future leases this will be the means of rent collection. Accumulation of sums will be undertaken where possible.</p>	Harbours Manager	30/11/16

REPORT REF.	GRADE	FINDING	RECOMMENDATION	MANAGEMENT AGREED ACTION	IMPLEMENTATION	
					RESPONSIBLE OFFICER	TARGET DATE
4.2.1 – 4.2.4 (cont'd)		<ul style="list-style-type: none"> <li>19 sites have no formal lease agreement in place. Also, a number of rent reviews have not been undertaken despite these being requested by the Harbours Manager.</li> </ul>	<ul style="list-style-type: none"> <li>Formal leases are held for all rental agreements and rent reviews are undertaken in accordance with these agreements.</li> </ul>	<p>Use of a Corporate Property Asset Management (CPAM) system as referred to at section 4.1.1 will lead to prompting of rent reviews.</p>	Harbours Manager	31/03/17
				<p>As part of the migration of CPAM a check will take place to ensure all sites have a lease agreement. The Harbours Manager will work with the appropriate Asset Manager to prepare leases for the 19 sites without a lease.</p>	Harbours Manager	31/03/17
		(3) There were issues with the late payment for rental of Telecommunication Masts.	(3) The Service should contact the Companies to request payments are made on time.	<p>The dedicated officer overseeing this task has left the Council due to VR on 1 July. There is a requirement on the Service to appoint a responsible officer to ensure that reasonable assurance can be given that all invoicing is correctly undertaken. Two options are currently being explored:</p> <ol style="list-style-type: none"> <li>to create and appoint a technical resource to radio communications.</li> <li>to assign these duties to an existing street lighting technician.</li> </ol>	Head of Roads and Transport	28/02/17

REPORT REF.	GRADE	FINDING	RECOMMENDATION	MANAGEMENT AGREED ACTION	IMPLEMENTATION	
					RESPONSIBLE OFFICER	TARGET DATE
4.2.1 – 4.2.4 (cont'd)		(4) The rental sums for some shared stores and depots have not been paid on time and the sums charged have not been increased by the RPI.	(4) The rent increases should be applied in accordance with the lease terms and action should be taken to ensure the outstanding invoices are paid.	<p>The HoP&amp;R will review the lease terms with the Property Manager (Estates) and rent increases will be applied in accordance with those terms.</p> <p>As previously detailed, one lease was reviewed in 2013 but there was no scope for an increase.</p> <p>For another property in Inverness Due to changes in Finance staff the invoice for the period 29/11/15 – 28/05/16 was not issued. This was addressed on 24/11/16 The invoice for the period 29/05/16 – 30/11/16 will be issued in December 2016. The Ground Rent is based on 14% of the rent the company received from letting the properties.</p> <p>Rental income for depots will sit under one HQ cost centre (10-45009-000).</p>	HoP&R	31/12/16

REPORT REF.	GRADE	FINDING	RECOMMENDATION	MANAGEMENT AGREED ACTION	IMPLEMENTATION	
					RESPONSIBLE OFFICER	TARGET DATE
4.2.1 – 4.2.4 (cont'd)		(5) A number of issues were identified with the collection of income for the sports pitches at Dalneigh which resulted in the failure to collect income for a five year period. The circumstances behind this could not be fully established but a new lease has been prepared and signed.	(5) The Service should ensure that a responsible officer is appointed to ensure that the lease terms are complied with and this is managed properly.	A responsible Officer has now been appointed.	Housing and Homeless Services Manager (Inverness)	Complete
		(6) From a small sample of properties 1 instruction to adjust a Direct Debit following a rent review had not been issued to Finance.	(6) The Industrial and Investment Team should review the monitoring report and K2 to ensure all sites are collecting the correct amount of income.	Review both the monitoring report and K2 database to ensure the correct rent is being collected.	Property Manager (Estates)	31/12/16
		(7) The majority of Community and Countryside Property income was collected, however, no evidence of payment could be found for 1 Community and Countryside Property.	(7) The payment for the site should be examined to ensure income was received.	Further enquiries to ascertain whether income miscoded. If so, this will be reallocated. If not received this will be followed up with tenant.	Principal Projects Officer, D & I	23/12/16

**Internal Audit Opinion**

<b>Level</b>	<b>Definition</b>
<b>Full Assurance</b>	There is a sound system of control designed to achieve the system objectives and the controls are being consistently applied.
<b>Substantial Assurance</b>	While there is generally a sound system, there are minor areas of weakness which put some of the system objectives at risk, and/ or there is evidence that the level of non-compliance with some of the controls may put some of the system objectives at risk.
<b>Reasonable Assurance</b>	Whilst the system is broadly reliable, areas of weakness have been identified which put some of the system objectives at risk, and/ or there is evidence that the level of non-compliance with some of the controls may put some of the system objectives at risk.
<b>Limited Assurance</b>	Weaknesses in the system of controls are such as to put the system objectives at risk, and/ or the level of non-compliance puts the system objectives at risk.
<b>No Assurance</b>	Control is generally weak, leaving the system open to significant error or abuse, and/ or significant non-compliance with basic controls leaves the system open to error or abuse.

**INTERNAL AUDIT  
FINAL REPORT**

**COMMUNITY SERVICES  
HOUSING RENTS**

**AUTHOR**

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04/10/16



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## **1. INTRODUCTION**

This audit was carried out as part of the audit plan for 2015/16. Budgeted income for housing rents in the 2015/16 financial year was £47.943m. Audit Scotland will look to place reliance on the work done as part of this audit.

## **2. REVIEW OBJECTIVES**

The objectives of the review were to ensure that:

- (i) The rent roll is complete and accurate
- (ii) Rent charges are raised for all properties on the rent roll and this accords with the rates agreed by the Council.
- (iii) All rent payments received are processed promptly and credited to the correct account.
- (iv) There are appropriate controls in place for the award of housing rebates, refunds and voids, and the write-off of any housing debts.
- (v) There are appropriate arrangements in place for the control of housing debt and the prompt follow-up of rent arrears.
- (vi) Rent charges are recorded correctly in the Housing Information System and the Integra ledger.

## **3. SCOPE, METHOD & COVERAGE**

The audit looked at processes relating to Housing Rents for the 2015/16 financial year to seek assurance that the information required for the annual accounts is accurately recorded. The audit also covered the reconciliation process to verify that the management agreed action arising from the "Housing Revenue Account - Reconciliation Investigation" audit report issued on 09/06/15 have been implemented and the process is now operating satisfactorily. The results of the follow up of agreed actions is recorded in Section 4.6.

## **4. MAIN FINDINGS**

The main findings of the review, referenced to the above review objectives, are as follows:

### **4.1 Rent Roll**

- 4.1.1 This objective was fully achieved. A property reconciliation report is produced and made available on the intranet on a weekly basis. This details the number of void and occupied properties within each Area, and enables any changes in the numbers to be reconciled to ensure changes are correct.

Area Housing Teams can access a weekly arrears report for their area on SharePoint. This enables them to see any instances where properties they expected to be closed on the system had not been processed, as well as outlining any new arrears cases.

The Rent Accounting and General Arrears Management procedures state that rent accounts should be created for each tenancy when the tenancy is created on the Housing Information System. The property reconciliation spreadsheet includes details of any properties that have a tenancy but no rent accounts, to ensure that any instances where the creation of the rent account has been overlooked are identified. These are reconciled with a spreadsheet detailing requests submitted to the Community Services Systems Development Team for new properties to be

created and where applicable the Area Housing Team is contacted and advised that a tenancy does not have a rent account.

If a property was not created on the system, but rent payments received they would be identified during the weekly checks on suspense accounts and allocated to the rent account once it has been created.

## **4.2 Rent Charges**

4.2.1 This objective was fully achieved. Two staff within the Community Services Systems Development Team are assigned to year end processes, including applying the rent increase approved by the Community Services Committee. Detailed processes are in place, and are updated as required each year. The rent increases for 2015/16 were prepared by one of the team and checked by their colleague. The rent changes for every element, which defines the weekly rental due, are checked through reports and additional spot checks on individual properties are also carried out. Fujitsu provide a post rent change report, which was checked by a Business Support Officer within the Community Services Systems Development Team. Details of the checking carried out are recorded on a spreadsheet retained by the team.

## **4.3 Processing of Rent Payments**

4.3.1 This objective was fully achieved. Details of rental income amounts recorded on a report received from the Income and Recovery Team are verified to reports from the Housing Information System and the Integra reconciliation spreadsheet. It was noted that no exception reports in relation to rent income are produced. However, the undernoted checks ensure that errors are identified and investigated promptly:

1. The Income & Recovery Team carry out end of day checks on receipts within the Axis Income Receipting System to verify that the totals recorded in Axis reconcile to the totals allocated to each fund title (includes Housing Rents). This would identify any instances where rent payments received were not allocated to a fund type;
2. The Community Services Systems Development Team carry out daily reconciliations to verify that the total rent income entered to the Housing Information System (HIS) agrees to the various income sources (Cash via Axis, Standing Orders etc.);
3. The Community Services Systems Development Team review the rent suspense account within HIS weekly, and reallocate transactions from suspense where the relevant rent account can be identified;
4. On a weekly basis Community Services Systems Development Team provide the Finance Systems Admin Team (FSAT) with totals to be posted from the rent system to the financial ledger. FSAT verify that the totals posted match those provided.

## **4.4 Housing Rebates, Refunds, Voids and Debt Write-off**

4.4.1 This objective was substantially achieved as there is an adequate segregation of duties for the different aspects of the rent process. The write-off of arrears was carried out in line with the requirements of the Council's Financial Regulations, and reconciliations of housing benefit rebates between the Housing Information System and the Housing Benefit System were satisfactorily carried out.

