

Harborough District Council

Monitoring Fees
Background Evidence Paper

Prepared: May 2021

1. Introduction

- 1.1 This evidence paper has been prepared to support the Council in securing fees to monitor and report on planning obligations as permitted by Part 10 of the Community Infrastructure Levy (Amendment) (England) Regulations 2019. Through the analysis of past S106 agreements along with detailing the tasks and officer time involved monitoring the obligations, it sets out evidence for a monitoring fee that reflects fairly and reasonably related to the scale and kind of development involved.

2. Method

- 2.1 The method is based on the analysis of the S106 agreements signed during the period of 2014/15 to 2020/21.

The analysis includes:

- (a) Setting out the number of obligations that are expected to be monitored in each 12-month period, based on the type and number of applications that Harborough Council receives which are subject to S106 agreements; and
- (b) An estimate of the number of hours for each type/size threshold based on the size of the development.

This information is used to develop a formula for calculating the estimated monitoring costs of a S106 agreement based on

- i) the number of obligations in the S106 agreement
- ii) the number of trigger points for each obligation
- iii) the number of site visits required

- 2.2 The formula for calculating the monitoring fee of a Section 106 agreement is as follows:

Part One: Desk-based costs

(Number of 'trigger points' x 'Fee per monitoring point')

plus

Part Two: Site visit costs

(Number of 'trigger events' x Site Visit Fee)

3. Rationale

- 3.1 The process of monitoring S106 agreements is separated into two parts:

- Part 1: Desk-based advice to colleagues and third parties and the monitoring/ updating of Council's data base and other administrative work
- Part 2: On site work to monitor site progress and triggers.

Part One: Desk-based advice/monitoring/administration

- 3.2 The monitoring of S106 obligations involves several officers within the Council. Table 1 identifies these officers and the cost per annum to the Council of employing them. For each employee, the percentage of their time spent on S106 obligations monitoring tasks (see paragraphs 3.3 -3.4 below) has been established, allowing the cost of each officer's time to be calculated (final column of Table 1). The total cost of

officer time spent on desk based S106 obligation monitoring is £100,284.97 per annum.

3.3 Based on the 6-year period 2014/15 – 2020/21, Table 2 sets out:

- the average number of S106 agreements signed per annum (16);
- the average number of obligations per annum (9); and
- the average number of triggers per obligation (2).

Taking the average number of triggers per annum (18) and multiplying this by the average number of S106 agreements annum, Table 2 establishes that on average 288 triggers are monitored per annum. Taking the total officer cost from Table 1 and dividing this by the average number of triggers monitored per annum, gives a cost of £348.21 per monitoring point for the Part 1 desk-based work as set out in the next 2 paragraphs.

3.4 The monitoring of S106 agreements is undertaken by the S106 monitoring officer, with proportionate assistance from other officers. This includes time taken on the following tasks:

- Assisting and advising on the drafting of a S106 planning agreement
- Establish what elements of the s106 agreement require monitoring
- Inputting the agreement onto the database, including each individual planning obligation (financial and non-financial)
- Prepare a monitoring worksheet for each agreement
- At each trigger point, liaising with the case officer and/or the developer and checking building control records to see whether the trigger has been reached and if an obligation has been met.

3.5 In addition, for a financial obligation time is taken on the following tasks:

- Liaising with the developer to agree amounts and the subsequent raising and issuing of an invoice
- Checking with HDC financial services as to whether an invoice has been paid. Following payment, issuing notification to relevant officers/services that payment has been received and the timespan in which time they must spend the monies
- Recording payments of each individual planning obligations on the s106 database
- Acknowledging receipt of payments to the developer and arranging, where required, a receipt or confirmation that payment has been made to HDC
- Sending notification to the developer as to the discharge of obligations, where appropriate, when money has been received
- Following up on a quarterly basis with spending officers to ensure monies spent within the deadline
- Where contributions are required to be passed on to other organisations, for example Health (CCG) and Police, arranging payment and recording details when passed on

- Recording the spending of each financial planning obligation
- Attending and servicing the CIL/S106 officer monitoring meetings
- Drafting relevant monitoring reports for Cabinet and Planning Committee
- Attendance at committee meetings or scrutiny panels regarding the monitoring of S106 agreements and spend
- Preparing report for the S106 element of the AMR where required
- Meeting the Requirement under the CIL Regulations 2019 to prepare and publish an annual Infrastructure Funding Statement (IFS) by December each year (cost can be recovered via monitoring fee)
- Responding to enquiries from third parties about the compliance of planning obligations either financial or non-financial
- Advising on other miscellaneous S106 related planning obligation issues or matters which arise from time to time
- Providing information to developers and communities about monitoring through the preparing, reviewing and updating the Planning Obligations SPD

Table 1: Officer costs (desk-based work)

Post title	Officer cost per annum	% of officer time monitoring	Cost (incl. on costs) of time monitoring
Neighbourhood Officer	£86,737.72	10	£8,673.77
S106 Officer	£69,326.58	85	£58,927.59
Parish Liaison	£67,236.27	15	£10,085.44
Policy Manager	£106,992.66	5	£5,349.63
Housing Officer	£85,737.72	10	£8,573.77
Finance Officer est.	£86,737.72	10	£8,673.77
Total per annum			£100,283.97

Table 2: Obligations Monitored Annually (2014/15 – 2019/20)

