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Guidance

Community Infrastructure Levy

This guidance explains what the Community Infrastructure Levy is and how it operates.

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This guidance explains what the Community Infrastructure Levy is and how it operates. It has been updated to explain the Community Infrastructure Levy (Amendment) (England) (No. 2) Regulations 2019 (https://www.legislation.gov.uk/uksi/2019/1103/contents/made) which came into force on 1 September 2019.

Important: if you were granted planning permission before 1 September 2019, or have or intend to apply for a relief or an exemption from the levy in respect of a liability notice issued before 1 September 2019, then the changes introduced by the 2019 Regulations will not apply to you and you should refer to the previous version (https://webarchive.nationalarchives.gov.uk/20190606211228/https://www.gov.uk/guidance/community-infrastructure-levy) for guidance on the Community Infrastructure Levy. It is particularly important to note that in such cases, failure to submit a commencement notice before starting any works onsite will continue to result in the loss of the relief or exemption. The commencement notice form on the Community Infrastructure Levy forms page (https://www.planningportal.co.uk/info/200136/policy_and_legislation/70/community_infrastructure_levy/5).

Introduction

What is the Community Infrastructure Levy?

The Community Infrastructure Levy (the 'levy') is a charge which can be levied by local authorities on new development in their area. It is an important tool for local authorities to use to help them deliver the infrastructure needed to support development in their area.

The levy only applies in areas where a local authority has consulted on, and approved, a charging schedule which sets out its levy rates and has published the schedule on its website.

Most new development which creates net additional floor space of 100 square metres or more, or creates a new dwelling, is potentially liable for the levy.

Some developments may be eligible for relief or exemption from the levy. This includes residential annexes and extensions, and houses and flats which are built by 'self-builders'. There are strict criteria that must be met, and procedures that must be followed, to obtain the relief or exemption. This is explained in more detail below – see 'What kind of development does not pay the levy?' and the relevant links provided therein.

Paragraph: 001 Reference ID: 25-001-20190901

Revision date: 01 09 2019

Using this guidance and who is it aimed at?

This guidance is aimed at a broad range of users. This includes local authorities which have adopted the levy, those that are in the process of preparing or reviewing a charging schedule and those that are considering doing so in the future. It is also aimed at large and small developers and their agents, charities and homeowners who wish to build an extension or annex, or even their own home ('self-builders').

The guidance is divided into 9 sections which can be accessed via the relevant links below:

- Introduction
- Charging schedules and rates
- Relief and exemptions
- Calculating the levy liability
- Collecting the levy
- Spending the levy
- Appeals
- Monitoring and reporting on CIL and planning obligations
- State Aid

Paragraph: 002 Reference ID: 25-002-20190901

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How do I know if my authority is charging the levy?

Your local authority will be able to inform you whether it has adopted the levy. Any authority that charges the levy is required to publish a charging schedule on its website. You can find your local authority by entering your postcode on the 'Find your local council' (https://www.gov.uk/find-local-council) website.

Paragraph: 003 Reference ID: 25-003-20190901

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What kind of development is liable for the levy?

In areas where CIL operates, the levy may be payable on development which creates new or additional internal area, where the gross internal area of new build is 100 square metres or more (the Charging schedules and rates section explains how this is calculated). This limit does not apply to new houses or flats, and a charge can be levied on a single house or flat of any size. However, exclusions, exemptions and reliefs from the levy may be available (see 'What forms of relief and exemptions are available from the Community Infrastructure Levy?').

Paragraph: 004 Reference ID: 25-004-20190901

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What kind of development does not pay the levy?

The following do not pay the levy:

- development of less than 100 square metres, unless this consists of one or more dwelling and does not meet the self-build criteria below, in which case the levy is payable (see regulation 42 (http://www.legislation.gov.uk/uksi/2010/948/regulation/42/made) on minor development exemptions);
- buildings into which people do not normally go (regulation 6(2) (http://www.legislation.gov.uk/uksi/2010/948/regulation/6/made));
- buildings into which people go only intermittently for the purpose of inspecting or maintaining fixed plant or machinery (regulation 6(2) (http://www.legislation.gov.uk/uksi/2010/948/regulation/6/made));
- structures which are not buildings, such as pylons and wind turbines;
- specified types of development which local authorities have decided should be subject to a 'zero' rate and specified as such in their charging schedules.

The following can be subject to an exemption or relief where the relevant criteria are met, and the correct process is followed:

- residential annexes and extensions where an exemption has been applied for and obtained;
- 'self-build' houses and flats, which are built by 'self-builders' where an exemption has been applied for and obtained;
- social housing that meets the relief criteria set out in regulation 49 (http://www.legislation.gov.uk/uksi/2010/948/regulation/49/made) or 49A (http://www.legislation.gov.uk/uksi/2014/385/regulation/7/made) (as amended by the 2014 Regulations) and where an exemption has been applied for and obtained;
- charitable development that meets the relief criteria set out in regulations 43 to 48 (http://www.legislation.gov.uk/uksi/2010/948/part/6/made) and where an exemption has been applied for and obtained.

Where an exemption or relief has been obtained for residential annexes, self-build housing, charitable development or social housing, it is important to note that a commencement notice must be submitted prior to the development commencing. If a commencement notice is not submitted in time, the charging authority must impose a surcharge equal to 20% of the notional chargeable amount, capped at £2,500. The charging authority only has discretion to waive the surcharge if it is less than any reasonable administrative costs which it would incur in relation to collecting it. See regulation 83 (http://www.legislation.gov.uk/uksi/2010/948/regulation/83/made) as amended by the 2019 Regulations (http://www.legislation.gov.uk/uksi/2019/1103/regulation/6/made).

Where the levy liability is calculated to be less than £50, the chargeable amount is deemed to be zero, so no levy is due.

Mezzanine floors, inserted into an existing building, are not liable for the levy unless they form part of a wider planning permission that seeks to provide other works as well.

Paragraph: 005 Reference ID: 25-005-20190901

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Who can charge and collect the levy?

In England, authorities which can charge the levy are: the local planning authority for the area (e.g. district councils, London borough councils, unitary authorities which have district functions, national park authorities, Mayoral development corporations (where they have plan-making functions)) and the Mayor of London. The Broads Authority is the only charging authority for its area.

The levy is collected by the 'collecting authority' (as defined by regulation 10 (http://www.legislation.gov.uk/uksi/2010/948/regulation/10/made)). In most cases this is the charging authority but, in London, the boroughs collect the levy on behalf of the Mayor (see 'How does the operation of the levy differ in London?'). County councils collect the levy charged by district councils on developments for which the county gives consent, for example, waste and minerals sites where they are liable for the levy. Homes England, urban development corporations and enterprise zone authorities can also be collecting authorities for development, with the agreement of the relevant charging authority, where they grant permission.

Paragraph: 006 Reference ID: 25-006-20190901

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Who is liable to pay the levy?

Landowners are ultimately liable for the levy, but anyone involved in a development may take on the liability to pay. In order to benefit from payment windows and instalments, someone must assume liability before the development has commenced (see regulation 70 (http://www.legislation.gov.uk/uksi/2010/948/regulation/70/made)). Where no one has assumed liability to pay the levy, the liability will automatically default to the landowners (see regulation 33 (http://www.legislation.gov.uk/uksi/2010/948/regulation/33/made)) and payment becomes due as soon as development commences (see regulation 71(2) (http://www.legislation.gov.uk/uksi/2010/948/regulation/71/made)). See regulation 7 (http://www.legislation.gov.uk/uksi/2010/948/regulation/7/made), and section 56(4) of the Town

and Country Planning Act 1990 (http://www.legislation.gov.uk/ukpga/1990/8/section/56), for the definition of 'commencement of development'. Liability to pay the levy can also default to the landowners where the collecting authority has been unable to recover the levy from the party that assumed liability for the levy, despite making all reasonable efforts (see regulation 36 (http://www.legislation.gov.uk/uksi/2010/948/regulation/36/made)).

For further information see 'How does someone assume liability for the levy?'.

Paragraph: 007 Reference ID: 25-007-20190901

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How does the levy relate to planning permission?

The levy is charged on new development. The meaning of 'planning permission' is set out in regulation 5 (http://www.legislation.gov.uk/uksi/2010/948/regulation/5/made). Normally, this requires planning permission from the local planning authority, the Planning Inspectorate, or the Secretary of State on appeal.

Planning permission can also be granted through local planning orders. Examples are simplified planning zones and local development orders (see related National Planning Policy Guidance on Local Development Orders (https://www.gov.uk/guidance/when-is-permission-required#types-of-area-wide-permission)). Development can also be granted consent by Neighbourhood Development Orders (see related guidance (https://www.gov.uk/guidance/neighbourhood-planning--2)), including Community Right to Build Orders, and development consent orders made under section 114(1)(a) of the Planning Act 2008. Some Acts of Parliament, such as the Crossrail Act 2008, also grant planning permission for new buildings.

The levy can apply to all these types of planning consent.

The levy may also be payable on permitted development (see related guidance on the General Permitted Development Order (https://www.gov.uk/guidance/when-is-permission-required#What-are-permitted-development-rights)). Development which is the subject of a Lawful Development Certificate may be liable for the levy, depending on the circumstances. A lawful development certificate (granted under section 191 or 192 of the Town and Country Planning Act 1990) is often sought to confirm permitted development rights. It does not by itself trigger a levy payment because it is not a planning permission as defined in regulation 5 (http://www.legislation.gov.uk/uksi/2010/948/regulation/5/made). It simply confirms that no further application for planning permission is needed for the development described in the certificate. Where a certificate is sought to confirm permitted development rights, the normal levy provisions in respect of permitted development rights apply, and the grant of such a certificate is not relevant to whether or not, or when, the levy may be payable.

Where a planning permission is phased, each phase of the development is treated as if it were a separate chargeable development for levy purposes (see regulation 8 (3A) as amended by 2014 Regulations (http://www.legislation.gov.uk/uksi/2014/385/regulation/4/made)). This may apply to schemes which have full planning permission as well as to outline permissions. For further information on outline permissions, see 'When does a charging schedule come into effect?' and for phased development see 'Is there another way to allow phased payments?'.

Paragraph: 008 Reference ID: 25-008-20190901

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How does a section 73 application which amends a planning condition affect the levy liability?

Developers can amend a condition attached to a planning consent, under section 73 of the Town and Country Planning Act 1990 (http://www.legislation.gov.uk/ukpga/1990/8/section/73).

If the section 73 permission does not change the liability to the levy, the chargeable amount is that shown in the most recent liability notice issued in relation to the previous permission. Paragraph 3 of Schedule 1 (http://www.legislation.gov.uk/uksi/2019/1103/schedule/1/made) (inserted by the 2019 Regulations) sets out the procedure for determining whether the liability has changed.

If the section 73 permission does change the levy liability, the most recently commenced or re-commenced scheme is liable for the levy (regulation 9(6) (http://www.legislation.gov.uk/uksi/2010/948/regulation/9/made) as amended by the 2019 Regulations (http://www.legislation.gov.uk/uksi/2019/1103/regulation/5/made)). If the liability has increased, paragraph 4 of Schedule 1 (http://www.legislation.gov.uk/uksi/2019/1103/schedule/1/made) applies. If the liability has decreased, paragraph 5 of the Schedule (http://www.legislation.gov.uk/uksi/2019/1103/schedule/1/made) applies. In these circumstances, levy payments made in relation to the previous planning permission are offset against the new liability, and a refund is payable if the previous payment was greater than the new liability. See also 'How is indexation applied to section 73 permissions?'.

There may be transitional cases, where the original planning permission was granted before a levy charge came into force in the area, and a section 73 permission is granted after the charge comes into force. Part 4 of Schedule 1 (http://www.legislation.gov.uk/uksi/2019/1103/schedule/1/made) (inserted by the 2019 Regulations) sets out the procedure for determining the amount of CIL payable. For further details see the section on Transitional cases.

Paragraph: 009 Reference ID: 25-009-20190901

Revision date: 01 09 2019

Charging schedules and rates

How are Community Infrastructure Levy rates set?

The charging authority sets out its levy rates in a charging schedule (see section 211(1) of the Planning Act 2008 (http://www.legislation.gov.uk/ukpga/2008/29/section/211)).

The charging authority should specify in their charging schedule what types of development are liable for the levy and the relevant rates for these development types. Levy rates are expressed as pounds (£) per square metre.

When deciding the levy rates, an authority must strike an appropriate balance between additional investment to support development and the potential effect on the viability of developments.

This balance is at the centre of the charge-setting process. In meeting the regulatory requirements, charging authorities should be able to show and explain how their proposed levy rate (or rates) will contribute towards the implementation of their relevant plan and support development across their area (see regulation 14(1) (http://www.legislation.gov.uk/uksi/2010/948/regulation/14/made), as amended by the 2014 Regulations (http://www.legislation.gov.uk/uksi/2014/385/regulation/5/made)).

In doing so, charging authorities should use evidence in accordance with planning practice guidance and take account of national planning policy on development contributions (https://www.gov.uk/guidance/national-planning-policy-framework/3-plan-making#para34).

Paragraph: 010 Reference ID: 25-010-20190901

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Charging Schedules

What is a charging schedule?

A charging schedule sets out the levy rates for a charging authority area.

Charging authorities should consider relevant national planning policy when drafting their charging schedules. This includes the National Planning Policy Framework (https://gov.uk/guidance/national-planning-policy-framework/) in England.

Charging schedules should be consistent with, and support the implementation of, up-to-date relevant plans.

Paragraph: 011 Reference ID: 25-011-20190901

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What is a 'relevant plan'?

In relation to the levy, the relevant plan is any strategic policy, including those set out in any spatial development strategy.

Charging schedules are not formally part of the relevant plan but charging schedules and relevant plans should inform and be generally consistent with each other. Where practical, there are benefits to undertaking infrastructure planning for the purpose of plan making and setting the levy at the same time. A charging authority may use a draft plan if they are proposing a joint examination of their relevant plan and their levy charging schedule.

The process for preparing a charging schedule is similar to that which applies to relevant plans. Charging authorities may work together when preparing their charging schedules as a means to share knowledge and costs and to support strategic thinking in the use of the levy, linking the use of the levy to activities such as growth planning. Charging schedules do not require a Sustainability Appraisal.

Charging authorities should think strategically in their use of the levy to ensure that key infrastructure priorities are delivered to facilitate growth and the economic benefit of the wider area. This may, for example, include working with neighbouring authorities, Local Enterprise Partnerships and other interested parties and involve consideration of other funding available that could be combined with the levy to enable the delivery of strategic infrastructure, including social and environmental infrastructure, and facilitate the delivery of planned development.

Paragraph: 012 Reference ID: 25-012-20190901

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How is a charging schedule prepared?

In summary, a charging schedule is prepared and adopted as follows:

- the charging authority prepares its evidence base in order to prepare its draft levy rates, and collaborates with neighbouring/overlapping authorities (and other stakeholders);
- the charging authority prepares and publishes a draft charging schedule for consultation;
- representations are sought on the published draft;
- the charging authority must take into account any representations made to it before submitting a draft charging schedule for examination;
- an independent person (the "examiner") examines the charging schedule in public;
- the examiner's recommendations are published
- the charging authority has regard to the examiner's recommendations and reasons for them;
- the charging authority approves the charging schedule.

The 2019 Regulations removed the requirement to consult on a preliminary draft charging schedule. However, charging authorities can consult more than once where they consider it to be appropriate.

Where a preliminary charging schedule was sent to consultation bodies as part of the consultation process before 1 September 2019, the charging authority must take into account any representations made before it publishes a draft charging schedule (see regulation 13(2) (http://www.legislation.gov.uk/uksi/2019/1103/regulation/13/made) of the 2019 Regulations).

Paragraph: 013 Reference ID: 25-013-20190901

Revision date: 01 09 2019

What is the role of the county council?

County councils are responsible for the delivery of key strategic infrastructure. Charging authorities must consult and should collaborate with them in setting the levy and should work closely with them in setting priorities for how the levy will be spent in 2-tier areas.

Collaborative working between county councils and charging authorities is especially important in relation to the preparation of infrastructure funding statements (see Schedule 2 (http://www.legislation.gov.uk/uksi/2019/1103/schedule/2/made) introduced by the 2019 Regulations) bearing in mind the potential impact on the use of highway agreements by the county council and the timely delivery of schools.

Paragraph: 014 Reference ID: 25-014-20190901

Revision date: 01 09 2019

Should other interested groups be involved?

Plan makers and site promoters should assess viability to ensure that policy requirements for developer contributions are deliverable (see the viability guidance (https://www.gov.uk/guidance/viability)). This will be an important part of the evidence underpinning the introduction of a charging schedule.

It is the responsibility of authorities when preparing their charging schedules to collaborate with the local community, developers and other stakeholders, to create realistic and viable charging schedules.

Paragraph: 015 Reference ID: 25-015-20190901

Revision date: 01 09 2019

Evidence and setting rates

What evidence is required to inform levy rates?

The evidence base for a charging schedule is examined in public prior to the adoption of the levy. The charging authority should have regard to the actual and expected cost of infrastructure, the viability of development, other actual or expected sources of funding for infrastructure and the actual and expected administrative expenses in connection with the levy.

Paragraph: 016 Reference ID: 25-016-20190901

Revision date: 01 09 2019

How does the levy charge relate to infrastructure planning?

Charging authorities must identify the total cost of infrastructure they wish to fund wholly or partly through the levy. In doing so, they must consider what additional infrastructure is needed in their area to support development, and what other sources of funding are available, based on appropriate evidence.

Information on the charging authority area's infrastructure needs should be drawn from the infrastructure assessment that was undertaken when preparing the relevant plan (the Local Plan and the London Plan in London) and their CIL charging schedules. This is because the plan identifies the scale and type of infrastructure needed to deliver the area's local development and growth needs (see paragraph 34 (https://gov.uk/guidance/national-planning-policy-framework/3-plan-making#para34) of the National Planning Policy Framework).

From December 2020, local authorities must publish an infrastructure funding statement, and information should be drawn from this. The infrastructure funding statement should identify infrastructure needs, the total cost of this infrastructure, anticipated funding from developer contributions, and the choices the authority has made about how these contributions will be used.

When preparing infrastructure funding statements, authorities should consider known and expected infrastructure costs taking into account other possible sources of funding to meet those costs. This process will help the charging authority to identify the infrastructure funding gap and a levy funding target.

It is recognised that there will be uncertainty in pinpointing other infrastructure funding sources, particularly beyond the short-term. Charging authorities should focus on providing evidence of an aggregate funding gap that demonstrates the need to put in place the levy. Any significant funding gap should be considered sufficient evidence of the desirability of CIL funding, where other funding sources are not confirmed.

The Community Infrastructure Levy examination should not re-open infrastructure planning issues that have already been considered in putting in place a sound relevant plan.

Authorities may have existing 'regulation 123 lists' dating from before the Community Infrastructure Levy regulations were amended in September 2019. These lists remain useful as important evidence to inform plan making and the preparation of charging schedules. By no later than 31 December 2020, authorities will replace these lists with infrastructure funding statements.

Paragraph: 017 Reference ID: 25-017-20190901

Revision date: 01 09 2019

What infrastructure planning evidence is required at examination?

At examination, the charging authority should set out the projects or types of infrastructure that are to be funded in whole or in part by the levy. From December 2020, this should be set out in an infrastructure funding statement. The list of projects or types of infrastructure may already have been examined through a plan examination, in which case the purpose of providing it for the Community Infrastructure Levy examination should be only to evidence the infrastructure funding gap, not to re-examine the list.

Where infrastructure planning work which was undertaken specifically for the levy setting process has not been tested as part of another examination, it will need to be tested at the levy examination. The examiner will need to test that the evidence is sufficient to confirm the aggregate infrastructure funding gap and the total target amount that the charging authority proposes to raise through the levy.

Further information about examinations is provided in the 'Draft Charging Schedule' section.

Paragraph: 018 Reference ID: 25-018-20190901

Revision date: 01 09 2019

How should local authorities prepare their evidence to support a levy charge?

A charging authority should be able to explain how their proposed levy rate or rates will contribute towards new infrastructure to support development across their area. Charging authorities will need to summarise their viability assessment. Viability assessments should be proportionate, simple, transparent and publicly available in accordance with the viability guidance (https://www.gov.uk/guidance/viability). Viability assessments can be prepared jointly for the purposes of both plan making and preparing charging schedules. This evidence should be presented in a document (separate from the charging schedule) that shows the potential effects of the proposed levy rate or rates on the viability of development across the authority's area. Where the levy is introduced after a plan has been made, it may be appropriate for a local authority to supplement plan viability evidence with assessments of recent economic and development trends, and through working with developers (e.g. through local developer forums), rather than by procuring new evidence.

The examiner may consider whether any assessment prepared prior to the publication of the viability guidance generally accords with that guidance, applying reasonable judgement so as not to unnecessarily delay examinations. As background evidence, the charging authority should also provide information about the amount of funding collected in recent years through section 106 agreements. This should include information on the extent to which their affordable housing and other targets have been met.

Paragraph: 019 Reference ID: 25-019-20190901

Revision date: 01 09 2019

How should development be valued for the purposes of the levy?

A charging authority should use an area-based approach, involving a broad test of viability across their area, as the evidence base to underpin their charge. The authority will need to be able to show why they consider that the proposed levy rate or rates set an appropriate balance between the need to fund infrastructure and the potential implications for the viability of development across their area (see 'How are Community Infrastructure Levy rates set?).

There are a number of valuation models and methodologies available to charging authorities to help them in preparing this evidence. Charging authorities should use evidence in accordance with planning practice guidance on viability (https://www.gov.uk/guidance/viability).

A charging authority must use 'appropriate available evidence' (as defined in the section 211(7A) of the Planning Act 2008 (http://www.legislation.gov.uk/ukpga/2011/20/section/114)) to inform the preparation of their draft charging schedule. It is recognised that the available data is unlikely to be fully comprehensive. Charging authorities need to demonstrate that their proposed levy rate or rates are informed by 'appropriate available' evidence and consistent with that evidence across their area as a whole.

A charging authority should draw on existing data wherever it is available. Sources of data can include (but are not limited to): land registry records of transactions; real estate licensed software packages; real estate market reports; real estate research; estate agent websites; property auction results; valuation office agency data; public sector estate/property teams' locally held evidence. They may also want to build on work undertaken to inform their assessments of land availability.

In addition, a charging authority should directly sample an appropriate range of types of sites across its area, in line with planning practice guidance on viability (https://www.gov.uk/guidance/viability). This will require support from local developers, landowners and site promoters. Charging authorities that decide to set differential rates may need to undertake more fine-grained sampling, on a higher proportion of total sites, to help them to estimate the boundaries for their differential rates (see 'Can differential rates be set?'). Fine-grained sampling is also likely to be necessary where they wish to differentiate between categories or scales of intended use.

The sampling exercise should provide a robust evidence base about the potential effects of the rates proposed, balanced against the need to avoid excessive detail.

A charging authority's proposed rate or rates should be reasonable, given the available evidence, but there is no requirement for a proposed rate to exactly mirror the evidence. For example, this might not be appropriate if the evidence pointed to setting a charge right at the margins of viability. There is room for some pragmatism. It would be appropriate to ensure that a 'buffer' or margin is included, so that the levy rate is able to support development when economic circumstances adjust. In all cases, the charging authority should be able to explain its approach clearly.

Paragraph: 020 Reference ID: 25-020-20190901

Revision date: 01 09 2019

How should development costs be treated?

A charging authority should take development costs into account when setting its levy rate or rates, particularly those likely to be incurred on strategic sites or brownfield land. A realistic understanding of costs is essential to the proper assessment of viability in an area. Assessment of costs should be based on evidence which is reflective of local market conditions in accordance with planning practice guidance on viability (https://www.gov.uk/guidance/viability).

Development costs include costs arising from existing regulatory requirements, and any policies on planning obligations in the relevant plan, such as policies on affordable housing and identified site-specific requirements for strategic sites.

Paragraph: 021 Reference ID: 25-021-20190901

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Can differential rates be set?

The regulations allow charging authorities to apply differential rates in a flexible way, to help ensure the viability of development is not put at risk. Charging authorities should consider how they could use differential rates to optimise the funding they can receive through the levy. Differences in rates need to be justified by reference to the viability of development. Differential rates should not be used as a means to deliver policy objectives.

Differential rates may be appropriate in relation to

- geographical zones within the charging authority's boundary;
- types of development; and/or
- scales of development.

A charging authority that plans to set differential rates should seek to avoid undue complexity. Charging schedules with differential rates should not have a disproportionate impact on particular sectors or specialist forms of development. Charging authorities may wish to consider how any differential rates appropriately reflect the viability of the size, type and tenure of housing needed for different groups in the community, including accessible and adaptable housing, as set out in the National Planning Policy Framework (https://www.gov.uk/guidance/national-planning-policy-framework/5-delivering-a-sufficient-supply-of-homes#para61). Charging authorities should consider the views of developers at an early stage.

If the evidence shows that the area includes a zone, which could be a strategic site, which has low, very low or zero viability, the charging authority should consider setting a low or zero levy rate in that area. The same principle should apply where the evidence shows similarly low viability for particular types and/or scales of development.

In all cases, differential rates must not be set in such a way that they constitute a notifiable State aid under European Commission regulations (see State aid section for further information). One element of State aid is the conferring of a selective advantage to any 'undertaking'. A charging authority which chooses to differentiate between classes of development, or by reference to different areas, should do so only where there is consistent viability evidence to justify this approach. It is the responsibility of each charging authority to ensure that their charging schedules are State aid compliant.

Paragraph: 022 Reference ID: 25-022-20190901

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How can rates be set by type of use?

Charging authorities may also set differential rates by reference to different intended uses of development. The definition of "use" for this purpose is not tied to the classes of development in the Town and Country Planning Act (Use Classes) Order 1987 (http://www.legislation.gov.uk/uksi/1987/764/contents/made), although that Order does provide a useful reference point. Charging authorities taking this approach will need to ensure that the differential rates are supported by robust evidence on viability.

