Guidance

Planning obligations

Use of planning obligations and process for changing obligations.

From: Department for Levelling Up, Housing and Communities (/government/organisations/department-for-levelling-up-housing-and-communities) and Ministry of Housing, Communities & Local Government (/government/organisations/ministry-of-housing-communities-and-local-government)

Published 19 May 2016

Last updated 1 September 2019 —

Planning obligations

What are planning obligations?

Planning obligations are legal obligations entered into to mitigate the impacts of a development proposal.

This can be via a planning agreement entered into under section 106 of the Town and Country Planning Act 1990 (https://www.legislation.gov.uk/ukpga/1990/8/section/106) by a person with an interest in the land and the

Related content

Effective use of land (/guidance/effective-use-of-land)

Use of planning conditions (/guidance/use-of-planning-conditions)

Collection

local planning authority; or via a unilateral undertaking entered into by a person with an interest in the land without the local planning authority.

Planning obligations run with the land, are legally binding and enforceable. A unilateral undertaking cannot bind the local planning authority because they are not party to it.

Planning obligations are also commonly referred to as ‘section 106’, ‘s106’, as well as ‘developer contributions’ when considered alongside highways contributions and the Community Infrastructure Levy.

See related policy: National Planning Policy Framework paragraph 56 (https://www.gov.uk/guidance/national-planning-policy-framework/4-decision-making#para56)

Paragraph: 001 Reference ID: 23b-001-20190315

Revision date: 15 03 2019

When can planning obligations be sought by the local planning authority?

Planning obligations assist in mitigating the impact of unacceptable development to make it acceptable in planning terms. Planning obligations may only constitute a reason for granting planning permission if they meet the tests that they are necessary to make the development acceptable in planning terms. They must be:

- necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.

These tests are set out as statutory tests in regulation 122 (http://www.legislation.gov.uk/uksi/2010/948/regulation/122/made) (as amended by the 2011 and 2019 Regulations) and as policy tests in the National Planning Policy Framework. These tests apply

Planning for homebuilding and regeneration (/government/collections/planning-for-homebuilding-and-regeneration)

Planning practice guidance (/government/collections/planning-practice-guidance)

whether or not there is a levy charging schedule for the area.

See related policy: National Planning Policy Framework paragraph 56 (https://www.gov.uk/guidance/national-planning-policy-framework/4-decision-making#para56)

Paragraph: 002 Reference ID: 23b-002-20190901

Revision date: 01 09 2019 See previous version (https://webarchive.nationalarchives.gov.uk/20190608142248/https://www.gov.uk/guidance/planning-obligations)

How do planning obligations relate to other contributions?

Developers may be asked to provide contributions for infrastructure in several ways.

Local authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Developers will have to comply with any conditions (https://www.gov.uk/guidance/use-of-planning-conditions) attached to their planning permission. Conditions should be kept to a minimum and only imposed where they are necessary, relevant, enforceable, precise and reasonable.

Planning obligations, in the form of section 106 agreements and section 278 agreements (http://www.legislation.gov.uk/ukpga/1980/66/section/278), should only be used where it is not possible to address unacceptable impacts through a planning condition.

Developers may also contribute towards infrastructure by way of the Community Infrastructure Levy which is a fixed charge levied on new development to fund infrastructure.

Where the Community Infrastructure Levy is in place for an area, charging authorities should work proactively with developers to ensure they are clear about the authorities' infrastructure needs.

Authorities can choose to pool funding from different routes to fund the same infrastructure provided that authorities set out in infrastructure funding statements which infrastructure they expect to fund through the levy.

Plan makers should consider the combined total impact of such requests so they do not undermine the deliverability of the plan.

See related policy: National Planning Policy Framework paragraph 34 (https://www.gov.uk/guidance/national-planning-policy-framework/3-plan-making#para34) and paragraph 54 (https://www.gov.uk/guidance/national-planning-policy-framework/4-decision-making#para54)

Paragraph: 003 Reference ID: 23b-003-20190901

Revision date: 01 09 2019 See previous version (https://webarchive.nationalarchives.gov.uk/20190608142248/https://www.gov.uk/guidance/planning-obligations)

Where should policy on seeking planning obligations be set out?

Policies for planning obligations should be set out in plans and examined in public. Policy requirements should be clear so that they can be accurately accounted for in the price paid for land.