However, some issues were identified with rent refunds paid to tenants as detailed below:

- (i) 3 of the payments had no evidence of checking for outstanding debts in the documentation provided to Internal Audit. These were on Integra reference

numbers 0030100307, 0030009278 & 0030096307. 2 of the transactions were for tenants in Skye, with the remaining payment for a tenant in Badenoch & Strathspey. It should be noted that while the tenant should be informed of any outstanding debt owed to the Council, and asked if they would like to use the credit on their rent account to pay the outstanding debt, the Council's Rent Accounting and General Arrears Management procedure states that "if the tenant wishes to have a genuine credit on their rent account refunded to them we must comply with their wishes". The Council's Revenues Manager has confirmed that rent credits cannot be automatically offset against other debts owed to the Council, and that agreement must be obtained from the tenant prior to the credit amount being offset.

- (ii) The payment request on Integra ref 0030012267 was processed twice resulting in a duplicate payment. This has since been recovered on debtor account 1000017053, which was paid on 08/06/15. Business Support have stated that "At the time when this error was made all work was going into a generic mailbox, when someone picked up the work, it was to be deleted from the generic box in this case work was not deleted resulting in the payment being processed twice, we have now updated the procedure so that this cannot happen again". As the issue was identified and addressed by Business Support, and processes have been improved no recommendation has been made in respect of this issue.

#### **4.5 Rent Arrears**

- 4.5.1 This objective was fully achieved, as regular reports are produced to identify tenancies with arrears and processes are in place to minimise arrears in line with the Council's Arrears Policy. A sample of 5 arrears cases were reviewed as part of the audit, and the appropriate arrears actions were taken in each of the cases in line with the Arrears Policy. Evidence of escalation is recorded on HIS for each case, as are attempts to contact the tenant (including unsuccessful attempts).

#### **4.6 Accuracy of System Information and Reconciliations**

- 4.6.1 This objective was substantially achieved. A sample of 5 of the weekly interfaces between the Housing Information System and the Financial Ledger in the financial year 2015/16 was reviewed. Documentation held by the Community Services Systems Development Team confirms that the interface took place with the prescribed frequency, and that files were successfully uploaded on each of the occasions in the sample, with independent confirmation of the successful upload being provided by the Finance Systems Administration Team.

Reconciliations are carried out daily by the Community Services Systems Development Team to verify totals provided by the Income & Recovery Team to those posted in the Housing Information System. A monthly reconciliation of HIS figures to those in Integra is carried out by the Service Finance Team, and was provided to Internal Audit. The Service Finance Team have attempted to carry out their reconciliation on a weekly basis, but found that it was more effective to reconcile monthly to identify transactions posted to Integra. The Service Finance Team check the total values recorded on the Daily Reconciliation spreadsheet, and highlight them when they have been verified with the total posted in Integra. They also check amounts recorded in a spreadsheet exported from Integra against figures from a report from the Housing Information System. A description for each transaction is recorded on their spreadsheet and any transactions where they have not entered a description are followed up with the relevant team (Community Services Systems Development Team, Area Housing Team or Income & Recovery Team) and corrective action taken if required. This process enables any transactions recorded in Integra, but not on HIS to be identified and vice versa.

The audit report "Housing Revenue Account - Reconciliation Investigation" contained 4 recommendations, 3 classified as high priority and the other medium priority. The agreed actions were followed up as part of this audit, which identified that the medium priority action remains outstanding. This action relates to documenting the reconciliation procedures followed by the Service Finance Team, and was due to be completed by 30/06/15. While procedures have been documented for the elements of the reconciliation carried out by the Community Services Systems Development Team, this had not been undertaken for the processes carried out by the Service Finance Team. However, this was raised during the audit and procedures have now been documented.

## **5. CONCLUSION**

The audit found that the systems for recording housing rents are reliable, with a particular improvement in the reconciliation process as a result of the agreed actions implemented following the "Housing Revenue Account - Reconciliation Investigation" audit report. The issues identified in the audit are relatively minor in nature, and have resulted in 1 low priority recommendation. The agreed action for the recommendation has been implemented by the Service.

## **6. AUDIT OPINION**

The opinion is based upon, and limited to, the work performed in respect of the subject under review. Internal Audit cannot provide total assurance that control weaknesses or irregularities do not exist. It is the opinion that **Full Assurance** can be given in that there is a sound system of control designed to achieve the system objectives and the controls are being consistently applied.

## 7. ACTION PLAN

The Action Plan contains **1** recommendation as follows:

Description	Priority	Number
Major issues that managers need to address as a matter of urgency.	High	0
Important issues that managers should address and will benefit the Organisation if implemented.	Medium	0
Minor issues that are not critical but managers should address.	Low	1
<b>Total recommendations</b>		<b>1</b>

REPORT REF.	GRADE	FINDING	RECOMMENDATION	MANAGEMENT AGREED ACTION	IMPLEMENTATION	
					RESPONSIBLE OFFICER	TARGET DATE
4.4.1(i)	Low	3 of the payments had no evidence of checking for outstanding debts in the documentation provided to Internal Audit.	A check should be carried out to establish if the recipients of rent refunds have outstanding debts owed to the Council, with a record of checking being retained with the payment documentation.	All relevant staff will be informed of the requirement to complete and retain the checklist, which includes checking for outstanding debts owed to the Council. Managers have been asked to bring the procedure to the attention of any non-housing (Business Support) staff involved in the process.	Head of Housing & Building Maintenance	Completed

**CONFIDENTIAL**

**INTERNAL AUDIT  
FINAL REPORT**

HIGHLAND COUNCIL

MATTERS ARISING FROM THE STATEMENT  
OF INTERNAL CONTROL 2015/16

**AUTHOR**

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## **1. INTRODUCTION**

In order to inform the Audit & Risk Manager's annual Statement of Internal Control, work was undertaken to examine the systems of internal control operated within Highland Council. This consisted of:

- (i) A high level review of the system of internal control by way of an evidence-based checklist comprising six key areas:
  - Control environment.
  - Identification and evaluation of risk and control objectives.
  - Information and reporting.
  - Control processes.
  - Monitoring and corrective action.
  - Assessment of whether the key controls have been applied during the year.
- (ii) A review of the key controls operated within those financial systems which were not subject to a detailed audit review during the year. As a separate audit of the Debtors systems was undertaken for 2015/16 and has been reported separately, this audit consisted of a review of the creditors, general ledger, income, payroll and budgetary control systems. The areas examined included:
  - Financial procedures and guidance issued to staff;
  - Segregation of duties;
  - User access levels and appropriateness;
  - System backups and security of data.

A sample of transactions was also selected for detailed testing to verify that the controls were operating as expected. This sample covered the Council, Pension Fund and organisations which use some or all of the Council's financial systems (Assessor's Department, High Life Highland, and HITRANS).

- (iii) A follow-up review to ensure that the agreed actions arising from the previous audit report have been satisfactorily implemented by Management.

## **2. SCOPE, METHOD AND COVERAGE**

Details of the procedures in operation were ascertained by enquiry of officers within the Highland Council and review of documents published on their website.

The audit testing covered the financial year 01/04/15 – 31/03/16.

## **3. MAIN FINDINGS**

The main finding of the review was that the systems of internal control were reliable. However, there were some matters identified where action should be taken by management to improve the internal controls relating to the creditors system.

### **3.1 Internal Control Checklist**

This work undertaken did not identify any control issues.

### **3.2 Review of key controls**

The key controls were found to be operating satisfactorily except for the following:

#### **3.2.1 Creditors**

A sample of fifteen paid creditor invoices was selected for examination. The following issues were found where the requirements of the Council's Financial Regulations and/ or Contract Standing Orders had not been complied with:

- six invoices were not supported by an official order. These related to the supply of agency staff, a school promotional film, coach hire, conference accommodation and two healthcare supplies. In all cases, an official order would have been expected.
- one purchase order for a temporary member of staff was not priced and so this could not be matched properly to the invoice received.
- in one case, the approved contract supplier was not used for the provision of agency staff.

It was noted that of the above fifteen payments, only one had a copy of the supplier's invoice attached within Integra. The Integra guidance notes state that the preferred option is to attach a scanned copy of the invoice to Integra to enable Budget Holder review but does not make this a mandatory requirement.

### **3.3 Follow-up of management agreed actions**

The Highland Council's Matters Arising from the Statement of Internal Controls, 2014/15 report was issued on 21/09/15. This report contained 2 medium and 1 low grade recommendations which were accepted by management, all of which have been fully implemented.

## **4. CONCLUSION**

This review has concluded that the Highland Council's systems of internal control were generally reliable. However, as detailed in the main findings above, there is a need for Services to fully comply with the requirements of the Council's Financial Regulations and Contract Standing Orders. As a result, there is 1 medium grade recommendation in this report. The recommendation has been accepted by management, with the agreed action to be completed by 31/12/17.

## **5. AUDIT OPINION**

The opinion is based upon, and limited to, the work performed in respect of the subject under review. Internal Audit cannot provide total assurance that control weaknesses or irregularities do not exist. It is the opinion that **Substantial Assurance** can be given in that while there is a generally a sound system, there are areas of weakness which put some of the system objectives at risk, and/ or there is evidence that the level of non-compliance with some of the controls may put some of the system objectives at risk.

