

Section 106 (S.106) of the Town and Country Planning Act 1990 - Education Contributions Policy

(Draft Policy 2022)

General information

What is Section 106 (s.106)?

As part of the planning process, the Council and a developer seeking planning permission may enter into a legal agreement that will set out the terms for the developer to provide or fund the provision of infrastructure, services or other impact mitigation measures on or off the development site. This agreement is referred to as a "Section 106 Agreement" or "Planning Obligation".

How can Section 106 be used?

The way in which S.106 is used in the vast majority of cases is set in law.

S.106 Agreements must be:

1. necessary to make the development acceptable in planning terms
2. directly related to the proposed development
3. fairly and reasonably related in scale and kind to the proposed development

Example: if there is insufficient capacity in local schools for the new children moving into a new housing development then the Council will require the developer to enter into a S.106 agreement to pay a financial contribution for educational purposes.

The use of funds raised through S.106 are fixed when the S.106 agreement is signed, which is at the time planning permission is granted. Funds are most commonly paid following commencement of building works on site or occupation of the completed building. The trigger date for when payments are due and sometimes the deadlines for which the contributions are to be spent are also specified in the S.106 agreement.

Rotherham's approach

Calculators

The following calculators from the Department for Education (DfE) and BCIS (Building Cost Information Service) can be used to assist applicants/agents in establishing the potential levels of contributions (please note that these calculators are for guidance only and do not determine the final value of contributions):

Contributions will be sought on all housing developments where it is demonstrated that there would be insufficient school capacity to accommodate the anticipated number of children generated by the proposed development.

Children and Young People's Services (CYPS) will also evaluate factors such as:

- *Ofsted profile of local schools*
- *Infant class size legislation*
- *Current NET Capacity of the School; and determine the shortfall arising in school places from new development within the local area*
- *Determine the appetite of the local school / School's Governing Body (ies) for potential expansion*
- *Determine the scope for expansion on the School site; or, If there is no potential to expand on the nearest local school, then opportunities to expand at nearby schools shall be explored.*

It is generally accepted that schools should not operate at 100% of their capacity, and a small surplus in places does not necessarily equate to there being sufficient capacity within schools.

Previous Audit Commission recommendations were that local authorities should plan for a 95% occupancy rate in schools to allow for volatility in preferences from one year to the next (e.g. year on year changes in the birth rate).

The current context in Rotherham is that a significant number of Ofsted 'Good' and 'Outstanding' rated schools are already operating at full or oversubscribed capacity.

Where schools within a planning area are projected to have a shortfall of places a contribution will be requested, even if they currently have surplus capacity.

However, if projections suggest there will be insufficient places to accommodate the Pupil Yield arising from a new development at the catchment area school and there is limited scope for expansion, then a neighbouring school, which has a site suitable for expansion, will be considered as able to provide the closest alternative provision to meet needs arising.

Requesting a Section 106 (S.106) contribution

The latest DfE Multipliers and location factors will be used by RMBC.

These Multipliers are the averages of Multipliers for new schools and extensions to existing schools, weighted to reflect the national balance of such projects.

Each Multiplier has an area-per-place factor, derived from the BB98 or BB99 area standards. This is multiplied by a cost-per-m² factor. Allowances are added for external works, furniture and equipment and professional fees. The Multipliers exclude ICT equipment, site abnormalities, site acquisition costs, VAT and the effect of regional variations in prices.

The latest DfE location factors and build costs will be used and updated as appropriate. Currently these figures are as follows:

Rotherham	0.90
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School Contribution

Primary

The pupil yield from a development is 0.03 pupils per year group per dwelling.

There are 7 statutory age range year groups in a primary school so total pupil yield per dwelling is $0.03 \times 7 = 0.21$ pupils.

The 2019/20 DfE cost figure for a pupil place was £18,370 with a location factor of 0.90 giving a cost of $£18,370 \times 0.90 = £16,533$ per pupil place.