For example, to reflect viability and encourage greater provision and innovation in the delivery of social housing, authorities may wish to consider applying a zero or reduced rate of levy charge to alternative models for providing social housing, as defined locally, which would not otherwise be eligible for social housing or charitable relief from the levy.

Paragraph: 023 Reference ID: 25-023-20190901

Revision date: 01 09 2019

How can rates be set by scale?

Charging authorities may also set differential rates by scale. Rates can be set by reference to either floor area or the number of units or dwellings in a development. Again, any differential rates must be justified by reference to viability.

Paragraph: 024 Reference ID: 25-024-20190901

Revision date: 01 09 2019

Can charging authorities set differential rates that reflect differences in land value uplift created by development?

The uplift in land value that development creates is affected by the existing use of land and proposed use. For example, viability may be different if high value uses are created on land in an existing low value area compared to the creation of lower value uses or development on land already in a higher value area. Charging authorities can take these factors into account in the evidence used to set differential levy rates, in order to optimise the funding received through the levy.

Charging authorities should set levy rates in a way that takes account of the infrastructure needs of the area and the additional value generated through planning permissions in a way that does not undermine deliverability of the plan.

Paragraph: 025 Reference ID: 25-025-20190901

Revision date: 01 09 2019

Can authorities set different rates for strategic sites?

Differential rates for geographic zones can be used across a charging authority's area. Authorities may wish to align zonal rates for strategic development sites. Viability guidance sets out the importance of considering the specific circumstances of strategic sites ('Why should strategic sites be assessed for viability in plan making?' (https://www.gov.uk/guidance/viability#viability-and-plan-making)). This includes the potential to undertake site specific viability assessments of sites that are critical to delivering the strategic priorities of the plan.

Charging authorities may want to consider how zonal rates can ensure that the levy compliments plan policies for strategic sites. This may include setting specific rates for strategic sites that reflect the land value uplift their development creates. Low or zero rates may be appropriate where plan policies require significant contributions towards housing or infrastructure through planning obligations and this is evidenced by an assessment of viability (https://www.gov.uk/guidance/viability).

Paragraph: 026 Reference ID: 25-026-20190901

Revision date: 01 09 2019

Can different rates be combined?

Charging authorities may choose to set differential rates by combining several of the above approaches. They must be consistent in the way that the available evidence on viability informs the treatment of each proposed rate, striking a balance between the desirability of funding infrastructure through the levy and the impact this has on the viability of development across the area. They should be aware that it is likely to be harder to ensure that more complex patterns of differential rates are State aid compliant.

Paragraph: 027 Reference ID: 25-027-20190901

Revision date: 01 09 2019

Can charging authorities claim the administrative costs of the levy?

Charging authorities may take account of their related administrative expenses when setting their levy. For example, an authority may set levy rates slightly higher than the levels required to meet their infrastructure funding needs, in order to cover administration costs, but will need to take this impact into account in fulfilling their responsibilities to set an appropriate balance, and the limits on the amount which can be applied to administrative expenses contained in regulation 61 (http://www.legislation.gov.uk/uksi/2010/948/regulation/61/made), as amended by the 2014 Regulations (http://www.legislation.gov.uk/uksi/2014/385/regulation/8/made). (see 'How are Community Infrastructure Levy rates set?' and 'What about administrative costs?'.

Paragraph: 028 Reference ID: 25-028-20190901

Revision date: 01 09 2019

How does the operation of the levy differ in London?

London is the only place where a strategic tier authority (the Mayor) may set a levy in addition to the local tier authority (London boroughs and Mayoral development corporations). The Mayor and the boroughs should work closely in setting and running the levy in London, through mutual co-operation and the sharing of relevant information.

When they set their own levy, the London boroughs and Mayoral development corporations must take into account any levy rates set by the Mayor (as set out in regulations 14(3) and 14(4) (http://www.legislation.gov.uk/uksi/2010/948/regulation/14/made), as amended by the 2013 (http://www.legislation.gov.uk/uksi/2013/982/regulation/6/made) and 2019 Regulations (http://www.legislation.gov.uk/uksi/2019/1103/regulation/3/made)). This is to ensure that rates are set in a way which retains viability across London for local and strategic infrastructure and allows both the boroughs and the Mayor to implement their development strategies.

The Mayor's levy is mandatory. When setting their own levy rates, London boroughs must take into account any proposals for new Mayoral levy rates that have been published in a draft charging schedule. Similarly, when reviewing his levy rates, the Mayor should also take account of borough levies that are in force at the time.

Further information about the operation of the levy in London can be found in:

- Who can charge and collect the levy?

- Can Mayoral development corporations charge the levy?
- Approving and implementing the charging schedule
- Payments to charging authorities in London?
- Is the Mayor of London also required to pass a share to neighbourhoods?
- Exceptional Circumstances Relief

Paragraph: 029 Reference ID: 25-029-20190901

Revision date: 01 09 2019

Can Mayoral development corporations charge the levy?

Mayoral development corporations can be given local planning functions. Where they take on all the plan making functions in Part 2 of the Planning and Compulsory Purchase Act 2004 (http://www.legislation.gov.uk/ukpga/2004/5/part/2) for the whole of their area they will be the charging authority for their area. They can develop a charging schedule in the same way as other charging authorities – subject to the same requirements.

It is important to ensure that communities and local authorities do not lose out when a Mayoral development corporation becomes or ceases to be the charging authority for an area or is dissolved.

In advance of formally establishing a Mayoral development corporation, the Mayor of London may carry out the preparatory work for it to approve a charging schedule. This will enable the Mayoral development corporation to start charging the levy as soon as possible after it becomes the charging authority for its area.

After a Mayoral development corporation becomes the charging authority for an area, London borough councils that have granted planning permission for a development in that area are still able to collect any levy due in relation to that development. Equally if the Mayoral development corporation ceases to be the charging authority for an area, provided that it has a charging schedule in place and has granted planning permission for a development in that area, it will still be entitled to receive the levy due in respect of that development.

Paragraph: 030 Reference ID: 25-030-20190901

Revision date: 01 09 2019

Draft charging schedule

What is a draft charging schedule?

A draft charging schedule is a document prepared by the charging authority which sets out the charging authority's proposals for the levy.

It should be based on evidence about the infrastructure needs of the area and the ability of development in that area to fund that infrastructure in whole or in part.

It is subject to public consultation before going forward for a formal independent examination.

Paragraph: 031 Reference ID: 25-031-20190901

Revision date: 01 09 2019

What consultation is required on the draft charging schedule?

Before being examined, a draft charging schedule must be formally published. Alongside the draft charging schedule, the charging authority must also publish the appropriate available evidence on infrastructure costs, other funding sources and viability (regulation 16 (http://www.legislation.gov.uk/uksi/2010/948/regulation/16/made) as amended by the 2019 Regulations (http://www.legislation.gov.uk/uksi/2019/1103/regulation/3/made)).

It is for charging authorities to decide how they wish to consult. The regulations do not specify for how long or how many times charging authorities should consult because charging authorities are best placed to decide how to engage with their local communities and other relevant parties. Where authorities are introducing the levy for the first time, or making significant changes to their levy, the expectation is that charging authorities will consult for a minimum of 4 weeks. Conversely, where only minor changes are proposed a shorter consultation period may be considered appropriate.

Examiners must consider whether charging authorities have given adequate time for consultation on a draft charging schedule, particularly for consultations of less than 4 weeks. In doing so, they should take into account the scale and complexity of the changes proposed.

During the consultation period, any person may comment on the draft charging schedule, and may ask to be heard by the examiner if they wish (regulation 21 (http://www.legislation.gov.uk/uksi/2010/948/regulation/21/made)). Any person who makes representations in relation to a draft charging schedule can request to be notified when the draft has been submitted for examination, at publication of the examiner's recommendations and following approval of the charging schedule by the charging authority (see regulation 16(2) (http://www.legislation.gov.uk/uksi/2010/948/regulation/16/made) of the 2010 Regulations as amended by the 2019 Regulations (http://www.legislation.gov.uk/uksi/2019/1103/regulation/3/made)).

Paragraph: 032 Reference ID: 25-032-20190901

Revision date: 01 09 2019

How should charging authorities consult communities on draft charging schedules?

Charging authorities are best placed to decide how to engage with their local communities and other relevant parties. They must invite representations where the authority considers it appropriate from people who live, work or operate a business in the area; voluntary bodies, or bodies that represent businesses in the area. Regulation 16 (http://www.legislation.gov.uk/uksi/2010/948/regulation/16/made) as amended by the 2019 Regulations (http://www.legislation.gov.uk/uksi/2019/1103/regulation/3/made) also requires charging authorities to invite representations from consultation bodies. These include adjoining local planning authorities and, where relevant, county councils, the Mayor of London, parish councils and neighbourhood forums.

While it is good practice for a charging authority to align the introduction of charging schedules and plan consultation, it is not necessary for authorities to wait for changes to a plan to bring forward new or amended charging schedules.

Paragraph: 033 Reference ID: 25-033-20190901

Revision date: 01 09 2019

Can the draft charging schedule be modified after publication?

Charging authorities should avoid making substantive changes to the draft charging schedule between publication and submission to the examiner. Substantive changes should always be avoided, unless they have been sufficiently consulted on.

Where any changes are made to a draft charging schedule after publication, the charging authority must set these out in a 'statement of modifications' (as defined in regulation 11(1) (http://www.legislation.gov.uk/uksi/2010/948/regulation/11/made)). Charging authorities should take any steps they consider necessary to inform people who were invited to make representations on the draft charging schedule that this statement has been published (see also regulation 19 (http://www.legislation.gov.uk/uksi/2010/948/regulation/19/made), as amended by the 2011 (http://www.legislation.gov.uk/uksi/2011/987/regulation/5/made) and 2019 Regulations (http://www.legislation.gov.uk/uksi/2019/1103/regulation/3/made)).

Anyone wishing to comment on the statement of modifications may ask to be heard by the examiner, within 4 weeks of the statement being published (under regulation 21(5) (http://www.legislation.gov.uk/uksi/2010/948/regulation/21/made)). Charging authorities may ask anyone wishing to be heard to provide additional details where appropriate; for example, whether they support or oppose the modification(s) and why. These details may be submitted to the examiner, along with the requests to be heard, where the authority considers they will help the examiner or if the examiner has asked for them.

Paragraph: 034 Reference ID: 25-034-20190901

Revision date: 01 09 2019

Examination of the charging schedule

How will the charging schedule be examined?

A charging schedule must be examined in public by an independent person appointed by the charging authority. Any person asking to be heard before the examiner at the examination must be heard in public. The examiner may determine the examination procedures and set time limits for those wishing to be heard to ensure that the examination is conducted efficiently and effectively.

Where a charging authority has chosen to work collaboratively with other charging authorities, they may opt for a joint examination of their charging schedule with those of the other charging authorities. In addition, an examination of one or more charging schedules may be conducted as an integrated examination with a draft development plan document.

View further details on the evidence presented at the examination.

Paragraph: 035 Reference ID: 25-035-20190901

Revision date: 01 09 2019

How are the examiner and the examiner's assistants appointed?

The charging authority must appoint an examiner to examine its draft charging schedule. The charging authority must consider that this examiner is independent and has appropriate qualifications and experience. Planning Inspectors are likely to meet these criteria, but other independent examiners can also be used.

If the charging authority and the examiner agree it is necessary, the charging authority may appoint an assistant. For example, this might be an expert assessor from the Valuation Office Agency or another suitably qualified and experienced independent person. This appointment can be made by an exchange of letters.

Paragraph: 036 Reference ID: 25-036-20190901

Revision date: 01 09 2019

How much should the examiner charge?

The charging authority must meet the cost of the examination. The regulations do not specify what the examiner's fees should be. It will be for the market to determine what rates are appropriate.

Where the examiner or assistant is an employee of the Crown or under contract to an executive agency of government, such as the Planning Inspectorate, the Secretary of State can recover their costs from the charging authority (under regulation 30 (http://www.legislation.gov.uk/uksi/2010/948/regulation/30/made)). In practice, the examiner should be able to provide a reasonable estimate of the likely costs prior to the examination, based on their assessment of its anticipated length and complexity.

In all other cases, the examiner or assistant should simply agree their fees and expenses with the charging authority prior to the examination (regulation 29 (http://www.legislation.gov.uk/uksi/2010/948/regulation/29/made)).

Where there is a 'joint examination' of one or more charging schedules and a Development Plan Document or the London Plan, any cost savings achieved by carrying out a joint examination are passed to the charging authority or split between the charging authorities. For example, where the same Inspector examines a relevant plan and a CIL charging schedule at a 'joint examination', the Secretary of State would first recover the costs of the relevant plan examination using the statutory daily rate, before recovering any additional costs under CIL (regulation 30 (http://www.legislation.gov.uk/uksi/2010/948/regulation/30/made)).

Paragraph: 037 Reference ID: 25-037-20190901

Revision date: 01 09 2019

How should the charging schedule examination be run?

The steps the charging authority must take to notify interested parties about a forthcoming examination are set out in Regulation 21(8) (http://www.legislation.gov.uk/uksi/2010/948/regulation/21/made) (as amended by the 2019 Regulations (http://www.legislation.gov.uk/uksi/2019/1103/regulation/3/made)). They should do this as early as possible and at least 4 weeks before a hearing takes place. If the authority published a statement of modifications, and one or more people asked to comment on it at the examination, this period can be shortened to 2 weeks (regulation 21(11) (http://www.legislation.gov.uk/uksi/2010/948/regulation/21/made)).

Examiners may hold a pre-hearing meeting, where they consider it appropriate. The examiner may use this pre-hearing meeting to undertake an initial check that the charging authority has complied with the legislation when preparing its charging schedule, and that the appropriate available evidence is sufficient. This can help to identify potential problems prior to the examination and save time and effort. The examiner may also use a pre-hearing meeting to discuss how the examination will be managed, to identify the main issues to be considered, and to outline the structure and draft programme. Whether or not a pre-hearing meeting is held, examiners should share the draft programme for the hearing at an early stage to ensure that those who wish to attend are clear when to do so.

An informal hearing format is usually the most appropriate form of examination for the Community Infrastructure Levy. If no-one has requested the right to be heard, the examiner also has the option of conducting the examination by written representations.

The examiner can decide how the hearing will be conducted and set time limits for representations from the participants who wish to speak (Regulation 21(12) (http://www.legislation.gov.uk/uksi/2010/948/regulation/21/made)). The examiner may refuse to allow representations if they consider that these may be repetitious, irrelevant, vexatious or frivolous, although the legislation does not allow an examiner to deny a participant's right to be heard altogether. The examiner may decide whether the cross-examination of participants will be allowed. The examiner may also make any necessary arrangements to accommodate participants who are unable to attend the examination during normal working hours.

Paragraph: 038 Reference ID: 25-038-20190901

Revision date: 01 09 2019

What are joint examinations (for charging schedules and local plans)?

Joint examinations of a charging schedule and a Development Plan Document or the London Plan provide an opportunity for issues that are relevant to the charging schedule and the plan to be considered in a holistic way. This may involve the submission of joint evidence documents or the holding of a joint pre-hearing meeting. Joint hearing sessions may also cover issues such as infrastructure planning and the viability evidence. The charging schedule examiner and the plan inspector, where this is a different person, may decide to collaborate when writing their final examination reports.

Joint examinations must ensure there is transparency, so that all the participants are aware of exchanges of information between the 2 examinations and have an opportunity to comment where appropriate. A joint pre-hearing meeting and joint hearing sessions will help to achieve this. Where other exchanges of information take place, such as after the hearings have ended, the relevant authorities should take steps to ensure that they place relevant information their website and make the examination participants aware of this.

Joint examinations are optional. Two or more charging schedules can be examined together if each of the charging authorities that prepared a draft agree to this approach. If the joint examination is to assess one or more charging schedules and a plan document, the charging authorities must get approval from the Secretary of State in advance (regulation 22 (http://www.legislation.gov.uk/uksi/2010/948/regulation/22/made), as amended by the 2013 Regulations (http://www.legislation.gov.uk/uksi/2013/982/regulation/6/made)). This may be agreed through an exchange of letters.

Paragraph: 039 Reference ID: 25-039-20190901

Revision date: 01 09 2019

What is in the examiner's report?

The examiner must report their recommendations to the charging authority in writing. The examiner may recommend that the draft charging schedule should be approved, rejected, or approved with specified modifications. The examiner must give reasons for those recommendations.

Approval: the examiner must recommend approval of the draft charging schedule if a charging authority has complied with the requirements in the Planning Act and the levy regulations (collectively known as the "drafting requirements" as defined by section 212(4) of the Planning Act 2008 (http://www.legislation.gov.uk/ukpga/2008/29/section/212), as amended by the Localism Act 2011 (http://www.legislation.gov.uk/ukpga/2011/20/section/114/enacted)). In doing so, the examiner should establish that:

- the charging authority has complied with the legislative requirements set out in the Planning Act 2008 (http://www.legislation.gov.uk/ukpga/2008/29/part/11) and the Community Infrastructure Levy Regulations (as amended);
- the draft charging schedule is supported by background documents containing appropriate available evidence;
- the charging authority has undertaken an appropriate level of consultation;
- the proposed rate or rates are informed by, and consistent with, the evidence on viability across the charging authority's area; and
- evidence has been provided that shows the proposed rate or rates would not undermine the deliverability of the plan (see National Planning Policy Framework paragraph 34 (https://www.gov.uk/guidance/national-planning-policy-framework/3-plan-making#para34)).

Approval subject to modifications: if the charging schedule can be modified so as to comply with the drafting requirements, the examiner must recommend appropriate modifications. This could be the case where the proposed rate or rates would be inconsistent with the evidence or would put the delivery of the relevant plan at risk. As long as the charging authority addresses the non-compliance, they do not have to make the specific modifications recommended by the examiner. The examiner can also make non-binding recommendations.

Rejection: where the charging authority has not complied with the drafting requirements, and this cannot be remedied by modifying the draft charging schedule, the examiner must recommend that the schedule is rejected. For example, this may occur where the charging authority has not complied with a procedural requirement in preparing the schedule.

Where the examiner has recommended rejection, their recommendations will be binding on the charging authority, which means that the charging authority must make any modifications recommended if they intend to adopt the charging schedule. The charging authority cannot adopt a schedule in its original form if the examiner rejects it. However, the charging authority is not obliged to adopt the final charging schedule. If it prefers, it may submit a revised charging schedule to a fresh examination.

Paragraph: 040 Reference ID: 25-040-20190901

Revision date: 01 09 2019

How are any errors in the examiner's report corrected?

Examiners should encourage charging authorities to 'fact check' the final report before it is published. The examiner may remedy any 'correctable errors' (under regulation 24 (http://www.legislation.gov.uk/uksi/2010/948/regulation/24/made)) in their recommendations before the charging schedule is approved. However, after such errors are corrected, the charging authority must republish the recommendations in accordance with regulation 24 (http://www.legislation.gov.uk/uksi/2010/948/regulation/24/made) and give notice of these corrections to anyone who asked to be notified of the examiner's recommendations.

For the purposes of regulation 24 (http://www.legislation.gov.uk/uksi/2010/948/regulation/24/made), there are 2 types of 'correctable error'. The first is an error which 'does not alter the substance of the examiner's recommendations or reasons'. For example, this could be a minor typographical or factual error, but not one that would affect levy liability. The second is an error which 'must be corrected to make the recommendation consistent with the reasons given for those recommendations'. These more significant errors, which would give rise to a different levy rate or affect levy liability, may be corrected but only if the error in the recommendations is clearly traceable from the examiner's reasons within the same report and the correction is needed to make the recommendations consistent with the reasons.

Paragraph: 041 Reference ID: 25-041-20190901

Revision date: 01 09 2019

Approving and implementing the charging schedule

How is the charging schedule approved and implemented?

The charging schedule must be formally approved by a resolution of the full council of the charging authority. The resolution should include an appropriate commencement date following, or on, approval. In London, the Mayor must make a formal decision to approve his or her charging schedule.

Paragraph: 042 Reference ID: 25-042-20190901

Revision date: 01 09 2019

Can any errors in the approved charging schedule be corrected?

Generally, the charging schedule should not be amended after an examination, until an authority chooses to undertake a full review and consult on a new schedule. However, certain errors in the charging schedule may be corrected for a period of up to 6 months after the charging schedule has been approved (see regulation 26 (http://www.legislation.gov.uk/uksi/2010/948/regulation/26/made) as amended by the 2019 regulations (http://www.legislation.gov.uk/uksi/2019/1103/regulation/3/made)). If the charging authority corrects errors, it must republish the charging schedule (under regulation 27 (http://www.legislation.gov.uk/uksi/2010/948/regulation/27/made)).

Paragraph: 043 Reference ID: 25-043-20190901

Revision date: 01 09 2019

When does a charging schedule come into effect?

An approved charging schedule must be published by the charging authority. The date the charging schedule comes into effect is chosen by the charging authority and is specified within the charging schedule, but this must be at least one day after the date of publication. The charging schedule remains in effect until the charging authority either brings into effect a revised version or decides to stop charging the levy.

Paragraph: 044 Reference ID: 25-044-20190901

Revision date: 01 09 2019

When should the charging schedule be reviewed and revised?

Charging authorities must keep their charging schedules under review and should ensure that levy charges remain appropriate over time. For example, charging schedules should take account of changes in market conditions, and remain relevant to the funding gap for the infrastructure needed to support the development of the area.

When reviewing their charging schedule, charging authorities should take account of the impact of revised levy rates on future planned development.

Charging authorities may revise their charging schedule in whole or in part. Any revisions must follow the same processes as the preparation, examination, approval and publication of a charging schedule (as specified under the Planning Act 2008 (http://www.legislation.gov.uk/ukpga/2008/29/part/11), particularly sections 211 to 214 as amended by the Localism Act 2011 (http://www.legislation.gov.uk/ukpga/2011/20/part/6/chapter/2/enacted), and the levy Regulations).

The law does not prescribe when reviews should take place. However, in addition to taking account of market conditions and infrastructure needs, charging authorities should also consider linking a review of their charging schedule to any substantive review of the evidence base for the relevant plan (the Local Plan and the London Plan in London). Even if the original charging schedule was not examined together with the relevant plan, there may be advantages in coordinating the review of both.

Paragraph: 045 Reference ID: 25-045-20190901

Revision date: 01 09 2019

Can authorities stop charging the levy?

A charging authority that wishes to stop charging the levy must prepare and make available a statement which provides:

- details of the levy receipts for the preceding 5 years or from the date the charging schedule came into effect if the schedule has been in place for less than 5 years;
- an assessment of the effects on the funding of infrastructure needs for the area;
- a summary of the measures the charging authority has or intends to put in place to fund the infrastructure needs of the area; and
- an assessment of how effective those measures will be.

The charging authority must also publish this information on its website and specify a period of not less than 4 weeks within which representations may be made in accordance with regulation 28A (http://www.legislation.gov.uk/uksi/2019/1103/regulation/4/made) (inserted by the 2019 Regulations). If a charging schedule ceases to have effect any levy liability relating to a development that has not commenced before the date of determination will no longer apply. See regulation 7 (http://www.legislation.gov.uk/uksi/2010/948/regulation/7/made), and section 56(4) of the Town and Country Planning Act 1990 (http://www.legislation.gov.uk/ukpga/1990/8/section/56), for the definition of 'commencement of development'. Regulation 28A (http://www.legislation.gov.uk/uksi/2019/1103/regulation/4/made) does not apply where the charging schedule is replaced with a new charging schedule which comes into effect on the same day.

In London, where there may be more than one charging authority for any area, if one charge ceases, development will still be liable for the remaining charge.

Paragraph: 046 Reference ID: 25-046-20190901

Revision date: 01 09 2019

Relief and Exemptions

What forms of relief and exemptions are available from the Community Infrastructure Levy?

The Community Infrastructure Levy Regulations make a number of provisions for charging authorities to give relief or grant exemptions from the levy. Some types of relief are compulsory; others are offered at the charging authority's discretion.

Depending on the circumstances, the following forms of relief may be available:

- minor development exemption
- exemption for residential annexes or extensions
- mandatory charitable relief
- discretionary charitable relief
- mandatory social housing relief
- discretionary social housing relief
- self-build exemption (for a whole house)
- exceptional circumstances relief

For the residential annexes and residential extensions exemption an owner of a material interest in the main dwelling who occupies that dwelling as their sole or main residence may apply for the exemption.

For the charitable exemptions an owner of a material interest in the relevant land which is a charitable institution can claim relief.

For social housing relief any owner of the relevant land who has assumed liability to pay CIL for the development may apply for the relief.

For the self-build exemption any person who intends to occupy the new dwelling and has assumed liability to pay CIL for the development may apply for the exemption.

For exceptional circumstances relief an owner of a material interest in the relevant land can claim relief.

A 'material interest' is a freehold interest or a leasehold interest the term of which expires more than 7 years after the date on which planning permission first permits development (as defined in regulation 4(2) (http://www.legislation.gov.uk/uksi/2010/948/regulation/4/made)).

The 'relevant land' in which such an interest must be owned is the land which will be developed when building the chargeable development. Specifically:

- for general consents (such as via the General Permitted Development Order (see 'What are permitted development rights?' (https://www.gov.uk/guidance/when-is-permission-required#What-are-permitted-development-rights) for details) or through a Local Development Order (see related National Planning Policy Guidance on Local Development Orders (https://www.gov.uk/guidance/when-is-permission-required#Local-Development-Order) for details): the land which is identified in the plan submitted to the collecting authority as part of the Notification of Chargeable Development;
- for outline planning permissions, and full permissions to be implemented in phases: the land to which the phase relates;
- for other cases: the land to which the planning permission relates.

A collecting authority must satisfy itself that by granting relief or an exemption it is not breaching State aid rules.

Paragraph: 047 Reference ID: 25-047-20190901

Revision date: 01 09 2019

What is a minor development exemption?

Minor development, with a gross internal area of less than 100 square metres, is generally exempt from the levy. However, where minor development will result in a new dwelling (or dwellings), it will be liable for the levy although the self-build exemption may apply instead if it is built by a 'self-builder'.

Paragraph: 048 Reference ID: 25-048-20190901

Revision date: 01 09 2019

Exemptions for residential annexes and extensions

What are the criteria for obtaining an exemption for a residential annex or residential extension?