## 6. ACTION PLAN

The Action Plan contains **1** recommendation as follows:

Description	Priority	Number
Major issues that managers need to address as a matter of urgency.	High	0
Important issues that managers should address and will benefit the Organisation if implemented.	Medium	1
Minor issues that are not critical but managers should address.	Low	0
<b>Total recommendations</b>		<b>1</b>

REPORT REF.	GRADE	FINDING	RECOMMENDATION	MANAGEMENT AGREED ACTION	IMPLEMENTATION	
					RESPONSIBLE OFFICER	TARGET DATE
3.2.1	Medium	<p>(1) From a sample of fifteen paid creditor invoices examined, a number of issues were identified where the requirements of Financial Regulations and/ or Contract Standing orders had not been met:</p> <ul style="list-style-type: none"> <li>• six invoices were not supported by an official purchase order;</li> <li>• one order did not contain sufficient pricing detail and could not be matched to corresponding invoice;</li> <li>• in one case the approved supplier was not used.</li> </ul>	<p>(1) All officers involved in purchasing goods and services are reminded of the need to comply with Financial Regulations, the associated guidance notes, and Contract Standing Orders to ensure that:</p> <p>Official purchase orders are issued to suppliers when goods or services are requested and these should contain all necessary information including the order price. This is particularly important as the Integra financial system works on the basis of commitment accounting and for this to work effectively, all financial commitments such as properly priced orders are required. Also, contract suppliers should always be used so that the agreed contract arrangements are adhered to.</p>	Director of Finance to issue e-mail to all relevant officers reminding staff of requirement to comply with the Financial Regulations and associated guidance notes.	Director of Finance	30/11/16

REPORT REF.	GRADE	FINDING	RECOMMENDATION	MANAGEMENT AGREED ACTION	IMPLEMENTATION	
					RESPONSIBLE OFFICER	TARGET DATE
		(2) Of the fifteen payments examined, only one had a copy of the supplier's invoice attached within Integra.	(2) The Integra guidance notes should be reviewed and a decision made whether electronic/ scanned copies of invoices are required. The guidance should then be updated accordingly.	There is a longer term intention to move towards e-invoicing at which point the vast majority of invoices will be attached to transactions. Until e-invoicing is in place there is no plan to make it mandatory to attach invoices to transactions.	Head of Corporate Finance	31/12/17

**INTERNAL AUDIT  
FINAL REPORT**

DEVELOPMENT & INFRASTRUCTURE SERVICE

LEADER PROGRAMME 2015-16

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## **1. INTRODUCTION**

This audit was undertaken as part of the 2016/17 Audit Plan and was the first audit assessing the administration of the 2014-2020 Highland LEADER Programme. The audit is a requirement of the Service Level Agreement (SLA) between the Scottish Government Rural Payments and Inspections Directorate (SGRPID) and the Council. This is the first required audit in accordance with EC Regulation 907/2014 and covers the period 16/10/15 to 15/10/16.

The Leader Programme is part of the Scottish Rural Development Programme (SRDP), aimed at promoting economic and community development within rural areas. Funding from the EU is centrally distributed by the SGRPID to eligible areas. With the exception of the Inverness Settlement Development Area and the Cairngorm National Park Boundary (within the Highland area), the whole of the Highland Council area is eligible for this funding.

The overall administration of the funding is by the Highland LEADER Local Action Group (LAG). The LAG is divided into 7 Local Area Partnerships (LAPs) relating to the different regions of the Highlands, together with two sub-groups: the Rural Enterprise Group and Highland Fisheries Local Action Group (FLAG), and two advisory groups: the Equalities Reference Group (ERG) and Monitoring & Evaluation Group. There is also a strategic LAG, which sets the strategic direction and delivery of the programme, approves Highland-wide projects, and monitors and evaluates the programme.

The total value of the Highland LEADER Programme 2014-2020 is £8.8m.

## **2. REVIEW OBJECTIVES**

The objectives of the review were to ensure that:

- (i) The obligations set out in the 2014-2020 LEADER Programme Service Level Agreement (SLA) have been adhered to for project claims and verification checks.
- (ii) The agreed actions arising from the previous audit report, which related to the 2007-2013 Programme, have been satisfactorily implemented by Management.

## **3. SCOPE, METHOD AND COVERAGE**

This is the first review of the 2014-2020 LEADER Programme and as no projects have been approved within the period 16/10/15 to 15/10/16 the audit focused on the administrative claims submitted process and reviewed 4 claims submitted. During this time there were two separate forms of guidance; the first which was designed to allow for the continued employment of LEADER staff in the interim period between the two Programmes, and the second which came into effect once the SLA had been signed.

The audit also followed up the actions taken by management in response to the audit recommendations in the 2014/15 LEADER Programme audit report.

## **4. MAIN FINDINGS**

The main findings of the review, referenced to the above review objectives, are as follows:

### **4.1 Adherence to the 2014 – 2020 Programme SLA**

This objective was substantially achieved. 4 administrative claims were selected for review: 2 under the interim pre-signature claims rules (effective from 01/07/15 to 09/02/16) where claims were made monthly, and 2 under the post-SLA signature claims rules where claims are made quarterly. All 441 transactions

within these claims were agreed to financial ledger reports and met SLA eligibility criteria.

- 4.1.1 431 of the 441 of the transactions claimed for were adequately supported by the relevant creditor invoice, payroll record, purchase card statement, or travel claim. In addition the following financial records were held: the financial ledger transaction report; invoice payment details showing the batch number; payment batch totals showing the total amount paid per batch; and a copy of the bank statement showing the total batch sum paid. For the remaining 10 transactions, 8 related to payroll costs and 2 were internal recharges.

The Payroll Section should provide payment evidence to the LEADER team, but no information was held for 7 transactions. Furthermore, where this is provided, the information does not always reconcile to the sum being claimed as often the payroll sums paid are greater than the claim amounts.

Where in-house costs are incurred these are processed by journal entry but each entry should be supported by an internal recharge template which details the basis of the sums charged. However, for the 13 internal recharges examined, no supporting template was held.

All 428 transactions, where payment was made to external parties, were evidenced that payment had been made from the LAG's bank account.

#### **4.2 Follow-up of previous management agreed actions**

This objective was achieved as both management agreed actions have been implemented. However, whilst the second has been achieved insofar that the agreed action was carried out the overall objective of ISO accreditation is unlikely to occur.

The previous audit report contained 2 medium priority grade recommendations. The first one related to the interim claim rules which required that officers involved in compiling or authorising claims do not compile or authorise claims, which include their own salaries or expenses. This is a change to the process in place for the previous Programme. A process was documented detailing how financial claims are dealt with by the LEADER Team and the Council's processes. This was forwarded to the Scottish Government for written confirmation that the process followed is compliant and this was provided in December 2015.

- 4.2.1 The second recommendation relates to the SLA reference to EU Regulation 907/2014, of which Annex I – section 3 sets out the Information systems security requirements. Specifically section 3(B) requires that by 16 October 2016 *“information systems security shall be certified in accordance with International Standards Organisation (ISO) 27001”*. This requirement has been highlighted in all audit reports for the previous Programme but the action still has not been achieved. Non-compliance with the ISO would result in a breach of the SLA. However, responsibility for information security and compliance with the ISO rests with the Council's ICT Services section and the LEADER Team has no control over this matter. ICT Services have indicated that they are working towards compliance with the principles of the standard rather than accreditation.

#### **5. CONCLUSION**

This audit's focus has been primarily on the administrative claims process as this was the only area of expenditure during the review period. All transactions examined met the SLA eligibility criteria and were agreed to the Council's financial ledger. However, 21 transactions comprising of 8 payroll 13 internal recharges were not supported by the expected documentation.



There are 3 recommendations made as a result of this audit all at medium priority grade. All of these have been accepted by management with the final agreed action due to be implemented by 31/01/17.

**6. AUDIT OPINION**

The opinion is based upon, and limited to, the work performed in respect of the subject under review. Internal Audit cannot provide total assurance that control weaknesses or irregularities do not exist. It is the opinion that **Substantial Assurance** can be given in that while there is generally a sound system, there are minor areas of weakness which put some of the system objectives at risk, and/ or there is evidence that the level of non-compliance with some of the controls may put some of the system objectives at risk.

## 7. ACTION PLAN

The Action Plan contains **3** recommendations as follows:

Description	Priority	Number
Major issues that managers need to address as a matter of urgency.	High	0
Important issues that managers should address and will benefit the Organisation if implemented.	Medium	3
Minor issues that are not critical but managers should address.	Low	0
<b>Total recommendations</b>		<b>3</b>

REPORT REF.	GRADE	FINDING	RECOMMENDATION	MANAGEMENT AGREED ACTION	IMPLEMENTATION	
					RESPONSIBLE OFFICER	TARGET DATE
4.1.1	Medium	The process of obtaining supporting documents for payroll expenditure is not efficient as 8 transactions had no supporting payroll records. For a further 8 payroll transactions it was unclear how the records related to the amount claimed. This has arisen as documents cannot be accessed directly by the LEADER Team.	The Programme Administrator should be granted access to the ResourceLink payroll system in order that the necessary payroll information can be obtained directly to support the sums being claimed.	Access to ResourceLink to be requested for the LEADER Programme Administrator.	LEADER Programme Manager	31/01/2017
4.1.1	Medium	2 internal recharges were not supported by an internal recharge template.	The Programme Administrator should ensure that all internal recharges are supported as a minimum by an internal recharge template and any other relevant documentation as appropriate.	All internal recharges to be supported with an Integra transaction printout as a minimum.	LEADER Programme Administrator	30/11/2016 and ongoing
4.2.1	Medium	EU Regulation 907/2014 requires compliance with ISO 27001 by October 2016. However, the Council does not currently comply with the ISO, instead it is working towards compliance with the principles of the standard rather than full accreditation.	The LEADER team should request written confirmation from the Scottish Government that the approach taken with the ISO will suffice in fulfilling their obligation under the SLA in meeting the EU legislation.	Written confirmation to be requested from the Scottish Government that the proposed approach is satisfactory.	LEADER Programme Manager	31/01/2017

**INTERNAL AUDIT  
FINAL REPORT**

DEVELOPMENT & INFRASTRUCTURE SERVICE/  
COMMUNITY SERVICES

CONTROL OF ROAD BONDS & ENFORCEMENT  
OF PLANNING CONDITIONS

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Strathspey, Community Services  
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**REF:** HEB01/002

**DRAFT DATE:** 17/10/16  
**FINAL DATE:** 08/11/16

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## **1. INTRODUCTION**

Under section 21 of the Roads (Scotland) Act 1984, any person other than a Roads Authority, who wishes to construct a new road or extend an existing road, must obtain construction consent. This is granted by the Council in its role as Local Roads Authority. As well as construction consent for the new road, a developer must also seek the appropriate planning permission from the Council.

