Planning for patients

The role of Section 106 planning contributions

Claudia Martínez
Lily Brown

January 2019

#Reformpublicspending

Acknowledgements

Interviewees

The authors would like to express their gratitude to the following individuals and organisations interviewed for this research paper and kindly agreed to be acknowledged:

Nick Bosanquet, Professor of Health Policy, Imperial College London

Dr Gemma Burgess, Acting Director and Principal Research Associate, Cambridge Centre for Housing and Planning Research

Jack Dunmore, Estates Project Officer, Capital Programme, NHS Tower Hamlets Clinical Commissioning Group

Robert Harris, Chief Executive Officer, Lakeside Healthcare

Dean Musk, Head of Estates, NHS Tower Hamlets Clinical Commissioning Group

Matt Paterson, Interim Head of Spatial Planning, Hammersmith & Fulham Council

Aahsan Rahman, Department Head, Town Planning, NHS Property Services Ltd

Sulina Tallack, Planning Obligation Officer, East Devon District Council

Michael Wood, Head of Health Economic Partnerships, NHS Confederation

One interviewee who requested to remain anonymous.

The arguments and any errors that remain are the authors' and the authors' alone.

About

Reform is established as the leading Westminster think tank for public service reform. We are dedicated to achieving better and smarter public services. Our mission is to set out ideas that will improve public services for all and deliver value for money.

We work on core sectors such as health and social care, education, home affairs and justice, and work and pensions. Our work also covers issues that cut across these sectors, including public service design and delivery and digital public services.

We are determinedly independent and strictly non-party in our approach.

About *Reform* Policy

Reform Policy are in-depth research reports focusing on a specific challenge facing public services. They provide a detailed and evidence-based examination of the issues and put forward implementable recommendations to government, public sector bodies and other key stakeholders to help deliver better public services for all.

Author's Note

This ***Reform* Policy** is based upon research and analysis of publicly available data on Section 106 planning contributions obtained through Freedom of Information Requests. Please see the Appendix for the full list of Local Planning Authorities' FOI responses.

Limitations with the data are discussed in Chapter 3 of this paper.

The suggestions and ideas included in this report are designed to stimulate discussion and promote debate about some of the most pressing issues facing public services in the UK.

Contents

Introduction 5
1. The role of planning obligations 6
1.1 What is Section 106 and how does it work? 6
2. Facts and Figures 7
2.1 The NHS is failing to tap into Section 106 funds 7
2.2 Healthcare is not a planning priority 7
2.3 Millions of pounds are sitting unspent 8
3. Levers for success 10
3.1 Clear engagement channels 10
3.2 Awareness of the process 11
3.3 Skills and expertise 14
3.4 Long-term strategy 14
3.5 Improved transparency 16
Conclusion 18
Appendix 19
Glossary 20
Bibliography 21

Recommendations

Recommendation 1: To increase awareness of the role of planning contributions in healthcare amongst NHS trusts, Clinical Commissioning Groups, and Sustainability and Transformation Partnerships/Integrated Care Systems, the Ministry of Housing, Communities and Local Government should work with the Department of Health and Social Care to create national-level guidance for NHS organisations to secure funding through Section 106 contributions as well as disseminating best practice case studies.

Recommendation 2: The Ministry of Housing, Communities and Local Government should consider producing standard templates to assist NHS organisations, such as Clinical Commissioning Groups, NHS trusts and primary care providers, in developing the strategic business case for securing Section 106 contributions from Local Planning Authorities.

Recommendation 3: To address the current challenges in securing section 106 planning contributions for primary care infrastructure, Clinical Commissioning Groups, alongside NHS England & NHS Improvement, should conduct an appraisal of the different GP ownership models that would best satisfy the planning requirements of Local Planning Authorities. This would help inform Clinical Commissioning Groups' future strategic estates plans and further streamline the process for securing planning contributions for GP premises.

Recommendation 4: To improve transparency in the planning, allocation and use of planning obligations to deliver community infrastructure, Local Planning Authorities should establish appropriate monitoring processes of planning contributions. This would help track receipts and spending of financial contributions and assess compliance with Section 106 agreements.

Introduction

The NHS estate is in urgent need of improvement. The 2017 Naylor Review revealed a deteriorating and unfit for purpose NHS estate and called for reform to eradicate the rising backlog of maintenance across NHS trusts and improve the utilisation of existing buildings.[1]

The Government has committed to delivering the "biggest, boldest, hospital building programme in a generation", with the Health Infrastructure Plan setting out a five-year programme for investment in critical healthcare infrastructure.[2] This has been accompanied by an inquiry into NHS capital funding by the Health and Social Care Committee and an upcoming review of capital expenditure in the NHS by the National Audit Office.[3] As part of this focus on the funding mechanisms available to the NHS, increased attention has been paid to planning obligations from developers and how these might be used to meet the capital needs of the healthcare estate.

Section 106, also called 'planning obligations', can be an important means for NHS trusts and foundation trusts to improve and upgrade their estate when housing growth places additional pressures on services. In effect, these are contributions and concessions made by property developers in order to reduce their impact on the community and secure planning permission. NHS Improvement, the Department of Health and Social Care and NHS Property Services have acknowledged the potential for this funding mechanism to be used to improve the estate.[4] However, use of planning contributions is "the exception and not the rule"[5] and a consistent strategy for securing the money needs to be established and shared across local healthcare providers to guarantee regular income.

