

Eden District Council

Cabinet

19 July 2022

**Management of Processes related to Planning Obligations  
under Section 106 of the Town and Country  
Planning Act 1990**

<b>Portfolio:</b>	Leader
<b>Report from:</b>	Assistant Director Development
<b>Wards:</b>	All Wards
<b>OPEN PUBLIC ITEM</b>	

## **1 Purpose**

- 1.1 To advise Cabinet of the progress being made by the Overview and Scrutiny Committee's Task and Finish Group looking at Section 106 Management Processes. This includes an interim recommendation from the group which was agreed by the Overview and Scrutiny Committee at its meeting on 7 July 2022.

## **2. Recommendation**

The Overview and Scrutiny Committee recommends to Cabinet that:

- a fixed term post is created and funded, as set out in paragraph 6.1.2 of this report, to complete the review of Section 106 Agreements and the work of the Task and Finish Group and maintain the monitoring of Section 106 Agreements up to the vesting of Westmorland and Furness Council.

## **3 Report Details**

### **3.1 Task and Finish Group Progress**

- 3.1.1 Significant progress has been made in taking the work forward.
- 3.1.2 Group members have been reviewing officer mapping of the processes required. These processes cut across a number of departments and need careful co-ordination and effective resourcing.
- 3.1.3 Internal resources have been found on an interim basis to carry out a twelve week exercise to update historical records, collect all the relevant information required to implement the mapped process. So far the work of ensuring that all Section 106 Agreements from the land registers database are now on the Section 106/UPO register has been completed. Work is now going on with Building Control and Gazetteer officers as well as using the Eden District Council software package GIS, to ascertain the progress of building works towards the trigger points (eg % completion of works or occupation of dwellings). This work is expected to take around two weeks. The next stage of the work will be to identify which agreements have already been invoiced by reconciling to the Total financial system.

3.1.4 Once the data collection and reconciliation phase has been completed, analysis and review of the current position will be reported to the group which will then consider recommendations as to how this area of work should be taken forward and resourced.

3.1.5 The current timetable envisages the Task and Finish Group's report being finalised in September 2022.

## **3.2 Resource Needs**

3.2.1 From the work carried out so far and the review of process, it is clear that there is a need for additional resources to carry out activities that are not currently within existing responsibilities and could not reasonably be incorporated into existing posts. The attached process diagrams (Appendix A) illustrate the work steps required and the boxes highlighted in orange are those where additional resources are necessary. The work involved will need to be done before the Task and Finish Group can complete its objectives and is needed to Eden's Section 106 Agreements are fully managed by 31 March 2023 when the Westmorland and Furness will take over the management. As a result, the Overview and Scrutiny Committee has put forward the recommendation to Cabinet as set out above.

3.2.2 Appendix A shows the process anticipated for Section 106 monitoring. It includes two diagrams, one for District obligations and one for County obligations.

## **4 Policy Framework**

4.1 The Council has four corporate priorities which are:

- Sustainable;
- Healthy, safe and secure;
- Connected; and
- Creative

This report meets the Sustainable corporate priority.

4.2 Section 106 Agreements can be used to create planning obligations related to a range of issues potentially including all of the above priorities.

## **5 Consultation**

5.1 Council officers and relevant portfolio holders will be consulted as part of the review process.

## **6 Implications**

### **6.1 Financial and Resources**

6.1.1 Any decision to reduce or increase resources or alternatively increase income must be made within the context of the Council's stated priorities, as set out in its Council Plan 2019-2023 as agreed at Council on 7 November 2019.

6.1.2 The cost of funding a fixed term contract to carry out this work, allowing for a Grade H appointment and the additional on costs and on boarding costs would be £32,996.

## 6.2 Legal

6.2.1 There are no legal implications arising from this report.

## 6.3 Human Resources

6.3.1 The additional post would be supported by existing staff in their current roles as set out in the diagram on Appendix A.

## 6.4 Environmental

6.4.1 There are no direct environmental implications from this report although any eventual finding of the work may have such implications.

## 6.5 Statutory Considerations

<b>Consideration:</b>	<b>Details of any implications and proposed measures to address:</b>
Equality and Diversity	No implications from this report
Health, Social Environmental and Economic Impact	Strong management of the planning obligation process will allow additional resources to deliver essential initiatives with a positive effect on Social, environmental and economic issues
Crime and Disorder	No implications from this report
Children and Safeguarding	No implications from this report

## 6.6 Risk Management

<b>Risk</b>	<b>Consequence</b>	<b>Controls Required</b>
Insufficient resources to carry out this work	Funding could be lost. Necessary expenditure on requirements related to planning permission may not occur	Effective management of planning obligation processes across the relevant departments of the Council

## 7 Other Options Considered

7.1 The Overview and Scrutiny Committee and the supporting officers have considered whether this work can be delivered in any other way. Whilst internal resource was found to take the work so far, and the tasks that could be carried out by existing staff have been identified, there is a clear shortfall in existing resource. The option of not completing the necessary work has been considered however, this would lead to the loss of more significant resource and reputational damage.