Where a new road is to be built as part of a private housing development, the developer must also lodge a security in the form of a road bond in favour of the roads authority or a cash deposit. The value of the security must be sufficient to meet the cost of constructing the road in accordance with the construction consent granted and it must be lodged before housebuilding works begin. The purpose of this security is to ensure that in the event of a developer not completing the roads to an adoptable standard, sufficient funds are available to the Council to complete the roads. The value of the road bond or deposit can be reduced at pre-determined stages of the road construction process, partial and substantial completion, and will eventually be released on final completion. The requirement for this financial provision is stated under section 17 of the Roads (Scotland) Act 1984, and the Security for Private Road Works (Scotland) Regulations 1985 Amended 1998.

The Road Construction Consent (RCC) process is managed by the Transport Planning Team within the Development & Infrastructure Service with inspections carried out by Community Services staff based in Area Offices. Prior to the creation of the Transport Planning Team in June 2015 the RCC process was managed entirely by Community Services area based staff. The change was put in place to improve the consistency in the Council's approach to assessment, allowing the Community Services staff to focus on the inspection regime as well as to tie the RCC process much more closely to the Planning Permission and Building Warrant processes.

The Council has statutory powers under the Planning (Scotland) Act to investigate a breach of planning control. Any action taken has to be appropriate to the scale of the breach and to the effect that the breach has on the environment or residential amenity. A Planning Enforcement Charter has been prepared and is available on the Council's web-site. The Council has a Planning Enforcement team comprising of two officers, based in Inverness.

In the majority of cases it is the Council's policy to resolve the problem rather than to punish the mistake. It may decide to take formal action where a satisfactory outcome cannot be achieved by negotiation. However, any action is discretionary. This means that, even where there is a breach of planning control, the Council considers whether it is in the public interest to take enforcement action.

## **2. REVIEW OBJECTIVES**

The objectives of the review were to ensure that:

- (i) There are adequate controls in place for the valuation, reduction and release of road bonds, these are in accordance with relevant legislative requirements and are adhered to by staff.
- (ii) The value of current road bond securities held in favour of the Council is known and this is regularly monitored.
- (iii) All relevant elements of the road infrastructure have been completed to Road Construction Consent standards prior to reduction of the road bond security and adoption of the roads by the Council for the Wester Inshes development.

- (iv) The conditions attached to the planning permission granted to the particular Wester Inshes development in Inverness have been enforced as appropriate by officers.
- (v) The conditions attached to the planning permission granted for all phases of the Lochloy development in Nairn, specifically those relating to the ongoing maintenance of landscaping works, were adequate and have been adhered to by developers.

### **3. SCOPE, METHOD & COVERAGE**

The audit reviewed the controls in place around the calculation, reduction and release of road bonds. In particular the audit looked at the road bond for the R F More Properties development at Wester Inshes in Inverness.

The audit also considered the conditions attached to planning permission reference 02/00668/FULIN (R F More Properties Ltd, land located at Wester Inshes, Inverness) and whether appropriate enforcement action had been taken by the Council where these conditions had not been met.

The adequacy of planning conditions, specifically those relating to the maintenance of landscaping works, for all phases of the Lochloy development were examined as part of the audit. Since initial planning permission was granted in 1995, the development has changed ownership on more than one occasion. The audit assessed whether or not the various developers involved during this period had fulfilled their obligations in terms of landscaping maintenance and whether or not any responsibility for this sits with the Council.

The scope of the review also considered the concerns raised by Councillor Gowans in respect of the Western Inshes development and Councillor MacDonald in respect of the Lochloy development. The issues raised centred around the release of the road bond and the failure of the developer to comply with planning conditions relating to ongoing maintenance of a retaining wall for Wester Inshes and the on-going maintenance of amenity areas for both developments.

### **4. MAIN FINDINGS**

The main findings of the review, referenced to the above review objectives, are as follows:

#### **4.1 Valuation, reduction and release of road bonds**

This objective was partially achieved. The Highland Council 'Roads and Transport Guidelines for New Developments' (the Council's guidelines) sets out the guidance and standards for the provision of transport infrastructure, including the design and construction of all new roads, associated with development proposals, within the Council area. It can be accessed on the Highland Council website. The guidance provided within this document relating to the RCC process is in line with relevant legislative requirements.

Around 5-8 RCC applications are currently received per quarter. An RCC application is submitted along with the required documentation, including detailed plans. The plans are scrutinised during which time there is ongoing dialogue with the agent (acting on behalf of the developer) and the plans may require to be modified. As soon as any technical issues have been resolved and the plans agreed, the developer is asked to submit a Bill of Quantities (BoQ). The BoQ is the developer's evaluation of the cost of road infrastructure construction and is an industry standard document. It lists the quantity required for all materials, the price per unit and the total cost. The BoQ is scrutinised and checks are carried out by the Transport Planning Team to ensure that the quantities specified match those on the plans agreed as part of the RCC application process and that the unit

prices quoted are relevant and appropriate. This estimated construction cost then forms the valuation of the road bond/ deposit which is requested in writing by the Transport Planning Team.

Road construction works should normally be completed within 3 years from the date on which RCC is granted although time extensions can be granted.

4.1.1 At pre-determined stages in the construction works, as specified under section 15 of the Security for Private Road Works (Scotland) Amendment Regulations 1998 (Security Regulations) partial release of the road bond/ security is permitted:

- **Partial completion** – *“in accordance with construction consent, completion of the base course, the drainage and the kerb base in the carriageway”*. Although not stated within the legislation or within the Council’s guidance, the road bond/ security is normally reduced by around 50% at this stage although an inspection would be carried out in order to fully assess the cost of outstanding works. More than one partial release of the bond may be considered providing that substantial works have been carried out to the required standards. It is important to note that the cost of the road bond security to the developer is proportionate to the outstanding value of the bond.
- **Substantial completion** – *“in accordance with construction consent, completion of construction, including traffic signs, gully connections, manholes and carriageway lighting”*. At this stage a further release of the bond will take place with either 10% of the original bond value or the value required to cover the cost of the outstanding works (whichever is greater) retained. On agreement of substantial completion, a 12 month maintenance period commences during which the developer is responsible for the maintenance of the road.
- **Final completion** – *“expiry of the maintenance period (or the date of completion of any works necessary to rectify defects occurring during that period, if such completion is later than the expiry of that period) or the addition of the private road concerned to the local roads authority’s list of public roads, whichever is earlier”*. At this stage a formal application for the adoption of the new road by the Council can be made and the balance of the bond released.

At each of the above stages, the developer submits a request for a reduction in the bond. An inspection is then carried out to verify that the works have been completed to the required standard. A calculation is made by the Transport Planning Team, based on the estimated cost of works remaining, and an instruction issued to reduce the bond by the required amount. The value of the bond retained at any stage should reflect the value of the works remaining to bring the road up to the standards specified in the RCC.

Although the Council’s guidelines states that partial release of the road bond is permitted at pre-determined stages of the construction works, and makes reference to the relevant legislation and regulation, it does not specify what these stages are.

4.1.2 If the developer has failed to complete the road works to a suitable standard within the period of the RCC, the roads authority is permitted to call in the remaining road bond/ security and complete the works to the required standard. The Security Regulations states that:

- **Section 13** – *“Where, after the building works have commenced, the private road concerned has not been constructed in accordance with the construction consent then the authority shall construct the private road in accordance with the construction consent.”*

- **Section 14** – *“Where a private road is constructed, or defects in it are rectified, by the local roads authority in accordance with regulation 13 the authority may for that purpose call up each or any road bond lodged in respect of the private road in so far as still in force and apply the proceeds or, as the case may be, apply each deposit in so far as retained by them in respect of the private road.”*

However, this is not specified within the Council's guidelines.

It is not possible to state the percentage of the total number of road bonds which have been called in by the Council under these circumstances. However, feedback received from the Transport Planning Manager and the Roads Operations Managers is that it is very rarely necessary but could not be quantified.

A draft 'Road Construction Consent Operating Procedure' was prepared in November 2015 and contains more detailed information for staff on the requirement for a road bond security, stages of completion and release of the road bond and this is in line with legislative requirements. However, at the time of the audit it had not yet been finalised and as a result, there is currently no internal guidance for staff when calling in a road bond or deposit.

## **4.2 Current value of road bond securities held in favour of Highland Council**

- 4.2.1 This objective was not achieved. A central spreadsheet listing road bonds or cash deposits held in favour of the Council is maintained by Community Services Business Support. As at 12/10/16 there were 84 road bonds/ deposits listed with a current value of £8.14m. The accuracy of the information held is dependent on details being passed to the Business Support Administrative Assistant by staff responsible for securing the road bond and its subsequent reduction and release. Since June 2015 this is undertaken by the Transport Planning Team but all those processed before this time are managed by the Community Services Area Offices.

The Administrative Assistant should be notified when a new road bond/ deposit has been secured and of any reductions to existing road bonds/ cash deposits so that this can be recorded and the remaining balance updated. The Administrative Assistant stated that there have been occasions when she was informed of the reduction of a road bond but had no record of the bond being lodged.

The draft 'Road Construction Consent Operating Procedure' (see 4.1.2) contains a flow chart which shows the role of the Administrative Assistant in the road bond/ deposit process. However, it does not reflect the change in the process since the creation of the Transport Planning Team and the fact that road bond/ deposit reduction notifications can come from multiple sources. The flow chart shows that the Administrative Assistant is responsible for issuing standard communications to the developer regarding receipt and reduction of the road bond/ deposit and then making the necessary adjustment on the central spreadsheet. However, in some cases these communications are sent by the Transport Planning Team and a copy passed to the Administrative Assistant so that she can then update the central spreadsheet. Therefore the approach this part of the process is inconsistent and double-handling of the information can occur.