The pupil yield from a single dwelling multiplied by the cost of a place gives the requested contribution which is $0.21 \times £16,533 = £3,472$.

Secondary

The pupil yield from a development is 0.03 pupils per year group per dwelling.

There are 5 statutory age range year groups in a secondary school so total pupil yield per dwelling is $0.03 \times 5 = 0.15$ pupils.

The 2019/20 DfE cost figure for a pupil place was £27,679 with a location factor of 0.90 giving a cost of $£27,679 \times 0.90 = £24,911$ per pupil place.

The pupil yield from a single dwelling multiplied by the cost of a place gives the requested contribution which is $0.15 \times £24,911 = £3,737$.

Sixth Form

The pupil yield from a development is 0.03 pupils per year group per dwelling.

There are 2 year groups in a sixth form so total pupil yield per dwelling is $0.03 \times 2 = 0.06$ pupils.

The 2019/20 DfE cost figure for a pupil place was £30,019 with a location factor of 0.90 giving a cost of $£30,019 \times 0.90 = £27,017$ per pupil place.

The pupil yield from a single dwelling multiplied by the cost of a place gives the requested contribution which is $0.06 \times £27,017 = £1,621$.

Are any types of homes exempt from Section 106 Education Contribution requests?

The Council does not request S106 education contributions in respect of 1 (one) bedroomed homes and specialist housing for older people or the disabled.

How are flats, apartments and bungalows treated?

Developments of flats, apartments or bungalows receive a 50% discount on the contribution requested as analysis of census data shows that they typically produce fewer children than houses with equivalent numbers of bedrooms. 1 (one) bedroom flats, apartments and bungalows are exempt from contributions.

What about contributions for larger and smaller houses?

Houses with 4 or more bedrooms will receive a 25% increase on the contribution for 3 bedroom houses and 2 bedroom houses will receive a 25% decrease.

What can the money be spent on?

The money can be spent on capital projects to improve or extend the buildings at the eligible schools. This could include special educational needs (SEND) or other school based facilities for the benefit of children, e.g. children's centres, SEND / Social, Emotional and Mental Health (SEMH) needs / post 16 as well as "mainstream" educational facilities. Contributions will only be spent on providing permanent facilities.

To help implement our local planning area strategies, developer contributions should be made towards education facilities within the planning area and not necessarily be confined to the catchment area school for nursery, primary, special Education (SEND / SEMH needs), post 16) and secondary contributions. This is in-line with the

CYPS factors to consider, stated above, when Education provision needs to be increased to meet all needs arising from new developments. This policy ensures that sufficient places can be made available in, or at the nearest neighbouring school within the settlement grouping or wider neighbourhood, and to meet special education needs within the Borough.

Which are the eligible schools?

These are the catchment area/learning community schools (planning area) serving the development. Contributions may also be spent on Voluntary Aided schools (usually faith schools) which operate admission criteria not based primarily on a geographical catchment area provided they meet the surplus place criteria and are within 2 miles of the development for primary schools and 3 miles for secondary schools. CYPS also need to take into consideration parental preference, the rural nature of parts of the authority and catchment area boundaries.

Are Academies (and Free Schools) eligible?

Although Academies (and Free Schools) are outside the control of the Council they still form part of the state education and state funded system. Responsibility for provision of sufficient school places remains with the Council and all funding for provision of additional places, including S106 contributions, remains under the control of the Council. If the Council agrees to support additional capacity at an Academy (or Free School) then that project will be eligible to receive S106 funding.

What happens to monies that are not spent?

If the Council is unable to allocate a contribution it is returned to the developer with any accrued interest at the end of the period specified in the S106 agreement, usually 5 years. This time period can be extended, by agreement with the developer, if a large development to be built out over several phases, is proposed, and/or school improvements are delivered in phases as contributions from other developers building out other sites within the catchment locality also come forward.

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