Utilising publicly available data on Section 106 financial contributions from Local Planning Authorities in England, alongside data obtained through Freedom of Information requests, *Reform* research reveals that the NHS is failing to tap into these funds. Between 2013-14 and 2018-19 only 36 per cent of the Local Planning Authorities who responded in full to the Freedom of Information Request had secured funds for healthcare infrastructure projects. Furthermore, to date, a significant proportion of the funds are yet to be allocated to projects or remain unspent by the NHS. Interviews held with experts from NHS organisations and Local Planning Authorities identified a lack of awareness of the Section 106 process, insufficient expertise and skills amongst staff, and poor coordination as key barriers to the use of Section 106.

[1] Robert Naylor, *NHS Property and Estates Why the Estate Matters for Patients* (Department of Health and Social Care, 2017).
[2] Department for Health and Social Care, *Health Infrastructure Plan: A New, Strategic Approach to Improving Our Hospitals and Health Infrastructure*, 2019, 4.
[3] House of Commons Health and Social Care Committee, *Oral Evidence: NHS Capital*, HC 129 (London: The Stationery Office, 2019); National Audit Office, "Review of Capital Expenditure in the NHS," Webpage, 2019.
[4] NHS Improvement, *Securing Section 106 and Community Infrastructure Levy Funds - a Guide*, 2018, 106; Department of Health, *Health Building Note 00-08: Addendum 2 - A Guide to Town Planning for Health Organisations*, 2015; Aahsan Rahman, "Capturing Funds for the NHS," Webpage, National Health Executive, March 20, 2019.
[5] NHS Improvement, *Securing Section 106 and Community Infrastructure Levy Funds - a Guide*, 2.

1. The role of planning obligations

Local authorities have long employed developer planning contributions, such as Section 106 (S106), to mitigate the impact of new developments on local communities. These mechanisms provide NHS trusts with opportunities to secure funds to improve the estate. However, *Reform* research finds that the NHS has not harnessed this opportunity.

1.1 What is Section 106 and how does it work?

S106 agreements are established between Local Planning Authorities (LPAs) and developers as part of the planning process.[6] Under S106, funding is available to relevant organisations, including NHS providers, to cover the costs associated with the new development, most commonly the impact of increased population following new job opportunities or housing. For instance, if new housing is built, the subsequent rise in the local population necessitates increased capacity and new healthcare facilities within the local area.

Decisions regarding planning applications are made in line with the LPA's Local Plan which sets out the planning priorities for the local area.[7] Different stakeholders are invited to input and feedback on the Plan. NHS providers can support the LPA in identifying health and social care issues facing the area and assessing the need for facilities. The LPA might also produce Supplementary Planning Documents to provide more detailed guidance on the Plan, and how planning contributions will be spent.

S106 planning obligations must pass three tests: they must be used to make the development acceptable in planning terms, must be used to mitigate the impact of a development on a specific site, and must be fairly and reasonably related in scale and type to the development.[8] If the obligation involves a financial contribution, this can only fund capital investment and should be spent within an agreed timeframe. Any unspent money after this time is returned to the developer.

[6] Alex Lord et al., *The Incidence, Value and Delivery of Planning Obligations and Community Infrastructure Levy in England in 2016-17* (London: Ministry of Housing, Communities and Local Government, 2018), 2016–17.
[7] Planning Inspectorate, "Guidance: Local Plans," Webpage, October 4, 2019.
[8] Local Government Association, "S106 Obligations Overview," Webpage, 2019.

2. Facts and Figures

Data obtained by *Reform* via FOI requests shows that the NHS is failing to tap into funds that could be used to improve its buildings. At a time of financial insecurity for the health Service, this capital resource is fundamental to supporting the healthcare estate and the needs of local patient populations.

2.1 The NHS is failing to tap into Section 106 funds

Data on S106 contributions from 2013-14 to 2018-19 show that only 105 of the 293 LPAs who responded in full to the FOI had secured investment for healthcare projects – only 36 per cent. Of the £87 million that was secured, almost £41 million is yet unallocated, meaning that the money is being held by the LPA and has not been transferred to the relevant healthcare provider to spend. For instance, in Lewisham, over £2 million of received S106 funds have not been allocated by the LPA. There is a responsibility for LPAs to ensure that S106 funds are made available to service providers in line with the terms of the S106 legal agreement.

However, it may be that the planning officers are uncertain of who to contact within the NHS regarding the allocation of S106 funds, or that the local NHS provider has not decided how the funds or in-kind contribution are to be used. As of 2018-19, 20 LPAs had more than £500,000 of S106 funds that had not yet been allocated to a healthcare provider. Twelve of these had more than £1 million of unallocated funding, with Exeter City Council holding more than £10 million of unallocated funds for healthcare.

2.2 Healthcare is not a planning priority

There were 163 LPAs who did not have a category for ‘health’ in their monitoring systems, either including healthcare contributions under the broader category of ‘community services’ or not using S106 as a mechanism to fund healthcare. For example, Newcastle City Council, which had one of the highest property development rates in the UK in 2016-17, had not collected any S106 money for healthcare in this period.[9] The Council has recently started to receive payments for healthcare-related projects. Yet, this highlights a number of issues for healthcare providers in regularly accessing S106 funds.

[9] Office for National Statistics, *Housing Summary Measures: Summary Measures Data*, 2017.