The current value of the cash deposits which are held in an interest bearing bank account, relating to residential development road construction consent, is £434,382. However, there are several amounts which date back a number of years and it may no longer be appropriate to hold them. For example, the oldest of these was first lodged in July 2000 for the value of £37,900. £36,925 of this has been released with £975 retained but the central spreadsheet records this as discharged on 16/07/03.

Due to historical inconsistent processes and the lack of regular monitoring of the information held by Business Support, no absolute guarantee can be given that a



complete and accurate record of the current value of road bonds/ cash deposits is held.

#### 4.3 Valuation, reduction and release of road bond – Wester Inshes

In considering the Wester Inshes Development and the fact that this has been a protracted over the years, a timeline of key events has been provided at Table 1 below.

**Table 1**

<b>Date</b>	<b>Event</b>
05/01/01	Planning application reference 01/00010/FULIN received (81 properties). Construction of roads and services to serve: <ul style="list-style-type: none"> <li>- 58 house plots for self-build</li> <li>- 17 no. terraced houses in courtyard development</li> <li>- 6 semi-detached houses</li> <li>- open space &amp; landscaping in 8 phases</li> <li>- the construction of section two of local feeder road.</li> </ul>
15/06/01	Planning Consent granted – 01/00010/FULIN.
27/06/01	RCC application reference V01/24 received – linked to planning consent reference 01/00010/FULIN (granted 15/06/01).
19/07/02	Planning application reference 02/00668/FULIN received (revision to existing plan increased to 107 properties). Construction of roads & services to serve: <ul style="list-style-type: none"> <li>- 49 house plots for self-build</li> <li>- 38 no. terraced houses</li> <li>- 20 semi-detached apartments</li> <li>- open space &amp; landscaping in 6 phases</li> <li>- construction of section two of local feeder road.</li> </ul>
23/07/02	RCC V01/24 granted – road bond of £345,000 requested.
25/10/02	RCC application received – linked to planning consent reference 02/00668/FULIN.
27/02/03	Planning consent refused – 02/00668/FULIN.
11/03/04	Planning consent reference 02/00668/FULIN granted on appeal by the Reporter appointed by the Planning and Environmental Appeals Division of the Scottish Government. Erection of residential development comprising 49 house plots for self-build and 58 residential units, including single storey terraced houses and 2 storey flats and apartments, with associated infrastructure.
12/03/04	Re-assessment made of the value of the road bond required taking into account the revised planning permission granted. Reduced road bond of £258,000 requested.
14/04/04	Planning application reference 04/00403/FULIN received. Variation of planning permission 02/00668/FULIN condition 16 to permit the development of present phases 3, 4 and 5 as phase 1 of the development.
11/05/04	Road bond submitted for the value of £273,000 (in the form of a security arranged by the Authority by R F More (Properties) Ltd through the Bank of Scotland. <ul style="list-style-type: none"> <li>- V01/24 £258,000 (housing development)</li> <li>- V01/26 £15,000 (part of distributor road – not within scope of</li> </ul>

	audit).
09/06/04	Planning consent granted – 04/00403/FULIN.
25/06/04	Road works at the above development partially completed to the satisfaction of the Roads Authority on the 25/06/04. Road bond reduced by £55,000 to £218,000.
02/08/04	Amended RCC V01/24 issued incorporating the site layout approved by the Reporter on the 11/03/04.
07/02/05	Road works at the above development partially completed to the satisfaction of the Roads Authority on the 07/02/05. Road bond reduced by £13,000 to £205,000 (nb thought to relate to V01/26 but this cannot be confirmed).
23/07/05	RCC V01/24 expired.
01/08/05	2 year extension to RCC V01/24 granted – expiry date 23/07/07.
01/12/06	Check carried out on value of road bond by Council representative – to remain at £205,000 as slow progress being made on the development.
28/05/07	Road works at the above development partially completed to the satisfaction of the Roads Authority on the 28/05/07. Road bond reduced by £95,000 to £110,000.
23/07/07	RCC V01/24 expired.
17/01/08	Check carried out on value of road bond by Council representative – to remain at £110,000 due to amount of work remaining and the escalation of construction costs since the bond was originally calculated. List of road defects provided to the developer.
17/03/08	Check carried out on value of road bond by Council representative – to remain at £110,000 as work not yet completed.
22/04/08	Road works at the above development partially completed to the satisfaction of the Roads Authority on the 22/04/08. Road bond reduced by £35,000 to £75,000.
04/11/09	<p>Site meeting between Council representative and developer followed by full inspection of the roads and a snagging list issued to the developer on 09/11/09. Summary of the locations and number of snagging items:</p> <ul style="list-style-type: none"> <li>• <b>Cloverfield Road</b> – 29 items</li> <li>• <b>Meadowfield Avenue</b> – 24 items</li> <li>• <b>Meadowfield Park</b> – 13 items</li> <li>• <b>Hayfield Avenue</b> – 16 items</li> <li>• <b>Cloverfield Park</b> – 25 items</li> <li>• <b>Inshes Mews</b> – 6 items.</li> </ul> <p>It was confirmed that the existing bond amount of £75,000 could not be reduced further at this stage. The estimated cost of repairs is £59,750 plus there is a requirement to retain 10% of the total value of the bond.</p>
26/01/10	<p>Communication received from developer along with quotation for completion of some of the snagging listed above:</p> <ul style="list-style-type: none"> <li>• <b>Cloverfield Road</b> – 3 items (£450)</li> <li>• <b>Meadowfield Avenue</b> – 3 items (£650)</li> <li>• <b>Meadowfield Park</b> – 3 items (£150)</li> </ul>

	<ul style="list-style-type: none"> <li>• <b>Hayfield Avenue</b> – 7 items (£1,800)</li> <li>• <b>Cloverfield Park</b> – 8 items (£950)</li> <li>• <b>Inshes Mews</b> – 1 item (£425).</li> </ul> <p>The developer estimated the total cost of the works required to bring the roads up to an adoptable standard was £4,425 and questioned the need to retain a road bond of £75,000. He was advised by a Council representative that all works on the list had to be carried out before all roads, apart from Inshes Mews, could be adopted.</p>
01/06/10	A number of the snagging items completed and a revised list issued to the developer.
28/10/11	Road works at the above development partially completed to the satisfaction of the Roads Authority on the 28/10/11. Road bond reduced by £60,000 to £15,000.
23/11/12	An update was provided to Councillor Gowans by a Senior Technician (Community Services) which stated that there were ongoing flooding issues with rain water flowing down the Dell of Inshes Road onto the housing development. A schedule of enhanced maintenance works would be carried out to ensure that the Council had done everything it could do to remove extraneous water from the development and alleviate the drainage problems. Following this the aim would be to properly assess the drainage on the development and meet with the developer to agree all outstanding items of work for the adoption of the roads.
28/06/13	<p>Interim inspection of the roads carried out by a Council representative which identified the following snagging list:</p> <ul style="list-style-type: none"> <li>• <b>Cloverfield Road</b> – 9 items</li> <li>• <b>Meadowfield Avenue</b> – 14 items</li> <li>• <b>Meadowfield Park</b> – 7 items</li> <li>• <b>Hayfield Avenue</b> – 4 items</li> <li>• <b>Cloverfield Park</b> – 6 items</li> <li>• <b>Inshes Mews</b> – 2 items.</li> </ul> <p>Also:</p> <ul style="list-style-type: none"> <li>• The road at the top of Cloverfield Road into Inshes Mews needs to be completed</li> <li>• Reinstatement of the SUDS track on Dell of Inshes Road and elements of the SUDS drainage system to be finished.</li> </ul> <p>Deadline given of 2 months from date of letter (28/06/13) to complete works in order that roads can be adopted. Developer also informed that should this work not be carried out then this bond may be called on.</p>
22/07/13	Confirmation from developer that some of the works had been carried out and a commitment given to complete the rest of the works by 28/08/13.
20/12/15	Request from the developer to carry out the final inspection of the road network.
15/07/16	As a result of the above requested inspection, a list of 6 snagging issues was identified. These would need to be addressed prior to adoption of the roads along with confirmation of the adoption of the SuDS attenuation tanks by Scottish Water.

This objective has been partially achieved. A road bond to the value of £258,000 was lodged by the developer on the 11/05/04, the terms of which were acceptable to the Council. The details of the road bond are recorded on the central record maintained by the Administrative Assistant and the original bond documentation is held on file.

The value of the road bond required was calculated by a Senior Technician within the Community Services area office and a copy of this has been retained on file. In accordance with section 6 of the Security Regulations, the bond value was *"sufficient to meet the cost of constructing the private road concerned in accordance with the construction consent"*.

The roads within the Wester Inshes development have not yet been formally adopted by the Council due to the following outstanding issues identified by a Senior Engineer, Community Services and notified to the developer in writing on 15/07/16:

- Hayfield Avenue – opposite No. 10 at layby – temporary reinstatement in foot way requires permanent finished surfacing
- Hayfield Avenue – opposite No. 8 – kerbed traffic calming buildout requires realignment of kerbs and footpath reinstatement required to be re-done
- Hayfield Avenue – outside No. 6 – section of footpath surfacing is failing, 15m x 2m approximately, requires new surface
- Hayfield Avenue – outside Nos. 1 & 2 – section of carriageway not draining freely due to inadequate camber, requires 10m x 5.5m approximately resurfacing to provide adequate crossfalls to ensure adequate surface water run-off gullies
- Cloverfield Park – outside No.1 – section of footway has step in surface due to differing levels, requires 4m x 2m approximately of new surfacing
- Cloverfield Park – at turning head outside No. 10 – carriageway in turning head requires adjustment of levels to surfacing and 2 No. gullies to eliminate issues of surface water ponding in turning head
- Confirmation required that gully tails are clear and connected to drainage system to SuDS tanks.

A concerted effort has been made by Council officers to provide a manageable and reasonable list of works to be completed in order to bring the roads to an adoptable standard. It is the view of the Roads Operations Manager (Inverness) that there is sufficient bond remaining to cover the cost of any outstanding road construction works.

