

Appendix 2: Section 106 Draft Procedural Protocol

The following is the proposed structure for a procedural protocol currently under preparation by Chichester District Council. The details on the processes are being developed in consultation with the appropriate services and will be incorporated into a comprehensive procedural protocol.

1. Negotiation

	Development Management	
	Receipt of Application or Preliminary Development Proposal	Planning Officer
	Consult Beneficiary Departments	Planning Officer
	Consult WSCC	Planning Officer
	Receive/assess representations	Planning Officer
	Negotiate draft heads of terms	Planning Officer
	Co-ordinate finalised agreement	Planning Officer
	Copy of signed agreement sent S.106 Monitoring Officer; relevant departments; Land Charges; Finance	Paralegal (Conveyancing) Officer
	Copy of agreement sent to DC Admin for scanning and placement on Idox	Planning Officer
	Communities	
	Refer to Community Facilities Audit and liaise with 'community' to consider evidence based needs for improvements or for new community facilities.	Corporate Information Officer
	Calculate Communities contribution. Refer to Supplementary Planning Guidance	Corporate Information Officer and Planning Officer
	Refer to the CFA and consult with the 'community' regarding appropriate projects on which to spend S.106 contributions	Corporate Information Officer
	Response and contribution request to be sent to Planning Officer	Corporate Information Officer
	Leisure	
	Assess evidence for play and Leisure needs (Refer to Parks Improvement Programme?). Refer to Supplementary Planning Guidance	Sport & Leisure Development Manager
	Calculate Leisure contribution. Refer to Supplementary Planning Guidance	Sport & Leisure Development Manager and Planning Officer
	Response and contribution request to be sent to Planning Officer	Sport & Leisure Development Manager

	Housing	
	Assess affordable housing requirement	Housing Enabling Officer
	On- site provision or commuted payment	Housing Enabling Officer
	Calculate Housing contribution. Refer to Supplementary Planning Guidance	Housing Enabling Officer and Planning Officer
	Response and contribution request to be sent to Planning Officer	Housing Enabling Officer
	Waste and Recycling	
	Assess requirements for waste and recycling facilities	Waste Services Manager
	Calculate Recycling contribution. Refer to Supplementary Planning Guidance	Waste Services Manager and Planning Officer
	Response and contribution request to be sent to Planning Officer	Waste Services Manager
	Arts and Heritage	
	Assess requirement for Public Art in relation to Public Art Strategy	Arts & Heritage Development Manager
	Calculate Arts contribution. Refer to Supplementary Planning Guidance	Arts & Heritage Development Manager and Planning Officer
	Response of consultation to be sent to Planning Officer	Arts & Heritage Development Manager
	Environmental Strategy Unit	
	Assess requirements for environmental mitigation measures	Environmental Co-ordinator
	Check eligibility for Chichester Harbour mitigation contribution	Environmental Co-ordinator
	Calculate environmental mitigation contribution or actions	Environmental Co-ordinator and Planning Officer
	Response and contribution request to be sent to Planning Officer	Environmental Co-ordinator
	Design and Implementation	
	Assess requirements for mitigating impact of development on Historic Environment or compensating for harm to Historic Environment.	Historic Buildings Adviser
	Calculate historic environment mitigation contribution or actions	Historic Buildings Adviser and Planning Officer
	Response and contribution request to be sent to Planning Officer	Historic Buildings Adviser

2. Completion of Agreement

- Development Management
- Legal

3. Notification of Completed Agreement

	Development Management	
	Agreement added to IDOX and posted on web	Planning Admin
	Notify S.106 Monitoring Officer	Planning Officer / Paralegal (Conveyancing) Officer
	Design and Implementation	
	Notify Beneficiary Departments identify relevant provisions – allocations and spending requirements	S.106 Officer and departmental officers
	Notify Finance	S.106 Officer / Paralegal (Conveyancing) Officer
	Notify District Councillors	S.106 Officer
	Notify Parish Councils	S.106 Officer

4. Completed Agreement entered into Database

- Allocation of Funding and Triggers for payment identified

5. Monitoring of Agreement to secure receipts

- Monitoring Return to individual Planning Officers/Team Leaders/Planning Admin? – standardised form (Quarterly)
- Contact Developers/Agents
- Site Visits if appropriate
- Confirm payment due date reached with planning officer
- Issue Invoices when payments due
- Confirm receipt with Finance
- Initiate enforcement action for non-compliance/breach

6. Processing of Receipts of Commuted Payments

	Design and Implementation	
	Update Database with spending triggers	S.106 Officer
	Receipts passed to Cash Office for Banking	S.106 Officer
	Notify Planning Officer	S.106 Officer
	Notify Beneficiary Departments using Commuted Payment Notification Form	S.106 Officer
	Notify Finance	S.106 Officer

	Notify Legal	S.106 Officer
	Completed forms forwarded to Planning Admin for scanning and loading onto IDOX	S.106 Officer and Planning Admin
	Notify Developer and issue receipt	S.106 Officer
	Letter to developer and copy of receipt forwarded to Planning Admin for scanning and loading onto IDOX	Planning Admin
	Notify District Councillors	S.106 Officer
	Notify Parish Councils	S.106 Officer

