

South Ayrshire Council

**Report by Assistant Director- Place
to Leadership Panel
of 18 January 2022**

Subject: Developer Contribution Governance and Reporting Arrangements

1. Purpose

- 1.1 The purpose of this report is to seek approval from the Leadership Panel for revised governance and reporting arrangements relating to Developer Contributions required from developers as part of their Planning Permissions.

2. Recommendation

- 2.1 **It is recommended that the Panel approves the governance and reporting arrangements as detailed in the report, including the publication of an annual report, relating to Developer Contributions.**

3. Background

- 3.1 As Members will be aware, when considering planning applications the Council can enter into a legal agreement with a developer, requiring them to make a financial contributions to address outstanding issues, which then makes their planning application proposals acceptable in land use planning terms. These legal agreements are facilitated under Section 75 of the Town and Country Planning Act or Section 69 of the Local Government Act (Scotland) 1973 (as amended) and are carried out in line with the Scottish Government Circular 3/12 : Planning Obligations and Good Neighbour Agreements

- 3.2 The legal agreement associated with each planning permission defines what developer contributions are being sought from the developer(s) for each development site and includes:

- level of each type of contribution;
- what the contribution can be utilised for (purpose);
- the timescales/ trigger point for each contribution type;
- the payment requirements, including indexation.

- 3.3 Since 2016, the Council has had an internal working group on Developer Contributions incorporating Planning, Legal and Finance, which reviews the collection and expenditure of contributions. This Group meets regularly to discuss issues over the collection and management of contributions expenditure. This Group has facilitated:

- streamlining the mechanisms and process,
- timescales for collection of developer contributions,
- standardised payment periods for contributions types, and
- payment requirements within legal agreements to help improve the collection of contributions.

4. Proposals

4.1 Information on Developer Contributions gathered by the Working Group has not previously been formally reported to the Council. It is now proposed that an annual Report on the Developer Contributions be presented to the Leadership Panel and thereafter made available on the Council Web site. This will improve transparency in the process and assist in dealing with Freedom of Information requests.

4.2 It is proposed that this report will include, among other matters, the following detailed information:

- details of development sites subject to planning obligations, listing the type of contribution and status of the development;
- invoiced developer contributions for each site per contribution type per financial quarter;
- income from developer contributions received per site for each type of contribution (annual and overall);
- expenditure per site by the Council Services (or other responsible partner organisations) associated with each type of developer contribution in each financial year and expenditure per site by the Council to date under each contribution type;
- unspent developer contributions;
- forecast of income from developer contributions and expenditure for following financial year; and
- detail the additional infrastructure that the developer contributions are providing within settlements to accommodate the relevant developments.

5. Legal and Procurement Implications

5.1 There are no additional legal implications arising from this report.

5.2 There are no procurement implications arising from this report.

6. Financial Implications

6.1 There will be no direct financial implications for the Council in accepting these proposals.

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7. Human Resources Implications

- 7.1 There will be no direct human resource implications for the Council in accepting these proposals.

8. Risk

8.1 *Risk Implications of Adopting the Recommendations*

- 8.1.1 Adopting the recommendations will improve the corporate governance around the Developer Contributions process and ensure that proper procedures are in place to gather and redistribute all appropriate financial contributions. In addition it will provide transparency in the process and assist in the handling of Freedom of Information requests. There are no risks associated with accepting the recommendations.

8.2 *Risk Implications of Rejecting the Recommendations*

- 8.2.1 Rejecting the recommendations may have a reputational damage to the Council in regards to the lack of governance over financial matters and the lack of transparency of the process. In addition it will increase the risk that financial contributions required to offset the identified negative impacts of certain planning permissions are not received.

9. Equalities

- 9.1 This report is not seeking to introduce a new policy but publish information on existing income and expenditure of development contributions. It is however noted that not delivering the infrastructure required by developments could potentially have a negative impact on communities due to overcapacity. A copy of the Equalities Scoping Assessment is attached as [Appendix 1](#).

10. Sustainable Development Implications

- 10.1 ***Considering Strategic Environmental Assessment (SEA)*** - This report does not propose or seek approval for a plan, policy, programme or strategy or document otherwise described which could be considered to constitute a plan, programme, policy or strategy.

11. Options Appraisal

- 11.1 An options appraisal has not been carried out in relation to the subject matter of this report.

12. Link to Council Plan

- 12.1 The matters referred to in this report contribute to Commitment 4 of the Council Plan: South Ayrshire Works/ Make the most of the local economy.

13. Results of Consultation

- 13.1 There has been no public consultation on the contents of this report. However, public consultation will take place on the draft Supplementary Guidance: Developer contributions.

- 13.2 Consultation has taken place with Councillor Ian Cochrane, Portfolio Holder for Environment, and the contents of this report reflect any feedback provided.
- 13.3 Consultation with Elected Members, including the Portfolio Holder, is through this report to the Planning Liaison Group.