Condition 6 of RCC V01/24 states that: *"The system for the disposal of storm water from the development shall be constructed to satisfy the requirements of the Sustainable Urban Drainage Systems Design Manual for Scotland and Northern Ireland (CIRIA C521). In accordance with the general agreement between the Roads Authority and the Water Authority under Section 7 of the Sewerage (Scotland) Act 1968, the works to be adopted will be maintained by the Water Authority"*. Due to ongoing issues with the SuDS infrastructure installed on the site, it has not yet been adopted by Scottish Water. Council officers are currently working with Scottish Water to investigate these issues but the responsibility to ensure that the SuDS infrastructure is of the standard required to be adopted by Scottish Water sits with the developer and until then the roads cannot be adopted by the Council. The developer has been informed in writing of this requirement on numerous occasions but to no avail.

Many of the roads related issues affecting the Wester Inshes development are due to the fact that the developer sold plots on a piecemeal rather than on a phased

basis. This limited the opportunity to ensure that each road was completed as the houses were completed, as within each there remained vacant undeveloped plots. At the time the planning condition to complete the roads only came into effect upon completion of the entire development. However, the Council as planning authority no longer uses such a loose ended planning condition and would require all self-build developments to be built in a structured phased way ensuring roads are completed to an adoptable standard before the developer can move on to the next phase.

- 4.3.1 As detailed in Table 1, the road bond has been reduced on 5 occasions: 25/06/04, 07/02/05, 28/05/07, 22/04/08 and 28/10/11 at the request of the developer as works had been partially completed to the satisfaction of the Senior Technician, Community Services. However, this could not be evidenced from the information held on file as only the calculation supporting the reduction on the 28/05/07 from £205,000 to £110,000 could be found. Due to the passage of time, the main officer and two others who were involved intermittently with this development have since left the Council. However, there is evidence on file that additional assessments were made of the road bond value on the 01/12/06 and 17/01/08 but further reductions were not made on these occasions due to the level of works outstanding at the time.

Section 15 of the Security Regulations states that at the substantial completion stage, either 10% of the original bond value or the value required to cover the cost of the outstanding works (whichever is greater) should be retained. In this case, substantial completion has not yet been achieved and yet only £15,000 of the road bond is currently retained which is less than 10% of the original bond value (£25,800).

- 4.3.2 As stated at section 4.1.2, the Security Regulations also state that the road bond may be called in if the developer has failed to complete the road works to a suitable standard within the period of the RCC. The original RCC expired on the 23/07/05 but a two year extension was subsequently granted in the following month. Despite this, on the 28/06/13, the developer was notified in writing of the current outstanding list of works required in order to bring the roads up to an adoptable standard and given a period of 2 months to complete the works. The developer was also advised that *“should you not work to meet this deadline then I further advise that Highland Council are minded to call on the Road Bond associated with this Road Construction Consent and carry out the work ourselves”*. It is unclear why this action was taken when the extended RCC had expired nearly 6 years ago. The developer subsequently confirmed that some of the works had been carried out and committed to completing the remaining works by the 28/08/13. Although works had not been completed within the period of the RCC or the subsequent deadline, the road bond was not called in in order to complete the works. However, it should be noted that as the roads cannot be adopted until the outstanding issues regarding the SuDS infrastructure have been resolved between the developer and Scottish Water, there would be little value in calling in the road bond at this stage.

#### 4.4 Enforcement of planning conditions – Wester Inshes

In considering the planning conditions and enforcement action necessary, a timeline of the key events relating to Planning Permission reference 02/00668/FULIN (granted on appeal on 11<sup>th</sup> March 2004, and as amended by Planning Permission reference 04/00403/FULIN) is provided at Table 2 below.

**Table 2**

Date	Event
01/09/10	Enforcement Notice EN.171.10.IN issued by the Council for the

	<p>following breach of planning control:</p> <p><i>"In terms of Section 123(1) (b) of the Act – failing to comply with any condition of limitation subject to which planning permission has been granted, relative to: The areas identified for landscaping including the equipped play area have not been formed, laid out, completed or maintained in accordance with Condition 16 of the development approved under 04/00403/FULIN and granted on 9 June 2004."</i></p>
12/07/11	<p>Directorate for Planning and Environmental Appeals – Appeal Decision Notice ENA-270-2000:</p> <p><i>"I dismiss the appeal and direct that the enforcement notice dated 1 September 2010 be upheld subject to the variation of the terms of the notice by the substitution of the plan that is appended to this decision for the plan that was appended to the notice."</i></p>
25/10/13	<p>Second Enforcement Notice 130153EN issued by the Council for the following breach of planning control:</p> <p><i>"The areas identified for landscaping, including the equipped play area, have not been formed, laid out, completed or maintained to the satisfaction of the planning authority contrary to condition 16 of Planning Permission reference 02/00668/FULIN granted on appeal on 11<sup>th</sup> March 2004 (PPA-270-251) as amended by Planning Permission reference 04/00403/FULIN dated 9<sup>th</sup> June 2004."</i></p>
12/02/14	<p>Directorate for Planning and Environmental Appeals – Appeal Decision Notice ENA-270-2007:</p> <p><i>"I dismiss the appeal and direct that the enforcement notice dated 25 October 2013 be upheld subject to the variation of the period of compliance deleting the words "is Friday 24 January 2014" in paragraph 5 and replacing them with the words "will expire at the end of a period of 66 days from the date of this decision unless in the meantime the planning authority agrees in writing to an extension to take account of planting seasons"."</i></p>
28/04/14	<p>On site meeting between the developer, Landscaping Contractor, Planning Enforcement Officer and Principal Officer (Land). While it was noted that efforts had been made to deliver the outstanding landscaping, much of the site still remained to be properly landscaped and therefore the second Enforcement Notice had not been complied with. It would now be recommended that the Council take further enforcement action to remedy the breach. This would comprise direct action or prosecution or both.</p>
27/06/14	<p>Meeting with the developer which discussed the following points:</p> <ul style="list-style-type: none"> <li>• Timescales given for compliance/ non-compliance with the Notice</li> <li>• Method of planting, tying and staking of trees</li> <li>• Size of trees and planting season requirements</li> <li>• Soil and ground preparation arrangements</li> <li>• Equipped play area</li> <li>• Complaints received.</li> </ul>
19/08/14	<p>Report to the South Area Planning Applications Committee recommending that direct action be taken following the developers failure to comply with the Enforcement Notice served by the Council. The recommendations were as follows:</p> <ul style="list-style-type: none"> <li>• The Council should take direct action to remedy the breach using</li> </ul>

	<p>a lesser scheme of landscaping that is sufficient to provide safe and usable landscaped areas within the development site, the extent of which shall first be agreed with Ward Members sitting on the South Planning Applications Committee and the Chair/Vice Chair following consultation with the Wester Inshes Residents' Association;</p> <ul style="list-style-type: none"> <li>• A maximum of £15,000 should be spent on direct action;</li> <li>• Play equipment should not be installed as part of the direct action;</li> <li>• The Council will not assume responsibility for the ongoing maintenance of any landscaping within the site (including any replacement of trees or shrubs); and</li> <li>• The costs of direct action should be recovered from the developer under Section 135 of the Act in line with the Council's debt recovery procedures.</li> </ul> <p>The Committee AGREED the recommendations in the report subject to the reference to "<i>Ward Members sitting on the South Planning Applications Committee</i>" being changed to "<i>all of the Ward Members</i>".</p>
29/10/14	<p>Further planting by developer imminent – reminder to the developer that any planting works must be carried out in accordance with the approved specification in terms of species, position and planting method.</p>
20/03/15	<p>Meeting between Council Officers and Wester Inshes Residents. The purpose of the meeting was to:</p> <ul style="list-style-type: none"> <li>• Discuss progress on the planning enforcement case</li> <li>• Raise awareness of what the Council can do</li> <li>• Ask the residents to work with the Council.</li> </ul> <p>It was acknowledged that some planting had been carried out by the developer and while it wasn't perfect it was better. However, concerns remained around the future survivability and maintenance of the works carried out so far. The Team Leader (Development Management) pointed out that the trees/ shrubs planted would technically continue to belong to the developer and that any work to remove or supplement beyond the scope of the approved plans would potentially undermine the case going forward.</p> <p>Therefore it was agreed by all that the focus of the direct action should be on improving the maintainability of the existing landscape areas by generally improving the condition of the grassed areas. This will be in order of priority with areas around Inshes Mews to be tackled first. The Council would consider Cloverfield Park once a solution was found to the flooding issues.</p> <p>It was agreed by all that following the first grass cut (which would be part of the contract), future maintenance would be the responsibility of the residents.</p>
26/05/15	<p>Despite efforts to improve the condition of the amenity spaces, the quality of the grassed areas still do not meet the requirements laid out in the approved landscaping scheme submitted by the developer in relation to Planning Consent 04/00403/FULIN. Developer given notice that the Council is in the process of tendering for contractors to enter the land to carry out the works necessary to bring the grassed area up to an acceptable standard. The developer will be liable for the cost of the works and will therefore receive an invoice</p>