Such policies should be informed by evidence of infrastructure and affordable housing need, and a proportionate assessment of viability (https://www.gov.uk/guidance/viability). This evidence of need can be standardised or formulaic (for example regional cost multipliers for providing school places. See the guidance from the Department for Education on 'Securing developer contributions for education' (https://www.gov.uk/government/publications/delivering-schools-to-support-housing-growth). However, plan makers should consider how needs and viability may differ between site typologies and may choose to set different policy requirements for different sites or types of development in their plans.

It is not appropriate for plan-makers to set out new formulaic approaches to planning obligations in supplementary planning documents or supporting evidence base documents, as these would not be subject to examination. Whilst standardised or formulaic evidence may have informed the identification of needs and costs and the setting of plan policies, the decision maker must still ensure that each planning obligation sought meets the statutory tests set out in regulation 122 (http://www.legislation.gov.uk/uksi/2010/948/regulation/122/made). This means that if a formulaic approach to developer contributions is adopted, the levy can be used to address the cumulative impact of infrastructure in an area, while planning obligations will be appropriate for funding a project that is directly related to that specific development.

Planning obligations assist in mitigating the impact of development which benefits local communities and supports the provision of local infrastructure. Local communities should be involved in the setting of policies for contributions expected from development.

See related guidance: Viability (https://www.gov.uk/guidance/viability) and Plan-making (https://www.gov.uk/guidance/plan-making)

Paragraph: 004 Reference ID: 23b-004-20190901

Revision date: 01 09 2019 See previous version (https://webarchive.nationalarchives.gov.uk/20190608142248/https://www.gov.uk/guidance/planning-obligations)

What evidence is needed to support policies for contributions from development?

Plans should be informed by evidence of infrastructure and affordable housing need, and a proportionate assessment of viability that takes into account all relevant policies, and local and national standards including the cost implications of the Community Infrastructure Levy (CIL) and planning obligations. Viability assessment should not compromise sustainable development but should be used to ensure that policies are realistic, and the

total cumulative cost of all relevant policies will not undermine deliverability of the plan.

See related policy: National Planning Policy Framework paragraph 56 (https://www.gov.uk/guidance/national-planning-policy-framework/4-decision-making#para56)

See related guidance: Viability (https://www.gov.uk/guidance/viability) and Plan-making (https://www.gov.uk/guidance/plan-making)

Paragraph: 005 Reference ID: 23b-005-20190315

Revision date: 15 03 2019

Can planning obligations be pooled to fund infrastructure?

The 2019 amendments to the regulations removed the previous restriction on pooling more than 5 planning obligations towards a single piece of infrastructure.

This means that, subject to meeting the 3 tests set out in CIL regulation 122 (http://www.legislation.gov.uk/uksi/2010/948/regulation/122/made), charging authorities can use funds from both the levy and section 106 planning obligations to pay for the same piece of infrastructure regardless of how many planning obligations have already contributed towards an item of infrastructure.

Authorities should set out in an infrastructure funding statement which infrastructure they intend to fund and detail the different sources of funding (see regulation 121A (http://www.legislation.gov.uk/uksi/2019/1103/regulation/9/made)).

Paragraph: 006 Reference ID: 23b-006-20190901

Revision date: 01 09 2019 See previous version (https://webarchive.nationalarchives.gov.uk/20190608142248/https://www.gov.uk/guidance/planning-obligations)

What funding is available for education?

Government provides funding to local authorities for the provision of new school places, based on forecast shortfalls in school capacity. There is also a central programme for the delivery of new free schools.

Funding is reduced however to take account of developer contributions, to avoid double funding of new school places. Government funding and delivery programmes do not replace the requirement for developer contributions in principle.

Plan makers and local authorities for education should therefore agree the most appropriate developer funding mechanisms for education, assessing the extent to which developments should be required to mitigate their direct impacts.

The Department for Education has published guidance for local education authorities on developer contributions for education (https://www.gov.uk/government/publications/delivering-schools-to-support-housing-growth).

Paragraph: 007 Reference ID: 23b-007-20190315

Revision date: 15 03 2019

What contributions are required towards education?

Plans should support the efficient and timely creation, expansion and alteration of high-quality schools. Plans should set out the contributions expected from development. This should include contributions needed for education, based on known pupil yields from all homes where children live, along with other types of infrastructure including affordable housing.