People who extend their own homes or erect residential annexes within the grounds of their own homes are exempt from the levy, provided that they meet the criteria laid down in regulations 42A and 42B (http://www.legislation.gov.uk/uksi/2014/385/regulation/7/made) (inserted by the 2014 Regulations and amended by the 2019 Regulations (http://www.legislation.gov.uk/uksi/2019/1103/regulation/6/made)):

- the main dwelling must be the person's principal residence, and they must have a material interest in it (as defined in regulation 4(2) (http://www.legislation.gov.uk/uksi/2010/948/regulation/4/made));
- residential annexes are exempt from the levy if they are built within the curtilage of the principal residence and comprise one new dwelling; and
- residential extensions are exempt from the levy if they enlarge the principal residence and do not comprise an additional dwelling.

There is no requirement for the occupier of the annex to be related to the owner of the main dwelling, or to commit to staying there for a specified period. But letting the residential annex, or selling it separately from the main dwelling, within the 3-year claw-back period which commences from the date of the compliance certificate relating to the residential annex, will result in the exemption being withdrawn.

Residential extensions under 100 square metres, which are not part of a development which creates a new dwelling, are already exempt from the levy under the minor development exemption.

Paragraph: 049 Reference ID: 25-049-20190901

Revision date: 01 09 2019

What evidence is required?

The applicant must submit a claim for the exemption to the collecting authority before development commences (see regulation 7 (http://www.legislation.gov.uk/uksi/2010/948/regulation/7/made), and section 56(4) of the Town and Country Planning Act 1990 (http://www.legislation.gov.uk/ukpga/1990/8/section/56), for the definition of 'commencement of development'). This claim must be submitted on either the Residential Annex Extension Claim Form (Form 8) (https://www.planningportal.co.uk/info/200136/policy_and_legislation/70/community_infrastructure_levy/5) or the Residential Extension Claim Form (Form 9) (https://www.planningportal.co.uk/info/200136/policy_and_legislation/70/community_infrastructure_levy/5), as appropriate. Upon receipt of a valid application, the collecting authority must notify the applicant of the amount of exemption that is granted, as soon as practicable.

The applicant for a residential annex exemption must submit a commencement notice (https://www.planningportal.co.uk/info/200136/policy_and_legislation/70/community_infrastructure_levy/5) to the authority before starting work on site. Failure to submit a commencement notice on time will result in a surcharge. There is no requirement for a commencement notice to be submitted in regard to a residential extension exemption as set out at in regulation 67(1A) (http://www.legislation.gov.uk/uksi/2014/385/regulation/9/made).

Flow chart showing the procedure for applying for and obtaining an exemption for a residential annex (https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/828352/Exemption_for_residential_annex.pdf) (PDF, 464KB, 1 page)

Paragraph: 050 Reference ID: 25-050-20190901

Revision date: 01 09 2019

Under what circumstances can the exemption for a residential annex be withdrawn?

A residential annex ceases to qualify for an exemption if any of the following disqualifying events occur within 3 years of completion:

- the main house is used for any purpose other than as a single dwelling;
- the annex is let; or
- either the main residence, or the annex, is sold separately from the other.

Completion for the purposes of this exemption is defined as the issuing of a compliance certificate for the annex under either regulation 17 (http://www.legislation.gov.uk/uksi/2010/2214/regulation/17) of the Building Regulations 2010 or section 51 (http://www.legislation.gov.uk/ukpga/1984/55/section/51) of the Building Act 1984.

If there is a disqualifying event, the person benefitting from the exemption must notify the charging authority in writing within 14 days. The exemption will be withdrawn, and that person is then liable for the levy charge specified by the charging authority that would have been payable at the time when the exemption was first claimed (or the amount of relief granted, if lower).

Paragraph: 051 Reference ID: 25-051-20190901

Revision date: 01 09 2019

Is there a right of appeal?

An interested party may appeal against the grant of an exemption for a residential annex under regulation 116A (http://www.legislation.gov.uk/uksi/2014/385/regulation/11/made), but only on the ground that the collecting authority has incorrectly determined that the annex is not wholly within the curtilage of the main dwelling. Such appeals are submitted to the Valuation Office Agency (view more information on appeals). There is no right of appeal in relation to residential extensions.

Paragraph: 052 Reference ID: 25-052-20190901

Revision date: 01 09 2019

Further details

The legislative provisions for the exemptions relating to residential extensions and annexes are set out in Regulations 42A, 42B and 42C (http://www.legislation.gov.uk/uksi/2014/385/regulation/7/made) (inserted by the 2014 Regulations and in the case of regulation 42B as amended by the 2019 Regulations (http://www.legislation.gov.uk/uksi/2019/1103/regulation/6/made)). Commencement notices do not need to be submitted in the case of exemptions for residential extensions (Regulation 67(1A) (http://www.legislation.gov.uk/uksi/2014/385/regulation/9/made)).

Paragraph: 053 Reference ID: 25-053-20190901

Revision date: 01 09 2019

Charities

What is charitable relief?

Charitable relief is the collective term for all relief from the levy offered to charities under the Community Infrastructure Levy Regulations 2010 (as amended).

To qualify for any charitable relief, the following criteria must be fulfilled:

- the claimant must be a charitable institution;
- the claimant must own a material interest in the relevant land; and
- the claimant must not own this interest jointly with a person who is not a charitable institution.

Relief is not limited to only one charitable institution. Where charitable relief conditions are met, every charitable institution owning a material interest in the relevant land can benefit from relief from their portion of the charge. Two forms of relief may be available for charities.

First, a charitable institution which owns a material interest in the land (a charity landowner) will get full relief from their share of the liability where the chargeable development will be used ‘wholly, or mainly, for charitable purposes’ and they meet the requirements of regulation 43 (http://www.legislation.gov.uk/uksi/2010/948/regulation/43/made).

A charging authority can also choose to offer discretionary relief (https://www.gov.uk/guidance/community-infrastructure-levy#para058) to a charity landowner where the greater part of the chargeable development will be held as an investment, from which the profits are applied for charitable purposes (see regulation 44 (http://www.legislation.gov.uk/uksi/2010/948/regulation/44/made) for details). The charging authority must publish its policy for giving relief in such circumstances.

Second, the regulations provide 100% relief from the levy on those parts of a chargeable development which are intended to be used as social housing. Charitable private registered providers (alongside other providers set out in regulation 49 (http://www.legislation.gov.uk/uksi/2014/385/regulation/7/made)) will be eligible for this reduction (private registered providers are defined in the Housing and Regeneration Act 2008 (http://www.legislation.gov.uk/ukpga/2008/17/contents) as amended). Social housing relief may also be available to parties that are not charities. See more details about social housing relief.

Any relief must be repaid, a process known as ‘clawback’, if a ‘disqualifying event’ (defined in regulation 48 (http://www.legislation.gov.uk/uksi/2010/948/regulation/48/made)) happens within 7 years of the commencement of the chargeable development. See regulation 7 (http://www.legislation.gov.uk/uksi/2010/948/regulation/7/made), and section 56(4) of the Town and Country Planning Act 1990 (http://www.legislation.gov.uk/ukpga/1990/8/section/56), for the definition of ‘commencement of development’.

Paragraph: 054 Reference ID: 25-054-20190901

Revision date: 01 09 2019

Who can claim charitable relief?

Charitable reliefs apply only to 'charitable institutions'. This is defined in Regulation 41 (http://www.legislation.gov.uk/uksi/2010/948/regulation/41/made) as either:

- a charity (defined as "any person or trust established for charitable purposes only") – for a definition of 'charitable purposes', see section 2 of the Charities Act 2011);
- a trust of which all the beneficiaries are charities; or
- a unit trust scheme in which all the unit holders are charities.

More detailed information on charitable purposes can be found on the Charity Commission (https://www.gov.uk/government/organisations/charity-commission) website.

In practice there are 3 main groups of charities which may benefit from relief:

- registered charities: charities which are registered with the Charity Commission;
- exempt charities: charities which cannot register under the Charities Act 2011 and are not subject to the Charity Commission's supervisory powers. They are listed in Schedule 3 to the Charities Act 2011 (http://www.legislation.gov.uk/ukpga/2011/25/schedule/3) and include some educational institutions, and most universities and national museums;
- excepted charities: charities excepted from the need to register but which are still supervised by the Charity Commission.

Bodies which do not fall into these categories may still be eligible for relief where they are established for charitable purposes only. A body which has a Her Majesty's Revenue and Customs charity reference number will usually meet this requirement. Academy and Free School Trusts which are not yet exempt charities, but which are charitable institutions as defined in regulation 41 (http://www.legislation.gov.uk/uksi/2010/948/regulation/41/made), are also exempt from the levy.

Levy charging and collecting authorities must treat European Union charities in the same way as UK charities for the purposes of charitable relief. The levy regulations do not preclude non-UK charities from the definition, so any decision on the eligibility of a non-UK charity must be made on the merit of the charitable purpose.

Charitable relief may also apply to trusts or unit trusts whose only beneficiaries or unit holders are charities. The most usual arrangements of this type are collective investment schemes – for example, unit trusts and common investment funds. The Claiming Charitable or Social Housing Relief form (https://www.planningportal.co.uk/info/200136/policy_and_legislation/70/community_infrastructure_levy/5) (Form 10) requires a claimant to indicate whether it qualifies for relief in this context – in particular, whether all beneficiaries or unit holders are charities – and supply detail on the type of organisation that it is. It is then for the collecting authority to determine whether the claimant qualifies for the relief.

The Claiming Charitable or Social Housing Relief form requires the claimant to demonstrate what its charitable purposes are – for example through the production of its constitution or articles of association.

Paragraph: 055 Reference ID: 25-055-20190901

Revision date: 01 09 2019

How is charitable relief claimed?

Charitable institutions wishing to claim relief should use the Claiming Charitable or Social Housing Relief form (https://www.planningportal.co.uk/info/200136/policy_and_legislation/70/community_infrastructure_levy/5) (Form 10). The claim form should be submitted with the planning application or notification of chargeable development. However, a claim for relief will lapse if works are commenced on the chargeable development before the collecting authority has notified the claimant of its decision.

If there is more than one material interest in the relevant land, the claimant must submit an 'apportionment assessment' alongside its claim (see regulation 47(2) (http://www.legislation.gov.uk/uksi/2010/948/regulation/47/made)). Apportionment must be carried out in accordance with regulation 34 (http://www.legislation.gov.uk/uksi/2010/948/regulation/34/made), as amended by the 2011 Regulations (http://www.legislation.gov.uk/uksi/2011/987/regulation/6/made).

A claimant should inform the collecting authority if a disqualifying event (defined in regulation 48(1) (http://www.legislation.gov.uk/uksi/2010/948/regulation/48/made)) occurs prior to commencement of the chargeable development.

When it determines a claim for relief, the collecting authority must write to the claimant setting out its decision, the reasons for it, and the amount of relief granted.

A party claiming charitable relief must submit a commencement notice to the collecting authority for development that is granted charitable relief. The date of commencement determines when the 7-year clawback period expires. If development begins before a commencement notice is submitted, it will be subject to a surcharge equal to 20% of the amount that would have been charged if charitable relief had not been granted or £2,500, whichever is the lower amount (regulation 83 (http://www.legislation.gov.uk/uksi/2010/948/regulation/83/made) as amended by the 2019 Regulations (http://www.legislation.gov.uk/uksi/2019/1103/regulation/6/made)).

The claimant may be eligible to pay its portion of this charge, plus any surcharge, where no party has assumed liability for the development.

See the flow chart showing the procedure for applying for and obtaining an exemption for charitable relief (https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/828357/Charitable_relief.pdf) (PDF, 469KB, 1 page)

Paragraph: 056 Reference ID: 25-056-20190901

Revision date: 01 09 2019

What are the specific requirements for a mandatory charitable exemption?

To qualify for a mandatory charitable exemption under regulation 43 (http://www.legislation.gov.uk/uksi/2010/948/regulation/43/made) the following criteria must be met:

- a material interest in the land must be owned by a charitable institution;
- the chargeable development will be used wholly or mainly for charitable purposes (whether of the claimant or of the claimant and other charitable institutions);
- that part of the chargeable development to be used for charitable purposes will be occupied by, or under the control of, a charitable institution;
- the material interest cannot be owned jointly with a person who is not a charitable institution; and
- the exemption must not constitute a State aid.

These criteria apply alongside any procedural requirements.

Under the mandatory charitable exemption, the chargeable development must be used 'wholly or mainly for charitable purposes' once it is completed. This is a similar formulation to that used for business rates charitable relief. There is no statutory definition of this requirement. However, the courts have held 'mainly' to mean 'more than half.' The chargeable development must be used to 'directly facilitate the carrying out of the charitable institution's charitable purposes' – or those of itself and other charitable institutions. Use of a chargeable development for trading could qualify but is unlikely where the link to furthering charitable purposes is purely through raising money. Qualifying use could also include a charity using the chargeable development to house its employees, under certain circumstances.

Paragraph: 057 Reference ID: 25-057-20190901

Revision date: 01 09 2019

What are the specific requirements for discretionary charitable relief?

A charging authority may give discretionary relief from the levy where:

- a charitable institution will claim the relief, and the whole or greater part of that institution's share of the chargeable development will be held as a charitable investment; or
- a charitable institution has been refused a mandatory charitable exemption on State aid grounds but granting relief for a smaller amount would not constitute a notifiable State aid.

Regulation 45 (http://www.legislation.gov.uk/uksi/2010/948/regulation/45/made) sets out the qualifying criteria in more detail.

Paragraph: 058 Reference ID: 25-058-20190901

Revision date: 01 09 2019

What are the specific requirements for discretionary charitable investment relief?

A charging authority may decide to operate a policy for giving discretionary charitable investment relief, under regulation 44 (http://www.legislation.gov.uk/uksi/2010/948/regulation/44/made).

A collecting authority may give discretionary investment relief where:

- the charging authority has given notice that discretionary charitable investment relief is available in the area; and
- the whole or 'greater part' of the chargeable development will be held by the claimant, or by the claimant and other charitable institutions, as an investment from which the profits will be applied for charitable purposes; and
- that portion of the chargeable development to be held as an investment will not be occupied by the claimant for ineligible trading activities; and
- relief does not constitute a notifiable State aid.

'Greater part' – 51% or more of the monetary value of the chargeable development is likely to constitute its 'greater part'.

Only charitable investment activities are eligible for this relief. Regulation 44 (http://www.legislation.gov.uk/uksi/2010/948/regulation/44/made) specifies that relief cannot apply where a charity intends to occupy the greater part of the chargeable development and use it for any trading activity, other than to sell donated goods to use the proceeds for its charitable purposes.

A charging authority may choose to further narrow the scope of this relief through its relief policy.

Paragraph: 059 Reference ID: 25-059-20190901

Revision date: 01 09 2019

How do discretionary charitable relief policies operate

A charging authority that decides to introduce or revise a discretionary charitable relief policy must publish a document setting out that policy. The document is not part of the charging schedule. The charging authority may publish the relief policy separately and at a different time to the publication of the charging schedule. The document must:

- give notice that discretionary relief is available in its area (or is available under a revised policy), and whether it is available under regulation 44 (http://www.legislation.gov.uk/uksi/2010/948/regulation/44/made), regulation 45 (http://www.legislation.gov.uk/uksi/2010/948/regulation/45/made) or both;
- state the date the collecting authority will begin accepting claims for relief under its latest policy; and
- include a policy statement setting out the circumstances in which discretionary charitable relief will be granted in its area.

It is at the discretion of the charging authority to decide what percentage of relief from the levy it will provide. The charging authority also has the flexibility to develop the criteria it considers suitable to assess eligibility for discretionary relief, but authorities should consider State aid issues where charitable institutions which may benefit from the relief are involved in commercial activities. Examples could include:

- the benefit the charitable institution gives to the local community;
- the annual income of the charitable institution;
- the annual rent payable on the charitable investment (a minimum threshold may protect against abuse).

In London, where the Mayor and a London borough council have opted to charge the levy, both bodies could legitimately have policies for giving discretionary charitable relief. It is for the collecting authority (in most cases the London borough council) to apply each policy to the appropriate portion of the claimant's charge.

Discretionary charitable relief is only available where the charging authority has published its policy. The collecting authority must not consider claims for discretionary charitable relief where the charging authority has no published policy offering such relief.

A charging authority wishing to withdraw discretionary relief must publicise on its website the last date on which claims may be made for relief.

Paragraph: 060 Reference ID: 25-060-20190901

Revision date: 01 09 2019

Under what circumstances can charitable relief be 'clawed back'?

For 7 years after the commencement of development (the 'clawback period'), a person who benefits from a charitable relief must inform the collecting authority where a disqualifying event happens. This must be done within 14 days of the disqualifying event. Where this is not done, a surcharge equal to 20% of the chargeable amount payable or £2,500, whichever is the lesser, may be applied.

A disqualifying event is one or more of the following:

- change of purpose: the owner of the interest in the land in which relief was given ceases to be eligible for charitable relief (i.e. the owner ceases to be a charitable institution or uses the building for an ineligible use)
- change of ownership: the whole of the interest in the land in which relief was given is transferred to a person who is not eligible for charitable relief, or
- change of leasehold: the lease under which the interest in the land is held is terminated, and the owner of the reversion is not eligible for charitable relief

If a disqualifying event happens before the development commences, the relief would be cancelled and the liability to the full levy would be recalculated. If the disqualifying event occurs after commencement, the charitable relief, in respect of the material interest to which the relief relates, is withdrawn and the person is liable to pay an amount of CIL equal to the withdrawn relief. In either instance, the collecting authority must issue a revised liability notice showing what is payable and must issue a demand notice to collect the new amount.

If a claimant does not inform the collecting authority in writing of a disqualifying event within 14 days of the disqualifying event occurring, they will immediately be liable to pay back the charitable relief and a surcharge (see regulation 84 (http://www.legislation.gov.uk/uksi/2010/948/regulation/84/made)).

Paragraph: 061 Reference ID: 25-061-20190901

Revision date: 01 09 2019

What are charitable relief appeals?

A charitable relief claimant, or the party who has assumed liability for the chargeable development, may appeal to the Valuation Office Agency if they consider that the collecting authority has incorrectly determined the value of the charity's interest in the land.

An appeal must be submitted within 28 days of the date of the collecting authority's decision on the claim. See further details on appeals.

Paragraph: 062 Reference ID: 25-062-20190901

Revision date: 01 09 2019

How does State aid apply to charitable relief?

A mandatory charitable exemption cannot be granted where it would constitute a State aid. However, if a mandatory charitable exemption would otherwise have been allowed, and the charging authority has a published policy on discretionary charitable relief under regulation 45 (http://www.legislation.gov.uk/uksi/2010/948/regulation/45/made) exists, then a charitable institution may be able to benefit from relief to the extent to which it is not a notifiable State aid.

Charging authorities may wish to formulate policies which automatically ensure that mandatory charitable exemption claims which fail solely on State aid grounds are considered for relief under regulation 45 (http://www.legislation.gov.uk/uksi/2010/948/regulation/45/made) . Discretionary charitable investment relief (under regulation 44 (http://www.legislation.gov.uk/uksi/2010/948/regulation/44/made)) can also be provided where relief is not a notifiable State aid.

View more details on this and the de minimis block exemption.

Paragraph: 063 Reference ID: 25-063-20190901

Revision date: 01 09 2019

How does the default of liability apply to charitable relief?

Where a collecting authority is unable to recover an amount of CIL from a party who assumed liability for the levy the collecting authority may transfer the liability to the owners of the relevant land in question including charities which own an interest. This is known as 'default of liability' – see regulation 36 (http://www.legislation.gov.uk/uksi/2010/948/regulation/36/made) for details. A collecting authority may only transfer the liability after it has taken all reasonable efforts to recover the outstanding amount.

Where the outstanding amount is defaulted in this way, it will be apportioned between the owners of the relevant land according to their material interest in the relevant land ('material interest' is defined in regulation 4(2) (http://www.legislation.gov.uk/uksi/2010/948/regulation/4/made)).

A charity benefiting from discretionary charitable relief may be liable to pay a share of the outstanding amount based on its material interest in the land. In order to manage the risk of a default of liability by another party, charities should carefully select development partners and make appropriate contractual arrangements to safeguard their interests.

A charity receiving a mandatory charitable exemption (under regulation 43 (http://www.legislation.gov.uk/uksi/2010/948/regulation/43/made)) will continue to be exempt from any liability to pay the outstanding charge.

Paragraph: 064 Reference ID: 25-064-20190901

Revision date: 01 09 2019

Social housing

What relief is available for social housing?

Social housing relief is a mandatory discount that applies to most social rent, affordable rent, intermediate rent provided by a local authority or private registered provider, and shared ownership dwellings. Subject to meeting specific conditions, social housing relief can also apply to discounted rental properties provided by bodies which are neither a local authority nor a private registered provider. Regulation 49 (http://www.legislation.gov.uk/uksi/2014/385/regulation/7/made) (as amended by the 2015 Regulations (http://www.legislation.gov.uk/uksi/2015/836/contents/made)) defines where social housing relief applies.

To qualify for social housing relief, the claimant must own a material interest (defined in regulation 4(2) (http://www.legislation.gov.uk/uksi/2010/948/regulation/4/made)) in the relevant land and have assumed liability to pay the levy for the whole chargeable development.

A charging authority may offer separate discretionary relief for affordable housing types which do not meet the criteria required for mandatory social housing relief and

are not regulated through the national rent regime.

When applying for relief, a claimant must provide evidence that the chargeable development qualifies for social housing relief. The Regulations provide that dwellings no longer meeting these requirements must pay the levy.

Paragraph: 065 Reference ID: 25-065-20190901

Revision date: 01 09 2019

Can a dwelling let by a body which is neither a local authority nor a private registered provider qualify for mandatory social housing relief?

A dwelling which is to be let by a body which is neither a local housing authority nor a private registered provider of social housing qualifies for mandatory social housing relief (regulation 49(7A) (http://www.legislation.gov.uk/uksi/2015/836/regulation/4/made)), if it is let to a tenant whose needs are not adequately served by the commercial housing market, the rent (including any service charge) is no more than 80% of market rent and a planning obligation ensuring the dwelling is let on this basis is entered into.

Paragraph: 066 Reference ID: 25-066-20190901

Revision date: 01 09 2019

How should need be established for the purposes of dwellings which qualify for social housing relief under regulation 49(7A)?

Dwellings which qualify for mandatory social housing relief under regulation 49(7A) (http://www.legislation.gov.uk/uksi/2015/836/regulation/4/made) (inserted by the 2015 Regulations) must be let to those persons whose needs are not served by the commercial housing market. Eligibility should be based on criteria agreed between the provider and the relevant local housing authority and secured via a planning obligation.

Paragraph: 067 Reference ID: 25-067-20190901

Revision date: 01 09 2019

How should market rent be calculated?

Market rent should be calculated in accordance with a Royal Institution of Chartered Surveyors recognised method. Its principles for valuations are set out in ‘Royal Institution of Chartered Surveyors Valuation – Professional Standards’ (known as the Red Book).

Paragraph: 068 Reference ID: 25-068-20190901

Revision date: 01 09 2019

What is discretionary relief for social housing?

If a charging authority wishes to offer discretionary social housing relief, it must publish its policy setting out what is required to qualify for this relief, including the criteria governing who is eligible to occupy the homes and how these will be allocated. Discretionary social housing relief where applied for and obtained will apply to affordable dwellings which meet the criteria set out in regulation 49A (http://www.legislation.gov.uk/uksi/2014/385/regulation/7/made) (inserted by the 2014 Regulations). Anyone can provide these homes, as long as measures are in place to ensure that the homes, if sold, will continue to be affordable for future purchasers at a maximum of 80% of market price.

Paragraph: 069 Reference ID: 25-069-20190901

Revision date: 01 09 2019

What is the procedure for claiming mandatory or discretionary social housing relief?

The levy collecting authority handles claims for social housing and discretionary social housing relief. In most cases (except in London), the collecting authority and the charging authority are the same.

A claimant wishing to apply for social housing relief should use Form 10: Claiming charitable and social housing relief (https://www.planningportal.co.uk/info/200136/policy_and_legislation/70/community_infrastructure_levy/5). To qualify for relief, the claimant must be an owner of a material interest in the relevant land (defined by regulation 4(2) (http://www.legislation.gov.uk/uksi/2010/948/regulation/4/made)) and have assumed liability to pay the levy on the chargeable development. The form requires the claimant to provide a map showing where on the chargeable development the social housing will be built, and the claimant must also provide a ‘relief assessment’ which identifies the dwellings and communal development eligible for the relief, the gross internal area and a calculation of the amount of relief applicable.

Flow chart showing procedure for applying for and obtaining the social housing exemption (https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/828363/Social_housing_relief.pdf) (PDF, 472KB, 1 page)

Social housing relief is calculated according to paragraph 6 of Schedule 1 (http://www.legislation.gov.uk/uksi/2019/1103/schedule/1/made) (inserted by the 2019 Regulations). The ‘index’ figure referred to in sub-paragraph 6(3) of the Schedule is the national All-in Tender Price Index published by the Building Cost Information Service of the Royal Institution of Chartered Surveyors (RICS) in relation to any calendar year before 2020 and the RICS CIL Index in relation to the calendar year 2020 and any other subsequent calendar year. The figure for a given calendar year is the figure for 1 November of the preceding year. In the event that the index ceases to be published, the Retail Prices Index must be used instead.

When it determines a claim for relief, the collecting authority must write to the claimant setting out its decision, the reasons for it, and the amount of relief granted. A claim for relief will lapse if development commences before the collecting authority has notified the claimant of its decision.

A party claiming social housing relief must submit a commencement notice to the charging authority for a development that is granted relief. The date of commencement determines when the 7-year clawback period expires, apart from dwellings granted social housing relief under regulation 49(7A) (http://www.legislation.gov.uk/uksi/2015/836/regulation/4/made) for which the clawback period expires 7 years after the dwelling is first let. If development begins before a commencement notice is submitted, then a surcharge equal to 20% of the amount that would have been charged if social housing relief had not been granted or £2,500, whichever is the lower amount will become payable (regulation 83 (http://www.legislation.gov.uk/uksi/2010/948/regulation/83/made) as amended by the 2019 Regulations (http://www.legislation.gov.uk/uksi/2019/1103/regulation/6/made)).