	<p>following the direct action.</p> <p>The developer informed that until such a time as the Council contract has expired and the Residents Association assumes responsibility for the maintenance of the land, that responsibility for the grass cutting etc. lies with him.</p>
22/06/15	<p>Contract for direct action awarded. The contract period to run from 13<sup>th</sup> July 2015 to 24<sup>th</sup> July 2015 and cost in the region of £10,000 of which approx. £8,000 would be recoverable from the developer which was the cost of bringing the landscaped areas to the standard of the agreed specification.</p> <p>The remaining £2,000 related to works outside this specification for levelling of a sloped area in order to make the grass cutting easier but it was then decided not to go ahead with this.</p>
02/10/15	<p>Invoice submitted by contractor – total cost including VAT £1,706.10. Paid by the Council on 22/10/15.</p> <p>The cost of the work was significantly less than expected as the grass was very long but once cut the contractor discovered that the condition was better than expected and so this required less work than originally quoted.</p>
09/12/15	<p>Letter to Residents Association to confirm that works have been completed. Reinforcement of the following points made:</p> <ul style="list-style-type: none"> <li>• the Council made it clear that it would not take responsibility for the maintenance of the site and therefore as it stands it appears that this responsibility must rest with the proprietors within the development (as per their property title deeds)</li> <li>• it is suggested that the Residents Association approach the developer to either have the landscaped areas (with the exception of the area between Cloverfield Park and Meadowfield Park) conveyed to them, or to enter into a formal agreement to allow the Residents Association to take over responsibility for those landscaped areas</li> <li>• the area between Cloverfield Park and Meadowfield Park was not included in the direct action taken due to the ongoing drainage/ flooding issues and this will continue to be monitored and landscaping issues addressed at an appropriate time if necessary.</li> </ul>
17/02/16	<p>Invoice for £1,706.10 issued to the developer to recover the costs of the direct action.</p>
10/03/16	<p>Reminder issued to the developer as invoice not yet paid.</p>
24/03/16	<p>Final notice issued to the developer as invoice not yet paid.</p>
05/04/16	<p>Letter from the developer to request breakdown of what invoice relates to as invoicing just states 'Landscaping Works'.</p>
08/04/16	<p>Redacted copy of contractor's invoice sent to the developer.</p>
05/07/16	<p>Payment of £568.70 received (balance £1,137.40).</p>
14/09/16	<p>Payment of £1,137.40 received (balance £0).</p>

This objective has been achieved. Direct action was not taken as a result of Appeal Decision Notice ENA-270-2000 issued on 12/07/11 as, following the unsuccessful appeal, the developer showed a willingness to work with Council



officials to resolve the matter at this time. However, these matters were not ultimately resolved by the developer and it was felt necessary to serve a further enforcement notice on the 25/10/13. The resulting direct enforcement action taken in relation to the above breach of planning conditions is in line with the key principles laid out in 'The Highland Council Planning Enforcement Charter (2015)'.

In considering the information provided in Table 2 above, it is clear that the company has exercised its rights to challenge the Council's actions and has been responsible for delays in achieving resolution which are demonstrated by:

- appealing the first enforcement notice and then when this appeal was dismissed, still failing to undertake the necessary action required;
- appealing the second enforcement notice which was also dismissed. This decision notice was issued in February 2014 but in October 2014, the necessary work had not been fully completed. When this had been completed, it was not to the required specification despite the fact that this had been clearly communicated to the developer by Council officers in earlier meetings;
- delaying payment of the invoice for the direct action taken by the Council. The invoice was issued in February 2016 and was not fully paid until September 2016.

In addition to the above, Planning Consent reference 07/00324/FULIN was granted on the 09/11/07 which related to changes to house type for plots 11-16. The resulting changes to the site ground levels meant that a retaining wall was required to be built. Condition 3 of this permission stated that: *"The landscaping together with the maintenance of the wall shall be the responsibility of the applicant and details of the proposed schedule of maintenance shall be submitted to and agreed in writing with the planning authority prior to the start of any further development on site"*. There have been ongoing discussions with the developer regarding the condition of the wall and the requirement that it be completed with a suitable facing material. The developer was notified in writing of this breach of planning conditions by a Planning Enforcement Officer on the 12/05/16 and asked to respond within 14 days with details of how the wall would be repaired in the short term and how it would be maintained in the longer term. The repairs have been carried out to bring the wall up to the required standard but no information has been provided as to how the wall will be maintained in the long term. Any enforcement action taken has to be in the public interest in accordance with the Council's Planning Enforcement Charter. In this case, the only option available to the Council if the developer were to fail to comply with an enforcement notice would be to refer the case to the Procurator Fiscal who would be unlikely to take any further action. It was therefore concluded by Planning Officers that enforcement action would not be appropriate in this situation as ultimately this is a matter which has to be resolved between the developer and the residents who own the wall. However, it has been acknowledged that it is essential that residents are informed that responsibility for on-going maintenance of the wall does not sit with the Council in order to manage expectations.

#### 4.5 Landscaping planning conditions - Lochloy

The development of land at Lochloy was undertaken in a number of phases with land being sold on to different developers over time as detailed in Table 3 below.

**Table 3**

Date	Reference	Applicant	Proposal
30/05/96	95/00178/OUTNA	George Arnold Architects	Outline application for development of housing and formation of new access road and alterations to Lochloy Road, land south of Lochloy

			Road and east of Lochloy Avenue, formerly part of Nairn Dunbar Golf Course.
31/05/99	98/00096/REMNA	Lochloy Development Co Ltd	Erection of 27 dwellings and construction of access roads (part Approval of Reserved Matters).
06/01/00	96/00084/FULNA	George Arnold Architects	Erection of 20 dwellings and construction of access road (part Approval of Reserved Matters) land south of Lochloy Road and east of Lochloy Avenue.
31/01/00	99/00177/FULNA	Lochloy Development Co Ltd	Erection of housing development.
04/09/00	00/00006/OUTNA	Lochloy Development Co Ltd	Outline planning application for residential, commercial, retail, education and amenity development.
12/03/01	00/00140/FULNA	Barratt Construction Ltd	Erection of 85 dwellings and associated road and landscaping works.
12/03/01	00/00141/FULNA	Lochloy Properties	Construction of service road for future housing development.
12/10/01	01/00096/FULNA	Lochloy Properties	Erection of 58 houses, construction of access roads, paths and play area.
12/08/03	03/00023/FULNA	Lochloy Properties	Construction of service roads on development of land.
18/09/03	03/00022/FULNA	Barratt Construction Ltd	Erection of 94 dwellings and associated site works.
11/06/04	04/00067/FULNA	Lochloy Homes Ltd	Construction of access road and footways/ footpaths.
13/09/05	04/00141/FULNA	Lochloy Homes Ltd	Erection of 26 dwellings (amended proposals).
25/09/06	06/00113/FULNA	Kylauren Homes	Erection of 16 dwellings and construction of new road and amendment of layout of Zone 3 development.
17/01/07	06/00213/FULNA	Kylauren Homes	Erection of 4 houses.
07/07/08	07/00192/FULNA	Albyn Housing Association Ltd	Erection of 15 houses.
06/11/09	07/00194/FULNA	Albyn Housing Association Ltd	Erection of 10 houses.
06/11/09	07/00195/FULNA	Kylauren	Erection of 65 houses and

		Homes	associated roads.
20/08/10	10/02750/FUL	Kylauren Homes	Erection of 23 (detached and semi-detached) houses.
02/10/14	13/03759/FUL	Springfield Properties Plc	Revision of masterplan and mixed use development incorporating residential and community uses.

This objective was partially achieved. A standard planning condition was included in all relevant planning permissions regarding the requirement to have a scheme for the maintenance of all on-site green spaces, woodland, play areas etc. which are not the exclusive property of any individual home owner.

- 4.5.1 Whilst the above condition had been stipulated within the planning permissions granted, the appropriate maintenance schemes have not been put in place by all developers involved. There is a landscaping contract in place for those areas developed by Barratt Construction Ltd and Albyn Housing Association Ltd and another part of the development is covered by a landscaping arrangement put in place by a group of residents.

The solicitor acting on behalf of Lochloy Properties Ltd wrote to the Council on the 12/05/05 proposing that a sum of £100,000 be allocated for the landscaping of the common areas within Zones 1, 2, 3 and 4 and placed in an interest bearing account in order to purify the relevant planning condition. The agent acting on behalf of the developer would then procure quotations in respect of the landscaping, award a contract and thereafter certify payments and arrange for drawdowns from the interest bearing account. It has been confirmed by the agent that these monies were not lodged and a landscaping contract was not put in place by them. Their understanding was that a formal contract had been set up with a landscaping company when the site was under the control of Kylauren Homes for Zones 1 and 3 and that this information would have been passed to Springfield Properties when they took over the site in 2013. However, they have no knowledge of what the current arrangements are between Springfield Properties and the landscaping contractor. Zones 2 and 4 were subsequently developed by Barratt Construction Ltd who did make appropriate arrangements for landscaping.

To further complicate matters, a number of the development companies involved are no longer trading meaning that planning enforcement action would not have been possible:

- Lochloy Homes Ltd – company dissolved (last annual accounts 2002)
- Lochloy Development Co Ltd – company dissolved (last accounts 2003)
- Courtallam Developments Ltd (trading as Kylauren Homes) – in liquidation.

It is therefore unclear as to what landscaping maintenance arrangements are in place, if any, in all parts of the development.

Another factor which has contributed to the issues at Lochloy is that historically the Council accepted responsibility for the maintenance of landscaped areas within housing developments provided the developer paid an adoption fee. This fee was 18 times the annual cost of the maintenance. However, around the time of the earlier planning consents granted for the Lochloy development, this changed to a multiplier of 40 times the annual cost. As a result, a number of developers refused to pay the increased adoption fee and had to look at different arrangements. Also, the planning condition used to allow for some flexibility on the type of maintenance arrangement required, therefore not all landscaping maintenance was factored and other less robust maintenance arrangements were

formed. However, more recently if the maintenance regime put in place was not a factoring arrangement this would be challenged as part of the planning process.

- 4.5.2 A sample of property title deeds within the Lochloy development was examined by a Council solicitor to establish the maintenance obligations for common areas and who was responsible for these. The title deeds have not been written in a standard manner due to the involvement of multiple development companies and different housing sites have different rules and obligations regulating the common areas. However, it has been clearly established that the Council has no responsibility for maintenance of the common areas within the Lochloy development. This information now answers the query raised by Councillor MacDonald who was seeking clarity on this point.
- 4.5.3 Despite this, Council Officers are currently working on a solution to ensure that a maintenance agreement for all common areas of ground within the Lochloy development is put in place. It has been established that the current developer, as successor to the land, is responsible for ensuring that a suitable factoring arrangement is put in place for those areas not currently covered by such an arrangement. This developer will require planning permission for the final phase of their development and this requirement will be included as one of the planning conditions.