Plan makers and decision makers should consider existing or planned/committed school capacity and whether it is sufficient to accommodate proposed development within the relevant school place planning areas. Developer contributions towards additional capacity may be required and if so this requirement should be set out in the plan. Requirements should include all school phases age

0-19 years, special educational needs (which could involve greater travel distances), and both temporary and permanent needs where relevant (such as school transport costs and temporary school provision before a permanent new school opens).

Plan makers should also consider whether pupils from planned development are likely to attend schools outside of the plan area and whether developer contributions may be required to expand schools outside of the area.

When local authorities forward-fund school places in advance of developer contributions being received, those contributions remain necessary as mitigation for the development.

The Department for Education has published guidance for local education authorities on developer contributions for education (https://www.gov.uk/government/publications/delivering-schools-to-support-housing-growth).

Paragraph: 008 Reference ID: 23b-008-20190315

Revision date: 15 03 2019

Can planning obligations be required for permitted development?

By its nature permitted development should already be generally acceptable in planning terms and therefore planning obligations would ordinarily not be necessary. Any planning obligations entered into should be limited only to matters requiring prior approval (http://www.legislation.gov.uk/uksi/2013/1101/contents/made) and should not, for instance, seek contributions for affordable housing.

Paragraph: 009 Reference ID: 23b-009-20190315

Revision date: 15 03 2019

Are planning obligations negotiable?

Yes. Plans should set out the contributions expected from development towards infrastructure and affordable housing. Where up to date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. Planning obligations can provide flexibility in ensuring planning permission responds to site and scheme specific circumstances. Where planning obligations are negotiated on the grounds of viability it is up to the applicant to demonstrate whether particular circumstances justify the need for viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision maker.

Paragraph: 010 Reference ID: 23b-010-20190315

Revision date: 15 03 2019

What evidence on viability assessment is required to support negotiations on planning obligations?

Plans should be informed by evidence of infrastructure and affordable housing, and a proportionate assessment of viability that takes into account all relevant policies, and local and national standards, including the cost implications of the Community Infrastructure Levy (CIL) and planning obligations.

Viability assessment should reflect the recommended approach set out in the viability guidance (https://www.gov.uk/guidance/viability), including standardised inputs, and should be made publicly available.

Where a viability assessment is submitted to accompany a planning application this should be based upon and refer back to the viability assessment that informed the plan; and the applicant should provide evidence of what has changed since then.

Paragraph: 011 Reference ID: 23b-011-20190315

Revision date: 15 03 2019

Paragraph: 012 removed

Revision date: 01 09 2019 See previous version (https://webarchive.nationalarchives.gov.uk/20190608142248/https://www.gov.uk/guidance/planning-obligations)

When should discussions on planning obligations take place?

Discussions about planning obligations should take place as early as possible in the planning process. Plans should set out policies for the contributions expected from development to enable fair and open testing of the policies at examination. Local communities, landowners, developers, local (and national where appropriate) infrastructure and affordable housing providers and operators should be involved in the setting of policies for the contributions expected from development. Pre-application discussions can prevent delays in finalising those planning applications which are granted subject to the completion of planning obligation agreements.

Paragraph: 013 Reference ID: 23b-013-20190315

Revision date: 15 03 2019

Can planning obligations or heads of terms be on a local list?

Local planning authorities may wish to consider adding planning obligations or heads of terms for section 106 agreements to their local list.

Local planning authorities are encouraged to inform and involve all parties with an interest in the land and relevant local (and national where appropriate) infrastructure providers and operators, including county councils where appropriate, at an early stage to prevent delays to the process.

Paragraph: 014 Reference ID: 23b-014-20190315

Revision date: 15 03 2019

How can relevant infrastructure issues be taken into account during discussions on planning obligations?

Local planning authorities are encouraged to work with relevant local (and national where appropriate) infrastructure providers, infrastructure providers and operators at an early stage of the planning process when planning obligations are being discussed in order to prevent delays to the agreement of planning obligations. For two tier council areas this should include county councils who provide services such as education. County councils can also be statutory consultees in the planning application process as set out in table 2 of the planning guidance (https://www.gov.uk/guidance/consultation-and-pre-decision-matters#Statutory-consultees-on-applications).