Paragraph: 070 Reference ID: 25-070-20190901

Revision date: 01 09 2019

Can mandatory or discretionary social housing relief be claimed for communal development?

Relief can be claimed for communal development that is associated with a development involving social housing (see Regulation 49C (http://www.legislation.gov.uk/uksi/2014/385/regulation/7/made)). To qualify, the communal development must be for the benefit of the occupants of more than one dwelling which qualifies for social housing relief whether or not it also benefits the occupants of the non-social housing. The gross internal area of the communal development that qualifies for relief is calculated using the formula in Regulation 49C (http://www.legislation.gov.uk/uksi/2014/385/regulation/7/made). This provides that the communal development is apportioned between the area of development qualifying for social housing relief and other development permitted by the same planning permission. For example, if 20% of the gross internal area of a housing development is social housing, 20% of the gross internal area of any qualifying communal development would also qualify for relief.

Paragraph: 071 Reference ID: 25-071-20190901

Revision date: 01 09 2019

How is the beneficiary identified when disposing of land?

The effective enforcement of social housing relief – which applies to social housing and discretionary social housing relief – relies on identifying the beneficiary or beneficiaries of that relief.

The initial beneficiary of all social housing relief on a chargeable development is the party who submitted the claim – regardless of whether he or she owns some or all of the land on which the social housing will be built. However, the relief attached to each qualifying dwelling is transferred if the land on which they sit, or will sit, is sold before they are ready for occupation. The relief for those dwellings is calculated and transferred from the old to the new beneficiary under regulation 52 (http://www.legislation.gov.uk/uksi/2010/948/regulation/52/made), as amended by the 2014 Regulations (http://www.legislation.gov.uk/uksi/2014/385/regulation/7/made).

The seller must notify the collecting authority in writing of the sale, copying this to the buyer and the previous beneficiary of relief for those dwellings (if this is not the seller). As the claimant may only own one of the material interests in the relevant land, the seller of the land might not be the current beneficiary of relief. He or she will in most cases know about the social housing relief attached to that land, however, through the liability notice.

The notification must give details of:

- the gross internal area of the qualifying dwellings that will be situated on the land being sold;
- the location of those dwellings through a map or plan; and
- the name and address of the seller, the buyer and the former beneficiary of relief from those dwellings (if not the seller).

The new owner's relief is then calculated, as is the revised relief (if any) of the former beneficiary. Under regulation 54 (http://www.legislation.gov.uk/uksi/2010/948/regulation/54/made), a collecting authority may serve an information notice on the claimant to enable it to calculate this. After calculating the revised relief, the collecting authority must issue an updated liability notice that identifies all social housing relief beneficiaries and what relief they benefit from. The charging authority can choose to include within the liability notice a map demonstrating where the beneficiaries' qualifying dwellings sit within the chargeable development.

Paragraph: 072 Reference ID: 25-072-20190901

Revision date: 01 09 2019

What happens if the social housing no longer qualifies for relief?

Social housing relief is withdrawn for any qualifying dwelling if a disqualifying event occurs up to 7 years from the commencement of development (known as the "clawback period"). The relief for that dwelling must be repaid by the beneficiary. The occupant of the dwelling will never pay clawback – liability falls on the owner of the land immediately prior to the dwelling being made available for occupation.

If a disqualifying event occurs before the commencement of development, social housing relief would be cancelled and the liability to the levy would be recalculated.

A disqualifying event is any change to a qualifying dwelling causing it to no longer qualify for social housing relief – regulation 53 (http://www.legislation.gov.uk/uksi/2010/948/regulation/53/made), as amended by the 2014 (http://www.legislation.gov.uk/uksi/2014/385/regulation/7/made), 2015 (http://www.legislation.gov.uk/uksi/2015/836/regulation/4/made) and 2019 Regulations (http://www.legislation.gov.uk/uksi/2019/1103/regulation/5/made), provides further details. In the case of a dwelling that was granted social housing relief under regulation 49(7A) (http://www.legislation.gov.uk/uksi/2015/836/regulation/4/made), the beneficiary must additionally repay the interest on the withdrawn relief calculated from the date on which the chargeable development commenced (see regulation 53(4A) (http://www.legislation.gov.uk/uksi/2015/836/regulation/4/made)).

The sale of a qualifying dwelling is not a disqualifying event if the proceeds of sale are spent on another dwelling that qualifies for the relief. Transferring the sale proceeds to the Secretary of State, the Greater London Authority, a local housing authority or Homes England are also not disqualifying events. Disqualifying events do not include the purchase of social housing by the Regulator of Social Housing.

Paragraph: 073 Reference ID: 25-073-20190901

Revision date: 01 09 2019

Does State aid apply to social housing relief?

The provision of social housing is a service of a general economic interest. Relief from the levy for social housing has been designed so that it complies with the requirements of the European Union block exemption for services of a general economic interest. Charging and collecting authorities will need to be aware of this block exemption when implementing these regulations. View more information on State aid.

The European Commission recognises the importance of State support for social housing, which is deemed to be 'a service of general economic interest' meaning that relief from a tax or levy can be granted without breaching the State aid rules. However, to fit within the exemption, any housing benefiting from the State aid (relief) must meet 3 criteria:

- Entrustment – there must be legislative provision, a contract or other legally binding method to ensure that the housing is used in a certain way;
- The housing must be for those people whose needs are not met by the market – "disadvantaged citizens or socially less advantaged groups, who due to solvency constraints are unable to obtain housing at market conditions"; and
- The total aid to be provided to an undertaking must be determined in advance of the social housing being built and must not exceed the cost of providing the social housing.

Local policies granting discretionary social housing relief need to comply with the European Commission criteria set out above.

Paragraph: 074 Reference ID: 25-074-20190901

Revision date: 01 09 2019

When does the default of liability for social housing relief apply?

Where a collecting authority is unable to recover an amount of CIL from a party who assumed liability for the levy, the collecting authority may transfer the liability to the owners of the relevant land in question. This is known as 'default of liability' – see regulation 36 (http://www.legislation.gov.uk/uksi/2010/948/regulation/36/made) for details. A collecting authority may only transfer the liability after it has taken all reasonable efforts to recover the outstanding amount.

Where the outstanding amount is defaulted in this way, it will be apportioned between the owners of the relevant land according to their material interest in the relevant land (defined in regulation 4(2) (http://www.legislation.gov.uk/uksi/2010/948/regulation/4/made)). A person or organisation building or owning social housing within the development will still be required to pay a share of the amount based on its material interest in the land. In order to manage the risk of a default of liability by another party, social housing providers should carefully select development partners and make appropriate contractual arrangements to safeguard their interests.

Paragraph: 075 Reference ID: 25-075-20190901

Revision date: 01 09 2019

Exceptional circumstances

What is exceptional circumstances relief?

Charging authorities may offer relief from the levy in exceptional circumstances where a person responsible for a specific scheme cannot afford to pay the levy.

A charging authority wishing to offer exceptional circumstances relief in its area must first publish a notice of its intention to do so. A charging authority can then consider claims for relief on chargeable developments from an owner of a material interest in the land on a case by case basis, provided the conditions set out in regulation 55 (http://www.legislation.gov.uk/uksi/2010/948/regulation/55/made) (as amended by the 2013 (http://www.legislation.gov.uk/uksi/2013/982/regulation/7/made) and 2014 Regulations (http://www.legislation.gov.uk/uksi/2014/385/regulation/7/made)) are met:

- a section 106 agreement must exist in relation to the planning permission permitting the chargeable development; and
- the charging authority must consider that paying the full levy would have an unacceptable impact on the development's viability and
- the relief must not constitute a notifiable State aid.

To claim exceptional circumstances relief please use form 11 'Claiming Exceptional Circumstances Relief' (https://www.planningportal.co.uk/info/200136/policy_and_legislation/70/community_infrastructure_levy/5).

Paragraph: 076 Reference ID: 25-076-20190901

Revision date: 01 09 2019

When can exceptional circumstances relief be offered?

The powers to offer relief can be activated and deactivated at any point after the charging schedule is approved. If a charging authority wishes to offer exceptional circumstances relief, it must publish a notice specifying a date from when this will apply, and must follow the procedures for offering relief set out in regulations 55 to 58 (http://www.legislation.gov.uk/uksi/2010/948/part/6/made) (as amended by the 2013 (http://www.legislation.gov.uk/uksi/2013/982/regulation/7/made), 2014 (http://www.legislation.gov.uk/uksi/2014/385/regulation/7/made) and 2019 Regulations (http://www.legislation.gov.uk/uksi/2019/1103/regulation/6/made)).

Paragraph: 077 Reference ID: 25-077-20190901

Revision date: 01 09 2019

What are the eligibility considerations for exceptional circumstances relief?

A claim for exceptional circumstances relief cannot be made after development has commenced.

Exceptional circumstances relief can be considered where a section 106 agreement is in place in relation to the planning permission for the development. A charging authority can give relief from the levy if it deems that the levy would have an unacceptable impact on the viability of a development. There is no statutory definition of what constitutes the viability of a development. The charging authority has the discretion to make judgements about the viability of the scheme in economic terms (for example, see National Planning Policy Guidance on viability). However, it is important to ensure that any exceptional circumstances relief is based on an objective assessment of viability as set out in viability guidance (https://www.gov.uk/guidance/viability).

Relief may be granted for all or part of the liability in relation to a chargeable development. This can mean the whole development or a part of a scheme where a development proceeds in phases as separate chargeable developments.

Even if exceptional circumstances relief is available in a charging authority area, each case is considered individually by the authority and it is at their discretion whether they wish it to apply in that case or not. However, use of an exceptions policy enables charging authorities to avoid rendering sites with specific and exceptional cost burdens unviable.

Regulations 55 to 57 (http://www.legislation.gov.uk/uksi/2010/948/part/6/made), as amended by the 2013 (http://www.legislation.gov.uk/uksi/2013/982/regulation/7/made), 2014 (http://www.legislation.gov.uk/uksi/2014/385/regulation/7/made) and 2019 Regulations (http://www.legislation.gov.uk/uksi/2019/1103/regulation/6/made) set out the requirements for claiming and granting exceptional circumstances relief.

Paragraph: 078 Reference ID: 25-078-20190901

Revision date: 01 09 2019

How do the eligibility considerations for exceptional circumstances relief apply to London?

London borough councils and the Mayor of London may each offer exceptional circumstances relief. Where only the borough council offers relief, the above general procedure applies. Where the Mayor decides to make relief available on his levy, additional procedures apply – these are set out in regulation 58 (http://www.legislation.gov.uk/uksi/2010/948/regulation/58/made), as amended by the 2013 (http://www.legislation.gov.uk/uksi/2013/982/regulation/7/made) and 2019 Regulations (http://www.legislation.gov.uk/uksi/2019/1103/regulation/6/made).

All claims for exceptional circumstances relief in London must be made to the relevant borough council. If only the Mayor makes exceptional circumstances relief available, the borough council must refer the claim and supporting documentation to the Mayor as soon as possible. If both the Mayor and the borough council make relief available, the borough council must first consider whether to offer relief and if so, how much. The borough council only needs to refer the claim to the Mayor where the relief it proposes to give would still result in an unacceptable overall impact of levy charges on the viability of the development.

In either situation, where a claim is referred, the Mayor must determine whether to give relief and if so, how much to give and must inform the borough council of his decision as soon as possible. The borough council is not bound to any proposal it originally made to the Mayor on how much relief it may grant. It could, for instance, increase its offer to ensure the total relief given by the borough and the Mayor returns the development to an acceptable level of viability. The borough could withdraw its offer if the Mayor is not willing to offer sufficient relief along with the borough's proposed relief to bring the scheme back into viability.

Paragraph: 079 Reference ID: 25-079-20190901

Revision date: 01 09 2019

What are the disqualifying events for exceptional circumstances relief?

Exceptional circumstances relief must be withdrawn if there is a 'disqualifying event' as defined in regulation 57(11) (http://www.legislation.gov.uk/uksi/2010/948/regulation/57/made), as amended by the 2014 Regulations (http://www.legislation.gov.uk/uksi/2014/385/regulation/7/made). These events include the granting of charitable or social housing relief to the chargeable development, the sale of relevant land, or if the chargeable development has not been commenced within one year.

If there is a disqualifying event, the owner of the material interest in the relevant land must notify the charging authority in writing within 14 days. Where this is not done, a surcharge equal to 20% of the chargeable amount or £2,500, whichever is the lesser, may be applied to the claimant (regulation 84 (http://www.legislation.gov.uk/uksi/2010/948/regulation/84/made)). He or she must also send a copy of the notification to all owners of material interests in the relevant land. When it receives this notification, the charging authority must copy it to the collecting authority, if this is not the same body. If the person responsible for enforcing the section 106 agreement is not the charging or collecting authority, the charging authority must also send a copy of the notification to that person.

Paragraph: 080 Reference ID: 25-080-20190901

Revision date: 01 09 2019

Does State aid apply to exceptional circumstances relief?

Exceptional circumstances relief cannot be granted if it would constitute a notifiable State aid.

Paragraph: 081 Reference ID: 25-081-20190901

Revision date: 01 09 2019

Self-build exemption

How does the self-build exemption work (for a whole new home)?

If the necessary qualification requirements are met and the application process is completed within required timescales, an exemption from the Community Infrastructure Levy will be available to anybody who is building their own home or has commissioned a home from a contractor, house builder or sub-contractor. Individuals benefiting from the exemption must own the property and occupy it as their principal residence for a minimum of 3 years after the work is completed.

Paragraph: 082 Reference ID: 25-082-20190901

Revision date: 01 09 2019

Is there an application process that needs to be followed in order to gain a self-build exemption?

There is a set process which requires 4 steps to be undertaken within the required timescales. Failure to follow the set procedures within the required timescales will mean that the exemption will not be obtained, or will be rescinded if previously obtained, and a full levy liability will be incurred. Failure to submit a commencement notice before building works begin will result in a surcharge. See 'What is the procedure for claiming a self-build exemption?'

The exemption must be applied for and obtained, and a commencement notice must be received by the collecting authority, prior to the commencement of the development (start of works on site). In addition, following completion of the build, a form must be submitted to the collecting authority, along with the additional supporting evidence described later in this guidance, within 6 months of the date of the compliance certificate (regulation 54C (http://www.legislation.gov.uk/uksi/2014/385/regulation/7/made) inserted by the 2014 Regulations).

Paragraph: 083 Reference ID: 25-083-20190901

Revision date: 01 09 2019

Who can claim a self-build exemption?

The exemption is applicable to homes built or commissioned by individuals for their own use. Self-build communal development also qualifies for the exemption where it meets the required criteria.

There is also an exemption for people who extend their homes or build residential annexes.

Paragraph: 084 Reference ID: 25-084-20190901

Revision date: 01 09 2019

When can a self-build exemption be claimed?

Applicants can apply for a self-build exemption at any time, as long as their development has not commenced (see regulation 7 (http://www.legislation.gov.uk/uksi/2010/948/regulation/7/made), and section 56(4) of the Town and Country Planning Act 1990 (http://www.legislation.gov.uk/ukpga/1990/8/section/56), for the definition of 'commencement of development').

Paragraph: 085 Reference ID: 25-085-20190901

Revision date: 01 09 2019

What are the specific requirements to qualify for a self-build exemption?

A self-build housing exemption is available to anyone who builds or commissions their own home for their own occupation. On completion, they must provide the requested supporting evidence, and the property must remain their principal residence for a minimum of 3 years.

If personal circumstances change and the applicant wants to dispose of the property before the 3-year occupancy limit expires, they must notify the charging authority and the levy then becomes payable in full. Failure to notify the charging authority will result in enforcement action against the applicant and surcharges will become payable. View more information on disqualifying events.

Full details are set out in regulations 54A, 54B, 54C and 54D (http://www.legislation.gov.uk/uksi/2014/385/regulation/7/made) as inserted by the 2014 Regulations. Regulation 54B was amended by the 2019 Regulations (http://www.legislation.gov.uk/uksi/2019/1103/regulation/6/made).

Paragraph: 086 Reference ID: 25-086-20190901

Revision date: 01 09 2019

What is the procedure for claiming a self-build exemption?

Applicants wishing to claim must take 4 specific steps. Three of these steps must be undertaken before the applicant commences their development and the 4th step must be undertaken following completion of the build. The procedure is set out here.

Step 1

Firstly, the applicant must assume the liability to pay the levy in relation to the development. This is done by completing an Assumption of Liability form (https://www.planningportal.co.uk/info/200136/policy_and_legislation/70/community_infrastructure_levy/5) (Form 2). If the original levy liability was in the name of another person, the self-build applicant must complete a Transfer of Assumed Liability form (https://www.planningportal.co.uk/info/200136/policy_and_legislation/70/community_infrastructure_levy/5) (Form 3) and submit this to the collecting authority.

Step 2

Secondly, the applicant must certify that the scheme will meet the criteria to qualify as a 'self-build' development. He or she must submit a Self-Build Exemption Claim Form – Part 1 (https://www.planningportal.co.uk/info/200136/policy_and_legislation/70/community_infrastructure_levy/5) (Form 7) to the collecting authority. At this stage, the applicant must self-certify:

- the name and address of the person(s) claiming liability;
- that the project is a "self-build project" for purposes of the exemption set out within the regulations;
- that the applicant will occupy the premises as their principal residence for a period of 3 years from completion;
- that the applicant will provide the required supporting documentation on project completion to confirm their development qualifies for relief; and
- the amount of de minimis State aid received by the applicant in the last 3 years prior to the submission of the application for relief (View more information on State aid).

On receipt of the claim form, the collecting authority must notify the applicant in writing as soon as practicable, confirming the amount of exemption granted. The collecting authority should also explain the requirement to submit a commencement notice no later than the day before the day on which the chargeable development is to be commenced (see regulation 67(1) (http://www.legislation.gov.uk/uksi/2010/948/regulation/67/made)).

If the development commences before the collecting authority has notified the claimant of its decision on the claim, the relief would be cancelled and the liability to the levy would be recalculated. See regulation 7 (http://www.legislation.gov.uk/uksi/2010/948/regulation/7/made), and section 56(4) of the Town and Country Planning Act 1990 (http://www.legislation.gov.uk/ukpga/1990/8/section/56), for the definition of 'commencement of development'.

Step 3

A commencement notice (https://www.planningportal.co.uk/info/200136/policy_and_legislation/70/community_infrastructure_levy/5) (Form 6) must be received by the collecting authority prior to the commencement of the development (start of works on site). The commencement notice must state the date on which the development will commence, and the collecting authority must receive it before that date (regulation 67 (http://www.legislation.gov.uk/uksi/2010/948/regulation/67/made)). An applicant who fails to submit the commencement notice will be subject to a surcharge equal to 20% of the amount that would have been charged if the self-build exemption had not been granted or £2,500, whichever is the lower amount (regulation 83 (http://www.legislation.gov.uk/uksi/2010/948/regulation/83/made) as amended by the 2019 Regulations (http://www.legislation.gov.uk/uksi/2019/1103/regulation/6/made)).

It is the applicant's responsibility to ensure the commencement notice has been received by the collecting authority before they start the development.

If following commencement of the development, the planning permission is amended through a section 73 permission, the applicant is not required to submit a new commencement notice (regulation 54B(3A) (http://www.legislation.gov.uk/uksi/2019/1103/regulation/6/made) inserted by the 2019 Regulations).

Further information must also be provided by the applicant once their self-build home is complete, as highlighted below.

Step 4

Following completion of the build, the Self-Build Exemption Claim Form - Part 2 (https://www.planningportal.co.uk/info/200136/policy_and_legislation/70/community_infrastructure_levy/5) (Form 7) must be submitted to the collecting authority, along with the additional supporting evidence, within 6 months of the date of the compliance certificate.

Flow chart showing the procedure for applying for and obtaining an exemption for a self-build development (https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/828371/Self-build_exemption_process.pdf) (PDF, 481KB, 1 page)

Paragraph: 087 Reference ID: 25-087-20190901

Revision date: 01 09 2019

What evidence does the applicant need to provide on completing the building?

Within 6 months of completing the self-build home, the applicant must submit additional supporting evidence to confirm that the project is self-build. Completion for the purposes of the self-build exemption is defined as the issuing of a compliance certificate for this development under either Regulation 17 (http://www.legislation.gov.uk/uksi/2010/2214/regulation/17) of the Building Regulations 2010 or Section 51 (http://www.legislation.gov.uk/ukpga/1984/55/section/51) of the Building Act 1984. If the evidence is not submitted to the collecting authority within the 6-month time period, the full levy charge becomes payable.

This evidence must comprise:

- Proof of the date of completion – a copy of the building completion or compliance certificate for the home issued by Building Control
- Proof of ownership – a copy of the title deeds (freehold or leasehold)
- Proof of occupation of the dwelling as the applicant's principal residence – a Council Tax bill or certificate – and 2 further proofs of occupation of the home as a principal residence (a utility bill or bank statement or confirmation that the applicant is on the local electoral roll)

In addition to the above, applicants must also provide a copy of one of the following (please see note below the listed items):

- An approved claim from HM Revenue and Customs under 'VAT431NB: VAT refunds for DIY housebuilders'; or
- A Specialist Self-Build Warranty; or
- An approved Self-Build Mortgage from a bank or building society.

NOTE: The charging authority has the discretion, but is not required, to accept other forms of documentary evidence instead of any of the 3 items above. This should be agreed in advance with the charging authority (at the point of making the Part 1 application for the exemption or as soon as possible thereafter) but the charging authority may still consider utilising discretion at the Part 2 stage of the process.

Paragraph: 088 Reference ID: 25-088-20190901

Revision date: 01 09 2019

What is a self-build warranty?

A Self-Build Warranty is warranty and Certificate of Approval issued by a warranty provider which provides a 'latent defects insurance' policy and which is accompanied by certified Stage Completion Certificates issued to the owner/occupier of the home.

Paragraph: 089 Reference ID: 25-089-20190901

Revision date: 01 09 2019

What is a self-build mortgage?

A self-build mortgage is an approved mortgage arranged to purchase land and/or fund the cost of erecting a house where the loan funds are paid out to the owner/occupier in stages as the building works progress to completion.

Paragraph: 090 Reference ID: 25-090-20190901

Revision date: 01 09 2019

How does the self-build exemption work for multi-unit schemes?

For multi-unit schemes (for example, where a builder sells serviced plots, or a community group works with a developer), applicants should consider applying for a phased planning permission, to allow each plot to be a separate chargeable development. This will prevent the charge being triggered for all plots within the wider development as soon as development commences on the first dwelling. This will also ensure that if a disqualifying event occurs affecting one unit, it does not trigger a requirement for all to repay the exemption. See more about phased payments.

Paragraph: 091 Reference ID: 25-091-20190901

Revision date: 01 09 2019

Is self-build communal development covered by this exemption?

Self-build communal development benefits from the levy exemption if it is for the use of the occupants of more than one self-build home. Such development may include, for example, shared facilities or guest accommodation. An exemption from the levy will not be granted to communal development for the use of the general public or for commercial development such as a retail unit.

Paragraph: 092 Reference ID: 25-092-20190901

Revision date: 01 09 2019

How is the amount of exemption for self-build communal development calculated?

The self-build communal development exemption is calculated using the formula in regulation 54A (http://www.legislation.gov.uk/uksi/2014/385/regulation/7/made). The gross internal area of the communal development is apportioned to the individual self-build units on the site, based on the gross internal area of the self-build dwellings.

Paragraph: 093 Reference ID: 25-093-20190901

Revision date: 01 09 2019

What happens in the case of a disqualifying event?

A self-build exemption is revoked if a disqualifying event occurs during the 3-year occupancy period. A disqualifying event for a self-build exemption is:

- any change in relation to the self-build housing or self-build communal development such that it ceases to meet the criteria set out in regulations;
- failure to comply with the evidence requirements on completion;
- the letting out of a whole dwelling or building that is self-build housing or self-build communal development; or
- the sale of the self-build housing or self-build communal development.

If a disqualifying event occurs, the person benefitting from the self-build exemption must notify the charging authority in writing within 14 days. Where this is not done, a surcharge equal to 20% of the chargeable amount or £2,500, whichever is the lesser, may be applied to the claimant in addition to the chargeable levy amount. A copy of the notification must be sent to all owners of material interests in the relevant land. When it receives this notification, the charging authority must copy it to the collecting authority, if this is not the charging authority.

The only exception is where the claimant of the exemption fails to comply with the evidence requirements on completion. In such cases, the collecting authority must give the claimant at least 28 days to submit the necessary form and evidence before taking any further action.

If the exemption is withdrawn the person must pay the full levy.

Paragraph: 094 Reference ID: 25-094-20190901

Revision date: 01 09 2019

Is there a right of appeal?

Applicants have a right to appeal against the value of the exemption granted, under regulation 116B (http://www.legislation.gov.uk/uksi/2014/385/regulation/11/made). Appeals should be lodged with the Valuation Office Agency.

View more information on appeals.

Paragraph: 095 Reference ID: 25-095-20190901

Revision date: 01 09 2019

Are there any State aid considerations?

A self-build exemption cannot be granted if it would constitute a notifiable State aid.

Paragraph: 096 Reference ID: 25-096-20190901

Revision date: 01 09 2019

What happens to my exemption if I need to make a change to my planning permission?

In certain cases, if a person needs to amend their planning permission through a section 73 permission, they may still be eligible for the exemption (see regulation 58ZA (http://www.legislation.gov.uk/uksi/2019/1103/regulation/7/made) inserted by the 2019 Regulations). If the amount of the exemption has not changed, the exemption will carry over to the 'amended' planning permission. This provision applies to exemptions for residential annexes and extensions; self-build housing; charitable relief and social housing relief. Where the value of the exemption or relief has changed, the person would have to submit a new claim for a new exemption or relief.