2.3 Millions of pounds are sitting unspent

Where money has been allocated to healthcare-related projects, at least £34 million has been left unspent. This means that funds have been transferred from the LPA to the local NHS provider, but have not yet been spent. However, it must be noted that 29 per cent of the LPAs that successfully secured S106 funding during the period have not reported any data about spend. In the case of Blaby, Swindon and Oxfordshire Councils, S106 monies had to be returned to the developer because they were not spent within the agreed legal timeframe (typically five or 10 years after receipt of funds). This indicates a lack of clarity around the capital needs of local healthcare providers, where specific projects have not been pre-emptively identified as in need of investment when population demands increase. Similarly, Maidstone Borough Council held £1.82 million of unspent S106 funds, despite having a development rate and population increase higher than the national average.[10] For the same amount of money, Tower Hamlets Clinical Commissioning Group (CCG) had used S106 funds to complete nine minor refurbishment projects and alleviate the impact of developments on their patient population. Figure 1 shows a list of the LPAs with the highest amount of unspent S106 funds.

Figure 1: Local Planning Authorities (LPAs) with the highest amount of unspent S106 contributions, 2013-14 to 2018-19.

Local Planning Authority	Total received for health (£)	Total money allocated (£)	Total money unspent (£)
Maidstone Borough Council	1,954,396	1,817,476	1,812,363
Blaby District Council	1,810,911	1,810,911	1,646,892
London Borough of Hounslow	1,563,104	1,330,726	1,290,539
London Borough of Lewisham	3,130,715	1,008,312	882,483
London Borough of Waltham Forest	1,542,498	977,245	839,470
London Borough of Barnet	2,354,999	778,497	652,275
Dartford Borough Council	640,150	640,150	640,150
Preston City Council	1,052,115	568,030	568,030
South Oxfordshire District Council	557,844	557,844	557,844
South Derbyshire District Council	965,927	597,928	367,998

Source: *Reform* research

[10] Ibid.; Office for National Statistics, *Population Projections for Local Authorities: Table 2*, 2019.

Planning for patients

The reasons for these unspent funds are varied. Interviews with stakeholders participating in the allocation process for S106 contributions highlighted that this is often due to individual NHS trusts waiting to pool multiple S106 payments in order to fund a larger project. Prior to September 2019, recipients of S106 contributions were only able to pool a maximum of five payments together, but these restrictions have now been lifted.[11] This means that NHS trusts can collect numerous payments before spending them on a large infrastructure project or facility. In the example of Tower Hamlets CCG, the construction of new healthcare facilities cost upwards of £1.5 million, so it was necessary to combine smaller payments before spending them on large projects.

On the other hand, interviewees also highlighted that NHS trusts and CCGs do not always have a clear understanding of how they should spend S106 funds or utilise in-kind contributions. As discussed above, there is often no clear remit for dealing with S106-related issues at the trust or CCG level, meaning that the estate needs of each area are not fully understood, therefore delaying decisions around the spending of S106 monies. Although a hospital or surgery may be in need of additional funds to mitigate the impact of population growth, these needs may not be communicated clearly to the CCG or NHS organisation responsible for spending S106 money.

Moreover, the approaches to healthcare-related S106 funding vary between councils, creating difficulties for the NHS in promoting a universal approach to accessing this source of capital. Tamworth Council, in response to *Reform's* FOI request, stated that they did not collect S106 contributions for healthcare because the local CCG had not identified any projects in need of funds. In other instances, the responsibility for S106 funds in healthcare was divided between County Councils and District Councils, often with a lack of clear remit from planning officers' perspectives, as was evidenced in the FOI responses. For example, an FOI response from Chorley Council highlighted that Lancashire County Council oversaw the receipt and allocation of S106 contributions for healthcare, whilst the response from Lancashire County Council stated that this was handled by the District Councils.

For many other LPAs, the explanation given was simply that they did not fund healthcare infrastructure projects through S106. Several interviewees highlighted that healthcare was particularly contentious with regard to S106, with some suggesting that the NHS was often not considered an equal partner in the planning process. In particular, interviewees thought that healthcare developments were exempt from paying S106 contributions themselves. Although FOI responses indicated that healthcare developments by the NHS were not, in fact, exempt from S106 contributions, this ambiguity around entitlement and a misunderstanding of healthcare's position within the S106 process acted as a barrier to collaboration.

[11] Vicky McDonald, "Changes on 1 September 2019 to the CIL Regulations," Webpage, August 19, 2019.

3. Levers for success

More effective use of S106 funds could offer a regular source of capital for the NHS to meet the healthcare needs of growing communities. However, an open discussion of the barriers to engagement will be crucial to future success, allowing relevant stakeholders to build their awareness of the S106 process and the unique needs of their partners.

3.1 Clear engagement channels

NHS organisations are often criticised for failing to anticipate the need for extra provision in their local area and for not engaging with their LPA.[12] The absence of established communication channels was regarded by both LPAs and representatives from NHS organisations as a significant barrier to engagement with the S106 process. At a practical level, it was not always clear who to contact about S106, both from an LPA and an NHS perspective. LPAs highlighted a lack of clarity over who in the NHS dealt with planning issues, with some not holding a relevant healthcare contact on their consultation database. These breakdowns in communication often result in healthcare needs not being included in Local Plans, despite population growth placing new demands on local healthcare facilities. For instance, South Derbyshire District Council have complained about a lack of responsiveness from NHS Derby and Derbyshire CCG, who have failed to engage with the S106 process and have not requested contributions to support new infrastructure.[13]

Poor communication between LPAs and healthcare providers was considered symptomatic of integration problems within the healthcare system. Yet, there is an expectation that STPs/ICSs will help bridge these gaps in the future. An interviewee highlighted that STPs/ICSs were becoming increasingly important in prioritising and shaping the health estates and infrastructure needs of its population. This presented a clear opportunity to clarify both engagement and on-going communications at a system-wide level but also to overcome some of the other traditional barriers referred to elsewhere in this report.

