

WINCHESTER CITY COUNCIL DECISION RECORD VERSION 6. MAY 2024

Reference Number (taken from Sharepoint entry) Click or tap here to enter text.
Officer Completing the Form: Robert Green
Lead Director: Dawn Adey
Subject: Nutrient Mitigation – Package Treatment Plan Monitoring Fee

Details of Decision: <i>Please provide a brief explanation as to what decision was made, including any financial implications. This should be done in easy to understand, non-technical language - as this wording will appear on the website for the public to read. Also please remember all staff will be able to see this document.</i>
Approve a fee of £16,000 (plus VAT) in 2024/25 for the 125-year monitoring of private Package Treatment Plants which are being used to supply nutrient mitigation credits. The fee will increase each financial year in line with the preceding September CPI.

Type of Decision: (please tick. see reverse for definitions)	
	<input type="checkbox"/> Key Decision (Executive) & Subject to Call-In (see section 2A on reverse of this form) Note, these decisions are published on winchester.gov.uk
	<input checked="" type="checkbox"/> Significant Operational Decision (see section 2B (1) on reverse of this form). Note, these decisions are published on winchester.gov.uk
	<input type="checkbox"/> Other Decisions to be Published (see section 2B (2) on reverse of this form) Note, these decisions are published on winchester.gov.uk
	<input type="checkbox"/> Administrative Decision (see section 3 on reverse of this form)

Reason for the Decision: <i>A brief overview of your reasons for taking this course of action.</i>

The City Council, as Competent Authority under the Conservation of Habitats and Species Regulations 2017 (as amended), is required to monitor and enforce the performance of private Package Treatment Plants which are being used to supply nutrient mitigation credits over a 125-year period. Monitoring is also a requirement of Natural England who also assess the suitability of mitigation schemes.

As an obligation within a section 106 legal agreement, the mitigation site owner must provide a technical report which assesses whether the plant is continuing to remove the agreed amount of nutrients.

These reports are submitted to WCC Local Planning Authority in the first year, and then every 5 years over the 125-year period. This amounts to 26 review events over the lifetime of the plant.

The cost of a single event has been calculated at circa £370, including Special Maintenance review, LPA administration and manager sign off (2024/25 prices). To take account of the extended monitoring period and allowing for potential inflation and investment returns over this period, a total monitoring fee of £16,000 plus VAT is proposed. The section 106 legal agreement will outline when this fee would be paid. This takes account of the inherent risk of higher future costs balanced by returns on monies received and is deemed both fair to the those paying the fee and to council taxpayers. The fee will be set at 2024/25 prices and each financial year thereafter will increase in line with CPI inflation based on the preceding September (i.e. the 25/26 fee will be £16,000 uplifted by September 2024 CPI).

Alternative Options Considered & Rejected: <i>All alternative options considered need to be outlined here. Please include detail of any representations received. This will include your response to any alternatives suggested by those making representation and the reasons why these alternatives were rejected.</i>
Not applying a fee – the LPA as enforcement authority would be liable to absorb monitoring and enforcement costs. Multiple agreements and mitigation sites are likely to come forward and this would place un-resourced strain on the department over a prolonged period.

Supporting Information: <i>If your decision relates to delegated authority derived from a specific Committee resolution, please confirm the name of the Committee, the date of the meeting and paste the resolution into this box.</i>
The third-party PTP mitigation procedure was highlighted within CAB3459 (Cabinet – 11 September 2024 and Full Council - 18 September 2024).



Declared Officer and/or Member interests: <i>List any conflict of interest declared by any Cabinet Member who was consulted by the officer which relates to the decision and, in respect of any declared conflict of interest, any note of dispensation granted by the Monitoring Officer.</i>
Cllr Becker has declared an interest and not taken part in Cabinet, Full Council or officer discussions relating to the proposed fee.