## **5. CONCLUSION**

The management of the RCC and associated road bond/ deposit process has transferred to a specialist centralised team which does make the operation of controls over this area more effective. However, internal operating procedures have not been finalised to reflect this change and to clarify the roles and responsibilities of those involved. There is also insufficient guidance provided to staff and developers on key areas of the process such as the stages involved in the reduction of the road bond/ deposit and the circumstances under which this can be called in. It is also essential that an accurate record of the current value of road bonds is kept so that the potential financial risk to the Council is known.

The Wester Inshes development has been particularly problematic for a number of reasons. Council officers have worked hard to resolve issues with the development company over many years with regards to the drainage issues, adoption of the road infrastructure and adherence to planning conditions. The preferred option always is to try to reach a mutually agreeable position with the developer on these matters and this is normally successful. In this case, significant time by Council officers has been expended over the years trying to resolve matters with the developer on what is not a particularly large scale development. This is due to encountering an extremely determined company and the audit view is that progress has been far slower than expected due largely to continued stalling tactics employed by the company which has chosen to exercise their rights to challenge the Council's actions. It has also involved the Council taking enforcement action on two occasions, the outcome of which following appeal, the developer decided to ignore. This highlights the limited effect that that enforcement notices can have in such circumstances.

The housing development at Lochloy is a complex situation due to the fact that parts of the larger development have been sold on to different developers over a period of time. Not all of the developers involved with the site met the planning condition which related to ensuring that there was an arrangement in place for the maintenance of common areas on the development and indeed some have now gone out of business. It is clear that the Council has no responsibility for maintenance of the common areas within the Lochloy development. Despite this, Council officers are currently working towards a solution for residents.

The two developments examined as part of this audit review have been particularly problematic both for officers and the relevant local Members which is why these were included within the audit scope. It should also be acknowledged that as difficulties with both of these developments have been ongoing over many years, a number of Council officers involved have left the Council taking with them the in-depth knowledge of the complex issues. However, in considering the audit findings it is important to put these into context as these cannot be considered atypical examples of developments. The audit did not examine the whole planning development process but it is acknowledged that a high number of housing developments/ schemes progress without incident and the required planning conditions are met resulting in the roads being adopted and the bond released.

In terms of the wider terms of this audit, it is important to note that there are a number of changes already being undertaken to improve the process and procedures. A joint project will be undertaken by D&I and Community Services to make the RCC process reflect how the assessment and management of planning and building standards applications are dealt with. This improvement project will involve the implementation of an eRoad Construction Consent process which will ensure that all of the relevant data and information is held electronically and is available for scrutiny in a much more transparent way than has historically been the case. It will also lead to the standardisation of some tasks and ensure a consistent approach.

As a result of the audit, 2 high grade and 4 medium grade recommendations have been made. All of these have been accepted by management and the final agreed action is due to be implemented by 30/09/17.

## **6. AUDIT OPINION**

The opinion is based upon, and limited to, the work performed in respect of the subject under review. Internal Audit cannot provide total assurance that control weaknesses or irregularities do not exist. It is the opinion that **Reasonable Assurance** can be given in that whilst the system is broadly reliable, areas of weakness have been identified which put some of the system objectives at risk, and/ or there is evidence that the level of non-compliance with some of the controls may put some of the system objectives at risk.

## 7. ACTION PLAN

The Action Plan contains 6 recommendations as follows:

Description	Priority	Number
Major issues that managers need to address as a matter of urgency.	High	2
Important issues that managers should address and will benefit the Organisation if implemented.	Medium	4
Minor issues that are not critical but managers should address.	Low	0
<b>Total recommendations</b>		<b>6</b>

REPORT REF.	GRADE	FINDING	RECOMMENDATION	MANAGEMENT AGREED ACTION	IMPLEMENTATION	
					RESPONSIBLE OFFICER	TARGET DATE
4.1.1 & 4.1.2	Medium	<p>Although the Highland Council 'Roads and Transport Guidelines for New Developments' states that partial release of the road bond is permitted at pre-determined stages of the construction works, it does not specify what these stages are.</p> <p>If the developer has failed to complete the road works to a suitable standard within the period of the RCC, legislation permits the roads authority to call in the remaining road bond/ security and complete the works to the required standard. However, this is not covered in the Council's guidelines.</p>	<p>The Council's guidelines should be updated to include the following requirements from the Security for Private Road Works (Scotland) Amendment Regulations 1998):</p> <ul style="list-style-type: none"> <li>the conditions under which the road bond can be released</li> <li>the conditions under which the road bond can be called in.</li> </ul>	The Council Guidelines will be updated to include the requirements.	Head of Planning & Environment	31/12/16
4.1.2	High	<p>A draft 'Road Construction Consent Operating Procedure' was prepared in November 2015 but at the time of the audit it had not yet been finalised and rolled out to staff.</p> <p>There is no internal operating procedure for calling in a road bond or deposit.</p>	<p>The 'Road Construction Consent Operation Procedure' should be finalised and distributed to all staff involved in the process (D&amp;I and Community Services).</p> <p>This Procedure should include guidance relating to calling in a road bond/ deposit as specified in sections 13 and 14 of the Security for Private Road Works (Scotland) Amendment Regulations 1998.</p>	The Operating Procedure will be finalised and issued to all staff involved in the process (D&I and Community Services).	Head of Planning & Environment and Head of Roads & Transport	31/12/16

REPORT REF.	GRADE	FINDING	RECOMMENDATION	MANAGEMENT AGREED ACTION	IMPLEMENTATION	
					RESPONSIBLE OFFICER	TARGET DATE
4.2.1	High	<p>A central spreadsheet is maintained but due to inconsistent processes and the lack of regular monitoring of the information held, no assurance can be given that it is a complete and accurate record of the current value of road bonds/ cash deposits held in favour of the Council.</p> <p>There are several cash deposit amounts held within an interest bearing account which date back a number of years. It therefore may no longer be appropriate to continue holding them. For example, the oldest of these was first lodged in July 2000 for the value of £37,900. £36,925 of this has been released with £975 retained but the central spreadsheet records this as discharged on 16/07/03.</p>	<p>(i) The information held on the central spreadsheet should be reviewed to ensure that it lists the current value of all road bonds/ deposits held in favour of the Council, including those managed by the Transport Planning Team and Community Services staff.</p> <p>(ii) Cash deposits held relating to road construction consent should be reviewed to ensure that funds are not being retained unnecessarily and either released to the developer or written off as appropriate.</p> <p>(iii) The information detailed in (i) and (ii) should be regularly monitored by the appropriate officers to ensure that this is complete and accurate.</p> <p>(iv) The process for confirming receipt and reduction of road bonds/ deposits and updating the central record should be reviewed and a decision taken on where responsibility for this should sit so that double-handling of information does not occur.</p> <p>(v) Once finalised the roles of each party should be updated in the 'Road Construction Consent Operating Procedure' which should then be circulated to all relevant staff.</p>	<p>A full review of the information will be carried out and a Road Bond Scrutiny Group will be set up (comprising colleagues in both D&amp;I and CS as well as Finance) to ensure regular monitoring of the road bonds currently held and those submitted in the future.</p> <p>Development &amp; Infrastructure Service and Community Services will put in place an eRoad Construction Consent system – utilising the existing ePlanning system. This will involve a fundamental process redesign and ensure that there is full transparency of decisions made and records kept centrally and electronically. The revised process will form a part of the updated guidance.</p>	Head of Planning & Environment and Head of Roads & Transport	31/01/17
					Head of Planning & Environment and Head of Roads & Transport	30/09/17

REPORT REF.	GRADE	FINDING	RECOMMENDATION	MANAGEMENT AGREED ACTION	IMPLEMENTATION	
					RESPONSIBLE OFFICER	TARGET DATE
4.3.1	Medium	<p>The road bond was reduced on 5 occasions: 25/06/04, 07/02/05, 28/05/07, 22/04/08 and 28/10/11. However, only the calculation supporting the reduction on the 28/05/07 from £205,000 to £110,000 can be found on file.</p> <p>Furthermore, no evidence is held on file to demonstrate that inspections took place to assess the works carried out before the road bond was reduced.</p>	All inspections and calculations relating to the reduction of road bonds/ deposits should be evidenced and retained on file.	Development & Infrastructure Service and Community Services will put in place an eRoad Construction Consent system – utilising the existing ePlanning system. This will involve a fundamental process redesign and ensure that there is full transparency of decisions made and records kept centrally and electronically. The revised process will form a part of the updated guidance.	Head of Planning & Environment and Head of Roads & Transport	30/09/17
4.3.2	Medium	Although works had not been completed within the period of the RCC (and its subsequent extension) with the developer given more than adequate time to complete the works in order to bring the roads up to an adoptable standard, the road bond was not called in in order to complete the works.	Consideration should be given to calling in the remaining £15,000 road bond to complete the works as notified in writing to the developer on the 15/07/16, following a satisfactory resolution of the outstanding issues that exist between the developer and Scottish Water.	Discussions will continue with the developer and Scottish Water in order to maintain pressure on finding a solution to the SUDS issues, after which the road bond can be called in if required.	Head of Roads & Transport	31/03/17
4.4.1	Medium	Condition 3 of Planning Permission reference 07/00324/FULIN has not been fully complied with as the developer has not provided information regarding how the retaining wall will be maintained in the long term. However enforcement action would not be appropriate in this situation as ultimately it is a matter which has to be resolved between the developer and the residents who own the wall.	The residents should be notified that ongoing maintenance of the wall is not the responsibility of the Council and that the matter has to be resolved between themselves and the developer.	Write to developer to remind him of his responsibilities and to residents to explain the position with regards to future maintenance.	Head of Planning & Environment	31/12/16