Tower Hamlets CCG have demonstrated the benefits of building these relationships between the NHS and their LPA, having secured almost £16 million in the past five years to fund their healthcare facilities. Through their dedicated Estates team, they have established a productive partnership with the LPA, meeting with them on a monthly basis to discuss their estates needs and secure funding from new developments. Tower Hamlets is unique in that it has benefitted from large-scale and high value developments in the area, making S106 more accessible. However, its success is also attributed to the creation of a formal process and a clear drive from senior leadership to engage with the LPA. In a similar vein, good working relationships between NHS West Leicestershire

[12] Daniel Holland, "Health Chiefs Accused of 'ludicrous' Claim That Newcastle Great Park Does Not Need GP Practices," Chronicle Live, December 19, 2018; Gareth Butterfield, "Fears over Health Services as Town Keeps Expanding," Derbyshire Live, October 11, 2017.
[13] Eddie Bisknell, "Council Claims It Struggles to Speak to Health Chiefs about Improving NHS Services to Cater for New Houses," Derbyshire Live, June 6, 2019.

CCG's GP Contracts & Quality Team and the Borough and District Councils have helped the CCG secure funding for several primary care improvement projects.[14]

This proactive engagement must also extend to developers. Interviewees expressed concern that S106 was often seen as a 'tick box exercise' for developers to secure planning permission. For instance, Buckinghamshire Primary Care CCG has warned that current developer S106 proposals to fund primary care facilities in the area do not align with the local healthcare strategy and will severely hamper the CCG's ability to commission and deliver services. Despite this, the developer has been reluctant to modify the proposal to avoid delays in securing full planning permission.[15]