Paragraph: 015 Reference ID: 23b-015-20190315

Revision date: 15 03 2019

Are there standard templates for the agreement of planning obligations?

Local planning authorities are encouraged to use and publish standard forms and templates to assist with the process of agreeing planning obligations. These could include model agreements and clauses (including those already published by other bodies), that could be made publicly available to help with the planning application process. Any further information required by the local planning authority, or issues raised by the applicant regarding planning obligations, should be addressed at an early stage of the planning application process. Use of model agreements does not remove the requirement for local planning authorities to consider on a case by case basis whether a planning obligation is necessary to make the development acceptable in planning terms.

Paragraph: 016 Reference ID: 23b-016-20190901

Revision date: 01 09 2019 See previous version (https://webarchive.nationalarchives.gov.uk/20190608142248/https://www.gov.uk/guidance/planning-obligations)

Is there a timeframe for negotiating planning obligations?

Planning obligations should be negotiated to enable decisions on planning applications to be made within the statutory time limits (https://www.gov.uk/guidance/determining-a-planning-application) or a longer period where agreed in writing between the local planning authority and the applicant.

Paragraph: 017 Reference ID: 23b-017-20190315

Revision date: 15 03 2019

Do applicants have to agree to a planning obligation?

Applicants do not have to agree to a proposed planning obligation. However, this may lead to a refusal of planning permission or non-determination of the application. An appeal may be made against the non-determination or refusal of planning permission.

Paragraph: 018 Reference ID: 23b-018-20190315

Revision date: 15 03 2019

Can local planning authorities draw on other resources and expertise in considering planning obligations?

It may be appropriate in some cases to consider collaborative agreements to make use of the skills of officers from other local planning authorities or contractual arrangements to make use of external third party experts so that planning obligations can be agreed quickly and effectively. Local planning authorities and developers may want to discuss the provision of extra resources to enable the speedy determination of planning obligations, for example when handling large and possibly detailed planning applications.

Paragraph: 019 Reference ID: 23b-019-20190315

Revision date: 15 03 2019

Can an agreed planning obligation be changed?

Planning obligations can be renegotiated at any point, where the local planning authority and developer wish to do so. Where there is no agreement to voluntarily renegotiate, and the planning obligation predates April 2010 or is over 5 years old, an application may be made to the local planning authority to change the obligation where it "no longer serves a useful purpose" or would continue to serve a useful purpose in a modified way (see section 106A of the Town and Country Planning Act 1990 (http://www.legislation.gov.uk/ukpga/1990/8/section/106A)).

Paragraph: 020 Reference ID: 23b-020-20190315

Revision date: 15 03 2019

Do local planning authorities have to pay back unspent planning obligations?

Local planning authorities are expected to use all of the funding received by way of planning obligations, as set out in individual agreements, in order to make development acceptable in planning terms. Agreements should normally include clauses stating when and how the funds will be used by and allow for their return, after an agreed period of time, where they are not.

Paragraph: 021 Reference ID: 23b-021-20190315

Revision date: 15 03 2019

Can there be an appeal against a refusal to change a planning obligation (Section 106 agreement)?

An appeal to the Planning Inspectorate under section 106B of the Town and Country Planning Act 1990 (http://www.legislation.gov.uk/ukpga/1990/8/section/106B) must be made within 6 months of a decision by the local authority not to amend the obligation, or within 6 months starting at the 8 weeks from the date of request to amend if no decision is issued. The

Secretary of State also has the power to allow appeals that are out of time.

Paragraph: 022 Reference ID: 23b-022-20190315

Revision date: 15 03 2019

Are there any specific circumstances where contributions through planning obligations should not be sought from developers?

Planning obligations for affordable housing should only be sought for residential developments that are major developments. Once set, the Community Infrastructure Levy can be collected from any size of development across the area. Therefore, the levy is the most appropriate mechanism for capturing developer contributions from small developments.

For residential development, major development is defined in the National Planning Policy Framework as development where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more. For non-residential development it means additional floorspace of 1,000 square metres or more, or a site of 1 hectare or more, or as otherwise provided in the Town and Country Planning (Development Management Procedure) (England) Order 2015 (http://www.legislation.gov.uk/uksi/2015/595/contents/made).

