

Children & Young People's Services

## **Section 106 (S.106) Education Contributions Policy**

Policy approved by Cabinet 24.7.2013

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 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 of **20 or more** units 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 also need to evaluate factors such as:**

*Ofsted profile of local schools?*

*Appetite of the local school / School's Governing Body (ies) for potential expansion?*

*Is there scope for expansion on the School site?*

*Current NET Capacity of the School?*

*Infant class size legislation.*

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.

**The Audit Commission recommended 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).**

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, if it is projected that there will be insufficient places to accommodate the Pupil Yield from a new development and the catchment area school / a neighbouring school has a site suitable for expansion.

## Requesting a Section 106 (S.106) contribution

The 2008-9 Multipliers, based on projected pricing levels at Q4 2008, are as follows:

- Primary — £12,257
- Secondary — £18,469

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-m<sup>2</sup> 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.

DCSF (DfE) location factors - January 2009

Rotherham	0.91
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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 year groups in a primary school so total pupil yield per dwelling is  $0.03 \times 7 = 0.21$  pupils.

The 2008/09 DSCF cost figure for a pupil place was £12,257 with a location factor of 0.91 giving a cost of  $£12,257 \times 0.91 = £11,154$  per pupil place.

The pupil yield from a single dwelling multiplied by the cost of a place gives the requested contribution which is  $0.21 \times £11,154 = £2,342$ .

#### Secondary

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

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

The 2008/09 DSCF cost figure for a pupil place was £18,469 with a location factor of 0.91 giving a cost of  $£18,469 \times 0.91 = £16,807$  per pupil place.

The pupil yield from a single dwelling multiplied by the cost of a place gives the requested contribution which is  $0.15 \times £16,807 = £2,521$ .

## **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.

The Council does not request S106 education contributions in respect of affordable housing generated under (NPPF) National Policy for Planning Frameworks definitions (or any definition which replaces this). This is because schemes could become unviable if a levy was charged and RMBC intend to deliver all its Core Strategies.

## **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 still exempt from contributions.

## **What about contributions for larger houses?**

Houses with 4 or more bedrooms will receive a 25% increase on the contribution for 2 and 3 bedroom houses as statistical evidence shows that they generate more children on average than smaller houses.

## **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 or other school based facilities for the benefit of children, e.g. children's centres, 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 and secondary contributions. This is in-line with the CYPS factors to consider, stated above, when Education provision needs to be increased.

## **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) and Academies (and Free 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 interest at the end of the period specified in the S106 agreement, usually 5 years.

### **Contact us**

School Organisation Team

School Admissions, Organisation and SEN Assessment Service

1<sup>st</sup> Floor, Wing 'A' Riverside House

Main Street

Rotherham

S60 1AE

[dean.fenton@rotherham.gov.uk](mailto:dean.fenton@rotherham.gov.uk)

[christopher.stones@rotherham.gov.uk](mailto:christopher.stones@rotherham.gov.uk)