Paragraph: 097 Reference ID: 25-097-20190901

Revision date: 01 09 2019

Calculating the levy liability

What information may be requested to help calculate the levy liability?

Local planning authorities are entitled to ask for relevant information when the planning application is submitted. Applicants should submit the 'Additional CIL Information' form (Form 1) alongside their planning application (see Forms and templates section (https://www.planningportal.co.uk/info/200136/policy_and_legislation/70/community_infrastructure_levy/5)). Planning authorities may refuse to validate the planning application if this information is not provided.

When any person (i.e. a local planning authority, the Mayor of London or the Secretary of State) grants planning permission or approves a reserved matters application, it must pass the details relating to the development to the collecting authority within 14 days. In most cases, the planning authority and the collecting authority will be the same body (see regulation 77 (http://www.legislation.gov.uk/uksi/2010/948/regulation/77/made)).

Collecting authorities may request relevant information from charging authorities, local planning authorities, or the Secretary of State (regulation 78 (http://www.legislation.gov.uk/uksi/2010/948/regulation/78/made)). Collecting authorities may also use any other information they have access to in carrying out their non-CIL functions to determine the correct charge, as long as it was not obtained by an authority elected member in their capacity as a member of a police and crime panel or is obtained by the authority in its capacity as an employer (see regulation 79 (http://www.legislation.gov.uk/uksi/2010/948/regulation/79/made)).

Paragraph: 098 Reference ID: 25-098-20190901

Revision date: 01 09 2019

How is the liability calculated?

In most cases, the amount of levy that is payable is calculated by multiplying the additional gross internal area by the rate for a particular development type. The rate is set out in the relevant charging schedule. Collecting authorities must also apply an index of inflation to keep the levy rate responsive to market conditions. The index figure for a given calendar year before 2020 is the figure for 1st November for the preceding calendar year in the national All-in Tender Price Index published by the Royal Institution of Chartered Surveyors (RICS). The index figure for 2020 and subsequent calendar years is the figure for 1st November for the preceding calendar year in the RICS Building Index for CIL. This calculation is set out in paragraph 1 of Schedule 1 (http://www.legislation.gov.uk/uksi/2019/1103/schedule/1/made).

Flow chart showing at what stage the liability is calculated in standard cases (https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/828376/Flow_chart_1.pdf) (PDF, 703KB, 1 page)

Worked examples showing how the levy liability is calculated (https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/828396/CIL_standard_cases_-_worked_example.pdf) (PDF, 159KB, 5 pages)

Paragraph: 099 Reference ID: 25-099-20190901

Revision date: 01 09 2019

How should the gross internal area be calculated?

The term gross internal area (GIA) is not defined in the regulations. It is a matter for charging authorities to determine what aspects of a development should be included in the calculation. However, it should be noted that when a case is submitted to the Valuation Office Agency, the Agency normally use the definition of GIA contained in the Royal Institution of Chartered Surveyors (RICS) Code of Measuring Practice (https://www.rics.org/globalassets/rics-website/media/upholding-professional-standards/sector-standards/valuation/code-of-measuring-practice-6th-edition-rics.pdf) (currently in its 6th edition).

Paragraph: 100 Reference ID: 25-100-20190901

Revision date: 01 09 2019

Can existing buildings be taken into account when calculating a new levy charge?

In certain circumstances the internal area of an existing building can be taken into account in calculating the chargeable amount. Each case is a matter for the collecting authority to judge.

Where part of an existing building has been in lawful use for a continuous period of 6 months within the past 3 years, parts of that building that are to be demolished or retained can be taken into account. The way those parts are taken into account is set out in the formula in paragraph 1 of Schedule 1 (http://www.legislation.gov.uk/uksi/2019/1103/schedule/1/made).

Where an existing building does not meet the 6-month lawful use requirement, its demolition (or partial demolition) is not taken into account. However, parts of that building that are to be retained as part of the chargeable development can still be taken into account if the intended use matches a use that could have lawfully been carried out without requiring a new planning permission. The detailed requirements are set out in paragraph 1 of Schedule 1 (http://www.legislation.gov.uk/uksi/2019/1103/schedule/1/made). Because there must be a lawful use, parts of that building where the use has been abandoned cannot be taken into account here.

When a chargeable development is granted planning permission under section 73, new buildings and enlargements to existing building which were built as part of a previous planning permission to which the new permission relates (such as the original permission or an earlier section 73 permission) cannot be considered as 'in-use' buildings for the purposes of calculating the new levy liability. This means that you cannot take account of development built as a result of the earlier permission, in order to reduce the CIL liability in a later section 73 permission. This is the case even if they have been in lawful use for a 6-month period at the time the latest section 73 permission is granted. See paragraph 1(10) of Schedule 1 (http://www.legislation.gov.uk/uksi/2019/1103/schedule/1/made).

Paragraph: 101 Reference ID: 25-101-20190901

Revision date: 01 09 2019

When is a use considered to have been abandoned?

The courts have held that, in deciding whether a use has been abandoned, account should be taken of all relevant circumstances, such as:

- the condition of the property;
- the period of non-use;
- whether there is an intervening use; and
- any evidence regarding the owner's intention.

Each case is a matter for the collecting authority to judge.

Paragraph: 102 Reference ID: 25-102-20190901

Revision date: 01 09 2019

When can demolition be taken into account?

The internal area of a building which is demolished during the development of a scheme can be taken into account in calculating the levy charge, in certain circumstances.

To be eligible, the parts of the buildings to be demolished must contain a part that has been in lawful use for a continuous period of at least 6 months within the 3 years ending on the day planning permission first permits development. They must also be demolished before completion of the chargeable development. See also 'What about buildings that were demolished in relation to the first development on site?'

Paragraph: 103 Reference ID: 25-103-20190901

Revision date: 01 09 2019

Indexation

What is indexation and how does it affect the levy calculation?

In calculating individual charges for the levy, Schedule 1 (http://www.legislation.gov.uk/uksi/2019/1103/schedule/1/made) requires collecting authorities to apply an index of inflation to each relevant CIL rate to keep the levy responsive to market conditions. From 1 January 2020, the index is the RICS Building Index for CIL published by the Royal Institution of Chartered Surveyors. This annual index figure will be published on or around 1 November each year and will apply from 1 January of the following year.

Before 2020, the index figure is the figure for 1 November for the preceding calendar year in the national All-in Tender Price Index published by the Royal Institution of Chartered Surveyors.

Paragraph: 104 Reference ID: 25-104-20190901

Revision date: 01 09 2019

How is indexation applied to section 73 permissions?

Where a planning permission is amended through a section 73 permission (see 'How does a section 73 application which amends a planning condition affect the liability?'), a charging authority should first determine whether there is a change in the amount of levy payable for the development. If there is no change, the charging authority should re-issue the liability notice. If there is a change, the charging authority should calculate a new liability, following different processes, depending on whether the change results in an increase or decrease in liability. This is set out in more detail below.

Firstly, in order to determine whether there is a change in the amount of levy payable for the development, the charging authority should compare the notional chargeable amounts for the section 73 permission and for the permission it amends (as required by paragraph 3 of Schedule 1 (http://www.legislation.gov.uk/uksi/2019/1103/schedule/1/made)).

To compare the notional chargeable amounts, the authority must calculate the chargeable amounts as if they were both permitted on the same date as the earlier permission. The value of any reliefs which have been granted should also be deducted. Reliefs should be calculated in accordance with paragraph 6 of Schedule 1 (http://www.legislation.gov.uk/uksi/2019/1103/schedule/1/made). This approach ensures that when the authority compares the 2 permissions it is comparing like with like, and that any change in notional chargeable amounts is the result of a change in the planning permission or reliefs, rather than a change in indexation.

Secondly, the charging authority must calculate the new CIL liability and how this is done will depend on the result from comparison of the notional chargeable amounts.

Where the notional chargeable amount is unchanged, the charging authority should re-issue the liability notice which relates to the earlier permission.

If the notional chargeable amount for the section 73 permission is larger than the notional chargeable amount for the previous permission, the amount of levy payable should be calculated according to paragraph 4 of Schedule 1 (http://www.legislation.gov.uk/uksi/2019/1103/schedule/1/made). The calculation determines the additional gross internal area created by the section 73 permission and derives a chargeable amount for this based on the relevant rate(s) and the latest index figure for inflation. This means that any increase in liability, created by new elements of development, is charged at the latest indexed rate. This figure is added to the chargeable amount for the development permitted by the previous permission as set out in the most recent liability notice. This ensures that while the new elements of the development are subject to the latest indexation, the other elements of the development continue to be charged at the rate/rates in place when those elements were granted consent.

Where the notional chargeable amount for the section 73 permission is smaller than the notional chargeable amount for the previous permission, the amount of levy payable should be calculated according to paragraph 5 of Schedule 1 (http://www.legislation.gov.uk/uksi/2019/1103/schedule/1/made). The calculation determines the change in gross internal area. It arrives at a sum for the reduction in liability based on the rate and index for inflation for the year in which the original permission was granted. This figure should be deducted from the chargeable amount shown on the most recent levy notice for the previous permission for the development. This means that any reduction in liability occurs at the original indexed rate.

Flow chart showing calculation process (https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/828377/Flow_chart_3.pdf) (PDF, 526KB, 1 page)

Worked examples of calculating the chargeable amount where a chargeable development is amended through a section 73 permission (https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/828397/CIL_section_73_permissions_-_worked_examples.pdf) (PDF, 245KB, 17 pages)

Paragraph: 105 Reference ID: 25-105-20190901

Revision date: 01 09 2019

What if I have an outline planning permission and a revised charging schedule is introduced in the area before reserved matters are approved?

When a charging authority introduces a revised charging schedule, there may be some developments which have been granted an outline permission when the original charging schedule was in force, but which are granted reserved matters when the revised charging schedule comes into effect. In these circumstances, the earlier charging schedule, which was in effect at the time of granting the outline permission, should be used for calculating the chargeable amount once reserved matters are approved. The requirements are set out in Schedule 1 paragraph 2 (http://www.legislation.gov.uk/uksi/2019/1103/schedule/1/made).

Flow chart illustrating the process (https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/828380/Flow_chart_2.pdf) (PDF, 366KB, 1 page)

For transitional cases, see 'How do the transitional provisions apply to planning permissions granted in outline prior to the levy coming into force?'

Paragraph: 106 Reference ID: 25-106-20190901

Revision date: 01 09 2019

How should a section 73 permission be treated where it amends an outline permission?

Where an outline permission has been granted and it is amended through a section 73 permission before reserved matters have been approved, the section 73 permission should be treated as the original permission. In order to calculate the chargeable amount, it should be treated as if it had been granted on the same day as the outline permission (see paragraph (3)(6) of Schedule 1 (http://www.legislation.gov.uk/uksi/2019/1103/schedule/1/made)). If a further section 73 permission is granted which amends the original outline permission, the comparison of notional chargeable amounts should be between the latest section 73 permission and the first section 73 permission granted (see paragraph (3)(8) of Schedule 1 (http://www.legislation.gov.uk/uksi/2019/1103/schedule/1/made)).

Paragraph: 107 Reference ID: 25-107-20190901

Revision date: 01 09 2019

If the sequencing of phasing and the internal area of a phased development is amended through a section 73 permission, how should phases be compared to determine the chargeable amount for each phase?

When determining the new chargeable amount for a phase or phases of a development which have been amended through a section 73 permission, the comparison of phases as separate chargeable developments should be based on their geographical location and not the sequence in which development commences.

Paragraph: 108 Reference ID: 25-108-20190901

Revision date: 01 09 2019

Transitional cases

What is a transitional case?

A transitional case is a development which was granted planning permission before the levy came into force in an area, but which is subsequently amended through a section 73 permission after the levy comes into force. The earlier permission is the pre-CIL permission, and the later permission is the in-CIL permission. The general principle is that CIL should not be charged on development that is already permitted through the pre-CIL permission, but any additional liability that is created through the in-CIL permission should be subject to the levy. There are a number of specific cases which must be dealt with, as set out below.

Paragraph: 109 Reference ID: 25-109-20190901

Revision date: 01 09 2019

What is the effect of a section 73 application where the original permission was granted before the levy came into effect in an area?

For transitional cases, Part 4 of Schedule 1 (http://www.legislation.gov.uk/uksi/2019/1103/schedule/1/made) (inserted by the 2019 Regulations) provides for the in-CIL permission to only trigger levy liability for any additional liability it introduces to the development. The provisions set out in Part 4 of Schedule 1 should apply to all subsequent section 73 permissions granted in respect of such a development where these transitional circumstances have arisen.

The chargeable amount for a transitional case is calculated by deducting what would have been the chargeable amount for the earlier pre-CIL permission had it been subject to the levy from the chargeable amount for the new in-CIL permission. When calculating the notional liability for the pre-CIL permission, it should be treated as if it were permitted on the same day as the new in-CIL permission. Any applicable relief should also be deducted. Note that with the exception of social housing relief, the charging authority should not apply a notional relief for the earlier permission where the type of relief is not applied to the new permission. See paragraph 7 of Schedule 1 (http://www.legislation.gov.uk/uksi/2019/1103/schedule/1/made).

Flow chart showing sequencing where a pre-CIL permission is amended when CIL is in effect (https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/828383/Flow_chart_4.pdf) (PDF, 523KB, 1 page)

If the resulting chargeable amount is negative, it is deemed to be zero unless the permission is a phased permission in which case a 'phase credit' is created and can be used to offset liability generated through amendments to later phases. See also 'What is a phase credit?'

Paragraph: 110 Reference ID: 25-110-20190901

Revision date: 01 09 2019

How is the chargeable amount calculated in transitional cases, where an in-CIL permission amends an earlier in-CIL permission?

In a transitional case, a section 73 planning permission may amend an earlier in-CIL planning permission, rather than the original pre-CIL planning permission. In these cases, the chargeable amount for the latest permission should be compared with the notional chargeable amount of the most recently granted pre-CIL permission (not the in-CIL permission it amends). This might be either the original permission or a pre-CIL section 73 amendment. See paragraph 7(7) of Schedule 1 (http://www.legislation.gov.uk/uksi/2019/1103/schedule/1/made). In this way, any increase in liability post CIL coming into effect should be charged at the latest rate of indexation. Any further in-CIL section 73 permissions should also be compared to the most recently granted pre-CIL permission in order to calculate the chargeable amount.

Flow chart illustrating where a pre-CIL permission is amended when CIL is in effect – multiple section 73 amendments (https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/828387/Flow_chart_5.pdf) (PDF, 517KB, 1 page)

Paragraph: 111 Reference ID: 25-111-20190901

Revision date: 01 09 2019

How do the transitional provisions apply to planning permissions granted in outline prior to the levy coming into force?

Where an outline permission has been granted before a charging schedule is in effect, but reserved matters are not approved until after a charging schedule has come into effect, the development should not be subject to the levy.

Paragraph: 112 Reference ID: 25-112-20190901

Revision date: 01 09 2019

How do the transitional provisions apply where a pre-CIL outline permission is amended through a section 73 application after a charging schedule is adopted but before reserved matters are approved?

A pre-CIL outline planning permission may be amended through a section 73 application after a charging schedule comes into effect but before reserved matters are approved. In these cases, the charging authority should determine whether it has sufficient information to calculate what the notional chargeable amount for the outline permission is. This might be possible, for example, where the scale of the buildings on the development is known because it is not one of the reserved matters. In this case, the liability should be calculated by deducting the notional liability for the pre-CIL outline permission from the liability for the new section 73 permission. The notional liability for the pre-CIL outline permission should be calculated as if it had been granted on the same day as the in-CIL section 73 permission.

Where there is insufficient information to calculate the notional liability, the amount of CIL payable is deemed to be zero (see paragraph 7(10) of Schedule 1 (http://www.legislation.gov.uk/uksi/2019/1103/schedule/1/made)). However, the liability for any subsequent section 73 application should be calculated by treating the first section 73 permission as if it were the original permission.

Flow chart showing process where a pre-CIL outline permission is 'amended' when CIL is in effect – but before reserved matters are agreed (https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/828389/Flow_chart_6.pdf) (PDF, 522KB, 1 page)

Paragraph: 113 Reference ID: 25-113-20190901

Revision date: 01 09 2019

How are liabilities calculated for phased developments in transitional cases?

In a phased development, each phase is treated as a separate chargeable development. Where a section 73 permission amends the permitted use or scale of one or more phases, the liability for each phase should be calculated using the transitional provisions in paragraphs 7 and 8 of Schedule 1 (http://www.legislation.gov.uk/uksi/2019/1103/schedule/1/made). See also the guidance on phase credits below.

Paragraph: 114 Reference ID: 25-114-20190901

Revision date: 01 09 2019

Phase credits

What is a phase credit?

Developments delivered in phases often alter as the development progresses. For example, the use or scale of the development in one phase might be switched with that of another phase through a section 73 permission. In transitional cases, 'phased credits' are used to ensure that levy liabilities fairly reflect the net change in liability across several phases. A phase credit can be created for the phase with the negative liability (termed the 'donating phase') and applied to the phase with the actual liability (the 'receiving phase'). This 'balances' any liability overall.

A phase credit can only be used to offset a levy liability that becomes due after the phase credit has been created. A phase credit can be applied to a receiving phase

at any point after the phase creating the credit is commenced, and at the point the receiving phase is either commenced, or an instalment becomes due.

Worked example illustrating how phase credits are created and can be passed on to one or more receiving phases (https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/828398/Phase_credits_worked_example.pdf) (PDF, 167KB, 3 pages)

In non-transitional cases, phase credits are not used, as levy liabilities already fairly reflect the net change in liability, through the use of abatement and overpayment provisions.

Paragraph: 115 Reference ID: 25-115-20190901

Revision date: 01 09 2019

Can phase credits be passed to phases owned by different developers within the same development?

A phase credit can be passed to a receiving phase which is owned by a different developer. The person who wishes to apply the phase credit to their phase must have the written agreement of the person donating the credit. Form 14 (https://www.planningportal.co.uk/info/200136/policy_and_legislation/70/community_infrastructure_levy/5) also needs to be completed and sent to the collecting authority.

Paragraph: 116 Reference ID: 25-116-20190901

Revision date: 01 09 2019

How is the liability calculated when an applied credit is subsequently altered by a further change to the donating phase?

If a donating phase is altered by a section 73 permission so that the value of the phase credit previously created in that phase is reduced or nullified, liability for any shortfall in levy now due in the receiving phase rests with that phase. The charging authority should issue revised liability notices in relation to the receiving and donating phases, so that any reduction in the value of the phase credit is reflected in the updated liability notices.

Paragraph: 117 Reference ID: 25-117-20190901

Revision date: 01 09 2019

How should authorities keep track of phase credits for developments which regularly create, use and then re-create phase credits?

It will be for each authority to decide how they keep track of phase credits. Documentary evidence will be available as a person wishing to apply a phase credit has to make a formal application (Form 14 (https://www.planningportal.co.uk/info/200136/policy_and_legislation/70/community_infrastructure_levy/5)) detailing the donating and receiving phases, and the amount of credit to be applied.

Paragraph: 118 Reference ID: 25-118-20190901

Revision date: 01 09 2019

Collecting the levy

Who is responsible for collecting the Community Infrastructure Levy?

The charging authority sets the charging schedule. The collecting authority calculates individual levy payments and is responsible for ensuring that payment is made. The charging and collecting authority is usually the same body, except in London, where the boroughs collect the levy on the Mayor's behalf.

Paragraph: 119 Reference ID: 25-119-20190901

Revision date: 01 09 2019

What are the stages in the collection process?

The legal framework for collecting the levy is set out in Part 8 of the Community Infrastructure Levy Regulations (http://www.legislation.gov.uk/uksi/2010/948/part/8/made), as amended.

The collection process steps are set out below and illustrated here:

- in areas where the levy is in force, applicants for planning permission should include a completed copy of the Additional CIL Information form (Form 1) with their application – this will help the collecting authority to calculate the amount payable;
- where planning permission is granted for development by way of a general consent – such as via the Town and Country Planning (General Permitted Development) (England) Order 2015 or through a Local Development Order - the developer or landowner should submit a notice of chargeable development to the collecting authority (unless the development is less than 100 square metres (and does not comprise one or more dwellings), the development benefits from exemption for residential extensions or the chargeable amount for the development is zero) (regulation 64 (http://www.legislation.gov.uk/uksi/2010/948/regulation/64/made));
- in all cases where CIL is payable in relation to the development, the collecting authority will expect the developer, landowner or another interested party to assume liability for the levy by submitting an assumption of liability form. It may speed up the process of issuing a liability notice if this form is submitted before planning permission is granted;
- the collecting authority then serves a liability notice which sets out the charge due and details of the payment procedure (regulation 65(3) (http://www.legislation.gov.uk/uksi/2010/948/regulation/65/made)) on:
  - in the case of an outline phased planning permission, the person who applied for reserved matters consent for the phase; or
  - in the case of other planning permissions, the applicant for the planning permission; or
  - in the case of development under general consent (for example, GPDO, LDO etc) the person who submitted the notice of chargeable development; and
  - the person who has assumed liability (if any);
  - each person the authority knows to be an owner of the land.
- the relevant person(s) then submit a notice to the collecting authority setting out when development is going to start – a commencement notice (unless the development is exempt as minor development (regulation 42 (http://www.legislation.gov.uk/uksi/2010/948/regulation/42/made)), no CIL is payable as an exemption for residential extension was granted, or the chargeable amount for the development is zero (regulation 67 (http://www.legislation.gov.uk/uksi/2010/948/regulation/67/made));
- the collecting authority issues a demand notice on each person liable to pay an amount of CIL in respect of the development, setting out the payment due dates in line with the payment procedure (regulation 69 (http://www.legislation.gov.uk/uksi/2010/948/regulation/69/made));

- on commencement of the development, the person liable to pay CIL, should follow the correct payment procedure;
- the collecting authority must issue a receipt for each payment received and transfer the funds to the charging authority (if that is a different body).

Anyone wishing to claim relief or an exemption from the levy should make sure that they submit their claim in good time. Most forms of relief or exemption must be claimed and approved prior to the commencement of development.

View further details of relief and exemptions.

Download the relevant forms and template notices.

Flow chart showing CIL collection process (https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/828390/CIL_collection_process.pdf) (PDF, 543KB, 1 page)

Paragraph: 120 Reference ID: 25-120-20190901

Revision date: 01 09 2019

When does a development become liable to pay the levy?

The way that liability for a levy charge is attributed to the relevant person(s) is set out in Part 4 of the Community Infrastructure Levy Regulations (http://www.legislation.gov.uk/uksi/2010/948/part/4/made).

Charges will become due from the date that a chargeable development is commenced. The definition of commencement of development (see section 56(4) of the Town and Country Planning Act 1990 (http://www.legislation.gov.uk/ukpga/1990/8/section/56)) for levy purposes is the same as that used in planning legislation (i.e. 'material operations' on the site), unless planning permission has been granted after commencement, in which cases the development may be deemed liable when permission is granted.

Paragraph: 121 Reference ID: 25-121-20190901

Revision date: 01 09 2019

What is a notice of chargeable development?

Most developments are liable to pay the levy. This includes new developments that are granted permission by way of a general consent.

Where development is granted by way of a general consent, the developer must issue a notice of chargeable development to the collecting authority. This requirement does not apply if the development is exempt as minor development (regulation 42 (http://www.legislation.gov.uk/uksi/2010/948/regulation/42/made)), no CIL is payable as an exemption for residential extension was granted, or the chargeable amount for the development is zero.

The purpose of the notice is to give the collecting authority enough information to calculate the amount of the charge due. The procedural requirements are set out in regulation 64 (http://www.legislation.gov.uk/uksi/2010/948/regulation/64/made) (as amended by the 2011 (http://www.legislation.gov.uk/uksi/2011/987/regulation/9/made), 2014 (http://www.legislation.gov.uk/uksi/2014/385/regulation/9/made) and 2019 Regulations (http://www.legislation.gov.uk/uksi/2019/1103/regulation/5/made)). Not providing a notice before commencing development will result in the CIL amount having to be paid immediately in full (see instalments section).

Where the collecting authority does not receive a notice of chargeable development but is aware that development has started, it must prepare and serve its own notice of chargeable development on each person known to them as an owner of land – regulation 64A (http://www.legislation.gov.uk/uksi/2011/987/regulation/9/made) (as amended by the 2014 (http://www.legislation.gov.uk/uksi/2014/385/regulation/9/made) and 2019 Regulations (http://www.legislation.gov.uk/uksi/2019/1103/regulation/5/made)) covers this situation.

Paragraph: 122 Reference ID: 25-122-20190901

Revision date: 01 09 2019

How does someone assume liability for the levy?

Anyone may assume liability to pay the levy for a proposed development scheme. For example, this may be the developer who has applied for planning permission or the development's major landowner.

If no party assumes liability to pay the levy before development commences, the owners of the land will be liable to pay the levy and will not be able to benefit from any instalment regime the authority may have in place – see regulation 33 (http://www.legislation.gov.uk/uksi/2010/948/regulation/33/made) for further details. If no party comes forward to assume liability, collecting authorities may wish to contact potential persons who may wish to assume liability and point out the benefits of assuming liability.

Any party wishing to assume liability should submit an 'Assumption of Liability' form (Form 2) to the collecting authority. Once the form has been received, the collecting authority must send an acknowledgement to the liable person(s).

Where no-one has assumed liability to pay and the collecting authority is aware that development has started, the liability defaults to the owner(s) of any material interest in the land (defined in regulation 4 (http://www.legislation.gov.uk/uksi/2010/948/regulation/4/made)). Where it is one person, they are responsible for all payments. Where it is more than one person, the authority must apportion liability following the formula set out in regulation 34 (http://www.legislation.gov.uk/uksi/2010/948/regulation/34/made) (as amended by the 2011 Regulations (http://www.legislation.gov.uk/uksi/2011/987/regulation/6/made)).

Under regulation 35 (http://www.legislation.gov.uk/uksi/2010/948/regulation/35/made), collecting authorities can require any relevant information from owners of a material interest in the land in order to determine how to apportion liability.

