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Dear Sir/Madam

OVERVIEW AND SCRUTINY COMMITTEE - THURSDAY, 7TH JULY, 2022

Please find enclosed a report to be included for consideration at the meeting of Overview and Scrutiny Committee on Thursday, 7th July, 2022 .

7 **S106 Task and Finish Group Update (Pages 3 - 8)**

To consider the report DCE38/22 of the Chair of the Section 106 Task and Finish Group, which seeks to update Members on the progress being made by the task group in reviewing the processes and resources for managing the implementation of planning obligations under Section 106 (s106).

RECOMMENDED that the Overview and Scrutiny Committee recommends to the Cabinet that a fixed term post is created and funded to:

1. complete the review of Section 106 Agreements and the work of the Task and Finish Group; and
2. maintain the monitoring of the Section 106 Agreements up to the vesting of Westmorland & Furness Council.

Yours sincerely



Ian Frost
Interim Chief Executive

Encs

Distribution

1. Reports to all Members of the Overview and Scrutiny Committee for attendance.
2. Reports to Departmental Heads for information.
3. Reports to all remaining Councillors for information

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Report No: DCE38/22

Eden District Council
Overview and Scrutiny Committee
7 July 2022

S106 Task and Finish

Report from:	Councillor Debra Wicks, Chair of Task and Finish Group
Wards:	All Wards
OPEN PUBLIC ITEM	

1 Purpose

- 1.1 To update Members on the progress being made by the task group in reviewing the processes and resources for managing the implementation of planning obligations under Section 106 (s106).

2 Recommendation

The Overview and Scrutiny Committee recommends to the Cabinet that fixed term post is created and funded to:

- complete the review of Section 106 Agreements and the work of the Task and Finish Group;
- maintain the monitoring of Section 106 Agreements up to the vesting of Westmorland & Furness Council.

3 Report Details

- 3.1 The second meeting of the Task and Finish Group took place on 17 May 2022. At the time of writing the next meeting has been arranged for 28 June and an interim progress note was provided to Group members in between the two meetings. Significant progress has been made in taking the work forward.
- 3.2 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.
- 3.3. Virements from existing budgets have been used to fund a short term interim position to carry out a 12 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 s106 agreements from the land registers database are now on the s106/Unilateral Planning Obligations register has been completed. Work is now going on with Building Control and Gazetteer Officers as well as using the Council's Geographical Information System, 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 2 weeks. The next stage of the work will be to identify which agreements have already been invoiced by reconciling to the Total financial system. This is expected to start week commencing 27 June 2022.

- 3.4 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.
- 3.5 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. As a result the Group wish to make an interim recommendation to the Overview and Scrutiny Committee as set out above.
- 3.6 Appendix A shows the process anticipated for s106 monitoring. It includes 2 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
- 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 a 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 fixed term role proposed is outside of the establishment of the Council and hence the costs are not included in the current budget.
- 6.1.3 Assuming that the role is recruited to at a Grade H on a fixed term contract (rather than agency if possible) from September 2022 to the end of March 2023 then the cost will be £32,996.
- 6.1.4 This will need to be funded from the General Fund.

6.2 Legal

- 6.2.1 The requirement to account for s106 funds correctly and to ensure that they are collected is a statutory requirement. This report therefore supports the Council to meet these requirements.

6.3 Human Resources

6.3.1 The proposal is to recruit a new member of staff to take on responsibilities not currently being performed, but which are required. Existing staff however may need to support the new member of staff in their role.

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

Consideration:	Details of any implications and proposed measures to address:
Equality and Diversity	No implications from this report
Health, Social Environmental and Economic Impact	No implications from this report
Crime and Disorder	No implications from this report
Children and Safeguarding	No implications from this report

6.6 Risk Management

Risk	Consequence	Controls Required
Members may not be fully aware of the work of the group	Some parts of the work could be unnecessary. The work of the group may not be taken into account in other considerations of the Council	Clarity on the work being carried out by consideration of the report and any future reports on the work
That the Council does not collect s106 contributions which become due	The Council cannot provide the affordable housing required for the district	A s106 monitoring officer role is created.

7 Other Options Considered

7.1 The Overview and Scrutiny Committee considered whether this work was a priority and agreed to include it in their programme. Consideration was given to not carrying it out. The latter was rejected in view of the importance of the potential benefits arising from a well-managed process.