Year	No of agreements signed
2014/15	11
2015/16	15
2016/17	22
2017/18	25

2018/19	15
2019/20	9
Total agreements signed	97
Average number of agreements per annum	16
Average number of obligations per agreement	9
Average number of triggers per obligation	2
Average total obligations/trigger points per agreement, referred to as 'monitoring points'	18
Total number of triggers from 16 agreements	288
Officer cost for monitoring (from Table 1) (Rounded to the nearest pound)	£100,284
Cost of monitoring each point in agreement (Rounded to the nearest pound)	<u>£349 per monitoring point.</u>

Calculating the number of Monitoring Points

3.6 The first part of the formula for calculating the monitoring fee is:

Part One: Desk-based costs

(Number of 'trigger points' x 'Fee per monitoring point')

3.7 Each Section 106 agreement contains different clauses relating to the different subjects/items where contributions are sought.

For example, a single Section 106 agreement could include:

- an obligation to provide on-site open space
- an obligation to provide a financial contribution in lieu of affordable housing
- an obligation to provide a financial contribution towards open space
- an obligation to provide a financial contribution towards community facilities
- an obligation to provide a financial contribution towards cemetery provision

3.8 The first task when calculating the monitoring fee is therefore to assess how many obligations there are within the agreement. In this example there are five obligations.

3.9 Each obligation within the s106 agreement will specify when the on-site provision need to be provided and/or when the financial payments are due. These usually relate to a particular stage of the development (rather than a calendar date). The next phase is calculating the monitoring fee is to work out how many trigger points each obligation has, and adding them up to establish the number of monitoring points for the s106 agreement.

Taking the example above, this s106 agreement requires:

- delivery of the on-site open space before occupation of 50th unit
 - *one trigger point*
- the affordable housing payment to be paid in three parts
 - 50% at commencement of development
 - 25% before occupation of 50th unit, and
 - 25% before occupation of the 125th unit
 - *three trigger points*
- the open space payment to be paid in two parts
 - 50% at commencement of development
 - 50% before occupation of 50th unit
 - *two trigger points*
- the communities facilities payment to be paid in two parts
 - 50% at commencement
 - 50% before occupation of the 50th unit
 - *two trigger points*
- A single payment for cemetery provision on commencement
 - *one trigger point*

Total trigger points: Nine

3.10 In this example the five obligations within the s106 agreement have a collective total of nine trigger points. So, the calculation for the desk-based part of the monitoring fee in this example would be

$$9 \times \text{£}349 = \text{£}3141 \text{ desk based monitoring fee payable}$$

Part Two: On site work to monitor site progress and triggers.

3.11 In addition to the desk-based work monitoring of s106 agreement requires site visits:

- to check whether monitoring/ trigger points have been reached; and
- to monitoring progress of the site in relation to the S106 planning obligations.

3.12 The number of site visits required is informed by the number of trigger points within the s106 with an additional visit at completion. The actual time taken for a site visit with vary depending on its location and the complexity of the issues involved. Where trigger points are concurrent it is reasonable to assume a single site visit would be made to assess multiple triggers. The expected number of hours spent undertaking site visits is therefore informed by an average time taken per site visit, estimated at two hours per visit, multiplied by the number of concurrent trigger points in the s106 agreement plus one.

Calculating the Site visit cost

3.13 The second part of the formula for calculating the monitoring fee is:

Part Two: Site visit costs

(Number of 'trigger events' plus one' x Site Visit Fee)

Where a trigger event in the number of total trigger points within the s106 less any that are concurrent

Using the same example, if the scheme has

- delivery of the on-site open space before occupation of 50th unit

- *one trigger point*
 - the affordable housing payment to be paid in three parts
 - 50% at commencement of development
 - 25% before occupation of 50th unit, and
 - 25% before occupation of the 125th unit
 - *three trigger points*
 - the open space payment to be paid in two parts
 - 50% at commencement of development
 - 50% before occupation of 50th unit
 - *two trigger points*
 - the communities facilities payment to be paid in two parts
 - 50% at commencement
 - 50% before occupation of the 50th unit
 - *two trigger points*
 - A single payment for cemetery provision on commencement
 - *one trigger point*

Once the concurrent trigger points have been accounted for, this scheme therefore has three trigger points:

- One on commencement - where the cemetery contribution, 50% of open space and 50% AH is triggered
- One at occupation of the 50th unit- where 50% of open space and 25% of AH is triggered
- One at the occupation of the 125th unit- where 25% of AH is triggered

Plus, the final one at completion

3.14 The number of trigger events plus one is then multiplied by the hourly rate time two, allowing for each site visit to average two hours. The actual hour costs will be set out in the Schedule of Costs, which accompanies the Planning Obligations Supplementary Planning Document and will be updated if needed to reflect actual costs

3.15 For the purpose of this example, will we assume the 2021 hourly fee, of £70 an hour, is payable. Therefore, the calculation for the site visit part of the s106 monitoring is

Non-concurrent trigger points plus one (for completion) times (hourly rate x2)

$$(3 + 1) \times (£70 \times 2) = \text{Site visit monitoring fee}$$

$$4 \times £140 = £560 \text{ site visit monitoring fee payable}$$

The final monitoring fee payable in this example will therefore be:

Desk Based Monitoring Fee £3141 plus Site Visit Monitoring Fee £560

Total Monitoring Fee is therefore £3701