

PLANNING OBLIGATIONS REVIEW

What are planning obligations?

Planning obligations are legal agreements (or unilateral undertakings) entered into under section 75 of the Town and Country Planning (Scotland) Act 1997. Their purpose is to mitigate the impacts of proposed developments, in order to make them acceptable in planning terms (i.e. compliant with planning policy).

Scottish Government policy on planning obligations is contained in [Circular 3/2012](#), including the five tests governing their use. Subject to those tests, planning obligations can be used to secure financial contributions to - or in-kind provision of - infrastructure and affordable housing. In doing so, planning obligations can help to support good placemaking.

Planning obligations are commonly referred to as section 75 agreements. The term 'developer contributions' is sometimes used to refer to planning obligations and other mechanisms for seeking funding towards the cost of infrastructure and/or affordable housing.

Background to the review

As part of the planning reform programme, we are carrying out a review of existing developer contributions mechanisms, such as planning obligations. This was one of the recommendations of the Scottish Land Commission in their [advice to Scottish Ministers on land value uplift capture](#).

The purpose of the review is to evaluate the effectiveness of planning obligations as a means of securing timely contributions to - and delivery of - the infrastructure and affordable housing that are necessary to create high quality places. The findings of the review will inform future policy development on infrastructure planning and delivery in Scotland. Specifically, the review will help to inform the emerging [National Planning Framework](#), potential updates to [Circular 3/2012](#) and (over the longer term) implementation of the [infrastructure levy](#).

Evaluating the effectiveness of planning obligations will involve a wide range of considerations, and require a combination of qualitative and quantitative evidence. That is why, as a first step, we have commissioned independent research on the value, incidence and impact of developer contributions in Scotland.

DEVELOPER CONTRIBUTIONS RESEARCH

What is the purpose of the research?

The research will generate much-needed quantitative evidence on the value of developer contributions in Scotland: how much they are raising, what they are being used for and the extent to which this varies geographically. It will also provide qualitative evidence about the practical issues associated with planning obligations, including their relationship with development plans and their impact on development viability and infrastructure delivery. The work forms part of the Scottish Government's review of planning obligations, which will inform future policy development in this area.

Who is carrying out the research?

The research is being carried out by the London School of Economics (LSE), University of Sheffield, Stefano Smith Planning and Rettie & Co: a team which brings together experienced academic researchers and planning and property practitioners. Professor Christine Whitehead (LSE) and Professor Tony Crook (University of Sheffield) have carried out similar projects on the value of developer contributions for the UK Government, as well as previous housing and planning research in Scotland. Stefano Smith and Dr John Boyle (Rettie & Co) bring extensive practical experience of the Scottish planning and development sector, having advised both public and private sector clients on a range of development projects across Scotland.

What are the timescales?

We anticipate that the project will take approximately six months. A final report will be published early 2021.

What will the research involve?

The project will involve a combination of quantitative and qualitative research methods, including:

- Survey of Scottish planning authorities
- Site-specific case studies
- Developer workshops

Survey of Scottish planning authorities

A questionnaire will be sent to all planning authorities in Scotland. This is a critical part of the project: it will be used to collect information on the value of planning obligations in 2017/18, 2018/19 and 2019/20.

We expect that the questionnaire will be sent to authorities in Autumn 2020. Before then, the research team will work with a small group of authorities to pilot the questionnaire. This co-design process will help to ensure data 'asks' are realistic. The research team and

Scottish Government will work with relevant stakeholders (e.g. Heads of Planning Scotland and the Developer Obligations Forum) to agree the most effective approach to involving authorities in the design phase.

We are keen for authorities to engage with and respond to the questionnaire when it arrives. The quality and quantity of responses will have an important bearing on the research's overall findings. Those findings will provide us with a better picture of how well planning obligations are operating, which in turn will help Scottish Government identify potential improvements in future. Furthermore, it is worth noting that once [sections 35 and 36 of the Planning \(Scotland\) Act 2019](#) come into force, authorities will have a legal duty to report on planning obligations annually.

The research team will offer support to help authorities complete the questionnaire once it goes 'live'. Further details of the support available will be provided in due course.

Site-specific case studies

To complement the broad, quantitative data collected through the questionnaire, a series of site-specific case studies will be carried out to gain in-depth understanding of how practice varies in different development contexts. They will involve interviews with all the relevant parties involved in the negotiation and delivery of obligations for the sites selected. A range of case studies covering different market areas, site sizes and development types will be used. These will be identified through discussions between the research team, Scottish Government and relevant stakeholders such as Homes for Scotland.

Developer workshops

A series of 'roundtable' workshops with developers and other stakeholder will be carried out to understand how current policy and practice impacts on land, property and development markets. The workshops will be carried out in the Autumn. The format of these sessions (i.e. whether face-to-face or virtual) will be kept under review and informed by the latest public health advice.