7. Monitoring of S.106 Funds

- Monitoring returns to each recipient department identifying all agreements within (1 year?) of expenditure targets – standardised form (Quarterly?)
- Quarterly Reports to CMT
- Six monthly reports to Corporate Governance and Audit Committee
- Annual report to all Councillors/Parishes highlighting new agreements, funds received, projects/schemes undertaken and main achievements – ie exemplar schemes

8. Use of S.106 Financial Contributions

	Procedural	
	Projects up to a certain value that is to be agreed later in 2011	Approval by Chief Officer and Cabinet Member
	Projects up to a certain value that is to be agreed later in 2011	Approval by Cabinet
	Communities	
	Notify the relevant Parish Council and/or the Management Committee of community buildings and similar that the contribution has been received	Corporate Information Officer
	Establish whether original projects/ needs put forward for contribution are still required and/or if there are any other suitable projects/ needs required	Corporate Information Officer
	Once viable projects are established, monitor spend of S106 contribution until completed.	Corporate Information Officer
	Notifying S106 Monitoring Officer and Finance when a payment is made to the 'community'.	Corporate Information Officer
	Notify S.106 Monitoring Officer on completion	Corporate Information Officer
	Complete Quarterly Monitoring Returns to S.106 Monitoring Officer	Corporate Information Officer

	Leisure	
	Identify appropriate Projects	Sport & Leisure Development Manager
	Consultation with Parishes on suitable projects	Sport & Leisure Development Manager
	Once viable projects are established, monitor spend of S106 contribution until completed.	Sport & Leisure Development Manager
	Notify S.106 Monitoring Officer on completion	Sport & Leisure Development Manager
	Complete Quarterly Monitoring Returns to S.106 Monitoring Officer	Sport & Leisure Development Manager
	Housing	
	Complete separate S.106 Agreement with Developer setting out detailed requirements in respect of the mix and tenure of the affordable housing and a nomination agreement. This is to ensure that the housing remains affordable in perpetuity.	Housing Investment Manager / Housing Enabling Officer
	Allocation of Commuted Sums to affordable housing schemes in relation to the Enabling Programme	Housing Investment Manager / Housing Enabling Officer
	Once viable projects are established, monitor spend of S106 contribution until completed.	Housing Enabling Officer
	Notify S.106 Monitoring Officer on completion	Housing Enabling Officer
	Complete Quarterly Monitoring Returns to S.106 Monitoring Officer	Housing Enabling Officer
	Waste and Recycling	
	Calculate Recycling Contribution	Waste Services Manager
	Response to consultation to Planning Officer	Waste Services Manager
	Monitor spend of S106 contribution until completed.	Waste Services Manager
	Notify S.106 Monitoring Officer on completion	Waste Services Manager
	Complete Quarterly Monitoring Returns to S.106 Monitoring Officer	Waste Services Manager
	Arts and Heritage	
	Identify appropriate Projects in conjunction with the Public Art Strategy	Arts & Heritage Development Manager
	Consultation with Parishes on suitable projects	Arts & Heritage Development Manager

	Once viable projects are established, monitor spend of S106 contribution until completed.	Arts & Heritage Development Manager
	Notify S.106 Monitoring Officer on completion	Arts & Heritage Development Manager
	Complete Quarterly Monitoring Returns to S.106 Monitoring Officer	Arts & Heritage Development Manager
	Environmental Strategy Unit	
	Identify appropriate Projects including Graylingwell environmental mitigation schemes	Environmental Co-ordinator
	Once viable projects are established, monitor spend of S106 contribution until completed.	Environmental Co-ordinator
	Notify S.106 Monitoring Officer on completion	Environmental Co-ordinator
	Complete Quarterly Monitoring Returns to S.106 Monitoring Officer	Environmental Co-ordinator
	Design and Implementation	
	Co-ordinate S.106 monitoring and spend of contributions	S.106 Monitoring Officer
	Finance	
	Information from the agreement is entered into an Excel spreadsheet.	Service Accountant
	Details form Legal Commuted Payment document entered into spreadsheet	Service Accountant
	Legal	
	On receipt of funds complete the Commuted Payment document	Paralegal (Conveyancing) Officer
	Forward Commuted Payment document to Finance	Paralegal (Conveyancing) Officer

Options for consideration

Section 106 Officer Forum comprising all corporate officers involved in the section 106 process to hold regular income/expenditure meetings through which departments can be made aware of key issues at an early stage so that the benefits of S106 can be maximised. Issues that could be covered: -

- Scrutiny of unspent/unallocated section 106 monies with implementation/spend officers

- Identifying opportunities to channel section 106 funding towards the council's Capital programme both in terms of the negotiations with developers for prospective section 106 contributions and for the allocation of section 106 monies already received
- processes (including protocol preparations)
- considerations for policy development
- update on any developments in the field of section 106 such as relevant government proposals, policies and legislation
- performance and reports
- lessons learned
- application & implementation issues – it is intended that detailed issues on specific cases can be discussed separately to help to retain a strategic focus in the meetings

9. Closure