

**BRIEFING NOTE FOR MANAGEMENT TEAM
RE-INTRODUCTION OF MONITORING FEES FOR S.106 AGREEMENTS**

DATE 9th July 2024

PURPOSE OF THE BRIEFING NOTE

Following an amendment to the Community Infrastructure Levy Regulations 2010, there is a provision which entitles Local Planning Authorities to charge a monitoring fee for oversight of compliance of Section 106 obligations.

This briefing note seeks agreement to re-implement these charges in respect of S.106 monitoring and administrative costs, and to adopt the charges detailed in Appendix A : Table Of Charges.

BACKGROUND SUMMARY

Legislative changes affected the Council's ability to charge monitoring fees in connection with the obligations due under S.106 agreements. Standard 'one size fits all' fee charging schedules were deemed to be "unreasonable" and "unfair" and were withdrawn.

The subsequent changes to that legislation as detailed above, have enabled Councils to reintroduce a schedule of charges; the proposed charges for 2024-2025 are detailed in Appendix A to this Briefing Note.

A comparison assessment was undertaken with a cross-section of Local Authorities both within Essex, and in neighbouring Counties. Charging schedules vary widely, but every Council in the comparison group has reintroduced monitoring fees.

The proposed schedule has been prepared based on the realistic element of the comparison scale to demonstrate the fees are reasonable and fair and to enable future inflationary increases without challenge.

CURRENT POSITION

No charges are levied for the monitoring of obligations contained within S.106 agreements.

PROPOSAL

Agreement is sought from Management Team for the reintroduction of Monitoring Fees in accordance with Appendix A.

Concurrence was sought, and obtained from the Planning Portfolio Holder, Cllr. Baker.

If Management Team agree, to work toward a proposed implementation date of Monday 29th of July 2024.

Please note that any steer given at Management Team must be followed with the appropriate governance process for the matter being presented.

DELIVERING CORPORATE PRIORITIES

CORPORATE VISION : Financial Sustainability and Openness

Implementing a charging schedule will enable the Planning Service to:

- Deliver an efficient / effective budget management and S.106 service.
- Comply with legislative obligations.
- Provide quality control and performance monitoring.

KEY GOVERNANCE ISSUES AND/OR DIRECT LINKS TO OTHER MATTERS

The monitoring fees will be assessed, reviewed and reported with the Council's Annual Fees and Charges. Any increase will be in line with direction from the S.151 Officer.

OUTCOME OF CONSULTATION AND ENGAGEMENT

Consultation with, and support from, Cllr. Baker, Portfolio Holder for Planning

Monitoring Officer support was obtained on 5th June 2024 on the basis of a reasonable and justifiable charging schedule.

FINANCE, RESOURCES & CAPACITY IMPLICATIONS

Income management and reconciliation will be undertaken within the Planning Business Team, under the direction of the Head of Planning Business & Policy, with no additional resources required.

A budget code exists for monitoring fees which will be used to recover costs associated with the administrative and monitoring work undertaken by the S.106 Officer.

LEGAL DUTIES, POWERS & RESTRICTIONS (EXISTING, NEW RESPONSIBILITIES OR EMERGING)

Powers to set a charging schedule reintroduced following an amendment to the Community Infrastructure Levy Regulations 2010.

ASSOCIATED RISKS AND MITIGATION

None : the re-introduction of monitoring fees will bring the Council in line with other Authorities.

NEXT STEPS & MILESTONES

The adoption of the charging schedule has / will involve the following key milestones:

- Portfolio Holder Agreement
- Agreement by Management team.
- Website information and publication of charging schedule
- Introduction of charges

APPENDICES

Appendix A : Table of Charges

REPORT CONTACT OFFICER(S)

Name	Gary Guiver
Job Title	Director of Planning