Where a party has assumed liability yet failed to pay all its charge (despite the collecting authority making all reasonable efforts), the collecting authority may issue a default of liability notice to the owners of any material interest in the land within the chargeable development (regulation 36 (http://www.legislation.gov.uk/uksi/2010/948/regulation/36/made)). View further details of enforcement action.

Parties may transfer liability to pay at any time up to the day before the date when final payment is due. This is done by submitting a 'Transfer of Assumed Liability' form to the collecting authority. The collecting authority must send an acknowledgement to both the person liable to pay, and the person applying for the transfer of liability.

For further details, see regulations 31 to 39 (http://www.legislation.gov.uk/uksi/2010/948/part/4/made).

Download the relevant forms.

Paragraph: 123 Reference ID: 25-123-20190901

Revision date: 01 09 2019

What is a liability notice and when is it issued?

Once a collecting authority has determined the amount due, based on information in the planning permission documents or the notice of chargeable development, they must issue a liability notice to the parties that are liable to pay the charge.

Collecting authorities should use the ‘Liability Notice’ template published by the Secretary of State (available on the Planning Portal website (https://ecab.planningportal.co.uk/uploads/1app/forms/cil_template_1_liability_notice.doc)). The details required in the notice are set out in regulation 65 (http://www.legislation.gov.uk/uksi/2010/948/regulation/65/made), as amended by the 2011 Regulations (http://www.legislation.gov.uk/uksi/2011/987/regulation/9/made) and the 2014 Regulations (http://www.legislation.gov.uk/uksi/2014/385/regulation/9/made).

The collecting authority must serve the liability notice on the person(s) who have assumed liability to pay, the owners of any material interest in the relevant land and the person who applied for the planning permission or submitted the notice of chargeable development.

The processes for issuing revised liability notices or withdrawing a notice are set out in Regulation 65 (http://www.legislation.gov.uk/uksi/2010/948/regulation/65/made). A collecting authority must issue a revised liability notice where circumstances relating to the development or the chargeable amount change and must inform the recipient of their intention to withdraw a notice. This way, collecting authorities may correct the details of a charge if it becomes necessary to do so. Where a collecting authority issues a revised liability notice, any previous liability notice is automatically cancelled.

Paragraph: 124 Reference ID: 25-124-20190901

Revision date: 01 09 2019

What is a commencement notice and when is it issued?

Once the liability notice has been issued by the collecting authority, the liable parties must submit a commencement notice (download notice templates). Once they have received the notice, the collecting authority must send an acknowledgement to the sender.

The purpose of the commencement notice is to inform the collecting authority about the start date of the development. The collecting authority must receive this notice at least one day before development is due to commence. Otherwise, the liable parties may be liable for a surcharge and may lose any ability to pay by instalments. Regulation 67 (http://www.legislation.gov.uk/uksi/2010/948/regulation/67/made) (as amended by the 2011 (http://www.legislation.gov.uk/uksi/2011/987/regulation/9/made), 2012 (http://www.legislation.gov.uk/uksi/2012/2975/regulation/8/made) and 2014 Regulations (http://www.legislation.gov.uk/uksi/2014/385/regulation/9/made)) sets out the detailed requirements for parties who must submit a commencement notice.

If a collecting authority knows development has commenced but has not received a commencement notice – or has received a notice but considers that the development began earlier – it must determine when the development commenced. This is known as “the deemed commencement date” (under regulation 68 (http://www.legislation.gov.uk/uksi/2010/948/regulation/68/made)). The authority uses this date as the basis for the demand notice. There is a right of appeal if a person disputes the deemed commencement date set out in the demand notice (regulation 118 (http://www.legislation.gov.uk/uksi/2010/948/regulation/118/made)).

Paragraph: 125 Reference ID: 25-125-20190901

Revision date: 01 09 2019

What is a demand notice?

The next stage in the process is for the collecting authority to issue a demand notice. This is a reminder to liable parties of how much they owe and by when. A collecting authority must serve a demand notice following the receipt of a commencement notice, or a decision by the collecting authority to deem that development has commenced. It is important that charging authorities issue demand notices as soon as practicable once development has commenced. Failure to do so can result in delay to development and additional costs for developers.

Collecting authorities should use the ‘Demand Notice’ template published by the Secretary of State (available on the Planning Portal website (https://ecab.planningportal.co.uk/uploads/1app/forms/cil_template_2_demand_notice.doc)). Regulation 69 (http://www.legislation.gov.uk/uksi/2010/948/regulation/69/made) (as amended by the 2011 Regulations (http://www.legislation.gov.uk/uksi/2011/987/regulation/9/made)) sets out in detail what this notice must cover.

A collecting authority may issue a revised demand notice under certain circumstances. A revised notice must be issued where the commencement date, levy amount or instalment options subsequently change. It may also be revised in other circumstances, for example if the liable parties change, or if there is any change to the amount payable.

Paragraph: 126 Reference ID: 25-126-20190901

Revision date: 01 09 2019

Can a demand notice be challenged?

The planning system allows people to apply for planning permission regardless of whether they own the land in question, and without the consent of the actual owner (s). Landowners are liable to pay the levy where no one has assumed liability before development commences. This means that it is possible that landowners could find themselves liable to pay the levy because planning permission for a development which includes their land has been obtained and work commenced on nearby land, and no-one has assumed liability (or the person who assumed liability has defaulted).

To address this situation, regulation 69A (http://www.legislation.gov.uk/uksi/2011/987/regulation/9/made) allows a person who has been served with a demand notice to ask their collecting authority to suspend it. The person requesting the suspension must own a material interest in the land (as defined in regulation 4 (http://www.legislation.gov.uk/uksi/2010/948/regulation/4/made)). The effect of suspending a demand notice is that no levy is due under that notice until development is commenced upon that person’s land.

The authority may only agree to a request for suspension if it is satisfied that the strict conditions set out in regulation 69A(3) (http://www.legislation.gov.uk/uksi/2011/987/regulation/9/made) are met. These conditions include:

- no development has commenced on the part of the chargeable development owned by the person requesting the suspension;
- the person has not agreed to any works which are part of the development on its land; and
- the person has not agreed to transfer ownership of his/her material interest to another party.

Paragraph: 127 Reference ID: 25-127-20190901

Revision date: 01 09 2019

Can payment be made in instalments?

The demand notice must explain the payment date(s). Where a charging authority wishes to allow payment by instalments, they must have published an instalment policy on their website (under regulation 69B (http://www.legislation.gov.uk/uksi/2011/987/regulation/9/made)). An instalment policy can assist the viability and delivery of development by taking account of financial restrictions, for example in areas such as development of homes within the buy to let sector. Few if any developments generate value until they are complete either in whole or in phases. Willingness to allow an instalments policy can be a material consideration in assessing the viability of proposed levy rates. The authority has freedom to decide the number of payments, the amount of each payment and the time due. The authority may revise or withdraw the policy when appropriate.

Regulation 70 (http://www.legislation.gov.uk/uksi/2011/987/regulation/9/made) (as amended by the 2012 (http://www.legislation.gov.uk/uksi/2012/2975/regulation/8/made) and 2013 Regulations (http://www.legislation.gov.uk/uksi/2013/982/regulation/9/made)) provides for payment by instalment where an instalment policy is in place (and explains which instalment policy applies where there is more than one in an area – for example, in London). Where no instalment policy is in place, someone has assumed liability and a commencement notice has been submitted (and the authority has not determined a deemed commencement date), then payment is due in full at the end of 60 days after the intended commencement date (see regulation 70(7) (http://www.legislation.gov.uk/uksi/2010/948/regulation/7/made), and see regulation 7 and section 56(4) of the Town and Country Planning Act 1990 (http://www.legislation.gov.uk/ukpga/1990/8/section/56), for the definition of 'commencement of development').

Where no one has assumed liability, but a commencement notice has been submitted (and the authority has not determined a deemed commencement date), then payment is due in full on the intended commencement date (see regulation 71(1) (http://www.legislation.gov.uk/uksi/2010/948/regulation/71/made)).

Where no one has assumed liability and the authority has determined a deemed commencement date, then payment is due in full on the deemed commencement date (see regulation 71(2) (http://www.legislation.gov.uk/uksi/2010/948/regulation/71/made)).

Regulation 70 (http://www.legislation.gov.uk/uksi/2010/948/regulation/70/made) was amended by the 2019 Regulations (http://www.legislation.gov.uk/uksi/2019/1103/regulation/7/made) to enable instalment payments for a chargeable development to apply to a new planning permission granted under section 73.

If instalment terms are broken, or payment is not made on or before the payment date where there is no instalment policy, the authority must issue a demand notice (https://ecab.planningportal.co.uk/uploads/1app/forms/cil_template_2_demand_notice.doc) requiring the payment of the full CIL amount immediately.

Collecting authorities must acknowledge receipt of any money received.

Paragraph: 128 Reference ID: 25-128-20190901

Revision date: 01 09 2019

Is there another way to allow phased payments?

Where the planning authority is willing to accept it, a planning permission for a development can be subdivided into 'phases' for the purposes of the levy (see 'How does the levy relate to planning permission?'). This is expected to be especially useful for large scale development, which is an essential element of increasing housing supply.

Large scale developments which are delivered over a number of years face particular issues in relation to cashflow and the delivery of on-site infrastructure. The regulations allow for both detailed and outline permissions (and therefore 'hybrid' permissions as well) to be treated as phased developments for the purposes of the levy. Regulation 9(4) (http://www.legislation.gov.uk/uksi/2010/948/regulation/9/made) provides that each phase of a phased planning permission is a separate chargeable development for CIL purposes and therefore would be liable for separate payments for each phase, and each phased may benefit from any instalment policy that may be in force.

The principle of phased delivery must be expressly set out in the planning permission. Local authorities should work positively with developers to allow such developments to be delivered in phases.

Phased developments may also benefit from abatement.

Paragraph: 129 Reference ID: 25-129-20190901

Revision date: 01 09 2019

Can I claim back any overpayment?

Collecting authorities are required to pay back any overpayments of CIL, unless the overpayment is so small that the amount is less than the administrative cost, the overpayment is the result of a land or infrastructure payment, or the payment was credited against a new liability in accordance with the abatement provisions. Regulation 75 (http://www.legislation.gov.uk/uksi/2010/948/regulation/75/made) (as amended by the 2012 (http://www.legislation.gov.uk/uksi/2012/2975/regulation/8/made) and 2014 Regulations (http://www.legislation.gov.uk/uksi/2014/385/regulation/9/made)) provides full details.

Where a person is entitled to a repayment, the authority must pay interest. The interest rate is either 0.5% per annum, or a percentage equal to the Bank of England base rate less one percentage point, whichever is higher. There is no interest payable where an overpayment has arisen because a section 73 consent (see 'How does the levy relate to planning permission?') has been granted and this has reduced the levy liability of the scheme.

Paragraph: 130 Reference ID: 25-130-20190901

Revision date: 01 09 2019

Payments to charging authorities in London

In most cases the charging authority and the collecting authority are the same body. An exception is in London, where local authorities collect the money for a charge put in place separately by the Mayor.

Where the charging authority and collecting authority are different, the collecting authority must transfer the money received during each financial quarter to the charging authority by the end of that quarter (see regulation 76 (http://www.legislation.gov.uk/uksi/2010/948/regulation/76/made), as amended by the 2012 Regulations (http://www.legislation.gov.uk/uksi/2012/2975/regulation/8/made), for details). However, the collecting authority is allowed to retain a portion relating to administrative expenses and refunds. The amounts that may be retained for administrative expenses are set out in regulation 61 (http://www.legislation.gov.uk/uksi/2010/948/regulation/61/made) (as amended by the 2014 Regulations (http://www.legislation.gov.uk/uksi/2014/385/regulation/8/made)) and discussed in the administrative costs section of this guidance.

Paragraph: 131 Reference ID: 25-131-20190901

Revision date: 01 09 2019

How is payment of the Community Infrastructure Levy enforced?

Enforcement procedures are set out in Part 9 of the Regulations (http://www.legislation.gov.uk/uksi/2010/948/part/9/made).

Almost all parties liable to pay the levy are likely to pay their liabilities without problem or delay, guided by the information sent by the collecting authority in the liability notice. However, where there are problems in collecting the levy, it is important that collecting authorities are able to penalise late payment and discourage future non-compliance.

The regulations provide for a range of proportionate enforcement measures, such as surcharges on late payments (as set out in regulations 80 to 86 (http://www.legislation.gov.uk/uksi/2010/948/part/9/made)). In most cases, these measures should be sufficient.

In cases of persistent non-compliance, collecting authorities may take more direct action to recover the amount due. For example, a collecting authority may issue a Community Infrastructure Levy stop notice (under regulations 89 to 94 (http://www.legislation.gov.uk/uksi/2010/948/part/9/made)), which prohibits development from continuing until payment is made and the stop notice is withdrawn. The collecting authority may, after issuing a reminder notice to the party liable for the levy, apply to a magistrates' court to make a liability order allowing it to seize and sell assets of the liable party. A party may also apply for a charging order if there is at least £2,000 owing. The court can issue an order imposing a charge on a relevant interest to secure the amount due.

In the very small number of cases where a collecting authority can demonstrate that recovery measures have been unsuccessful, they may apply to a magistrates' court to send the liable party to prison for up to 3 months (under regulations 100 (http://www.legislation.gov.uk/uksi/2010/948/regulation/100/made) and 101 (http://www.legislation.gov.uk/uksi/2010/948/regulation/101/made) as amended by the 2019 Regulations (http://www.legislation.gov.uk/uksi/2019/1103/regulation/8/made)). If the collecting authority cannot recover CIL from the person who assumed liability the authority can pursue the owners of the land.

Paragraph: 132 Reference ID: 25-132-20190901

Revision date: 01 09 2019

Payment in kind

Can the levy be paid 'in kind' rather than in cash?

There may be circumstances where the charging authority and the person liable for the levy will wish land and/or infrastructure to be provided, instead of money, to satisfy a charge arising from the levy. For example, where an authority has already planned to invest levy receipts in a project there may be time, cost and efficiency benefits in accepting completed infrastructure from the party liable for payment of the levy. Payment in kind can also enable developers, users and authorities to have more certainty about the timescale over which certain infrastructure items will be delivered.

Subject to relevant conditions, and at its discretion, an authority may enter into an agreement for a land payment to discharge part or all of a levy liability (regulation 73 (http://www.legislation.gov.uk/uksi/2010/948/regulation/73/made)). Charging authorities may also enter into agreements to receive infrastructure as payment (regulation 73A (http://www.legislation.gov.uk/uksi/2014/385/regulation/9/made)).

Paragraph: 133 Reference ID: 25-133-20190901

Revision date: 01 09 2019

Under what conditions may a land or infrastructure agreement be entered into?

Where a charging authority chooses to adopt a policy of accepting infrastructure payments, they must publish a policy document which sets out conditions in detail (regulation 73B (http://www.legislation.gov.uk/uksi/2014/385/regulation/9/made)). This document should confirm that the authority will accept infrastructure payments and set out the infrastructure projects, or types of infrastructure, they will consider accepting as payment.

Before a land payment agreement is entered into, relevant charging authorities must be satisfied that the criteria in regulation 73 (http://www.legislation.gov.uk/uksi/2010/948/regulation/73/made) (as amended by the 2011 Regulations) are met. Similarly, before entering into an infrastructure payment agreement, they must be satisfied that the criteria in regulation 73A (http://www.legislation.gov.uk/uksi/2014/385/regulation/9/made) (inserted by the 2014 Regulations and amended by the 2019 Regulations (http://www.legislation.gov.uk/uksi/2019/1103/regulation/9/made)) are met.

Where the levy is to be paid as land or infrastructure, a land or infrastructure agreement must be entered into before development commences. This must include the information specified in regulation 73A (http://www.legislation.gov.uk/uksi/2014/385/regulation/9/made).

Paragraph: 134 Reference ID: 25-134-20190901

Revision date: 01 09 2019

What can be covered by a land or infrastructure agreement?

Land that is to make up a payment in kind may contain existing buildings and structures.

Land or infrastructure must be valued by an independent valuer who, in the case of land, will ascertain its 'open market value', and in the case of infrastructure, the cost (including related design cost) to the provider. This will determine how much liability the 'in-kind' payment will off-set.

Payments in kind must be provided to the same timescales as cash payments, or otherwise on an agreed basis, subject to the provisions in the regulations and any other state aid considerations. View further details about State aid.

Land and infrastructure may be paid to charging authorities in instalments (if instalments are available in the area), in the same way as cash can be given in instalments. The same rules on payment periods apply.

Paragraph: 135 Reference ID: 25-135-20190901

Revision date: 01 09 2019

Who needs to be party to land or infrastructure agreements?

Payments in kind may only be made with the agreement of the liable party, the charging authority, and any other relevant authority that will need to assume a responsibility for the land or infrastructure.

Charging and collecting authorities and any other relevant authorities should agree the infrastructure projects or types which will form part of an authority's

infrastructure payment policy and the terms of any relevant infrastructure payment agreement entered into.

Authorities must refer back to the relevant regulations (including regulations 73 (http://www.legislation.gov.uk/uksi/2010/948/regulation/73/made), as amended by the 2011 Regulations, and in regulation 73A (http://www.legislation.gov.uk/uksi/2014/385/regulation/9/made) (inserted by the 2014 Regulations and amended by the 2019 Regulations (http://www.legislation.gov.uk/uksi/2019/1103/regulation/9/made)) when considering adopting a policy on accepting payments in kind and in considering entering into and in drawing up relevant land or infrastructure agreements. An authority wishing to amend or withdraw its policy on land or infrastructure payments must give appropriate notice, in line with the regulations (see regulation 73B (http://www.legislation.gov.uk/uksi/2014/385/regulation/9/made)).

Paragraph: 136 Reference ID: 25-136-20190901

Revision date: 01 09 2019

Abatements

Can past levy payments be credited against future levy liability when a new planning permission under section 73 of the TCPA 1990 creates a revised levy liability for the development?

A person liable to pay the levy for a chargeable development which is altered by a section 73 permission may, upon receipt of a new or revised liability notice in respect of that permission, request the collecting authority to credit any levy previously paid against the amount due under the new or revised liability notice. This type of levy credit is known as 'abatement' (for section 73 applications).

Paragraph: 137 Reference ID: 25-137-20190901

Revision date: 01 09 2019

Can past levy payments be credited against future levy liability when a completely new planning permission (other than a section 73 permission) is granted on all or part of the same land?

Levy payments made in respect of a development that has commenced but has not been completed can be credited against the levy liability for a revised scheme under a new planning permission, on all or part of the same land. This levy credit is known as abatement (regulation 74B (http://www.legislation.gov.uk/uksi/2014/385/regulation/9/made) as inserted by the 2014 Regulations and amended by the 2019 Regulations (http://www.legislation.gov.uk/uksi/2019/1103/regulation/5/made)). This provision is to ensure that the charge is not inappropriately levied twice (or more) as schemes change during the course of development of a site. However, once a development is completed, a developer cannot apply for abatement of levy paid.

Paragraph: 138 Reference ID: 25-138-20190901

Revision date: 01 09 2019

When can the abatement provisions, applicable to a completely new planning permission, be applied for?

Development must have commenced (see regulation 7 (http://www.legislation.gov.uk/uksi/2010/948/regulation/7/made), and section 56(4) of the Town and Country Planning Act 1990 (http://www.legislation.gov.uk/ukpga/1990/8/section/56), for the definition of 'commencement of development') under one planning permission, but not been completed, and the levy must have been paid in relation to that development. Abatement can be sought in relation to a different planning permission that covers all or part of the same land. Abatement can only be sought before development commences under the alternative planning permission.

Where a person has assumed liability to pay the levy in relation to a new planning permission, they can ask the charging authority to credit the levy paid in relation to the earlier scheme. The request must be accompanied by proof of the amount of levy already paid.

Further detail is set out at regulation 74B (http://www.legislation.gov.uk/uksi/2014/385/regulation/9/made) (as inserted by the 2014 Regulations and amended by the 2019 Regulations (http://www.legislation.gov.uk/uksi/2019/1103/regulation/5/made)).

Separate arrangements apply to permissions granted under section 73 of the Town and Country Planning Act 1990.

Paragraph: 139 Reference ID: 25-139-20190901

Revision date: 01 09 2019

Do the abatement provisions allow a refund to be payable if a new planning permission has a lower liability than the earlier planning permission?

A refund is not payable under the abatement provisions if the later development scheme has a lower levy liability than the one which was first paid on the site. This is to avoid potentially significant and long-term financial liabilities to charging authorities on schemes which are not completed (See regulation 74B(14) (http://www.legislation.gov.uk/uksi/2014/385/regulation/9/made) inserted by the 2014 Regulations).

Paragraph: 140 Reference ID: 25-140-20190901

Revision date: 01 09 2019

Can the abatement provisions, applicable to a completely new planning permission, apply to phased development?

Abatement can apply to phased development. Where the amount to be credited to the new development is greater than the amount due for the first phase of the new development, the remainder must be credited against the next phase or phases until there is none left. Any excess will not be refunded by the charging authority.

Paragraph: 141 Reference ID: 25-141-20190901

Revision date: 01 09 2019

What about buildings that were demolished in relation to the first development on site?

When calculating an abatement under regulation 74B (http://www.legislation.gov.uk/uksi/2014/385/regulation/9/made), demolition 'credit' from the first development (A) permitted on the site can be carried forward to an alternative development (B) on the same land under a new planning permission, provided that abatement is granted in relation to this new development. Two main criteria must be met in order for this 'credit' to be claimable. First, the request for abatement must be made within 3 years of the date of grant of the original planning permission under which the buildings were demolished. Second, the demolished buildings reduced the CIL liability for A, would have been taken into account in calculating the levy liability for B if they had not already been demolished and are not otherwise taken into account in calculating the CIL liability for B.

Paragraph: 142 Reference ID: 25-142-20190901

Revision date: 01 09 2019

What happens if some or all of the original development is completed after abatement is granted?

A developer may complete buildings which were commenced under an earlier planning permission after abatement has been claimed for levy paid on these buildings. In those circumstances, the person granted abatement must pay to the collecting authority an amount equal to the abatement granted for the levy paid on these buildings (see regulation 74A(8) and (9) (http://www.legislation.gov.uk/uksi/2014/385/regulation/9/made)).

Paragraph: 143 Reference ID: 25-143-20190901

Revision date: 01 09 2019

Spending the levy

What can the Community Infrastructure Levy be spent on?

The levy can be used to fund a wide range of infrastructure, including transport, flood defences, schools, hospitals, and other health and social care facilities (for further details, see section 216(2) of the Planning Act 2008 (http://www.legislation.gov.uk/ukpga/2008/29/section/216), and regulation 59 (http://www.legislation.gov.uk/uksi/2010/948/regulation/59/made), as amended by the 2012 (http://www.legislation.gov.uk/uksi/2012/2975/regulation/7/made) and 2013 Regulations (http://www.legislation.gov.uk/uksi/2013/982/regulation/8/made)). This definition allows the levy to be used to fund a very broad range of facilities such as play areas, open spaces, parks and green spaces, cultural and sports facilities, healthcare facilities, academies and free schools, district heating schemes and police stations and other community safety facilities. This flexibility gives local areas the opportunity to choose what infrastructure they need to deliver their relevant plan (the Development Plan and the London Plan in London). Charging authorities may not use the levy to fund affordable housing.

Local authorities must spend the levy on infrastructure needed to support the development of their area, and they will decide what infrastructure is needed.

The levy can be used to increase the capacity of existing infrastructure or to repair failing existing infrastructure, if that is necessary to support development.

In London, the regulations restrict spending by the Mayor to funding roads or other transport facilities, including Crossrail, to ensure a balance between the spending priorities of the London boroughs and the Mayor.

Paragraph: 144 Reference ID: 25-144-20190901

Revision date: 01 09 2019

Should charging authorities pass any of the CIL receipts it receives to parish councils?

Where all or part of a chargeable development is within the area of a parish council, the charging authority must pass a proportion of the CIL receipts from the development to the parish council as explained below (see also regulation 59A (http://www.legislation.gov.uk/uksi/2013/982/regulation/8/made)). The parish council must use the CIL receipts passed to it to support the development of the parish council's area by funding the provision, improvement, replacement, operation or maintenance of infrastructure; or anything else that is concerned with addressing the demands that development places on the area.

Where this development is also within an area that has a neighbourhood development plan in place, or the development was granted planning permission by a neighbourhood development order (including a community right to build order), the charging authority must pass 25% of the relevant CIL receipts to the parish council for that area (see regulation 59A(3) (http://www.legislation.gov.uk/uksi/2013/982/regulation/8/made)). This amount will not be subject to an annual limit. For this to apply, the neighbourhood plan must have been made (see section 61E of the Town and Country Planning Act 1990 as applied to neighbourhood plans by section 38C of the Planning and Compulsory Purchase Act 2004) before a relevant planning permission first permits development (as defined by regulation 8 (http://www.legislation.gov.uk/uksi/2010/948/regulation/8/made), as amended by the 2011 Regulations (http://www.legislation.gov.uk/uksi/2011/987/regulation/4/made) and the 2014 Regulations (http://www.legislation.gov.uk/uksi/2014/385/regulation/4/made)). Charging authorities can choose to pass on more than 25% of the levy, although the wider spending powers that apply to the neighbourhood funding element of the levy will not apply to any additional funds passed to the parish. These additional funds can only be spent on infrastructure, as defined in the Planning Act 2008 for the purposes of the levy.

Where all or part of a chargeable development is within the area of a parish council but there is neither a neighbourhood development plan nor a neighbourhood development order, up to 15% of the relevant receipts, capped according to the formula in regulation 59A (http://www.legislation.gov.uk/uksi/2013/982/regulation/8/made) (as amended by the 2019 Regulations (http://www.legislation.gov.uk/uksi/2019/1103/regulation/9/made)), must be passed to the parish councils in which the development took place. Areas could use some of the neighbourhood pot to develop a neighbourhood plan (https://www.gov.uk/guidance/neighbourhood-planning--2) where it would support development by addressing the demands that development places on the area.

