

## **ADMINISTRATION AND MONITORING FEE FOR SECTION 106 AGREEMENTS GUIDANCE NOTE (June 2011)**

Torfaen County Borough Council is committed to providing a high quality and efficient planning service. The Council has recently undertaken a two year project to develop the Council's policy on affordable housing, planning obligations and the use of Section 106 Agreements which has resulted in the adoption of Planning Obligations Supplementary Planning Guidance and introduction of a Section 106 monitoring database.

The Council has also resolved to introduce a separate fee system applicable to planning applications which require the processing and monitoring of a Section 106 legal agreement. The fee charged will contribute towards the administrative and professional resources required within the Planning Department to provide the planning service.

The Council has developed and published Service Level Standards in relation to planning obligations to demonstrate the Council's commitment to progressing planning obligations appropriately and efficiently.

The Council's first point of contact for issues relating to planning obligations and Legal Agreements is Pat Weaver (Technical Administrator, Planning) Tel: 01633 647326  
E-mail: [pat.weaver@torfaen.gov.uk](mailto:pat.weaver@torfaen.gov.uk)

### **Operation of Administration and Monitoring Fee for Section 106 Agreements**

- An additional clause will be inserted into all planning legal agreements, providing for the payment of an Administration and Monitoring Fee the value of which will be related to the number and type of principal clauses required in the legal agreement.
- The fee will be will be additional to all other fees and charges, and set as follows:

**Financial Monitoring - £160 per financial contribution**

**Physical Monitoring - £305 per principal non financial obligation**

For those obligations which need monitoring indefinitely a fixed fee of **£790 per principal clause** will be applied.

- For extra-ordinary development schemes, the Council may negotiate an appropriate Administration and Monitoring Fee outside of this proposal.
- Any Legal Services fees associated with the drafting of the legal agreement will be in addition to the Administration and Monitoring Fee for Section 106 Agreements.
- The Fee will also apply to any unilateral undertaking submitted to the Council as an alternative to a Section 106 agreement. This is in recognition of the requirement to assess and monitor the clauses within the Undertaking.
- The Administration and Monitoring Fee shall be paid to the Council upon signing of the S106 Legal Agreement and prior to the issue of the decision notice.

## Example 1

Clause	Summary	Timescale	Amount Due
1.1(A)	Landscaping and tree planting on Open Space and construction of Play Area	Prior to occupation of first dwelling	N/A
1.2(B)	Maintenance of the Open Space	Until Dedication to Council	N/A
1.3(C)	Dedication of Open Space land for use by the public in perpetuity	12 months following completion of the open space land	N/A
1.4(D)	Payment of the Open Space Commuted Sum	Within 28 days of dedication	£10,000
1.5(E)	Dedication of Play Area for use by the public in perpetuity	Upon completion of the works	N/A
1.6(F)	Payment of the Play Area Commuted Sum	Within 28 days of dedication	£29,733

### Financial Monitoring Charge

2 financial contributions (1.4D and 1.6F) x £160 (current financial monitoring rate) = £320

### Physical Monitoring Charge

4 principal non financial obligations (1.1A, 1.2B, 1.3C and 1.5E) x £305 (current physical monitoring rate) = £1,220

**Total Charge = £1,540 to be paid upon signing of S106**

## Example 2

Clause	Summary	Timescale	Amount Due
2.1(A)	Provision of visibility splays	Prior to occupation of dwelling	N/A
2.2(B)	Maintenance of visibility splays	In perpetuity	N/A

### Financial Monitoring Charge

None

### Physical Monitoring Charge

1 x principal non financial obligation (2.1A) requiring indefinite monitoring (2.2B) x £790 (current indefinite monitoring rate) = £790

**Total Charge = £790 to be paid upon signing of S106**

### Example 3

Clause	Summary	Timescale	Amount Due
3.1(A)	Traffic and Transportation Works Contribution	Prior to occupation	£20,000
3.2(B)	Traffic Management Contribution	Prior to occupation	£5,000

#### Financial Monitoring Charge

2 x financial contributions (3.1A and 3.2B) x £160 (current financial monitoring rate) = £320

#### Physical Monitoring Charge

None

**Total Charge = £320 to be paid upon signing of S106**

### Example 4

Clause	Summary	Timescale	Amount Due
4.1(A)	Education Contribution Phase 1	Prior to occupation of 50 <sup>th</sup> dwelling	£100,000
4.2(B)	Education Contribution Phase 2	Prior to occupation of 100 <sup>th</sup> dwelling	£100,000
4.3(C)	Education Contribution Phase 3	Prior to occupation of 150 <sup>th</sup> dwelling	£100,000

#### Financial Monitoring Charge

3 x financial contributions (4.1A, 4.2B and 4.3C) x £160 (current financial monitoring rate) = £480

#### Physical Monitoring Charge

None

**Total Charge = £480 to be paid upon signing of S106**