In designated rural areas local planning authorities may instead choose to set their own lower threshold in plans and seek affordable housing contributions from developments above that threshold. Designated rural areas applies to rural areas described under section 157(1) of the Housing Act 1985 (https://www.legislation.gov.uk/ukpga/1985/68/section/157), which includes National Parks and Areas of Outstanding Natural Beauty.

Planning obligations should not be sought from any development consisting only of the construction of a residential annex or extension to an existing home.

See related policy: National Planning Policy Framework paragraph 63 (https://www.gov.uk/guidance/national-planning-policy-framework/5-delivering-a-sufficient-supply-of-homes#para63) and glossary (https://www.gov.uk/guidance/national-planning-policy-framework/annex-2-glossary)

Paragraph: 023 Reference ID: 23b-023-20190901

Revision date: 01 09 2019 See previous version (https://webarchive.nationalarchives.gov.uk/20190608142248/https://www.gov.uk/guidance/planning-obligations)

Do the restrictions on seeking planning obligations apply to Rural Exception Sites?

The restrictions on seeking planning obligations contributions do not apply to development on Rural Exception Sites – although affordable housing and tariff-style contributions should not be sought from any development consisting only of the construction of a residential annex or extension within the curtilage of the buildings comprising an existing home.

Paragraph: 024 Reference ID: 23b-024-20190315

Revision date: 15 03 2019

What is the procedure for claiming a commuted contribution under a planning obligation?

The terms of commuted contributions should form part of the discussions between a developer and a local planning authority and be reflected in any planning obligations agreement. Agreements should include clauses stating when the local planning authority should be notified of the completion of units within the development and when the funds should be paid. Both parties may wish to use the issue of a building regulations compliance certificate (called a completion certificate when given by a local authority and a final certificate when given by an approved inspector) as a trigger for payment.

Paragraph: 025 Reference ID: 23b-025-20190315

Revision date: 15 03 2019

What is the vacant building credit?

National policy provides an incentive for brownfield development on sites containing vacant buildings. Where a vacant building is brought back into any lawful use, or is demolished to be replaced by a new building, the developer should be offered a financial credit equivalent to the existing gross floorspace of relevant vacant buildings when the local planning authority calculates any affordable housing contribution which will be sought. Affordable housing contributions may be required for any increase in floorspace.

See related policy: National Planning Policy Framework paragraph 63 (https://www.gov.uk/guidance/national-planning-policy-framework/5-delivering-a-sufficient-supply-of-homes#para63)

Paragraph: 026 Reference ID: 23b-026-20190315

Revision date: 15 03 2019

What is the process for determining the vacant building credit?

Where there is an overall increase in floorspace in the proposed development, the local planning authority should calculate the amount of affordable housing contributions required from the development as set out in their Local P plan. A ‘credit’ should then be applied which is the equivalent of the gross floorspace of any relevant vacant buildings being brought back into use or demolished as part of the scheme and deducted from the overall affordable housing contribution calculation. This will apply in calculating either the number of affordable housing units to be provided within the development or where an equivalent financial contribution is being provided.

The existing floorspace of a vacant building should be credited against the floorspace of the new development. For example, where a building with a

gross floorspace of 8,000 square metre building is demolished as part of a proposed development with a gross floorspace of 10,000 square metres, any affordable housing contribution should be a fifth of what would normally be sought.

Paragraph: 027 Reference ID: 23b-027-20190315

Revision date: 15 03 2019

Does the vacant building credit apply to any vacant building being brought back into use?

The vacant building credit applies where the building has not been abandoned.

The courts have held that, in deciding whether a use has been abandoned, account should be taken of all relevant circumstances, such as:

- the condition of the property
- the period of non-use
- whether there is an intervening use; and
- any evidence regarding the owner's intention

Each case is a matter for the collecting authority to judge.

The policy is intended to incentivise brownfield development, including the reuse or redevelopment of empty and redundant buildings. In considering how the vacant building credit should apply to a particular development, local planning authorities should have regard to the intention of national policy.

In doing so, it may be appropriate for authorities to consider:

- whether the building has been made vacant for the sole purposes of re-development
- whether the building is covered by an extant or recently expired planning permission for the same or substantially the same development

See related policy: National Planning Policy Framework paragraph 63

(https://www.gov.uk/guidance/national-planning-policy-framework/5-delivering-a-sufficient-supply-of-homes#para63)

Paragraph: 028 Reference ID: 23b-028-20190315

Revision date: 15 03 2019

Why is reporting on developer contributions important?