Figure: relationship between the levy and neighbourhood plans in England

Parish council	Neighbourhood plan	Levy
✓	✓	25% uncapped, paid to parish each year
✓	✗	15% capped at £100/dwelling (indexed for inflation), paid to parish each year
✗	✓	25% uncapped, local authority consults with community about how funds can be used, including to support priorities set out in neighbourhood plans
✗	✗	15% capped at £100/dwelling (indexed for inflation), local authority consults with community to agree how best to spend the neighbourhood funding

Paragraph: 145 Reference ID: 25-145-20190901

Revision date: 01 09 2019

Where there is no parish or town council, who receives the neighbourhood portion?

Communities without a parish or town council can still benefit from the neighbourhood portion. If there is no parish or town council, the charging authority will retain the levy receipts but should engage with the communities where development has taken place and agree with them how best to spend the neighbourhood funding. Charging authorities should set out clearly and transparently their approach to engaging with neighbourhoods using their regular communication tools for example, website, newsletters, etc. The use of neighbourhood funds should therefore match priorities expressed by local communities, including priorities set out formally in neighbourhood plans.

The law does not prescribe a specific process for agreeing how the neighbourhood portion should be spent. Charging authorities should use existing community consultation and engagement processes. This should include working with any designated neighbourhood forums preparing neighbourhood plans that exist in the area, theme specific neighbourhood groups, local businesses (particularly those working on business led neighbourhood plans) and using networks that ward councillors use. Crucially this consultation should be at the neighbourhood level. It should be proportionate to the level of levy receipts and the scale of the proposed development to which the neighbourhood funding relates.

Where the charging authority retains the neighbourhood funding, they can use those funds on the wider range of spending that are open to local councils (see 'Can the levy be used to deliver Suitable Alternative Natural Greenspace?' (https://www.gov.uk/guidance/community-infrastructure-levy#deliver-Suitable-Alternative-Natural-Greenspace), and regulation 59C (http://www.legislation.gov.uk/uksi/2013/982/regulation/8/made)). In deciding what to spend the neighbourhood portion on, the charging authority and communities should consider such issues as the phasing of development, the costs of different projects (for example, a new road, a new school), the prioritisation, delivery and phasing of projects, the amount of the levy that is expected to be retained in this way and the importance of certain projects for delivering development that the area needs. Where a neighbourhood plan has been made, the charging authority and communities should consider how the neighbourhood portion can be used to deliver the infrastructure identified in the neighbourhood plan as required to address the demands of development. They should also have regard to the infrastructure needs of the wider area.

The charging authority and communities may also wish to consider appropriate linkages to the growth plans for the area and how neighbourhood levy spending might support these objectives.

Paragraph: 146 Reference ID: 25-146-20190901

Revision date: 01 09 2019

When is the neighbourhood portion paid?

Charging authorities and parish or town councils are free to decide the timing of neighbourhood funding payments themselves. However, in the absence of such an agreement, regulation 59D (http://www.legislation.gov.uk/uksi/2013/982/regulation/8/made) specifies that the neighbourhood portion of levy receipts must be paid every 6 months, with the portion related to CIL received between 1 April and 30 September to be paid by 28 October and the portion for the other half of the financial year being paid by 28 April.

Paragraph: 147 Reference ID: 25-147-20190901

Revision date: 01 09 2019

Can the neighbourhood portion be paid 'in kind', as land or infrastructure, as well as cash?

Developers may pay the levy as land or infrastructure as well as by cash if the charging authority chooses to accept these alternatives. However, the relevant percentage of the cash value of levy receipts must be passed on to a parish or town council in cash (see regulation 59B (http://www.legislation.gov.uk/uksi/2013/982/regulation/8/made) inserted by the 2013 Regulations and amended by the 2014 Regulations (http://www.legislation.gov.uk/uksi/2014/385/regulation/8/made)).

Paragraph: 148 Reference ID: 25-148-20190901

Revision date: 01 09 2019

What happens where development straddles a parish or town council administrative boundary?

Where development straddles the boundaries of parish or town councils' administrative areas, each council receives a share of the levy which is proportionate to the gross internal area of the development within their administrative area. For example, if a development crosses 2 parish or town council administrative areas with 50% of the gross internal area created in one parish and 50% in the other, each council receives 50% of the neighbourhood portion, up to the level of the annual limit for their area. The total levy liability across the development is used to calculate the neighbourhood funding figure, to take account of sites with variable rates.

There may be occasions when development crosses more than one parish or town council administrative area and where one or more of those areas has a neighbourhood development plan in place (so receives 25%) and one or more of those areas does not. There may also be occasions where part of a development is granted planning permission by a neighbourhood development order, and part is not. In these cases, the parish or town council receives a proportionate amount of the levy payment based on how much of the gross internal area of the development is in an area for which there is a neighbourhood plan or was granted permission by a neighbourhood development order.

Paragraph: 149 Reference ID: 25-149-20190901

Revision date: 01 09 2019

Is the Mayor of London also required to pass a share to neighbourhoods?

The Mayor of London is not required to allocate any levy receipts to neighbourhoods (regulation 59A(2) (http://www.legislation.gov.uk/uksi/2013/982/regulation/8/made)). The Mayor must only spend the levy on strategic transport infrastructure.

Paragraph: 150 Reference ID: 25-150-20190901

Revision date: 01 09 2019

What can neighbourhood funding be spent on?

The neighbourhood portion of the levy can be spent on a wider range of things than the rest of the levy, provided that it meets the requirement to 'support the development of the area' (see regulation 59C (http://www.legislation.gov.uk/uksi/2013/982/regulation/8/made) inserted by the 2013 Regulations for details). The wider definition means that the neighbourhood portion can be spent on things other than infrastructure (as defined in the Community Infrastructure Levy regulations) provided it is concerned with addressing the demands that development places on the parish's area. For example, the pot could be used to fund affordable housing.

Parish or town councils should discuss their priorities with the charging authority during the process of setting the levy rate(s).

Once the levy is in place, parish or town councils should work closely with their neighbouring councils and the charging authority to agree on infrastructure spending priorities. If the parish or town council shares the priorities of the charging authority, they may agree that the charging authority should retain the neighbourhood funding to spend on that infrastructure. It may be that this infrastructure (for example, a school) is not in the parish or town council's administrative area but will support the development of the area.

If a parish or town council does not spend its levy share within 5 years of receipt, or does not spend it on initiatives that support the development of the area, the charging authority may require it to repay some or all of those funds to the charging authority (see regulation 59E (http://www.legislation.gov.uk/uksi/2013/982/regulation/8/made) for details).

Paragraph: 151 Reference ID: 25-151-20190901

Revision date: 01 09 2019

How should parish and town councils spend neighbourhood funds?

While parish and town councils are not required to spend their neighbourhood funding in accordance with the charging authority's priorities, parish and town councils are advised to work closely with the charging authority to agree priorities for spending the neighbourhood funding element and for this to be reflected in the authority's infrastructure funding statement, where appropriate.

Where a neighbourhood plan has been made, it should be used to identify these priorities.

Paragraph: 152 Reference ID: 25-152-20190901

Revision date: 01 09 2019

How should the parish or town council report on its levy spending?

Parish and town councils must make arrangements for the proper administration of their financial affairs (see section 151 of the Local Government Act 1972 (http://www.legislation.gov.uk/ukpga/1972/70/section/151)). They must have systems in place to ensure effective financial control (see Accounts and Audit (England) Regulations 2011 (http://www.legislation.gov.uk/uksi/2011/817/made). These requirements also apply when dealing with neighbourhood funding payments under the levy.

For each year when they have received neighbourhood funds through the levy, parish and town councils must publish the information specified in regulation 121B (http://www.legislation.gov.uk/uksi/2019/1103/regulation/9/made) (a re-enactment of regulation 62A inserted by the 2019 Regulations). They should publish this information on their website or on the charging authority's website. If they haven't received any money they do not have to publish a report, but may want to publish some information to this effect in the interests of transparency.

There is no prescribed format. Parish and town councils may choose to combine reporting on the levy with other reports they already produce. The levy neighbourhood funding income and spending will also be included in their overall published accounts, but they are not required to be identified separately in those accounts. Where a charging authority holds and spends the neighbourhood portion on behalf of the local community, it should ensure that it reports this as a separate item in its own accounts.

Paragraph: 153 Reference ID: 25-153-20190901

Revision date: 01 09 2019

Can the levy be used to deliver Suitable Alternative Natural Greenspace?

The Conservation of Habitats and Species Regulations 2017 (http://www.legislation.gov.uk/uksi/2017/1012/contents/made), as amended, require local authorities to avoid or mitigate the impact of increased human activity on certain habitats and species in protected areas, namely Special Areas of Conservation (http://jncc.defra.gov.uk/page-23) and Special Protection Areas (http://jncc.defra.gov.uk/page-162).

Local authorities are responsible for securing adequate mitigation for protected site impacts. Such measures are taken into account via an appropriate assessment when considering impacts on the protected site(s). They may choose to use their levy income to provide new or improved areas of open space (such as Suitable Alternative Natural Greenspace (SANGS) or similar approaches) which provide recreation space to deflect visitors, as part of a suite of measures to reduce the impacts on protected sites arising from development. Suitable Alternative Natural Greenspace are open space and are within the levy definition of infrastructure.

If delivering Suitable Alternative Natural Greenspace, local authorities must put in place a system which ensures that mitigation is delivered at a time and place when it will be effective. To ensure compliance with the Conservation of Habitats and Species Regulations 2017, the local authority must be clear that it intends to prioritise the use of the levy to deliver Suitable Alternative Natural Greenspace and maintain its effectiveness in the long term. Where it is appropriate to do so, this should be set out in the relevant plan (the Development Plan and the London Plan in London) and could also be included in the infrastructure funding statement.

Paragraph: 154 Reference ID: 25-154-20190901

Revision date: 01 09 2019

Can the levy be spent outside a charging area?

Charging authorities may pass money to bodies outside their area to deliver infrastructure that will benefit the development of the area. For example, these bodies may include the Environment Agency for flood defence or, in 2-tier areas, the county council, for education infrastructure (regulation 59(4) (http://www.legislation.gov.uk/uksi/2010/948/regulation/59/made)).

If they wish, a number of charging authorities may pool funds from their respective levies to support the delivery of infrastructure that benefits the wider area, for example, a larger transport project where they are satisfied that this would also support the development of their own area. See 'Can groups of charging authorities pool a proportion of their Community Infrastructure Levies?' This could include, for instance, funds to support the delivery of Suitable Alternative Natural Greenspace. Authorities are strongly encouraged to consider growth planning priorities for their area at Local Enterprise Partnership or equivalent broad area level in determining levy spending priorities.

Paragraph: 155 Reference ID: 25-155-20190901

Revision date: 01 09 2019

What about administrative costs?

Where charging authorities collect the levy, they can use funds from the levy to recover the costs of administering the levy. Regulation 61 (http://www.legislation.gov.uk/uksi/2010/948/regulation/61/made), as amended by the 2014 Regulations (http://www.legislation.gov.uk/uksi/2014/385/regulation/8/made) allows them to spend up to 5% cent of their total levy receipts on administrative expenses. This is to ensure that the overwhelming majority of revenue from the levy is directed towards infrastructure provision.

The permitted percentage is a maximum allowance on administrative expenses.

Paragraph: 156 Reference ID: 25-156-20190901

Revision date: 01 09 2019

What can administrative expenses include?

Administrative expenses associated with the levy include the costs of the functions required to establish and run a levy charging scheme. These functions include levy set-up costs, such as consultation on the levy charging schedule, preparing evidence on viability or the costs of the levy examination. There are similar costs associated with amending a levy charging schedule. They also include ongoing functions like establishing and running billing and payment systems, enforcing the levy, the legal costs associated with payments in-kind and monitoring and reporting on levy activity.

To help charging authorities with initial set up costs, the regulations allow for a 'rolling cap' on administrative expenses (see regulation 61 (http://www.legislation.gov.uk/uksi/2010/948/regulation/61/made), as amended by the 2014 Regulations (http://www.legislation.gov.uk/uksi/2014/385/regulation/8/made)). This covers the period comprising the first part of the year that an authority sets a levy and the following 3 financial years taken as a whole. From year 4 onwards of an authority's levy operation, the restriction works as a fixed in-year cap, meaning that an authority may spend up to 5% of receipts received in-year by the end of that year on its administrative expenses.

Paragraph: 157 Reference ID: 25-157-20190901

Revision date: 01 09 2019

What about areas where the collecting authority and the charging authority are different?

In London, where London borough councils collect the levy on behalf of the Mayor, a borough may keep up to 4% of those receipts to fund its administrative costs. The Mayor can spend up to 5% of those receipts (minus the amount already spent by the collecting authority) on administrative expenses. This is to ensure that between the collecting authority and the charging authority no more than 5% in aggregate of CIL receipts are spent on administrative expenses.

Paragraph: 158 Reference ID: 25-158-20190901

Revision date: 01 09 2019

Can groups of charging authorities pool a proportion of their Community Infrastructure Levies?

Charging authorities can choose to pool a proportion of their Community Infrastructure Levy (CIL) receipts to fund infrastructure as regulation 59 (http://www.legislation.gov.uk/uksi/2010/948/regulation/59/made) allows for out of area spending and passing receipts to other persons. Where local authorities are working jointly to prepare development plans for their areas, pooling of levy receipts may be a useful mechanism for funding strategic infrastructure projects that have cross-boundary benefits. Each of the charging authorities included in the pooling arrangements should be content that funding for infrastructure outside the authority's area will support development of its own area (see regulation 59(3) (http://www.legislation.gov.uk/uksi/2010/948/regulation/59/made) as amended by the 2012 Regulations (http://www.legislation.gov.uk/uksi/2012/2975/regulation/7/made)).

Charging authorities are encouraged to consider publishing a memorandum of understanding detailing the administration, principles, and governance that will be implemented for the pooled fund. The principles to be considered in a memorandum of understanding include, but are not limited to, the following:

- a proposed governance structure and decision-making process for agreeing how the pooled fund is implemented and spent;
- the proportion or amount of levy each charging authority will contribute;
- the procedure for collecting the pooled levy;
- the strategic infrastructure projects the pooled fund will be spent on;
- a system for returning pooled funds to an authority in the event that it is necessary to do so;
- a proposed review mechanism for the memorandum.

It is recommended that the memorandum of understanding is a publicly accessible document which clearly explains how the pooled levy will be administered and spent.

Paragraph: 159 Reference ID: 25-159-20190901

Revision date: 01 09 2019

Are charging authorities allowed to borrow against future levy income?

Charging authorities, with the exception of the Mayor of London (which has a special arrangement in relation to Crossrail), are not allowed to borrow against future levy income. However, the levy can be used to repay expenditure on infrastructure that has already been incurred (Regulation 60). Charging authorities may not use the levy to pay interest on money they raise through loans.

Paragraph: 160 Reference ID: 25-160-20190901

Revision date: 01 09 2019

Appeals

Is there a right of appeal against a Community Infrastructure Levy charge?

Appeals can be lodged against some aspects of a levy charge as set out in Part 10 of the Regulations and explained below.

Paragraph: 161 Reference ID: 25-161-20190901

Revision date: 01 09 2019

What kind of appeals are possible?

The full range of appeals is shown in the attached table:

Community Infrastructure Levy appeals (https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/828329/Appeals_table_for_2019_gu

PDF, 193KB, 5 pages

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Relevant Regulations can be found here (as amended or inserted by the 2014 and 2019 Regulations):

- regulation 114 (http://www.legislation.gov.uk/uksi/2010/948/regulation/114/made) (Chargeable amount: appeal)
- regulation 115 (http://www.legislation.gov.uk/uksi/2010/948/regulation/115/made) (Apportionment of liability: appeal)
- regulation 116 (http://www.legislation.gov.uk/uksi/2010/948/regulation/116/made) (Charitable relief: appeal)
- regulation 116A (http://www.legislation.gov.uk/uksi/2014/385/regulation/11/made) (Exemption for residential annexes: appeal)
- regulation 116B (http://www.legislation.gov.uk/uksi/2014/385/regulation/11/made) (Exemption for self-build housing: appeal)
- regulation 117 (http://www.legislation.gov.uk/uksi/2010/948/regulation/117/made) (Surcharge: appeal)
- regulation 118 (http://www.legislation.gov.uk/uksi/2010/948/regulation/118/made) (Deemed commencement)
- regulation 119 (http://www.legislation.gov.uk/uksi/2010/948/regulation/119/made) (CIL stop notices)
- Schedule1, paragraph 9 (http://www.legislation.gov.uk/uksi/2019/1103/schedule/1/made) (Pre-CIL permissions 'amended' when CIL in effect: appeal in relation to notional relief)

Paragraph: 162 Reference ID: 25-162-20190901

Revision date: 01 09 2019

What are the requirements for lodging appeals?

A liable person can ask the levy collecting authority for a review of the chargeable amount within 28 days from the date on which the liability notice (that sets out the chargeable amount) was issued. The collecting authority is required to review the calculation. This review must be carried out by someone who is senior to the person who made the original calculation, and who had no involvement in that original calculation. A decision must be issued within 14 days, and this decision cannot be reviewed again (see regulation 113 (http://www.legislation.gov.uk/uksi/2010/948/regulation/113/made)). Following this review, the liable person may submit an appeal to the Valuation Office Agency (https://www.gov.uk/guidance/community-infrastructure-levy-how-to-make-an-appeal).

Appeals made in connection with the calculation of the chargeable amount, an apportionment of liability, charitable relief and self-build exemptions and appeals in relation to notional relief relating to transitional cases (Schedule 1(9) (http://www.legislation.gov.uk/uksi/2019/1103/schedule/1/made)) should be submitted to the independent Valuation Office Agency, on a form provided by the Agency within 60 days of the date the liability notice is issued (https://www.gov.uk/guidance/community-infrastructure-levy-how-to-make-an-appeal).

Appeals related to enforcement (surcharges, commencement notices and stop notices) should be submitted to the Planning Inspectorate (https://www.gov.uk/government/organisations/planning-inspectorate). All appeals to the Planning Inspectorate must be made using the form published by the Secretary of State (or forms substantially to the same effect). This can be found on the Planning Inspectorate website (https://www.gov.uk/guidance/appeal-a-community-infrastructure-levy-enforcement-notice).

Paragraph: 163 Reference ID: 25-163-20190901

Revision date: 01 09 2019

Can an appeal be made if development has already started?

A person cannot request a review of a liability notice (under regulation 113 (http://www.legislation.gov.uk/uksi/2010/948/regulation/113/made), as amended (http://www.legislation.gov.uk/uksi/2014/385/regulation/11/made)), or lodge an appeal under regulation 114(4) (http://www.legislation.gov.uk/uksi/2010/948/regulation/114/made), as amended (http://www.legislation.gov.uk/uksi/2014/385/regulation/11/made), regulation 116(3) (http://www.legislation.gov.uk/uksi/2010/948/regulation/116/made), regulation 116A or regulation 116B (http://www.legislation.gov.uk/uksi/2014/385/regulation/11/made), after development begins. However, a review or an appeal can be made after the development has started if the planning permission was granted after commencement, for example, under section 73 or 73A of the Town and Country Planning Act 1990. The appeal will lapse if development is commenced before the appeal decision is received. See regulation 7 (http://www.legislation.gov.uk/uksi/2010/948/regulation/7/made), and section 56(4) of the Town and Country Planning Act 1990 (http://www.legislation.gov.uk/ukpga/1990/8/section/56), for the definition of 'commencement of development'.

In some circumstances, however, this may not be possible. For example, if an apportionment of liability has been made after development has commenced the liability notice can only be issued once the scheme is underway or complete for example, a review or appeal of the apportionment of liability regulation 115 (http://www.legislation.gov.uk/uksi/2010/948/regulation/115/made).

An appeal under paragraph 9 of Schedule 1 (http://www.legislation.gov.uk/uksi/2019/1103/schedule/1/made) (inserted by the 2019 regulations) must be made before the end of the period of 60 days beginning with the day on which the liability notice stating the chargeable amount was issued.

Paragraph: 164 Reference ID: 25-164-20190901

Revision date: 01 09 2019

Are levy appeal decisions published?

Appeal decision notices issued by the Valuation Office Agency are published in redacted form on the agency's website (https://www.gov.uk/guidance/community-infrastructure-levy-how-to-make-an-appeal).

Appeal decision notices issued by the Planning Inspectorate will be published in redacted form on the Planning Inspectorate website (https://www.gov.uk/guidance/appeal-

a-community-infrastructure-levy-enforcement-notice#recent-decisions).

Paragraph: 165 Reference ID: 25-165-20190901

Revision date: 01 09 2019 ##Other developer contributions

How does the Community Infrastructure Levy relate to other developer contributions?

Developers may be asked to provide contributions for infrastructure in several ways.

This may be by way of the Community Infrastructure Levy, planning obligations in the form of section 106 agreements (see National Planning Policy Guidance on planning obligations (https://www.gov.uk/guidance/planning-obligations)), and section 278 highway agreements (under section 278 of the Highways Act 1980 as amended). Developers will also have to comply with any conditions attached to their planning permission (see National Planning Policy Guidance on planning conditions (https://www.gov.uk/guidance/use-of-planning-conditions)).

Local authorities should ensure that the combined total impact of such requests does not undermine the deliverability of the plan (see paragraph 34 (https://www.gov.uk/guidance/national-planning-policy-framework/3-plan-making#para34) of the National Planning Policy Framework for details).

Where the levy is in place for an area, charging authorities should work proactively with developers to ensure they are clear about the authorities' infrastructure needs.

Authorities can choose to pool funding from different routes to fund the same infrastructure provided that authorities set out in their infrastructure funding statements which infrastructure they expect to fund through the levy.

Paragraph: 166 Reference ID: 25-166-20190901

Revision date: 01 09 2019

When should planning obligations be sought?

The levy is not intended to make individual planning applications acceptable in planning terms. As a result, some site-specific impact mitigation may still be necessary for a development to be granted planning permission. Some of these needs may be provided for through the levy but others may not, particularly if they are very local in their impact. There is still a legitimate role for development specific planning obligations, even where the levy is charged, to enable a local planning authority to be confident that the specific consequences of a particular development can be mitigated.

For more information on when planning obligations should be sought see the guidance on planning obligations (https://www.gov.uk/guidance/planning-obligations).

Paragraph: 167 Reference ID: 25-167-20190901

Revision date: 01 09 2019

Are there any specific circumstances where contributions through planning obligations should not be sought from developers?

Planning obligations for affordable housing should only be sought for developments that are major developments. Once set, the levy can be collected from any size of development across the area. Therefore, the levy is the most appropriate mechanism for capturing developer contributions from small developments.

For more information on when planning obligations should be sought see the guidance on planning obligations (https://www.gov.uk/guidance/planning-obligations).

Paragraph: 168 Reference ID: 25-168-20190901

Revision date: 01 09 2019

How can planning obligations and the levy operate together to fund and deliver infrastructure?

The levy delivers additional funding for charging authorities to carry out a wide range of infrastructure projects that support growth and benefit the local community. It cannot be expected to pay for all the infrastructure required, but it is expected to make a significant contribution.

Charging authorities should work proactively with developers to ensure they are clear about the authorities' infrastructure needs and what developers will be expected to pay for through which route.

Authorities can choose to use funding from different routes to fund the same infrastructure. Authorities should set out in infrastructure funding statements which infrastructure they expect to fund through the levy and through planning obligations (see regulation 121A (http://www.legislation.gov.uk/uksi/2019/1103/regulation/9/made)).

For example, a local authority may set out in their plan that they will use section 106 planning obligations to deliver a new school to serve additional pupils arising as a result of a new development on a strategic site. The local authority may also use levy funds to deliver the school and help support development elsewhere in the area.

Paragraph: 169 Reference ID: 25-169-20190901

Revision date: 01 09 2019

Is there a limit on the pooling of section 106 contributions?

The 2019 amendments to the regulations removed the previous restriction on pooling more than 5 planning obligations towards a single piece of infrastructure.

This means that, subject to meeting the 3 tests set out in CIL regulation 122 (http://www.legislation.gov.uk/uksi/2010/948/regulation/122/made), charging authorities can use funds from both the levy and section 106 planning obligations to pay for the same piece of infrastructure regardless of how many planning obligations have already contributed towards an item of infrastructure.

Authorities should set out in an infrastructure funding statement which infrastructure they intend to fund and detail the different sources of funding (see regulation 121A (http://www.legislation.gov.uk/uksi/2019/1103/regulation/9/made)).

Paragraph: 170 Reference ID: 25-170-20190901

Revision date: 01 09 2019

How can planning conditions and the levy operate together?

The National Planning Policy Framework (paragraph 55 (https://www.gov.uk/guidance/national-planning-policy-framework/4-decision-making#para55)) sets out that planning conditions (including Grampian conditions) should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. When setting conditions, local planning authorities should consider the combined impact of those conditions and any planning obligations and Community Infrastructure Levy charges that the development will be liable for.

Paragraph: 171 Reference ID: 25-171-20190901

Revision date: 01 09 2019

Monitoring and reporting on CIL and planning obligations

Why is reporting on developer contributions important?

Reporting on developer contributions helps local communities and developers see how contributions have been spent and understand what future funds will be spent on, ensuring a transparent and accountable system.

Paragraph: 172 Reference ID: 25-172-20190901

Revision date: 01 09 2019

Who should monitor and report on the Community Infrastructure Levy and planning obligations?

In accordance with the Community Infrastructure Levy Regulations any authority that receives a contribution from development through the levy or section 106 planning obligations must prepare an infrastructure funding statement. This includes county councils.

Parish councils must prepare a report for any financial year in which it receives levy receipts (see also 'What should parish councils report on developer contributions?').

County councils should publish an infrastructure funding statement where they receive a contribution entered into during the reported year (Regulation 121A(5) (http://www.legislation.gov.uk/uksi/2019/1103/regulation/9/made)). County councils can also publish an infrastructure funding statement where they have received revenues from the levy passed from the charging authority, or where they hold unspent monies not yet allocated.

Where authorities pass funds to other bodies, this should be on the condition that the other body will provide information back to the authority on how contributions have been spent that reported year, and how they intend to spend future contributions, to inform infrastructure funding statements.

Paragraph: 173 Reference ID: 25-173-20190901

Revision date: 01 09 2019

How should developer contributions be monitored?

