

Teignbridge District Council

S106 Monitoring Fee Discussion

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1. Summary

- 1.1. This document will set out a recommended model for regularising S106 Monitoring Fees within Teignbridge District Council.
- 1.2. Monitoring and managing developer contributions obtained through S106 agreements requires significant officer time and involvement, drawing upon resources across planning, legal, and financial teams. It is a critical role in ensuring that obligations are delivered effectively, transparently, and in accordance with legal agreements.
- 1.3. Monitoring fees for S106 Agreements should be fair for developers but also reasonably reflect administration costs. To achieve this, this proposal has considered three potential models - a 'development size' approach based on the number of dwellings, a 'fixed fee' model applied to each individual obligation within an agreement regardless of development size, and a hybrid of the two.
- 1.4. The introduction of S106 fees should:
 - Accurately reflect the resources required to track and enforce S106 agreements.
 - Ensure fairness and transparency across developments, with fees calculated appropriately on size and impact of each scheme.
 - Align our practices with governmental guidance and other local councils' fees in the area.
- 1.5. Implementing this change will support effective monitoring and enforcement of S106 obligations, helping to ensure that developers meet their legal commitments.

2. Background

- 2.1. Section 106 agreements (S106) are legally binding contracts made between parties (usually developers and local authorities) as part of the planning process. These agreements are used to secure the mitigations required in relation to the impacts of new development sites. Typically, a S106 will secure contributions or provision towards local infrastructure, affordable homes and other local services such as transport to make a development acceptable in planning terms.
- 2.2. Local planning authorities (LPAs) have the duty to monitor S106 obligations and ensure they are delivered. This includes tracking financial contributions and trigger points, and monitoring delivery of non-financial obligations to ensure compliance. Government guidance on Planning Obligations reinforces the importance of effective monitoring. It explicitly supports the use of monitoring fees, stating that LPA's have the statutory right to seek contributions towards the cost of monitoring obligations, and provide a fair, reasonable fee which accurately reflects the time and costs in doing so.
- 2.3. Currently, Teignbridge District Council does not have a formal monitoring fee model. In the past, charges have been applied inconsistently, and a flat fee of £1,000 was often used on an informal basis. This has created a significant

resource gap in the process of tracking, enforcing and reporting on S106 obligations. Without a structured fee that supports services, there is pressure on Council budgets, and a risk of insufficient resources and loss of public benefit.

- 2.4. It should be noted that Biodiversity Net Gain (BNG) obligations are not included in this proposal. Teignbridge District Council already has established fees and processes in place for BNG, which are managed separately and can be found on our website.

3. Existing Service Costs

- 3.1. Staff Costs - To ensure that the proposed monitoring fees reflect the actual cost of officer delivery, we analysed and estimated the staffing resources required to manage S106 agreements. This concluded that total staff costs are approximately £270,000 per annum. This includes a wide range of roles including S106 officers recording and tracking obligations and relevant trigger points, planning officers liaising with developers and conducting site visits, and legal and finance support.
- 3.2. Software Costs - TDC use a monitoring system – Exacom – to track S106 costs and projects, which totals £10,000 a year following a recent system update. 50% of this software cost is attributed to S106 monitoring.
- 3.3. The estimated minimum cost of monitoring planning obligations is therefore estimated to be £275,000 per annum. This cost covers the minimum level of service required and any increase in income above this cost could be used to improve services such as greater on site checking of obligations discharge. However, given the service will have to continue monitoring many ‘historic’ S106 agreements where insufficient fees were recouped, the fees raised through new S106 agreements are unlikely to exceed the existing service running costs for many years.

4. S106 Monitoring Fees – Examination of Options

Option 1 – Development Size Approach

- 4.1. The first option is to explore a fee based on development size, with fees based on different tiers of development size. This is a means of judging S106 complexity. For example, large strategic developments contain multiple triggers and obligations, requiring more officer time to monitor in ensuring compliance and administration. Two sets of fees options have been considered according to development size (dwelling numbers): 1 – 10, 11 – 25, 26 – 50, 51 – 100, 101 – 250, 251+. These tiers reflect the increasing complexity and resource demands associated with larger development sites.

Table One: Lower cost example of Tiered S106 Monitoring Fees.

Development Size	Recommended Flat Fee (lower)	Average number of Agreements Per Year	Fee Income Subtotal
1 – 10	£350	5	£1,750
11 – 25	£700	3	£2,100
26 – 50	£1,500	4	£6,000
51 – 100	£2,700	2	£5,400
101 – 250	£5,000	2	£10,000
251+	£5,500	0	£0
Total:	-	16 S106 Agreements in 2024	£25,250

Table Two: Higher cost example of Tiered S106 Monitoring Fees.

Dwelling Size	Recommended Flat Fee (higher)	Number of Agreements Per Year	Subtotal
1 – 10	£350	5	£1,750
11 – 25	£1,000	3	£3,000
26 – 50	£2,000	4	£8,000
51 – 100	£3,500	2	£7,000
101 – 250	£5,000	2	£10,000
251+	£6,500	0	£0
Total:	-	16 S106 Agreements in 2024	£29,750

4.2. These alternative options, one at a higher fee rate and the other at a lower fee rate, demonstrate the difference in potential overall income for the Council. This allows the Council to review both examples on an affordability versus cost recovery basis if implemented.

