

Mid Devon District Council **S106 Governance Board Terms of Reference**

S106 Governance Board Terms of Reference (ToR)

The ToR document for the S106 Governance Board:

- Sets out the purpose of the S106 Governance Board
- Sets out the expectations of the S106 Governance Board
- Sets out the decision making process
- Sets out the administration process
- Sets out the regularity of meetings

1.0 The group shall be formally known as;
The (Mid Devon District Council) S106 Governance Board

2.0 The role of the group:

- To consider and make decisions on project allocations and funding applications that meet the board's threshold for consideration and/or where there are conflicting requests for contributions
- Ensuring the District Council meets its obligations
 - a. Spending the money in accordance with the terms of the S106 Agreement
 - b. Spending the money within the stipulated timescale
- To consider regular s106 monitoring reports

3.0 Matters beyond the scope of this Board:

- Approval of Heads of Terms
- Viability assessments
- Deeds of Variation and/or other amendments to legal agreements

4.0 Composition of the S106 Governance Board

The S106 Governance Board will consist of a fixed panel of members and officers with guest members and/or officers to attend as appropriate to their ward or department. The makeup of the S106 Governance Board is as follows:

Fixed Panel

- Director of Place and Economy (Chair) (who may delegate a deputy to chair in his/her absence)
- Planning Obligations Monitoring Officer (Clerk) (Non-voting)
- Senior Officer from Planning (Development Management Manager or Area Team Leader)

Three Cabinet Members from the following:

- Cabinet Member for Planning and Economic Regeneration
- Cabinet Member for Environment and Climate Change
- Cabinet Member for Quality of Living, Equalities and Public Health
- Cabinet Member for Parish and Community Engagement

As required

- Relevant ward member(s)
- Senior officer from department relevant to spend

The Planning Obligations Monitoring Officer encourages all board members and substitute members to obtain necessary skills to contribute to the work of the board. In the absence of a cabinet member of the board and where there will otherwise be less than 2 cabinet members present, they would find a suitable substitute that MUST be another cabinet portfolio holder and to brief them on the meeting which they are due to attend.

5.0 Decision making

The decision making process is voting, by fixed panel board members, with a majority determining decisions and the Chair having the casting vote.

When a decision needs to be made, where convening a meeting would be impracticable within the required timescales, taking account of the 5 clear days for publishing an agenda, and any consultation periods, the Planning Obligations Monitoring Officer will inform the S106 Board in writing of the matter about which decision is to be made and obtain the agreement of the S106 Board (keeping a written record of when agreement/approvals are confirmed, and how).

6.0 Quorum

The quorum for a meeting of the Governance Board shall be 2 cabinet members and one senior officer from the fixed panel.

7.0 Administration

The administration function will be provided by the clerk to the S106 Governance Board and this will include;

- Calendar bookings
- Circulating agenda and reports
- Consultation processes
- Minutes
- Managing enquiries

8.0 Time, Place and Notice of Meeting

Hourly meetings will take place in person on a quarterly basis ideally after financial reconciliation of accounts has taken place.

In order to allow for effective and timely decision making on funding applications, meetings can be called by the Planning Obligations Monitoring Officer, with the agreement of the Director of Place and Economy, on an as needed basis.

The agenda and supporting documents will be sent out at least five clear working days before a meeting from the Planning Obligations Monitoring Officer to the cabinet members and officers on the board.

9.0 Standing Agenda Items

- Minutes of the previous meeting
- S106 Monitoring report
 - a. Quarterly funding updates
 - b. Review of any “at-risk” funding
- Infrastructure delivery:
 - a. Project Updates
 - b. Review of the Infrastructure List (annually)
- Report of delegated decisions made in the preceding quarter
- Consideration of any funding requests

10.0 Approval and review of ToR

ToR to be reviewed/updated annually.

11.0 Definition of terms

CIL tests	Specifically Regulation 122 of The Community Infrastructure Levy Regulations 2010 (as amended)
Deed of Variation	A legal document that varies or modifies an existing S106 Agreement
Financial reconciliation	The process of validating S106 records against receipts held on the Council’s finance systems
Heads of Terms	The agreed obligations by infrastructure type to be included within a S106 Agreement
Infrastructure List	Document identifying infrastructure projects that can be partly or wholly funded by S106 Contributions
Project allocations	The project meeting the criteria set out in the CIL tests to which a financial contribution is legally assigned to
S106 Agreement	A legally binding agreement between a local authority and a landowner/developer under Section 106 (S106) of the Town and Country Planning Act 1990 (as amended) containing obligations, used to support the provision of services and infrastructure, which are necessary to make the development acceptable in planning terms
Viability assessments	Site-specific reports seeking a reduction in S106 contributions so as to make the development financially viable