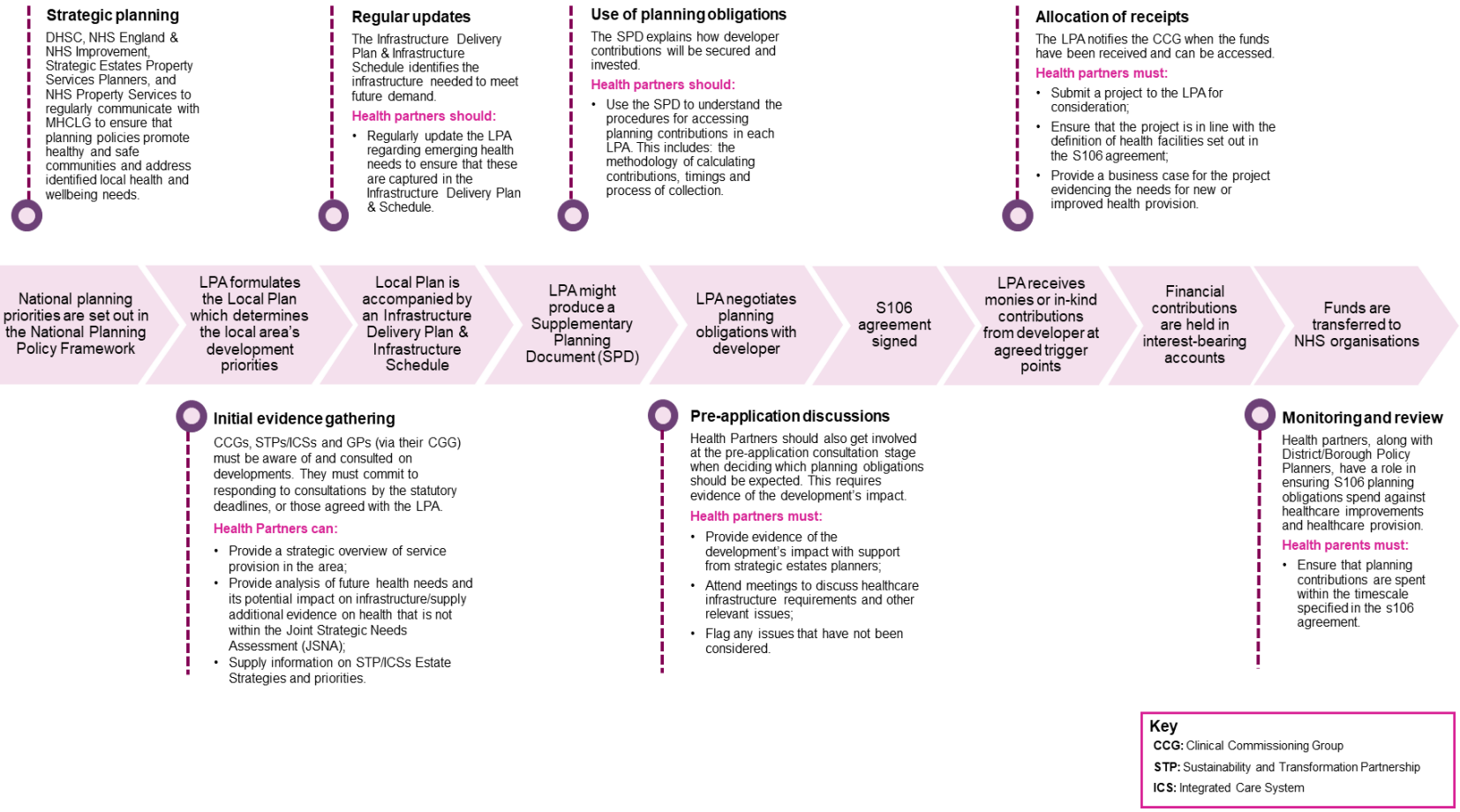
3.2 Awareness of the process

A lack of awareness and general confusion regarding the S106 process was highlighted by NHS providers as a barrier to securing S106 funds. Many interviewees described the process as "opaque" and reported to be unaware of the points at which they should approach the LPA. Without clarity on these issues, it would be ambitious for NHS trusts to monitor new developments continuously and therefore engage with LPAs at the beginning of each planning application. Moreover, a lack of awareness and clear remit was seen by interviewees to amplify the poor communication identified above, given that trusts with no understanding of planning obligations were not in a position to engage with the LPA.

Figure 2 provides an overview of the S106 process, the stages at which healthcare providers can get involved and the organisations they must interact with.

[14] NHS West Leicestershire CCG, *NHS West Leicestershire CCG Annual Report 2018/19*, 2019, 19.
[15] Buckinghamshire Primary Care Commissioning Group, *Buckinghamshire Primary Care Commissioning Committee*, 2019, 74.

Figure 1: Points at which NHS organisations can get involved in the S106 process



Source: *Reform* research

Influencing the direction of planning policy is best done at the Local Plan stage, when decisions are made about the local authority's infrastructure priorities for the following five to 10 years. This includes information on how S106 funds should be distributed. Engagement from the NHS is particularly important, given that LPAs have to balance a number of priorities, including transport, affordable housing and open space, and are not always in a position to approach healthcare providers. Interviewees for this project highlighted the lack of resources available to LPAs to approach local service providers, as well as the need to uphold commitments to improving affordable housing and educational support through S106 funding.

These issues are further compounded by the different timescales of the NHS and planning authorities, with consultation on the Local Plan often taking place after the NHS' financial plan had been agreed. This creates difficulties in aligning needs. In addressing this problem, NHS Improvement has highlighted the importance of "talking to [the] planning authority on a regular basis", responding to consultation requests where possible and meeting with planning officers to understand how the NHS can get involved on a long-term basis.[16] This local-level relationship building is central to NHS Improvement's guide for securing S106 funds, which stresses the importance of a proactive approach from all levels of the NHS to influence the planning priorities of individual LPAs.[17]

NHS Improvement has recently published a guide on securing S106 funds to improve the awareness within individuals trusts and CCGs.[18] This is to be accompanied by a briefing paper from NHS Property Services in the near future, indicating the increased role of S106 in healthcare. NHS Property Services also offer a high-level model of how the NHS can get involved with the S106 process, pinpointing the importance of coordinated engagement, learning from the successes of other trusts and identifying key individuals or providers to be involved with securing funds.[19] These publications echo the recommendations of a Department of Health guide from 2015, but there was an indication amongst all interviewees that full engagement had still not become systematic, with clear gaps in awareness and expertise identified as persisting barriers.[20]

Recommendation 1: To increase awareness of the role of planning contributions in healthcare amongst NHS trusts, Clinical Commissioning Groups, and Sustainability and Transformation Partnerships/Integrated Care Systems, the Ministry of Housing, Communities and Local Government should work with the Department of Health and Social Care to create national-level guidance for NHS organisations to secure funding through Section 106 contributions as well as disseminating best practice case studies.

[16] NHS Improvement, *Securing Section 106 and Community Infrastructure Levy Funds - a Guide*, 8.
[17] NHS Improvement, *Securing Section 106 and Community Infrastructure Levy Funds - a Guide*.
[18] Ibid.
[19] Rahman, "Capturing Funds for the NHS."
[20] Department of Health, *Health Building Note 00-08: Addendum 2 - A Guide to Town Planning for Health Organisations*.

3.3 Skills and expertise

Even when trusts were aware of the S106 process, interviewees highlighted a lack of confidence and a feeling of ineligibility as deterrents to engagement. In line with this, it was perceived that healthcare providers lacked the necessary expertise and 'business skills' to influence decisions regarding S106. As stated by one interviewee: "accessing S106 requires completely different expertise to the medical profession" and it is only by building the right skills that providers will improve their chances of securing these funds. Increasingly, providers are choosing to appoint dedicated commercial and legal teams to liaise with the LPA on issues relating to planning contributions. Warwickshire North Clinical Commissioning Group, for instance, sought expert advice to produce a S106 business case for a new GP surgery.[21]

A common contribution from developers for healthcare is floorspace within the development itself, offering a potential site for a GP surgery or other primary care facilities. However, concerns were raised during interviews that NHS trusts may not be able to meet the long-term costs of this building, including rent, or the costs of fitting these buildings out with necessary equipment. Similarly, local NHS trusts may not feel confident in negotiating the terms of lease for in-kind contributions from developers, where contracts need to be agreed in line with NHS capital availability. NHS Property Services take a proactive role in leading these negotiations, but there remains a lack of awareness around who to approach for this expertise, what S106 funds can be used for and how this aligns with the capital priorities of each local provider.

Success also hinges on healthcare providers being able to demonstrate the direct impact of a new development on healthcare facilities.[22] The fact that LPAs require different levels and types of evidence, and the absence of a standardised reporting framework, means that NHS providers are often unsure about how to put forward a convincing business case for investment. This creates inefficiencies and variation in the way that S106 funds are allocated and invested.