Departmental Review			
Legal review:	<i>Tick this box to confirm legal team have reviewed proposed decision</i>	<input checked="" type="checkbox"/>	
Finance review:	<i>Tick this box to confirm finance team have reviewed proposed decision</i>	<input checked="" type="checkbox"/>	

Other review:	<i>Tick this box to confirm any other departmental review of proposed decision (and specify department)</i>	<input type="checkbox"/>	N/A
Public Sector Equality Duty:	<i>Tick this box to confirm you have considered the PSED requirements (see section 4 on reverse of this form)</i>	<input checked="" type="checkbox"/>	

PTO

Are the details of the decision open or exempt?
<input checked="" type="checkbox"/> Open
<input type="checkbox"/> Part Exempt. Please expand
<input type="checkbox"/> Exempt. Please expand

Decision Taker (name): <i>This needs to be the specific Officer or Cabinet Member who holds the delegation within the constitution/or referred to by a committee</i>	Decision Taker (Signature):	Date: Click or tap to enter a date.
Dawn Adey 		1.10.24
Liz Keys (S151)		2/10/24

Call In dates (key decisions only) and Implementation date:	
Commencement of call in: (date)	Click here to enter a date. <i>(Please refer to Dem Services for this)</i>
Last date for call in: (date)	Click here to enter a date. <i>(Please refer to Dem Services for this)</i>
Planned Implementation Date:	Click here to enter a date.

Notes.

1) Why record officer decisions?

The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 require local authorities to produce a written statement of an executive decision made by an officer as soon as is reasonably practicable after the decision is taken (see Paragraph 13). This written statement must include the information requested in the questions of the pro forma on the previous page.

2) What sort of decisions are there?

- a) **Key decisions.** A key decision is defined by Regulation 8 of the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2012 as being an executive decision which is likely:
- To result in the local authority incurring expenditure, which is or the making of savings which are significant having regard to the local authority's budget for the service or function to which the decision relates; (For Winchester City Council, the financial limit above which a decision is regarded as significant is £250,000 per year), or;
 - To be significant in terms of its effect on communities living or working in an area comprising two or more wards or electoral divisions in the area of the local authority.

A decision taker may only make a key decision in accordance with the requirements of the Cabinet Procedure Rules, Access to Information Procedure Rules (Part 4) and the Officer Scheme of Delegation (Part 3) of this Constitution.

- b) **Non-Key Decisions.** Officers will usually take non-key executive decisions. A non-key decision is an executive decision that does not meet either criterion of a key decision as laid out above. These decisions are divided into significant operational decisions and administrative decisions.
- Significant Operational (Non-Key) Decisions.** This is a decision in relation to a Council or executive function which is not a key decision and results in one of the following:
 - Revenue expenditure or making savings (including the receipt or loss of income) between £100,000 and £250,000 per year;
 - Capital expenditure (i.e. if they involve entering into new commitments and/or making savings) and/or contract awards of between £100,000 and £250,000
 - When, in the opinion of the Chief Executive, the Section 151 Officer or Monitoring Officer, a published record of the decision is required to provide openness and transparency.
 - A significant decision should be recorded in order to comply with Regulation 13 (Recording of executive decisions made by individuals) of The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 (No. 2089).
 - "Other" Decision.** Regulation 7 of the Openness of Local Government Bodies Regulation 2014 requires a written record to be produced as soon as reasonably practicable after an officer has made a decision under delegation which a) grants a permission or licence or b) affects the rights of an individual.
 - Administrative Decision:** (these do not require recording on this form unless one or more of the following applies)
 - There is a financial implication;
 - It is in conflict with the Budget and Policy Framework or other approved policies approved by full Council; and
 - It raises new issues of policy.
 - It is a decision to alter the procurement evaluation model and meets certain thresholds – see "help text"

3) Which officer decisions need to be recorded on this form?

Officers need to record:

- any key decision, i.e., decisions that have a significant effect on 2 or more divisions, or have a cost/saving of £250,000 or more. (see 2A above)
- any Significant Operational Decisions. (see 2B (1) above)
- "Other" officer decisions regarding the granting of a permission or licence or that affect the rights of an individual (see 2B (2) above)
- Administrative decisions which meet the criteria in iii above.

4) What are the relevant processes to be followed?

For all decisions, the report author needs to complete the Forthcoming Decisions record in Sharepoint.

Establish which type of decision it is (see 2 A and 2B above.)

Most officer decisions require to be recorded on this form (see 3 above) Once completed, please ensure that it is reviewed by legal, finance and the relevant Director prior to signing. Once approved, the form should be forwarded to Democratic Services for adding to the Council's website where it can be viewed by members of the public on the decisions page (unless it is an Administrative decision).

Public Sector Equality Duty. Contact your Corporate Head of Service should you require any clarification regarding the council's Public Sector Equality, including whether you may need to complete an impact assessment as part of this decision record.