Reporting on developer contributions helps local communities and developers see how contributions have been spent and understand what future funds will be spent on, ensuring a transparent and accountable system.

Paragraph: 029 Reference ID: 23b-029-20190901

Revision date: 01 09 2019

Who should monitor and report on the Community Infrastructure Levy and planning obligations?

In accordance with the Community Infrastructure Levy Regulations any authority that receives a contribution from development through the levy or section 106 planning obligations must prepare an infrastructure funding statement. This includes county councils.

Parish councils must prepare a report for any financial year in which it receives levy receipts (see also 'What should parish councils report on developer contributions?' (https://www.gov.uk/guidance/community-infrastructure-levy#para178)).

County councils should publish an infrastructure funding statement where they receive a contribution entered into during the reported year (Regulation 121A(5)) (http://www.legislation.gov.uk/uksi/2019/1103/regulation/9/made). County councils can also publish an infrastructure funding statement where they have received revenues from the levy passed from the

charging authority, or where they hold unspent monies not yet allocated.

Where authorities pass funds to other bodies, this should be on the condition that the other body will provide information back to the authority on how contributions have been spent that reported year, and how they intend to spend future contributions, to inform infrastructure funding statements.

Paragraph: 030 Reference ID: 23b-030-20190901

Revision date: 01 09 2019

How should developer contributions be monitored?

Local planning authorities are required to keep a copy of any planning obligation together with details of any modification or discharge of the planning obligation and make these publicly available on their planning register.

Any local authority that has received developer contributions is required to publish an infrastructure funding statement at least annually.

To collect data for the infrastructure funding statement, it is recommended that local authorities monitor data on section 106 planning obligations and the levy in line with the government's data format (https://www.gov.uk/guidance/publish-your-developer-contributions-data).

This data should include details of the development and site, what infrastructure is to be provided including any information on affordable housing, and any trigger points or deadlines for contributions. Local authorities should also record when developer contributions are received and when contributions have been spent or transferred to other parties.

Local planning authorities are expected to use all of the funding they receive through planning obligations in accordance with the terms of the individual planning obligation agreement. This will ensure that new developments are acceptable in

planning terms; benefit local communities and support the provision of local infrastructure.

Paragraph: 031 Reference ID: 23b-031-20190901

Revision date: 01 09 2019

How should developer contributions be reported?

For the financial year 2019/2020 onwards, any local authority that has received developer contributions (section 106 planning obligations or Community Infrastructure Levy) must publish online an infrastructure funding statement by 31 December 2020 and by the 31 December each year thereafter. Infrastructure funding statements must cover the previous financial year from 1 April to 31 March (note this is different to the tax year which runs from 6 April to 5 April).

Local authorities can publish updated data and infrastructure funding statements more frequently if they wish. More frequent reporting would help to further increase transparency and accountability and improve the quality of data available. Infrastructure funding statements can be a useful tool for wider engagement, for example with infrastructure providers, and can inform Statements of Common Ground. Local authorities can also report this information in authority monitoring reports but the authority monitoring report is not a substitute for the infrastructure funding statement.

For information on what an infrastructure funding statement must contain see ‘What data should be in an infrastructure funding statement?’.

Paragraph: 032 Reference ID: 23b-032-20190901

Revision date: 01 09 2019

What data should be in an infrastructure funding statement?

Infrastructure funding statements must set out:

- a report relating to the previous financial year on the Community Infrastructure Levy;
- a report relating to the previous financial year on section 106 planning obligations;
- a report on the infrastructure projects or types of infrastructure that the authority intends to fund wholly or partly by the levy (excluding the neighbourhood portion).

The infrastructure funding statement must set out the amount of levy or planning obligation expenditure where funds have been allocated. Allocated means a decision has been made by the local authority to commit funds to a particular item of infrastructure or project.

It is recommended that authorities report on the delivery and provision of infrastructure, where they are able to do so. This will give communities a better understanding of how developer contributions have been used to deliver infrastructure in their area.

The infrastructure funding statement must also set out the amount of levy applied to repay money borrowed, applied to administrative expenses, passed to other bodies, and retained by the local authority. Local authorities will need to choose when to report money passed to other bodies in an infrastructure funding statement, depending on how the date the money was transferred on relates to the date of reporting.

