

## **1.0 SUMMARY**

- 1.1 This report describes what commuted sums are and what the Council already collects towards the future maintenance requirements of the highway network. This is set in the context of how other Highway Authorities deal with this issue, nationally, and the guidance they operated under.
- 1.2 The report outlines the importance of commuted sums to the Council, particularly in view of the changing circumstances brought about by the Highway Maintenance Private Finance Initiative (PFI) Project.
- 1.3 A preferred approach is put forward on the future collection of commuted sums.

## **2.0 WHAT DOES THIS MEAN FOR THE PEOPLE OF SHEFFIELD**

- 2.1 By ensuring that commuted sums are collected for schemes that impact on the highway the public highway will be maintained to the appropriate standard in the future, the full cost of the scheme will be clearly established. This, in turn, will help both developers and locally funded scheme promoters to set priorities based on the full costs.

## **3.0 OUTCOME AND SUSTAINABILITY**

- 3.1 By applying commuted sums in accordance with the recommendations of this report, the Council will be ensuring that the maintenance costs of future schemes on the highway are taken account of at an early stage of the planning process. This will prevent future difficulties in relation to the funding of additional maintenance.
- 3.2 A clear policy will be in place, which scheme promoters (Council and private developers) can make reference to at a very early stage in the development of their projects.
- 3.3 The payment of commuted sums will add to the total scheme costs, and may put a small number of projects at risk. To minimise the potential for this, the policy being recommended in this report attempts to utilise the shortest practical timespans for calculating the commuted sums and thereby minimise the financial impact on scheme costs as much as possible.

## **4.0 REPORT**

- 4.1 Each year a number of alterations occur on the highway network, either through access requirements associated with new developments or due to changes promoted by the City Council. Some changes do not generate additional maintenance requirements but others such as new traffic signals do. In relation to highways, a commuted sum is a 'one-off' payment of a capital sum by an organisation, often a developer, as a contribution towards the future maintenance of an addition or change to the Highway. The aim of the commuted sum is to reduce the burden on the Council's budgets as a result of these works.
- 4.2 This report is concerned with the extent of commuted sums that should be secured within the following main areas of work:-

- New highway adoptions, normally via a Section 38 Highways Act Agreement with an external developer (for example, new residential estate road).
- Highway Improvements normally secured via a Section 278 Highways Act Agreement, again with an external developer (for example, new signalised junction onto the existing highway).
- Highway Improvement schemes, normally promoted by the City Council (for example, provision of a new pedestrian crossing funded by the Local Transport Plan).

4.3 In 2008 the Department for Transport (DfT) issued a Draft Guidance note on the use of commuted sums for new highway adoptions. In 2010 the County Surveyors Society (CSS) issued a national guidance document on commuted sums, based on the responses received to the DfT draft guidance and this report is largely based on this document.

4.4 This report will help to clarify in what situations commuted sums will be charged and also the basis for their calculation.

#### Existing situation

4.5 The City Council already secures commuted sums on Section 38 and 278 agreements where additional features are added to the highway network. The main areas where these sums currently apply are:-

- i) traffic signals
- ii) structures such as bridges, retaining walls and culverts
- iii) special drainage features
- iv) landscaped areas (excluding new grass verges)
- v) the provision of Grit bins on steeply sloping sites

4.6 At present a range of timespans from 10 years through to 60 years, are used as the maintenance period to calculate the commuted sums, which varies depending upon the asset concerned.

4.7 Developers are made aware at an early stage that commuted sums are required and the existing South Yorkshire highway design guidance document gives information on this issue.

4.8 A number of changes have now either occurred or are about to take place, since the use of commuted sums was last reviewed. These include the new national guidance, the start of a review of South Yorkshire's residential design guidance, the successful bid for a Highway Maintenance PFI Project and the slow down in new business/residential development.

#### CSS Guidance Document

4.9 There is a growing conflict between the demands being placed on new developments through the introduction of sustainable measures (for example, Sustainable Drainage Systems) and the desire to increase design and construction quality as promoted in the new "Manual for Streets" on the one hand and the extra burden some of these features could place on future maintenance budgets of local Highway Authorities on the other.

4.10 The guidance document that has been produced by the CSS is in response to this conflict, and it aims to “Provide a transparent and consistent approach to the determination of relevant commuted sum payments for future maintenance aspects of adopted, or otherwise transferred assets in England & Wales ..... the guidance seeks to take a balanced view, and to be of benefit to all interested parties”.

4.11 The main objectives of the guidance are:

- To encourage more clarity and consistency of practices in relation to the use of commuted sums for future maintenance.
- To encourage creativity and innovation in line with the ‘Manual for Streets’ philosophy, by the adoption of higher quality features and materials without the application of commuted sums, where it is demonstrated that they will reduce maintenance requirements (using the principles of “whole life costings”).
- To ensure that developers are aware of any Local Authority requirements at an early stage, and provide more transparency in the commuted sum calculations.
- To provide some basic guidance to be followed for the calculation and application of the commuted sums.
- To keep the guidance simple, thus enabling the adoption process to become as straightforward as possible.
- As far as possible, to avoid the creation of new private streets, and
- To raise the national profile of commuted sums and the issues still to be resolved.