> **Recommendation 2:** The Ministry of Housing, Communities and Local Government should consider producing standard templates to assist NHS organisations, such as Clinical Commissioning Groups, NHS trusts and primary care providers, in developing the strategic business case for securing Section 106 contributions from Local Planning Authorities.

3.4 Long-term strategy

Representatives from LPAs highlighted the importance of clarity on the capital needs of S106 recipients, stating in interview that they prioritised those projects which

[21] Claire Harrison, "Much-Needed New GP Surgery for Nuneaton Planned to Cope with Growing Population," *Coventry Live*, February 7, 2018.
[22] NHS Improvement, *Securing Section 106 and Community Infrastructure Levy Funds - a Guide*, 6.

demonstrated a clear purpose and strategic vision. NHS representatives acknowledged that some CCGs and trusts lacked clarity over the local healthcare estates strategy and capital priorities, making it difficult for them to influence the Local Plan on an informed basis.

This was corroborated by an interviewee who recalled how a building had been secured for healthcare purposes through S106 but had to be held by an LPA for three years because the NHS was not prepared to take it on. Here, the dialogue between LPAs and the NHS was regarded as one-sided, with the LPA having to approach local healthcare providers with funds or in-kind contributions, rather than working collaboratively to secure contributions from developers.

Representatives from LPAs and NHS organisations also recognised that LPAs were more likely to favour projects where there was greater certainty that the infrastructure would be delivered within the agreed timeframe. Due to the changing requirements and priorities within the NHS, funding of healthcare-related projects through S106 was often considered riskier. For instance, plans to build a new GP surgery in North West Bicester using S106 contributions have recently been scrapped due to the CCG's decision to build a 'super-surgery' in another part of the town.[23]

NHS Improvement emphasise that the CCG and STP Estates Plan, which is now a requirement, should coordinate with the Local Plan to ensure greater alignment between the needs of the local community and the priorities of planning departments.[24] This will also help ensure that S106 agreements reflect changes in models of care delivery and provide value to the NHS. Buckinghamshire Primary Care CCG, for instance, has recognised that a lack of clear communication with the LPA regarding strategic health priorities has resulted in "historic S106 agreements that are not fit for purpose in light of new models of care".[25] Similarly, STPs/ICSs have a central role to play in coordinating this strategic approach to NHS premises funding, offering an existing platform for collaboration with local councils and coordinating the capital priorities of the NHS in each local area.

Although it was not possible to identify the distribution of S106 funds between primary and secondary healthcare, several interviewees suggested that hospitals remain the focus of the STP Estates Plan and therefore the availability of funding for primary care, including GP surgeries, was much lower. It was also stated that primary care relies much more heavily on S106 monies, given that they are allocated less funding centrally than hospitals. There have been cases where S106 requests put forward by CCGs to deliver GP premises have been challenged by the LPA on the grounds that this would be funding a private or commercial enterprise.[26] Primary care providers cannot currently access S106 funding directly. In most cases, S106 contributions secured by the CCG are retained by NHS England and made available to primary care providers in the form of improvement grants as set out in the NHS Premises Costs Directions. Practices are expected to match-

[23] India Clayton, "CCG Has Final Say on GP Surgery Plans for Bicester," *Oxford Mail*, November 2, 2019.
[24] NHS Improvement, *Securing Section 106 and Community Infrastructure Levy Funds - a Guide*.
[25] Buckinghamshire Primary Care Commissioning Group, *Buckinghamshire Primary Care Commissioning Committee*, 78.
[26] Ibid., 80.

fund 33 per cent of the costs of improvements and must demonstrate their ability to fund it.[27] This is set to change with NHS England and NHS Improvement's recent review of General Practices Policy proposing to fund up to 100 per cent of the cost of premises projects.[28]

In developing a clear strategy for accessing S106 contributions in the future, greater consideration may be required of the capital needs of primary care facilities and how these could be supported using planning contributions.

Recommendation 3: To address the current challenges in securing section 106 planning contributions for primary care infrastructure, Clinical Commissioning Groups, alongside NHS England & NHS Improvement, should conduct an appraisal of the different GP ownership models that would best satisfy the planning requirements of Local Planning Authorities. This would help inform Clinical Commissioning Groups' future strategic estates plans and further streamline the process for securing planning contributions for GP premises.

3.5 Improved transparency

Efforts to understand LPAs' approaches to S106 have been hindered by the lack of clarity and consistency in the reporting of information.

Evidence shows that there is currently "a variability in approaches to monitoring between LPAs".[29] On one hand, many London-based LPAs consistently produce Annual Monitoring Reports, which contain a breakdown of their S106 activity and offer transparency to developers, local stakeholders and citizens. On the other hand, LPAs such as Craven and Mid Devon are only beginning to record their S106 data on a regular basis. A survey of 41 councils in the UK found that 14 were unable to confirm whether they had a monitoring system in place, with Bexley Council admitting they had no way of ensuring that developers paid their S106 funds.[30] This makes it difficult to establish the role that planning contributions have in supporting local healthcare infrastructure in the face of increased property developments.