## 8 Reasons for the Decision/Recommendation

8.1 To receive a recommendation from the Overview and Scrutiny Committee.

### Tracking Information

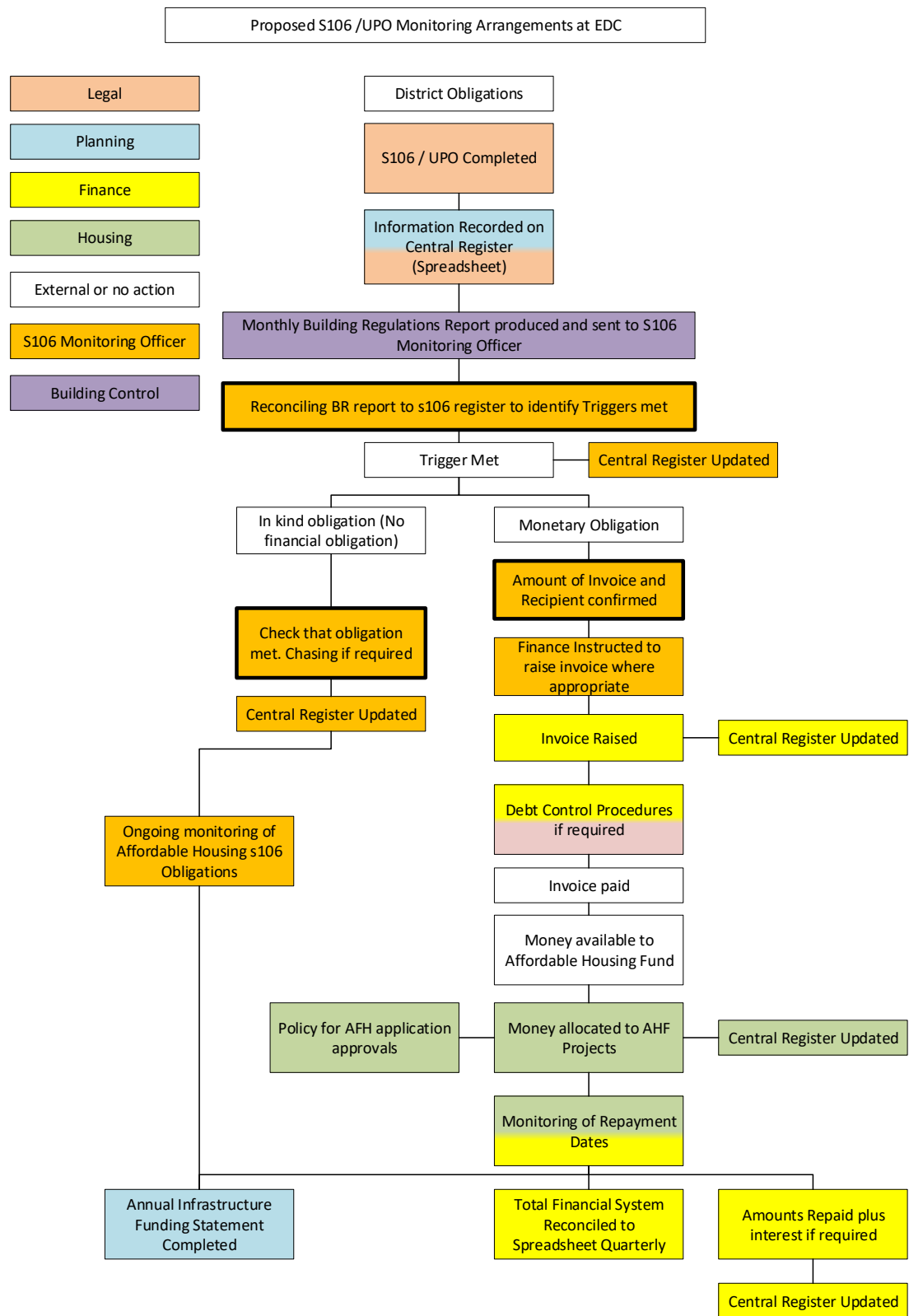
<b>Governance Check</b>	<b>Date Considered</b>
<b>Chief Finance Officer (or Deputy)</b>	11/7/22
<b>Monitoring Officer (or Deputy)</b>	11/07/22
<b>Relevant Assistant Director</b>	08/07/22

**Background Papers:**

**Appendices:**                      **Appendix A - Process Diagram for S106 Monitoring**

**Contact Officer:**                      **Fergus McMorrow, Assistant Director Development**

# Appendix A - Process Diagram for S106 Monitoring



Proposed S106 /UPO Monitoring Arrangements at EDC

- Legal
- Planning
- Building Control
- External or no action