4.3. The two proposed tiered examples have been evidence based and reviewed against actual resource costs using historic data and internal monitoring systems (Exacom). This review enabled us to draw upon past monitoring records and cross-reference them with the fees proposed. Using Exacom, we analysed S106 agreements starting from January 2024 to December 2024 which provided us with the total number of applications received and a breakdown of these applications per dwelling size. E.g. 1-10, 11-25, 26-50.

4.4. In calculating the proposed tiered fees, we considered the approaches of other local councils and came to an estimated average that sought to reflect typical costs for Teignbridge District. If this approach was taken forward, even using the higher tier costs, the likely fees would only cover a small proportion of the overall service delivery costs due to the historic S106 that continue to require monitoring.

Option 2 - Fixed Fee Per Obligation

- 4.5. A proposed S106 monitoring fee per obligation has been informed by the average estimated time and hourly cost of the key officers and individuals involved in the S106 monitoring process, plus software costs. Based on data gathered from our Financial Team, the average officer rate (including salary, on-costs and overheads) is £41.45 per hour. The average time to monitor each planning obligation is estimated to be 5 hours once all obligations have been registered.
- 4.6. This average was calculated by identifying the relevant officers and managers across the Planning Teams who contribute to the monitoring process. This rate reflects the cost of undertaking the monitoring, reporting, and enforcement work associated with Section 106 agreements including the following activities:
- Reviewing S106 obligations and relevant trigger points
 - Recording and updating monitoring systems (Exacom)
 - Liaising with developers, legal teams, and service departments
 - Conducting site visits (where necessary)
 - Preparing compliance reports and pursuing enforcement action where obligations have not been met.
- 4.7. Having established the average estimated officer cost and time spent on S106 agreements, a fixed fee per obligation model has been assessed. This structure applies a standard charge to each obligation within a S106 agreement, regardless of the number of dwellings. It is a fee particularly suited to recognising the complexity of monitoring development sites and S106 agreements, where the cost of monitoring requirements is driven by the number of obligations rather than the scale of the development
- 4.8. Table 3 below demonstrates how fixed fees have been calculated to directly reflect estimated costs. Two fixed monitoring fees has been calculated;
- 4.8.1. A) is based solely on the estimated officer time per obligation;
 - 4.8.2. B) is based on the officer time and the software costs.
- 4.9. It should also be noted that any fee may be subject to annual indexation each financial year. Table 3 also includes examples of live S106 Agreements with differing levels of complexity, based on the number of obligations.

Table 3: Two Examples of a Fixed Fee Per Obligation.

Example S106 Agreement	No. of Obligations	Average estimated time spent per obligation	Officer Hourly Rate	Service cost (Officer time only)	Service cost per obligation (including Exacom software)	A: Income based on £207 per obligation fee (staff only)	B: Income based on £262 per obligation fee (staff and software)

Southwest Exeter (15/00708/MAJ)	106	5 Hours	£41.45	£207	£262	(106 x £207 = £21,942)	(106 x £262) = £27,772
Ogwell - Bradley Barton (20/00236/MAJ)	26	5 Hours	£41.45	£207	£262	(26 x £207) = £5,382	(26 x £262) = £6,812
Matford Home Farm, SWE (22/00145/FUL)	3	5 Hours	£41.45	£207	£262	(3 x £207) = £621	(3 x £262) = £786

4.10. The upper fixed monitoring fee of £262 per obligation is the recommended approach. The number of obligations within each agreement can vary significantly depending on the complexity of the site. To test this, the fee has been cross-referenced against 3 live S106 applications (Table 3). The first application, Land at Southwest Exeter, relates to a large residential development that includes a multi-use local centre, education and sports facilities, and open space which can be used for community buildings. In contrast, the second application, Bradley Barton, is for a smaller development constructing only 76 dwellings and open space provisions, a more straightforward S106 application. Despite this difference in scale and complexity, the fixed fee of £262 per obligation remains reasonable and is a proportionate reflection of the Officer resource required. This supports the decision to apply a fixed fee per obligation, ensuring a fair and consistent approach across all development sites.

4.11. In revenue terms, applying a fixed monitoring fee of £262 per obligation proposes a fair and proportionate cost recovery. For example, Land at Southwest Exeter which contains 106 obligations would generate a total £27,772 revenue in monitoring fees, while Bradley Barton with 26 obligations would generate £6,812. This approach represents a sustainable source of revenue, ensuring that the cost of administering S106 Agreements is proportionately met by developers.

Option 3 – Hybrid Approach

4.12. This approach would use a lower set fee per new S106 deed of £350, plus a per obligation fee of £262. The initial fixed fee of £350 would allow for recording / registration of all obligations into the relevant software and databases, with the fee per obligation allowing for ongoing monitoring including of trigger points and checking on payment or delivery.

Conclusion on Options

4.13. A hybrid approach is considered most suitable in providing a fair and proportionate fee, balanced with the cost of service delivery. The hybrid

approach recognises the cost of initial recording of obligations and ongoing monitoring.