Authorities can also report on contributions (monetary or direct provision) received through section 278 highways agreements in infrastructure funding statements, to further improve transparency for communities.

It is recommended that authorities report on estimated future income from developer contributions, where they are able to do so. This will give communities a better understanding of how infrastructure may be funded in the future.

It is acknowledged that data on developer contributions is imperfect, represents estimates at a given point in time, and can be subject to change

(see regulation 121A (http://www.legislation.gov.uk/uksi/2019/1103/regulation/9/made) and Schedule 2 (http://www.legislation.gov.uk/uksi/2019/1103/schedule/2/made)). However, the data published should be the most robust available at the time.

Paragraph: 033 Reference ID: 23b-033-20190901

Revision date: 01 09 2019

What should an infrastructure funding statement say about future spending priorities?

The infrastructure funding statement should set out future spending priorities on infrastructure and affordable housing in line with up-to-date or emerging plan policies. This should provide clarity and transparency for communities and developers on the infrastructure and affordable housing that is expected to be delivered. Infrastructure funding statements should set out the infrastructure projects or types of infrastructure that the authority intends to fund, either wholly or partly, by the levy or planning obligations. This will not dictate how funds must be spent but will set out the local authority's intentions.

This should be in the form of a written narrative that demonstrates how developer contributions will be used to deliver relevant strategic policies in the plan, including any infrastructure projects or types of infrastructure that will be delivered, when, and where.

Paragraph: 034 Reference ID: 23b-034-20190901

Revision date: 01 09 2019

How is infrastructure defined for the purpose of reporting developer contributions?

For any information reported on developer contributions, infrastructure should be categorised as follows:

- Affordable housing

- Education
  - Primary
  - Secondary
  - Post-16
  - Other
- Health
- Highways
- Transport and travel
- Open space and leisure
- Community facilities
- Digital infrastructure
- Green infrastructure
- Flood and water management
- Economic development
- Land
- Section 106 monitoring fees
- Bonds (held or repaid to developers)
- Other
  - Neighbourhood CIL
  - Mayoral CIL
  - Community Infrastructure Levy administration costs

Authorities can choose to report either monetary contributions or direct provision under these categories. Local authorities may use this tool to populate and produce their infrastructure funding statement.

Paragraph: 035 Reference ID: 23b-035-20190901

Revision date: 01 09 2019

How can local authorities fund reporting on planning obligations?

Authorities, including county councils, should work together to ensure that resources are available to support the monitoring and reporting of planning obligations.

Authorities can charge a monitoring fee through section 106 planning obligations, to cover the cost of monitoring and reporting on delivery of that

section 106 obligation. Monitoring fees can be used to monitor and report on any type of planning obligation, for the lifetime of that obligation. Monitoring fees should not be sought retrospectively for historic agreements.

Fees could be a fixed percentage of the total value of the section 106 agreement or individual obligation; or could be a fixed monetary amount per agreement obligation (for example, for in-kind contributions). Authorities may decide to set fees using other methods. However, in all cases, monitoring fees must be proportionate and reasonable and reflect the actual cost of monitoring. Authorities could consider setting a cap to ensure that any fees are not excessive.

Authorities must report on monitoring fees in their infrastructure funding statements (see paragraph (2)(h)(iii) of Schedule 2 (http://www.legislation.gov.uk/uksi/2019/1103/schedule/2/made).

Paragraph: 036 Reference ID: 23b-036-20190901

Revision date: 01 09 2019

How should monitoring and reporting inform plan reviews?

The information in the infrastructure funding statement should feed back into reviews of plans to ensure that policy requirements for developer contributions remain realistic and do not undermine the deliverability of the plan.

Paragraph: 037 Reference ID: 23b-037-20190901

Revision date: 01 09 2019

How should local authorities and applicants promote the benefits of development to communities?

Local authorities and applicants are encouraged to work together to better promote and publicise the infrastructure that has been delivered through developer contributions. This could be through the

use of on-site signage, local authority websites, or development-specific websites, for example.

Paragraph: 038 Reference ID: 23b-038-20190901

Revision date: 01 09 2019

Published 19 May 2016
Last updated 1 September 2019 + show all updates

Explore the topic

Planning system (/housing-local-and-community/planning-system)