In addition to the accessibility of data being problematic, there was also a disparity in the terminology used by LPAs, with some distinguishing between 'allocated' and 'spent' S106 funds and others offering a more aggregated overview of funding. Similarly, some LPAs include healthcare as an explicit category, or 'head of term', when defining the purpose of a S106 payment, with some even distinguishing between primary and secondary care. Yet, others had no obvious healthcare category, including this spending under 'community services' or not requesting S106 for healthcare at all. The only way to establish that healthcare was incorporated in 'community services' payments was by contacting the LPA

[27] NHS England, *The National Health Service (General Medical Services - Premises Costs) Directions 2013*, 2013.
[28] NHS England and NHS Improvement, *General Practice Premises Policy Review*, 2019.
[29] Lord et al., *The Incidence, Value and Delivery of Planning Obligations and Community Infrastructure Levy in England in 2016-17*, 9.
[30] Luke Barratt, "Further Council Has No Section 106 Monitoring," *Inside Housing*, January 9, 2017.

directly, signalling a barrier to transparency for members of the public and healthcare providers in understanding how S106 funds are being used in their community.

These issues were corroborated by several LPAs who recognised the need for a systematic and transparent approach to monitoring S106 processes. However, lack of resources was often cited as a key barrier to implementing these changes.[31] Recent years, however, have seen LPAs appointing dedicated monitoring officers or investing in monitoring systems. For instance, following claims of misspent and unallocated S106 funds, East Hertfordshire Council has recently decided to appoint a dedicated officer to investigate and monitor the use of S106 planning agreements.[32] Similarly, NHS Medway CCG and Medway Council have created a S106 Health Contributions Tracker to monitor the use of these funds, and ensure that allocations are linked to the Local Plan and Local Estates Strategy.[33]

New legislation in September 2019 has placed greater pressures on LPAs to foster transparency in these processes but building a record of all past S106 payments will take time and resources, which are not always readily available to LPAs.[34] Any changes implemented must be proportionate to the resources and capacity of each LPA, which now have a statutory right to charge developers a 'monitoring fee' in relation to planning obligations.[35]

In an effort to address this issue, Waverley Borough Council has implemented new software which allows the tracking and monitoring of S106 payments, and provides clarity, consistency and accessibility to all key stakeholders involved in the development process.[36] However, this is only useful at a national level if it is being used consistently and universally, an aim that should be at the forefront of LPA's Local Plans if they are to offer a valuable and transparent service to their citizens.

Recommendation 4: To improve transparency in the planning, allocation and use of planning obligations to deliver community infrastructure, Local Planning Authorities should establish appropriate monitoring processes of planning contributions. This would help track receipts and spending of financial contributions and assess compliance with Section 106 agreements.

[31] Lord et al., *The Incidence, Value and Delivery of Planning Obligations and Community Infrastructure Levy in England in 2016-17*.
[32] Sinead Corr, "East Herts Streamlines Distribution of Cash for Community Projects and Infrastructure," February 5, 2019.
[33] NHS Medway Clinical Commissioning Group, *NHS Medway Clinical Commissioning Group Primary Care Commissioning Committee*, 2019.
[34] Ministry of Housing, Communities & Local Government, *Government Response to Reforming Developer Contributions*, 2019.
[35] McDonald, "Changes on 1 September 2019 to the CIL Regulations."
[36] Waverley Borough Council, "Section 106 Contributions," Webpage, 2019.

Conclusion

The funding mechanism of S106 holds the potential to transform the NHS estate in line with population growth and development rates, meeting the needs of its patient population through proactive and consistent use of planning obligations. Tower Hamlets CCG have demonstrated the long-term benefits of this approach, with healthcare facilities such as St Paul's Way Health Centre and Wellington Way being funded through S106 contributions. With use of available funding, these facilities will be equipped with new healthcare technologies, such as self-diagnosis machines and more flexible workspaces, to offer an efficient and accessible service to its patients.

However, as can be seen in the data received through FOI requests, the use of S106 funding is neither consistent nor frequent at present, with many local trusts and CCGs lacking the necessary expertise and awareness to engage with this process on a regular basis. Nonetheless, NHS organisations at the national level are beginning to incorporate this funding mechanism into their broader estates strategy, with NHS Improvement and NHS Property Services offering the necessary support to overcome the practical barriers to full engagement. The importance of integration to achieving universal success should not be understated, with ICSs, STPs and CCGs playing vital roles in coordinating the estates priorities of local NHS trusts, fostering collaboration with the relevant LPA and adapting to the unique requirements of each locality's S106 process.

A fresh approach to S106 should be characterised by clear communication channels, shared awareness of its possibilities and an informed strategy for estates funding that is coordinated across local NHS trusts, CCGs and LPAs. The move to more transparent monitoring systems on the part of LPAs should facilitate this collaborative engagement, but there is also a responsibility for NHS organisations to be proactive in their approach, building relationships with planning officers where these do not yet exist and communicating local healthcare needs on a regular basis to establish these as a planning priority.

As the NHS moves towards greater integration of services at the local level, the importance of S106 in interconnecting community needs and healthcare provision will be crucial. Ensuring that these funds are used in the most appropriate way should be a priority for LPAs and NHS organisations alike.

Appendix

352 Local Planning Authorities (LPAs) in England were sent an FOI request and 293 responses were received. 105 LPAs responded in full to the FOI, of which 36% successfully secured S106 payments during period between 2013-14 and 2018-19. The database used for this analysis is available upon request.

The report examines the use of S106 planning contributions to fund healthcare-related infrastructure projects and does not cover other funding mechanisms such as the Community Infrastructure Levy (CIL).

For the period between 2013-14 and 2018-19, LPAs were asked to report the following information:

- Total funds received via S106 planning contributions;
- Total amount captured for health infrastructure projects;
- Total allocated to a specific healthcare project;
- Total money spent;
- Total money returned to the developer.