8 Reasons for the Decision/Recommendation

8.1 To receive an update on the progress of the Task and Finish Group.

Tracking Information

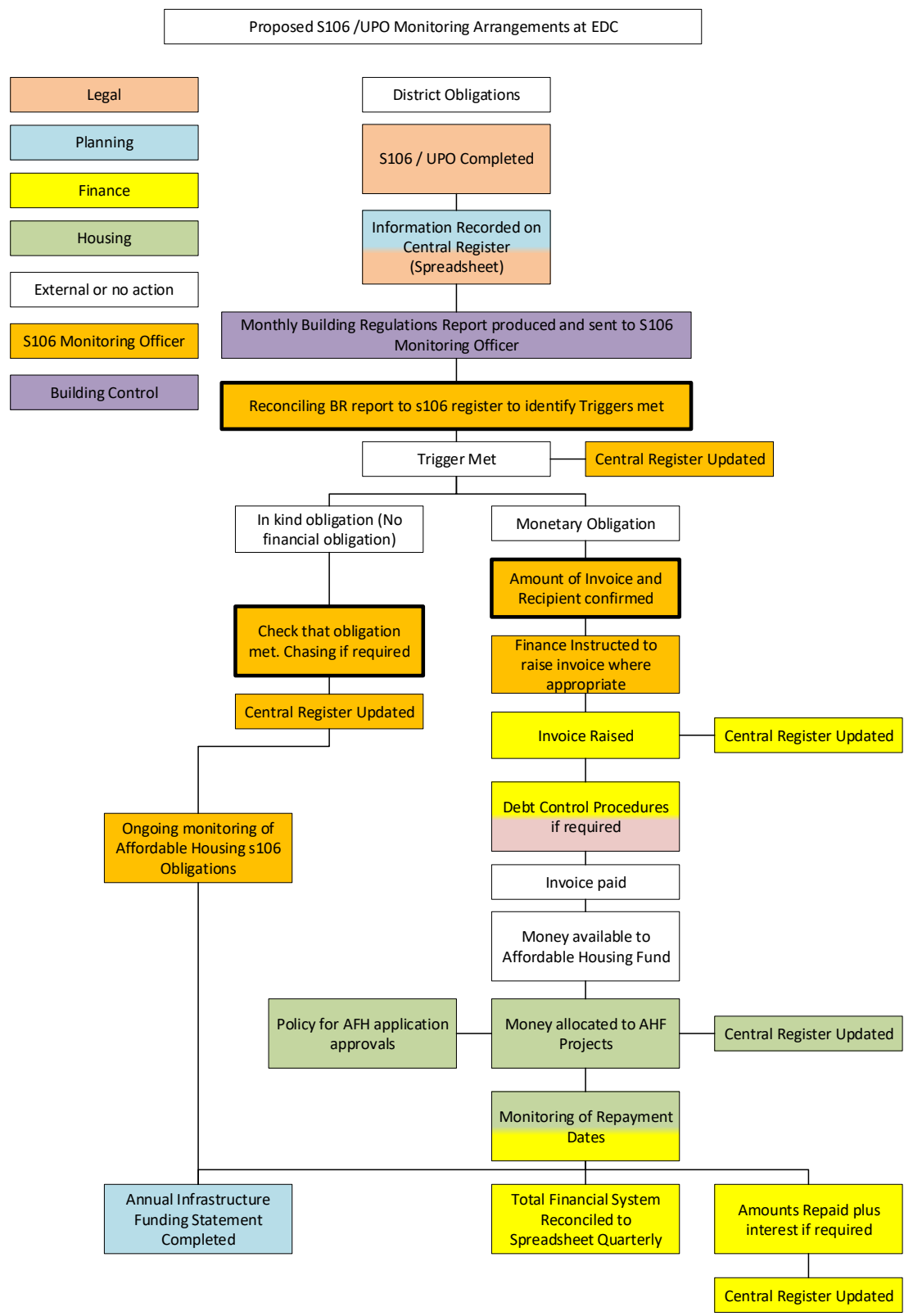
Governance Check	Date Considered
Relevant Assistant Director/Director	30 June 2022

Background Papers: None.

Appendices: Appendix A – Process Diagram for S106 Monitoring

Contact Officer: Fergus McMorrow, Assistant Director Development
Marianne Bastille, Assistant Director Finance

Appendix A - Process Diagram for S106 Monitoring



Proposed S106 /UPO Monitoring Arrangements at EDC

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