4.12 The guidance recommends that new roads built to the normal construction standards produced by the local Highway Authority, should not be subject to a commuted sum. However, where the new road requires special features, such as bridges and retaining walls or where additional areas of highway are being offered for adoption that are strictly not required for the function of the highway (for example, parking bays, landscape areas, new tree planting), these could legitimately be subject to a commuted sum.

4.13 The guidance then goes on to give a clearer definition of areas where commuted sum may be sought by a local authority, these being:-

- Additional areas of carriageway, footway, landscaping etc. over and above the minimum requirements specified by the Highway Authority (i.e. additional areas exceeding highway design standards and which are not required for the safe functioning of the highway).
- Any street furniture not required for road safety purposes.
- Any culvert, bridge, retaining wall or other structure.
- Special features such as noise fencing and traffic signals.

- Any soft landscaping in excess of the areas of grass verge over and above the minimum requirements of the authority (e.g. shrub planting areas).
- Any new trees included within the scheme.
- The installation of specialist or 'non-standard' equipment (e.g. street lighting equipment) that is not the authority's standard type, and/or such items as decorative luminaires, or columns with embellishments applied etc.
- The additional columns (and equipment) from the provision of street lighting to a standard above that which is normally provided by the authority (and indicated in its Lighting Policy).
- The use of any materials (e.g. surfacing materials), which whilst being approved will result in maintenance or replacement costs over and above the authority's 'standard' specification.
- Any other 'non-standard' construction types or materials.
- Unusual drainage systems including on-line storage, hydro breaks, pumping stations, open watercourses, sustainable drainage systems (SUDS), permeable paving, swales and soakaways.

4.14 'Non-highway' assets such as Public Art and Public Open Spaces should not be maintained by the Highway Authority, as they do not form part of any necessary highway infrastructure. The overall intent of the guidance is to give the Highway Authority greater flexibility to adopt 'non-standard' layouts and materials without placing undue burdens either on its maintenance budget or its Council Tax payers. Regardless of the potential offer of a commuted sum payment, the Highway Authority should retain discretion as to what it is prepared to adopt, particularly where a proposals may not be acceptable in principle (for example, on highway safety grounds) or where it would be inappropriate for it to do so (for example, street art, play areas); or where materials are considered to be of an unacceptable or inappropriate specification.

4.15 The Guidance recommends a calculation methodology which discounts the commuted sum to allow for the fact that it will be earning interest which will make up part of the maintenance payment when it is required. A period of 60 years is recommended to be used as the default period for calculating commuted sums for future maintenance although in the case of structures such as a bridge then this figure should be increased to a suitable period (such as 120 years as recommended in the Bridge Management Code) in order to cover the planned replacement of the asset. It should be noted that because of the effect of discounting, increasing the time period under consideration does not increase the size of the commuted sum required as much as perhaps would be expected. Although the Guidance is primarily aimed at S38 and S278 schemes, it is equally applicable to Council promoted schemes.

#### Relationship with the Highway Maintenance PFI Project

4.16 Once the PFI contract commences, any changes/additions to the Project Network will need to be "Accrued" to the Project and the Unitary Charge (that is the amount the Council pays the PFI Provider per year) will be increased to

reflect the additional “extra over” maintenance costs.

- 4.17 It should be noted that in some cases where an existing piece of highway is being amended, the “extra over” maintenance costs would be the difference between the deaccrual cost (ie the amount which would be saved if the piece of highway was no longer to be maintained) and the accrual cost (ie the maintenance costs associated with adding the equivalent new piece of highway to the network). An example of this could be where a bituminous footway was being replaced by stone paving. The bituminous paving would be deaccrued and the stone paving accrued. Depending on the nature of the change, it is possible that the extra over cost could be a negative figure reflecting a potential maintenance saving from undertaking the change.
- 4.18 A list of items has been provided to PFI Bidders and they will be required to provide both accrual and deaccrual prices for these items as part of their submissions. Clearly it is important that the approaches adopted for commuted sums for any changes to the highway network cover the eventually agreed accrual rates (having deducted any deaccrual rates if appropriate).
- 4.19 Once the PFI contract has been awarded, the successful contractor’s accrual rates will be used to revisit the commuted sum payments to be charged.

#### Committed Sum Time Periods

- 4.20 A variety of time periods could be considered when collecting commuted sums. The following comments relate to 3 possibilities:
- 25 years – this is the minimum that would be required to cover the life of the PFI contract. This would continue to be applied throughout the life of the PFI contract, to ensure some monies for additional maintenance work still existed, beyond the end of the PFI contract.
  - 60 years – this is in accordance with the national guidance, but such a long timespan does lead to high commuted sums, especially for features that require major maintenance expenditure at fixed time intervals (for example, traffic signals should be fully refurbished every 25 – 30 years).
  - 40 years – this could potentially be a reasonable compromise time period between the above two options. It would require a lower level of commuted sum as against the national guidance, but for certain elements it would still be a significant figure.
- 4.21 To help illustrate the potential variations in commuted sums as against time periods the cost of a number of infrastructure elements are set out in Table 1. It should be noted that the figures in the table are based on existing Streetforce costs, and assumptions as to the life of the asset and its ongoing maintenance requirements and will need to be revised once the PFI accrual rates are known.