Glossary

Estates Plan: produced by each Sustainability and Transformation Partnership/Integrated Care System, outlining the long-term plans and priorities for the NHS estate in their area.

Infrastructure Delivery Plan: produced by Local Planning Authorities and outline the infrastructure needs of a local area in alignment with the Local Plan.[37]

Infrastructure Schedule: produced for each infrastructure type in the Infrastructure Delivery Plan, detailing "delivery, funding sources [and] costs".[38]

Local Plan: "The Local Plan should make clear what is intended to happen in [each local area] over the life of the plan, where and when this will occur and how it will be delivered".[39]

National Planning Policy Framework: "The National Planning Policy Framework sets out the Government's planning policies for England and how these should be applied".[40]

Section 106: agreements made between a developer and a Local Planning Authority with the intention of mitigating the impact of the development on the local area and making the development "acceptable in planning terms".[41]

Supplementary Planning Document: a non-statutory document that explain how policies and proposals will be implemented by each Local Planning Authority.[42]

[37] London Borough of Croydon, "Infrastructure Delivery Plan," Webpage, 2019.
[38] Ibid.
[39] Ministry of Housing, Communities & Local Government, "Local Plans," Webpage, May 19, 2016.
[40] Ministry of Housing, Communities & Local Government, *National Planning Policy Framework*, 2019.
[41] Local Government Association, "S106 Obligations Overview."
[42] Wandsworth Borough Council, "Supplementary Planning Documents Guidance," Webpage, 2019.

Bibliography

Barratt, Luke. “Further Council Has No Section 106 Monitoring.” *Inside Housing*, January 9, 2017.

Bisknell, Eddie. “Council Claims It Struggles to Speak to Health Chiefs about Improving NHS Services to Cater for New Houses.” *Derbyshire Live*, June 6, 2019.

Buckinghamshire Primary Care Commissioning Group. *Buckinghamshire Primary Care Commissioning Committee*, 2019.

Butterfield, Gareth. “Fears over Health Services as Town Keeps Expanding.” *Derbyshire Live*, October 11, 2017.

Clayton, India. “CCG Has Final Say on GP Surgery Plans for Bicester.” *Oxford Mail*, November 2, 2019.

Corr, Sinead. “East Herts Streamlines Distribution of Cash for Community Projects and Infrastructure.” February 5, 2019.

Department for Health and Social Care. *Health Infrastructure Plan: A New, Strategic Approach to Improving Our Hospitals and Health Infrastructure*, 2019.

Department of Health. *Health Building Note 00-08: Addendum 2 - A Guide to Town Planning for Health Organisations*, 2015.

Harrison, Claire. “Much-Needed New GP Surgery for Nuneaton Planned to Cope with Growing Population.” *Coventry Live*, February 7, 2018.

Holland, Daniel. “Health Chiefs Accused of ‘ludicrous’ Claim That Newcastle Great Park Does Not Need GP Practices.” *Chronicle Live*, December 19, 2018.

House of Commons Health and Social Care Committee. *Oral Evidence: NHS Capital*. HC 129. London: The Stationery Office, 2019.

Local Government Association. “S106 Obligations Overview.” Webpage, 2019.

London Borough of Croydon. “Infrastructure Delivery Plan.” Webpage, 2019.

Lord, Alex, Richard Dunning, Bertie Dockerill, Gemma Burgess, Adrian Carro, Tony Crook, Craig Watkins, and Christine Whitehead. *The Incidence, Value and Delivery of Planning Obligations and Community Infrastructure Levy in England in 2016-17*. London: Ministry of Housing, Communities and Local Government, 2018.

McDonald, Vicky. “Changes on 1 September 2019 to the CIL Regulations.” Webpage, August 19, 2019.

Ministry of Housing, Communities & Local Government. *Government Response to Reforming Developer Contributions*, 2019.

———. “Local Plans.” Webpage, May 19, 2016.

———. *National Planning Policy Framework*, 2019.

National Audit Office. “Review of Capital Expenditure in the NHS.” Webpage, 2019.

Naylor, Robert. *NHS Property and Estates Why the Estate Matters for Patients*. Department of Health and Social Care, 2017.

NHS England. *The National Health Service (General Medical Services - Premises Costs) Directions 2013*, 2013.

NHS England and NHS Improvement. *General Practice Premises Policy Review*, 2019.

NHS Improvement. *Securing Section 106 and Community Infrastructure Levy Funds - a Guide*, 2018.

NHS Medway Clinical Commissioning Group. *NHS Medway Clinical Commissioning Group Primary Care Commissioning Committee*, 2019.

NHS West Leicestershire CCG. *NHS West Leicestershire CCG Annual Report 2018/19*, 2019.

Office for National Statistics. *Housing Summary Measures: Summary Measures Data*, 2017.

———. *Population Projections for Local Authorities: Table 2*, 2019.

Planning Inspectorate. “Guidance: Local Plans.” Webpage, October 4, 2019.

Rahman, Aahsan. “Capturing Funds for the NHS.” Webpage. National Health Executive, March 20, 2019.

Wandsworth Borough Council. “Supplementary Planning Documents Guidance.” Webpage, 2019.

Waverley Borough Council. “Section 106 Contributions.” Webpage, 2019.

Reform
5-6 St Matthew Street
London
SW1P 2JT
www.reform.uk

T 020 7799 6699
info@reform.uk
www.reform.uk
978-1-910850-32-9

978-1-910850-34-3