14. Next Steps for Decision Tracking Purposes

- 14.1 If the recommendations above are approved by Members, the Assistant Director – Place will ensure that all necessary steps are taken to ensure full implementation of the decision within the following timescales, with the completion status reported to the Leadership Panel in the ‘Council and Leadership Panel Decision Log’ at each of its meetings until such time as the decision is fully implemented:

<i>Implementation</i>	<i>Due date</i>	<i>Managed by</i>
Upload annual report on Development contributions	30 June 2022	Service Lead – Planning and Building Standards
Implement new governance and management arrangements for development contributions	31 January 2022	Service Lead – Planning and Building Standards
Further report to the Leadership Panel	June 2022	Service Lead – Planning and Building Standards

Background Papers **South Ayrshire Local Development Plan**
Modified Proposed Local Development Plan 2
Supplementary Planning Guidance: New Residential Developments and Affordable Housing
Supplementary Guidance: Housing Site Development Briefs
[Circular 3/12: Planning Obligations and Good Neighbour Agreements](#)

Person to Contact **Craig Iles, Service Lead – Planning and Building Standards**
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Date: 10 January 2022

South Ayrshire Council Equality Impact Assessment Scoping Template

Equality Impact Assessment is a legal requirement under the Public Sector Duty to promote equality of the Equality Act 2010. Separate guidance has been developed on Equality Impact Assessment's which will guide you through the process and is available to view here: [Equality Impact Assessment including Fairer Scotland Duty](#)

Further guidance is available here: [Assessing impact and the Public Sector Equality Duty: a guide for public authorities \(Scotland\)](#)

The Fairer Scotland Duty ('the Duty'), Part 1 of the Equality Act 2010, came into force in Scotland from 1 April 2018. It places a legal responsibility on Councils to actively consider ('pay due regard to') how we can reduce inequalities of outcome caused by socio-economic disadvantage, when making strategic decisions. See information here: [Interim Guidance for Public Bodies](#) in respect of the Duty, was published by the Scottish Government in March 2018.

1. Policy details

Policy Title	Developer Contribution Arrangements
Lead Officer (Name/Position/Email)	Craig Iles, Service Lead – Planning and Building Standards – craig.iles@south-ayrshire.gov.uk

2. Which communities, groups of people, employees or thematic groups do you think will be, or potentially could be, impacted upon by the implementation of this policy? Please indicate whether these would be positive or negative impacts

Community or Groups of People	Negative Impacts	Positive impacts
Age – men and women, girls & boys	-	√
Disability	-	√
Gender Reassignment (Trans/Transgender Identity)	-	√
Marriage or Civil Partnership	-	√
Pregnancy and Maternity	-	√
Race – people from different racial groups, (BME) ethnic minorities and Gypsy/Travellers	-	√
Religion or Belief (including lack of belief)	-	√
Sex – gender identity (issues specific to women & men or girls & boys)	-	√
Sexual Orientation – person's sexual orientation i.e. LGBT+, lesbian, gay, bi-sexual, heterosexual/straight	-	√
Thematic Groups: Health, Human Rights & Children's Rights	-	√

3. What likely impact will this policy have on people experiencing different kinds of social disadvantage? (Fairer Scotland Duty). Consideration must be given particularly to children and families.

Socio-Economic Disadvantage	Negative Impacts	Positive impacts
Low Income/Income Poverty – cannot afford to maintain regular payments such as bills, food, clothing	-	√
Low and/or no wealth – enough money to meet Basic living costs and pay bills but have no savings to deal with any unexpected spends and no provision for the future	-	√
Material Deprivation – being unable to access basic goods and services i.e. financial products like life insurance, repair/replace broken electrical goods, warm home, leisure/hobbies	-	√
Area Deprivation – where you live (rural areas), where you work (accessibility of transport)	-	√
Socio-economic Background – social class i.e. parent’s education, employment and income	-	√

4. Do you have evidence or reason to believe that the policy will support the Council to:

General Duty and other Equality Themes Consider the ‘Three Key Needs’ of the Equality Duty	Level of Negative and/or Positive Impact (High, Medium or Low)
Eliminate unlawful discrimination, harassment and victimisation	Low
Advance equality of opportunity between people who share a protected characteristic and those who do not	Low
Foster good relations between people who share a protected characteristic and those who do not. (Does it tackle prejudice and promote a better understanding of equality issues?)	Low
Increase participation of particular communities or groups in public life	Low
Improve the health and wellbeing of particular communities or groups	Low
Promote the human rights of particular communities or groups	Low
Tackle deprivation faced by particular communities or groups	Low

5. Summary Assessment

<p>Is a full Equality Impact Assessment required? (A full Equality Impact Assessment must be carried out if impacts identified as Medium and/or High)</p>	<p>— YES</p> <p>NO</p>
<p>Rationale for decision:</p> <p>This report seeks approval from the Leadership Panel for the governance and reporting arrangements relating to Developer Contributions required from developers as part of their Planning Permissions. Members’ decision on this has no specific equality implications</p>	
<p>Signed : Craig Iles Service Lead</p> <p>Date: 16 December 2021</p>	