Table 1

Elements of infrastructure	Cost base on time Interval		
	25 years	40 years	60 years
Grass verge per m <sup>2</sup>	£16.26	£22.08	£28.53
Highway structure (construction cost £250,000)	£17,728	£18,532	£46,842
Salt Bins (each)	£3,816	£5,240	£6,756
New traffic signal junction (per junction)	£67,953	£156,697	£182,486

4.22 It is important for the City Council to secure commuted sums, especially in a situation where its financial resources are limited, to ensure that it can continue to meet its obligations to maintain new highway assets. However, it is also clear that in the present economic climate to opt for commuted sum payments based on either 40 or 60 year periods would represent a serious disincentive to private developers and would also have a major impact on Local Transport Plan/Community Assembly highway scheme budgets.

4.23 It is proposed that to minimise the financial burden created by commuted sums, but still protecting the Council's future years budgets from additional maintenance cost claims, a 25 year period should be used for the calculation of all commuted sums. This should be applied to all schemes undertaken on the existing public highway or on new highways to be offered for adoption. It is suggested that the only exception to this would be new bridges/structures, where the normal expected life of these types of asset is 120 years. In this instance a commuted sum based on 60 years is proposed.

#### Environmental Implications

4.24 These proposals may give rise to some private developers (and potentially some Council promoted schemes) having to reduce the provision of planting and other street scene features, to accommodate the commuted sum payment within their available budget.

4.25 The introduction of some additional commuted sum payments may lead to the simplification of some schemes to save money. This will be resisted as the Council brings forward new design guidance, which is intended to lift design quality. Commuted sum costs associated with planting and enhanced materials are relatively low. Commuted sums for more expensive elements of schemes such as structures and signals are already being collected.

#### Financial Implications

4.26 The Council will face significant budgetary pressures now and in the foreseeable future. If new highway infrastructure that requires relatively high or excessive maintenance works continues to be added to the network, with no appropriate additional funding made available, then this pressure will

increase, and with a PFI Provider in place the Council will have no alternative but to fund the additional maintenance costs directly. As maintenance levels will be contractually set within the PFI contract, and the PFI Provider will be entitled to payment for the additional maintenance items, the proposals within the report to secure commuted sum payments will help to fully mitigate these additional costs.

- 4.27 With regards to Section 38 and 278 agreements, the commuted sums will continue to be collected, but now clearly based on the extent and timescales contained within this report. With regards to LTP funded schemes (in particular Community Assembly funded highway schemes) it is proposed the collection of commuted sums would commence for schemes promoted by Community Assembly for new schemes identified in the programme of work from the 1<sup>st</sup> April 2011. Schemes rolled over from 2010/11 will not be subject to a commuted sum payment. Most other Council funded schemes such as HMR are already making an allowance for a commuted sum payment, and this will continue.

#### Equal Opportunities

- 4.28 An Equality Impact Assessment has been carried out to assess these proposals, and the conclusion of this assessment is that the introduction of commuted sum charges does not give rise to any additional implications.

### **5.0 ALTERNATIVE OPTIONS CONSIDERED**

- 5.1 The option of adopting a policy of not making any commuted sum payments has been considered. As demonstrated in paragraphs 4.20 – 4.27 of this report, this would place a considerable financial burden on the Council for additional maintenance costs of new highway schemes, which would have to be maintained through the Highway Maintenance PFI project.
- 5.2 The alternative of adopting an even longer period (based on the expected life of the infrastructure) was also considered. This was discounted, as it was felt this would place an unacceptable financial burden on developments that require highway improvements. Some elements the level of commuted sum could nearly treble if 60 years was used instead of 25 years.

### **6.0 REASONS FOR RECOMMENDATIONS**

- 6.1 These proposals will create a clear set of rules for calculating commuted sum payments from the promoters of new schemes affecting the highway.
- 6.2 It will help protect the Council's finances in the future, from additional claims due to increased highway maintenance requirements on new infrastructure.
- 6.3 These proposals should be seen as essential to complement the Highway Maintenance PFI project.

### **7.0 RECOMMENDATIONS**

- 7.1 Commuted sums are secured from all new Section 38 agreements, Section 278 agreements, Local Transport Plan funded schemes and any other internal/externally funded highway scheme that falls within the guidance given in Section 4 of this report.
- 7.2 The time period chosen for calculating commuted sums is initially set at 25 years for all assets except bridges and structures which would be set at 60 years.

7.3 The time period for calculating commuted sums is reviewed by December 2012 based on the impact these changes have had, with a view that they could be increased to bring them more in line with national guidance.

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6<sup>th</sup> September 2010