

## HAMPSHIRE COUNTY COUNCIL

### Officer Decision Record

<b>Decision Maker:</b>	Colin Taylor – Assistant Director – Highways Traffic and Transport
<b>Title:</b>	Director's Fees – Section 106 and Section 278 Agreements
<b>Reference:</b>	

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#### 1. The decision:

- 1.1. That in accordance with the Economy, Transport and Environment Scheme of Delegation, the schedule of Director's Fees shown in Appendix 1 be approved for use by the County Council
- 1.2. That the schedule of Director's Fees be reviewed annually hereafter.

#### 2. Reason(s) for the decision:

- 2.1 Hampshire County Council has historically secured a 'Director's Fee' within any legal agreement (S106 or S278) negotiated which secures transport mitigation packages in association with development. This charge has been applied since the mid nineties.
- 2.2 The 'Director's Fee' enables the County Council to recover the costs associated with the progression and negotiation of legal agreements, and the administration and management of S278 design checks. The charge recovers officer costs in;
  - Instructing Legal Services and negotiating the terms of legal agreements with developers
  - Monitoring and enforcing the requirements of legal agreements, ensuring compliance with set obligations
  - Client managing s278 design checks and administering s278 works applications
  - Administering future S278 works certification and sign-off
- 2.3 In 2007 the Director of the then Environment Department authorised a revised charging schedule for Director's Fees (to update the fee schedule agreed in 1995). This 2007 schedule remains in effect.

2.4 This charge was based upon a 'sliding scale' charge that attributes a cost related to the size of the mitigation package secured within the agreement. The larger the mitigation package, the larger the fee, in consideration of the increased resource requirement to negotiate and administer the complexity of these agreements. Table 1 outlines the current fee;

Table 1

Value of works and / or contribution	Fee
£0 - £49,000	£735 + 1%
£50,000 - £99,000	£735 + ¾% (subject to £1435 minimum)
£100,000 - £499,999	£735 + ¼% (subject to £1735 minimum)
£500,000 – unlimited	£735 + ¼% (subject to £4500 maximum)

2.5 The level of income generated by this charge varies year on year depending on the quantum of agreements secured and the value of the packages of mitigation. Most recent years the level of fees secured has exceeded £100,000 p/a

2.6 The charging schedule was implemented in 2007 and is now some 7 years out of date, and no longer reflects the costs to the County Council in administering development related legal agreements. Since 2007 inflation has risen, as have the costs of staffing. It is therefore proposed to revise the level of Director's Fee to update the 2007 figures.

2.7 Furthermore the current charging schedule requires minimum fee levels to be applied to ensure that the sliding fee schedule is relative to the increases in values of work across ranges. For example the current fee associated with works with a £40,000 value is £1135. Applying the formula for a £50,000 works scheme without the minimum value would lead to a fee of £1110. This overlap in the range and the resulting requirement of a minimum fee value is often viewed as confusing and complicated.

2.8 In considering the level of uplift to be applied to the Director's Fee schedule, County Treasurers have considered the most appropriate form of indexation. County Treasurer's have advised the Retail Price Index should be used to uplift the 2007 fee schedule to the present. The RPI index changes between 2007/8 and 2012/13 have therefore been considered when revising the 2007 charging Schedule. Additionally, to counter the issues related to minimum fees outlined above, a revised approach has been developed which seeks to increase the fee base cost within each works value range.

2.9 This proposal directly supports the County Council's corporate priority of ensuring that Hampshire is 'safer and more secure for all'. This fee also supports the other Corporate priorities in maximising wellbeing and enhancing the quality of place.

2.10 The fee level is proposed at a level that will realistically cover the resource cost to the County Council, but that will not at the same time increase unfairly the burden on development.

2.11 Table 3 sets out the proposed 2013 Director's Fee schedule.

Table 3

Value of works and / or contribution	Fee
£0 - £49,000	£900 + 1%
£50,000 - £99,999	£1100 + 0.75%
£100,000 - £499,999	£1550 + 0.5%
£500,000 – unlimited	£2750 + ¼% (subject to £5000 maximum)

2.12 Table 4 summarises the fees that would be payable under this fee structure.

Table 4

Base Cost	£900	£1,100	£1,550	£2,750
Cost multiplier	1%	0.75%	0.50%	0.25%
Cost of works				
£10,000	£1,000			
£20,000	£1,100			
£30,000	£1,200			
£40,000	£1,300			
£49,999	£1,400			
£50,000		£1,475		
£60,000		£1,550		
£70,000		£1,625		
£80,000		£1,700		
£90,000		£1,775		
£99,999		£1,850		
£100,000			£2,050	
£200,000			£2,550	
£300,000			£3,050	
£400,000			£3,550	
£499,999			£4,050	
£500,000				£4,000
£600,000				£4,250
£700,000				£4,500
£800,000				£4,750
£900,000				£5,000
£1,000,000				£5,000
£2,000,000				£5,000

2.13 A corporate review of section 106 fees is being undertaken in light of the anticipated changes with the introduction of the Community Infrastructure Levy (CIL) restrictions from April 2015. This will enable Hampshire County Council to recover the costs associated with preparing, managing and monitoring section

106 agreements for all corporate services, not only Highways and Transport. It is anticipated that this approach may allow greater fees to be secured in connection with section 106 monitoring, and the business case for this will be prepared and presented to DMT for approval. In the event that a more advantageous approach for section 106 is agreed, it is intended that it will supersede the fee structure set out in 2.12 in respect of section 106 agreements only.

### **3. Other options considered and rejected:**

- 3.1. ***To retain or reduce the existing fee charging structure*** – This was dismissed as the charge is outdated, does not reflect inflated costs of resourcing the service and would place financial burden on the County Council.
- 3.2. ***Not to charge a Director's Fee*** – This was dismissed in that it would fail to cover the costs to the County Council in progressing the highway elements of development, and would present a financial burden on the County Council.
- 3.3. ***To alter the charging mechanism*** – Alternative options to the sliding scale fee were considered, including a fixed fee and actual costs. The fixed fee system was not considered to provide a proportionate cost that developers would accept. The actual cost option was dismissed due to the difficulty in recording time to specific projects, bearing in mind the dynamic nature of the development planning role.

### **4. Conflicts of interest: None**

- 4.1. **Conflict of interest declared by an Executive Member who is consulted by the officer which relates to the decision:** None

### **5. Dispensation granted by the Head of Paid Service:**

- 5.1. None

### **6. Supporting information:**

- 6.1. 2007 Director's Fee Schedule
- 6.2. Proposed Revised Fee Schedule

**Approved by:**

**Date:**

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**19<sup>th</sup> December 2014**

**Colin Taylor – Assistant Director – Highways, Traffic  
and Transport**

**On behalf of the Director of Economy, Transport and  
Environment**