- 4.14. For all options, it should be noted that due to a large number of historic S106 agreements that will require continued future monitoring, the service will take several years before S106 fees cover the full cost of service delivery (and remove any draw on the revenue budget).
- 4.15. Consideration should also be given to the additional resource required to monitor S106 agreements for larger sites where development is phased. Phases of development come forward through reserved matters applications pursuant to the outline planning permission to which the S106 agreement relates. The commencement of a reserved matters application can trigger obligations with wording that requires monitoring per phase. It is appropriate to consider the calculation of an additional monitoring fee at the reserved matters stage to reflect the additional number of obligations these applications create. This will be considered and set out in a policy note, explaining how the proposed fees should be applied in various circumstances.

5. Benchmarking Fees.

- 5.1. In drafting our proposed S106 monitoring fees, a benchmark approach has been carried out by looking into what other local authorities charge for similar services. This will ensure that our fees are consistent and proportionate with industry standards. In doing so, it was found that other local authorities such as Mid Devon Council, Cornwall Council, and East Devon Council, have adopted a similar approach to Section 106 monitoring fees. This being either an applied monitoring fee calculated on a per-dwelling basis for residential developments, a fixed charge for each separate obligation contained within the agreement, or a hybrid schedule incorporating both, triggered by financial or non-financial obligations in the agreement. Please see Table 4 for the results of an online investigation:

Table 4: Other Local Authorities Charging Schedule.

Council	Method	Charge
Cornwall Council	Tiered fees based on development size and type. i.e. residential or non-residential.	<ul style="list-style-type: none">Residential, 5-10 dwellings £1,908Residential 5-50 dwellings £2,884Non-residential £2,238 - £6,262 by scale
Mid Devon District Council	Tiered fees designated by village, development size, and type.	<ul style="list-style-type: none">Designated villages 1-5 dwellings Tiverton, Cullompton & Crediton 1-10 dwellings £1,590

		<ul style="list-style-type: none"> Designated Villages Rural Exceptions Sites (Affordable Housing) 1-5 dwellings or 6-19 dwellings Tiverton, Cullompton & Crediton 11-19 dwellings £5,270
Plymouth City Council	Calculation for charging fees per obligation and a fee for multiple trigger points.	<ul style="list-style-type: none"> No of Obligations x No of Triggers x £1,199 Without triggers: No of Obligations x £1,199
Exeter City Council	Flat registration fee, and fee per physical and financial clause in S106 agreement	<ul style="list-style-type: none"> Registration fee £645.35 Physical Clauses £123.60 Financial/Occupancy Clause £36.05
East Devon Council	Charges per financial and non-financial obligation. This varies on development size	<ul style="list-style-type: none"> Financial obligation £492 Non-financial obligation £1,095

5.2. Cornwall Council applies a tiered residential charging schedule that increases with the number of dwellings, this is supplemented by fixed fees for non-residential schemes and specific obligation types. Plymouth City Council adopts a different but equally transparent model, charging a flat fee per obligation and an additional charge where obligations have multiple trigger points. Both authorities ensure that their fees directly relate to the complexity and administrative demands of monitoring and enforcing S106 agreements providing a justification for cost recovery.

5.3. The benchmarking exercise shows that neighbouring Councils adopt a transparent fee structure that are either scaled by development size or calculated per obligation. Most recognise the additional workload generated by complex or trigger heavy agreements. By aligning our fees with this approach, Teignbridge's proposed model would be consistent with regional trends and would ensure that charges remain proportionate. This would also give developers clarity, with predictable costs that reflect the scale and complexity of their proposals.

6. **Recommendations.**

6.1. Given the findings of this review and the benchmarking evidence against other councils, it is recommended that Teignbridge Council adopts a monitoring fee structure that ensures proportionality and transparency. Of the proposed approaches, **the preferred option is a hybrid approach of a minimum fixed fee plus a fee per obligation – a set fee per new S106 deed of £350, plus a per obligation fee of £262.**

6.2. This approach would provide clarity for developers and aligns costs more directly with the number and type of obligation, rather than the scale of the development. It avoids disproportionate charging for both small and large schemes, while fairly reflecting the administrative effort required to oversee and enforce compliance on complex agreements. This approach is also consistent with a number of other local authorities.

6.3. The option 1 fee (charge by development size), which links monitoring costs to the size of a development has some advantages in terms of offering a clear and structured method of charging and may appear proportionate. However, the level of monitoring required is not always dictated by the number of dwellings but rather by the type and complexity of a scheme itself. As such, this risks creating inconsistencies, particularly with smaller developments potentially being over charged for simple obligations and larger developments being undercharged. For these reasons, it is not recommended.

7. Next Steps.

7.1. Subject to Committee approval, the next steps to implement the proposed S106 monitoring fees will involve a structured collaborative approach across relevant departments, particularly Planning and Legal Teams, to prepare and publish a formal policy. The policy will need to set out the final fee structure.

7.2. Once all approvals are in place, a clear implementation plan will need to be developed. This may include communication with developers and agents and other stakeholders who we liaise with regularly of the new monitoring fees.