Any local authority that has received developer contributions is required to publish an infrastructure funding statement at least annually.

To collect data for the infrastructure funding statement, it is recommended that local authorities monitor data on section 106 planning obligations and the levy in line with the government's data format (https://www.gov.uk/guidance/publish-your-developer-contributions-data).

This data should include details of the development and site, what infrastructure is to be provided including any information on affordable housing, and any trigger points or deadlines for contributions. Local authorities should also record when developer contributions are received and when contributions have been spent or transferred to other parties.

Paragraph: 174 Reference ID: 25-174-20190901

Revision date: 01 09 2019

How should developer contributions be reported?

For the financial year 2018/19, charging authorities must report on CIL it has collected, or any CIL collected on its behalf. The report must be published on the authority's website no later than 31 December 2019 and include:

- The total CIL receipts for the reported year;
- The total CIL expenditure for the reported year;
- Summary details of CIL expenditure during the reported year including:
  - The items of infrastructure to which CIL has been applied;
  - The amount of CIL expenditure on each item;
  - The amount of CIL applied to repay money borrowed, including interest, with details of the infrastructure items which that money was used to provide;
  - The amount of CIL applied to administrative expenses and that amount expressed as a percentage of CIL collected in that year; and
  - The total amount of CIL receipts retained at the end of the reported year.

For the financial year 2019/2020 onwards, any local authority that has received developer contributions (section 106 planning obligations or Community Infrastructure Levy) must publish online an infrastructure funding statement by 31 December 2020 and by the 31 December each year thereafter. Infrastructure funding statements must cover the previous financial year from 1 April to 31 March (note this is different to the tax year which runs from 6 April to 5 April).

Local authorities can publish updated data and infrastructure funding statements more frequently if they wish. More frequent reporting would help to further increase transparency and accountability and improve the quality of data available. Infrastructure funding statements can be a useful tool for wider engagement, for example with infrastructure providers, and can inform Statements of Common Ground.

Local authorities can also report this information in authority monitoring reports but the authority monitoring report is not a substitute for the infrastructure funding statement.

For information on what an infrastructure funding statement must contain see 'What data should be in an infrastructure funding statement?'.

Paragraph: 175 Reference ID: 25-175-20190901

Revision date: 01 09 2019

What data should be in an infrastructure funding statement?

Infrastructure funding statements must set out:

- A report relating to the previous financial year on the Community Infrastructure Levy;
- A report relating to the previous financial year on section 106 planning obligations;
- A report on the infrastructure projects or types of infrastructure that the authority intends to fund wholly or partly by the levy (excluding the neighbourhood portion).

The infrastructure funding statement must set out the amount of levy or planning obligation expenditure where funds have been allocated. Allocated means a decision has been made by the local authority to commit funds to a particular item of infrastructure or project.

It is recommended that authorities report on the delivery and provision of infrastructure, where they are able to do so. This will give communities a better understanding of how developer contributions have been used to deliver infrastructure in their area.

The infrastructure funding statement must also set out the amount of levy applied to repay money borrowed, applied to administrative expenses, passed to other bodies, and retained by the local authority. Local authorities will need to choose when to report money passed to other bodies in an infrastructure funding statement, depending on how the date the money was transferred on relates to the date of reporting.

Authorities can also report on contributions (monetary or direct provision) received through section 278 highways agreements in infrastructure funding statements, to further improve transparency for communities.

It is recommended that authorities report on estimated future income from developer contributions, where they are able to do so. This will give communities a better understanding of how infrastructure may be funded in the future.

It is acknowledged that data on developer contributions is imperfect, represents estimates at a given point in time, and can be subject to change (see regulation 121A (http://www.legislation.gov.uk/uksi/2019/1103/regulation/9/made) and Schedule 2 (http://www.legislation.gov.uk/uksi/2019/1103/schedule/2/made)). However, the data published should be the most robust available at the time.

Paragraph: 176 Reference ID: 25-176-20190901

Revision date: 01 09 2019

What should an infrastructure funding statement say about future spending priorities?

The infrastructure funding statement should set out future spending priorities on infrastructure and affordable housing in line with up-to-date or emerging plan policies. This should provide clarity and transparency for communities and developers on the infrastructure and affordable housing that is expected to be delivered. Infrastructure funding statements should set out the infrastructure projects or types of infrastructure that the authority intends to fund, either wholly or partly, by the levy or planning obligations. This will not dictate how funds must be spent but will set out the local authority's intentions.

This should be in the form of a written narrative that demonstrates how developer contributions will be used to deliver relevant strategic policies in the plan, including any infrastructure projects or types of infrastructure that will be delivered, when, and where.

Paragraph: 177 Reference ID: 25-177-20190901

Revision date: 01 09 2019

What should parish councils report on developer contributions?

The information that parish councils should report on is set out in Regulation 121B (http://www.legislation.gov.uk/uksi/2019/1103/regulation/9/made) (which was inserted by the 2019 Regulations but re-enacts what was regulation 62A). The report must be published online. A copy of the report should be sent to the charging authority from which it received levy receipts, no later than 31 December following the reported financial year, unless the report is, or is to be, published on the charging authority's website.

Paragraph: 178 Reference ID: 25-178-20190901

Revision date: 01 09 2019

How is infrastructure defined for the purpose of reporting developer contributions?

For any information reported on developer contributions, infrastructure should be categorised as follows:

- Affordable housing
- Education
  - Primary
  - Secondary
  - Post-16
  - Other
- Health
- Highways
- Transport and travel
- Open space and leisure
- Community facilities
- Digital infrastructure
- Green infrastructure
- Flood and water management
- Economic development
- Land
- Section 106 monitoring fees
- Bonds (held or repaid to developers)
- Other
  - Neighbourhood CIL

- Mayoral CIL
- Community Infrastructure Levy administration costs

Authorities can choose to report either monetary contributions or direct provision under these categories.

Paragraph: 179 Reference ID: 25-179-20190901

Revision date: 01 09 2019

How can local authorities fund reporting on planning obligations?

Authorities, including county councils, should work together to ensure that resources are available to support the monitoring and reporting of planning obligations.

Authorities can charge a monitoring fee through section 106 planning obligations, to cover the cost of monitoring and reporting on delivery of that section 106 obligation. Monitoring fees can be used to monitor and report on any type of planning obligation, for the lifetime of that obligation. Monitoring fees should not be sought retrospectively for historic agreements.

Fees could be a fixed percentage of the total value of the section 106 agreement or individual obligation; or could be a fixed monetary amount per agreement obligation (for example, for in-kind contributions). Authorities may decide to set fees using other methods. However, in all cases, monitoring fees must be proportionate and reasonable and reflect the actual cost of monitoring. Authorities could consider setting a cap to ensure that any fees are not excessive.

Authorities must report on monitoring fees in their infrastructure funding statements (see paragraph (2)(h)(iii) of Schedule 2 (http://www.legislation.gov.uk/uksi/2019/1103/schedule/2/made)).

Paragraph: 180 Reference ID: 25-180-20190901

Revision date: 01 09 2019

How should monitoring and reporting inform plan reviews?

The information in the infrastructure funding statement should feed back into reviews of plans to ensure that policy requirements for developer contributions remain realistic and do not undermine the deliverability of the plan.

Paragraph: 181 Reference ID: 25-181-20190901

Revision date: 01 09 2019

How should local authorities and applicants promote the benefits of development to communities?

Local authorities and applicants are encouraged to work together to better promote and publicise the infrastructure that has been delivered through developer contributions. This could be through the use of on-site signage, local authority websites, or development-specific websites, for example.

Paragraph: 182 Reference ID: 25-182-20190901

Revision date: 01 09 2019

State aid

This section is only an overview of State aid matters. It is the responsibility of aid givers to reassure themselves that the actions they take are State aid compliant.

The government's primary guidance on State aid can be found on GOV.UK (https://www.gov.uk/guidance/state-aid). Further references are set out below.

The approach will change when the United Kingdom leaves the European Union. Users are advised to consult the GOV.UK website for updated information (https://www.gov.uk/guidance/state-aid).

Paragraph: 183 Reference ID: 25-183-20190901

Revision date: 01 09 2019

What is State aid?

State aid is a European Union member state's support to 'undertakings' which meets all the criteria in Article 107(1) of the Treaty on the Functioning of the European Union (Lisbon Treaty 2009). Article 107(1) declares that State aid, in whatever form, which could distort competition and affect trade by favouring certain parties or the production of certain goods, is incompatible with the common market, unless the Treaty allows otherwise. View a copy of the most recent advice on State aid (https://www.gov.uk/guidance/state-aid).

All exemptions or relief from the Community Infrastructure Levy must be given in accordance with State aid rules. A collecting or charging authority must determine whether or not giving the exemption or relief would constitute a State aid.

Paragraph: 184 Reference ID: 25-184-20190901

Revision date: 01 09 2019

How does State aid relate to the levy?

The State aid criteria need to be considered carefully when deciding whether an exemption or relief is a State aid. The collecting authority must bear the following in mind:

- Criterion 1: Is the relief granted by the State or through State resources? Relief from the levy will always be granted by the State and therefore this criterion is always met.
- Criterion 2: Does the relief favour certain undertakings or the production of certain goods? Charging and collecting authorities should determine whether the claimant is an entity engaged in economic activity (i.e. the putting of goods or services on a given market).
- Criterion 3: Does relief distort or threaten to distort competition? Relief from the levy is by its nature a selective aid and will invariably have the potential to distort competition where a body is engaged in economic activity. Where criterion 2 is met it is likely that this criterion is also met.

- Criterion 4: Does relief affect trade between Member States? Again, where criterion 2 is met, it is likely that this will also be met. It may be possible to argue that aid will not affect trade between Member States, as the organisation's activities are purely local, but charging and collecting authorities will need to manage this risk. While the European Commission's interpretation of this test is broad and the legal threshold low there are examples of European Commission decisions which identify certain economic activities as local. They include small scale businesses serving the local community only such as local garages, retail shops, hairdressers, childcare facilities and cafes. Local small scale cultural or heritage venues are also considered not to affect trade between Member States. However, it is rare to find a good or service that is traded that is purely local. A charity, for example, is most likely not to be operating as an undertaking at all where its activities are purely local.

The Claiming Charitable or Social Housing Relief form (https://www.planningportal.co.uk/info/200136/policy_and_legislation/70/community_infrastructure_levy/5) contains a questionnaire designed to elicit information that will help the charging or collecting authority in identifying State aid. The information will not always provide a clear indication of relief constituting state aid. The collecting authority may need to ask the claimant for further information.

Paragraph: 185 Reference ID: 25-185-20190901

Revision date: 01 09 2019

Permissible State aid

If a public authority wants to give an identified State aid, it must usually notify the European Commission and obtain its prior approval before giving the aid. This is not permissible for relief from the levy. A mandatory charitable exemption cannot be given at all where relief would constitute a notifiable state aid. Meanwhile discretionary charitable relief and exceptional circumstances relief can only be given where relief would not need to be notified to, and approved by, the European Commission. State aid in these situations is not notifiable because it uses block exemption regulations designed for this purpose. These block exemptions have specific requirements. Charging authorities using them must be careful to ensure these requirements are met.

The latest version of the de minimis exemption regulations is the European Commission Regulation (EC) No 1998/2006 (http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:379:0005:0010:EN:PDF).

Further information is available from the European Commission (http://ec.europa.eu/competition/state_aid/legislation/block.html).

Paragraph: 186 Reference ID: 25-186-20190901

Revision date: 01 09 2019

What is the de minimis block exemption?

This is only a summary of the requirements of the de minimis block exemption.

De minimis is a generic term for small amounts of public funding to a single recipient. The de minimis block exemption makes relief permissible in the following circumstances:

- discretionary relief under Community Infrastructure Levy Regulation 45 (where a mandatory charitable exemption is prohibited because it would constitute a State aid)
- discretionary charitable investment relief where this would constitute a State aid and
- discretionary exceptional circumstances relief where this would constitute a State aid
- self-build exemption where this would constitute a State aid

Charging authorities may formulate policies which automatically ensure mandatory charitable exemption claims failing solely on State aid grounds are considered for relief under regulation 45 (http://www.legislation.gov.uk/uksi/2010/948/regulation/45/made).

Paragraph: 187 Reference ID: 25-187-20190901

Revision date: 01 09 2019

How does the de minimis block exemption work?

De minimis funding is exempt from notification requirements because the European Commission considers that such a small amount of aid will have a negligible impact on trade and competition. The current de minimis threshold is set at €200,000 (€100,000 for undertakings active in the road transport sector) over a rolling 3 fiscal year period. The threshold is gross, applying before the deduction of tax or any other charge. The threshold applies cumulatively to all public assistance received from all sources and not to individual schemes or projects. The block exemption does not apply in certain sectors, including fisheries and coal sector, certain agriculture and transport activities.

Paragraph: 188 Reference ID: 25-188-20190901

Revision date: 01 09 2019

What sources of aid should be considered as part of the threshold?

All de minimis aid for any purpose, including relief from the levy, must be cumulated. Recipients must be informed of the de minimis nature of any aid they have previously received. For example, this could include business rates relief to charitable institutions. Recipients are responsible for keeping records of any de minimis aid they receive over any rolling 3 fiscal year period.

Paragraph: 189 Reference ID: 25-189-20190901

Revision date: 01 09 2019

What must an authority do to comply with this block exemption?

European Commission guidance requires public bodies giving de minimis relief to do 3 things:

- inform the recipient in writing of the prospective amount of aid and of its de minimis character, referring to the de minimis Regulation
- obtain from the recipient full information about any other de minimis aid received during the previous 2 fiscal years and the current fiscal year and
- only grant the new de minimis aid after having checked that this will not raise the total amount of de minimis aid received by the undertaking during the relevant period of 3 years to a level above the permitted ceiling

Charging or collecting authorities wishing to apply the de minimis block exemption to relief from the levy must write to the claimant asking what de minimis aid it has already received. Further information is available on the Planning Portal website (https://auth.planningportal.co.uk/account/signin?ReturnUrl=%2fissue%2fwsfed%3fwa%3dwsignin1.0%26wtrealm%3dhttps%253a%252f%252f1app.planningportal.co.uk%252f%26wctx%3drm%253d0%2526id%253dpassive%2526ru%253d%25252flpahome%26wct%3d2016-11-10T11%253a01%253a51Z&wa=wsignin1.0&wtrealm=https%3a%2f%2f1app.planningportal.co.uk%2f&wctx=rm%3d0%26id%3dpassive%26ru%3d%252flpahome&wct=2016-11-10T11%3a01%3a51Z).

Paragraph: 190 Reference ID: 25-190-20190901

Revision date: 01 09 2019

What records must be kept?

The de minimis regulation requires Member States to record information necessary to demonstrate that the de minimis Regulation has been complied with. Records of all de minimis aid paid must be retained for 10 years from the last payment.

On written request, Member States must provide the European Commission with all the information that the Commission considers necessary for assessing whether the conditions of the de minimis regulation have been complied with. This must be provided within 20 working days, or within a longer period fixed in the request. The Ministry for Housing, Communities and Local Government would co-ordinate any such request in relation to the Community Infrastructure Levy. Charging and collecting authorities must therefore ensure that information on all de minimis relief granted is readily available at short notice.

View further information about the de minimis exemption (https://www.gov.uk/guidance/state-aid#de-minimis-aid-regulations).

Paragraph: 191 Reference ID: 25-191-20190901

Revision date: 01 09 2019

What is the service of a general economic interest block exemption for social housing relief?

The service of a general economic interest block exemption is used to give social housing relief from the levy. It is applied automatically. The relief procedures and documentation have been designed to comply with this block exemption but charging and collecting authorities must still be aware of their responsibilities (see below and in the social housing relief section).

This is only a summary of the requirements of the service of a general economic interest block exemption. Further information can be found on GOV.UK (https://www.gov.uk/guidance/state-aid#general-block-exemption-regulation).

Charging and collecting authorities should familiarise themselves with the terms of the service of a general economic interest block exemption before using it.

Paragraph: 192 Reference ID: 25-192-20190901

Revision date: 01 09 2019

Which relief systems is the service of a general economic interest block exemption applicable to?

The service of a general economic interest block exemption is used to give social housing relief from the levy. The service of a general economic interest block exemption could also be used in the event that housing provided by charities cannot qualify for social housing relief. Where such housing qualified for discretionary charitable relief under regulation 45 (http://www.legislation.gov.uk/uksi/2010/948/regulation/45/made), a collecting authority could use the service of a general economic interest block exemption to give relief beyond the de minimis block exemption.

Paragraph: 193 Reference ID: 25-193-20190901

Revision date: 01 09 2019

What is the service of a general economic interest block exemption?

A service of a general economic interest is usually a service which the market does not provide or does not provide to the extent or at the quality which the state requires. It must also be in the general and not the particular interest. This means that the beneficiaries of the service should be the community at large and not a specific sector of industry. Social housing is a well-established example of a service of a general economic interest.

Three criteria need to be fulfilled for the Service of a General Economic Interest Block Exemption to be complied with:

- the undertaking must have been 'entrusted' to perform this public service obligation
- the state aid may compensate the undertaking for the costs of performing this public service obligation, allowing for a reasonable profit and
- it cannot however overcompensate for these costs and where it does, arrangements must exist for the repayment of this overcompensation

Paragraph: 194 Reference ID: 25-194-20190901

Revision date: 01 09 2019

How does the service of a general economic interest block exemption work in relation to social housing relief?

The Community Infrastructure Levy's social housing regime is designed to comply with the requirements of the service of a general economic interest block exemption. A claimant will be informed through the liability notice that it has a public service obligation to deliver where it chooses to build out the planning permission. The public service obligation is the building of the quantity of social housing for which it has been given relief from the levy. This 'entrustment' is updated to include all future beneficiaries of social housing relief on that chargeable development. The charge arising from the levy on its own will never be sufficient to exceed the costs of building the development. However, total aid could potentially exceed those costs where social housing grant, or other state assistance, has also been claimed. Homes England will take into account the value of relief from the levy and other State assistance when giving social housing grant and will adjust the amount of grant accordingly.

Paragraph: 195 Reference ID: 25-195-20190901

Revision date: 01 09 2019

What must an authority do to comply with this block exemption?

No additional action is necessary from collecting authorities to comply with the service of a general economic interest block exemption when giving social housing relief itself. However, collecting authorities must ensure they rigorously administer and enforce the terms of social housing relief. Where the claimant of relief changes, or there are additional claimants, the liability notice must be updated to reflect this and ensure these beneficiaries are entrusted to provide that housing. Clawback must be enforced properly so that no one benefits from relief for buildings which are not social housing units. Finally, a thorough monitoring regime is advisable to guard against the misuse of relief in a way that creates unfairness and deprives authorities of funding for infrastructure.

Paragraph: 196 Reference ID: 25-196-20190901

Revision date: 01 09 2019

What records must be kept?

As with the de minimis block exemption, collecting authorities should keep accurate records of all relief given under the service of a general economic interest block exemption – in practice, all social housing relief from the levy. These records must be retained for 10 years from the payment of relief. The UK government is required to report every 3 years on the sources and quantities of aid paid through the service of a general economic interest block exemption. Charging and collecting authorities must ensure that this information is readily available at short notice.

Paragraph: 197 Reference ID: 25-197-20190901

Revision date: 01 09 2019

What is the Financial Transparency Directive and why is it relevant to service of a general economic interest block exemption relief?

The European Commission's Financial Transparency Directive has a number of requirements. One of these relates to public or private bodies engaged in commercial activities and in receipt of certain aid from public authorities for carrying out services of general economic interest. Such bodies must ensure that their management accounts are sufficiently separate to distinguish between these activities. The directive underpins the state aid regime by requiring service of a general economic interest aid to be made transparent. Without such transparency, there is a risk that legitimate State support may seep into an organisation's commercial activities, thereby cross subsidising those areas with public funds. It is essential the directive is complied with when giving aid under service of a general economic interest. Consequently, no social housing relief can be given to an organisation which does not keep separate accounts for its public service and commercial activities. Claimants are asked to confirm they comply with directive when they apply for relief but collecting authorities should request further evidence if necessary.

Paragraph: 198 Reference ID: 25-198-20190901

Revision date: 01 09 2019

Sources of further information

The government has published 'State aid: the basics' (https://www.gov.uk/government/publications/state-aid-the-basics). Further guidance on State aid is available on GOV.UK (https://www.gov.uk/guidance/state-aid).

Paragraph: 199 Reference ID: 25-199-20190901

Revision date: 01 09 2019

Forms and templates

Where are the relevant forms?

In areas where the levy is operational, applicants for planning permission should submit the Additional CIL Information form (https://www.planningportal.co.uk/info/200136/policy_and_legislation/70/community_infrastructure_levy/5) (Form 1) alongside their application, to enable the collecting authority to establish whether or not the proposed development will be liable for the levy.

Applicants should refer to the associated guidance note (https://www.planningportal.co.uk/info/200136/policy_and_legislation/70/community_infrastructure_levy/5) when completing this form.

The other relevant forms are listed below.

In all cases, it is an offence for a person to 'knowingly or recklessly' supply false or misleading information to a charging or collecting authority in response to a requirement under the levy regulations (under regulation 110 (http://www.legislation.gov.uk/uksi/2010/948/regulation/110/made), as amended by the 2011 Regulations (http://www.legislation.gov.uk/uksi/2011/987/regulation/10/made)).

Form 2: Assumption of Liability (https://www.planningportal.co.uk/info/200136/policy_and_legislation/70/community_infrastructure_levy/5)

This form should be used by parties wishing to assume liability for the levy, before a specified development commences.

Form 3: Withdrawal of Assumption of Liability (https://www.planningportal.co.uk/info/200136/policy_and_legislation/70/community_infrastructure_levy/5)

This form should be used by parties wishing to relinquish liability for the levy in relation to a specified development.

Form 4: Transfer of Assumed Liability (https://www.planningportal.co.uk/info/200136/policy_and_legislation/70/community_infrastructure_levy/5)

This form should be used by parties wishing to transfer liability for the levy in relation to a specified development, and by the parties willing to assume the liability.

Form 5: Notice of Chargeable Development (https://www.planningportal.co.uk/info/200136/policy_and_legislation/70/community_infrastructure_levy/5)

This form should be used by landowners wishing to notify a charging authority that they intend to start work on a development which does not need planning permission, but which may be liable for the levy (see regulation 64 (http://www.legislation.gov.uk/uksi/2011/987/regulation/9/made), as amended by the 2011 (http://www.legislation.gov.uk/uksi/2011/987/regulation/9/made) and 2014 Regulations (http://www.legislation.gov.uk/uksi/2014/385/regulation/9/made), for details).

It should also be used by charging authorities wishing to notify all known owners of a development site that for the purposes of the levy, the charging authority believes that development has commenced there and is liable for the levy (see regulation 64A (http://www.legislation.gov.uk/uksi/2011/987/regulation/9/made), as amended by the 2014 Regulations (http://www.legislation.gov.uk/uksi/2014/385/regulation/9/made), for details).

Form 6: Commencement Notice (https://www.planningportal.co.uk/info/200136/policy_and_legislation/70/community_infrastructure_levy/5)

This form should be used by persons wishing to notify a charging authority of their intention to start work on a development which is liable for the levy (see regulation

67 (http://www.legislation.gov.uk/uksi/2010/948/regulation/67/made) for details).

Form 7 Pt 1: Self-build exemption claim form Part 1 (https://www.planningportal.co.uk/info/200136/policy_and_legislation/70/community_infrastructure_levy/5)

This form must be used by persons seeking to claim a self-build exemption from the levy for a self-build dwelling and must be sent to the collecting authority (and the exemption must be obtained) before the development is commenced.

Form 7 Pt 2: Self-build exemption claim form Part 2 (https://www.planningportal.co.uk/info/200136/policy_and_legislation/70/community_infrastructure_levy/5)

This form must be used by persons as part of the self-build dwelling exemption process requirement, following completion of the development. The form, and the supporting information requested within the form, must be sent to the collecting authority within 6 months of the completion of the self-build dwelling, in order to retain the exemption.

Form 8: Residential annex exemption claim form (https://www.planningportal.co.uk/info/200136/policy_and_legislation/70/community_infrastructure_levy/5)

This form must be used by persons seeking to claim a residential annex exemption from the levy and must be sent to the collecting authority (and the exemption must be obtained) before the development is commenced.

Form 9: Residential extension exemption claim form (https://www.planningportal.co.uk/info/200136/policy_and_legislation/70/community_infrastructure_levy/5)

This form must be used by persons seeking to claim a residential extension exemption from the levy and must be sent to the collecting authority (and the exemption must be obtained) before the development is commenced.

Form 10: Claiming charitable and social housing relief (https://www.planningportal.co.uk/info/200136/policy_and_legislation/70/community_infrastructure_levy/5)

This form must be used to claim charitable relief (both mandatory and Discretionary) and social housing relief (both mandatory and discretionary) and must be sent to the collecting authority (and the exemption must be obtained) before the development is commenced

Form 11: Claiming exceptional circumstances relief (https://www.planningportal.co.uk/info/200136/policy_and_legislation/70/community_infrastructure_levy/5)

This form must be used by persons seeking to claim exceptional circumstances relief from the levy and must be sent to the collecting authority (and the exemption must be obtained) before the development is commenced.

Form 12: Claiming further charitable or social housing relief (when development is altered) (https://www.planningportal.co.uk/info/200136/policy_and_legislation/70/community_infrastructure_levy/5)

This form should be used by persons seeking to obtain further charitable or social housing relief from the levy when the development previously subject to relief is subsequently amended by a section 73 permission, creating a new levy liability.

Form 13: Claiming further self-build dwelling, residential annex or residential extension exemption (https://www.planningportal.co.uk/info/200136/policy_and_legislation/70/community_infrastructure_levy/5)

This form should be used by persons seeking to obtain further exemption from the levy when the development previously granted an exemption is subsequently amended by a section 73 permission, creating a new levy liability.

Form 14: Application to apply a ‘phase credit’ (https://www.planningportal.co.uk/info/200136/policy_and_legislation/70/community_infrastructure_levy/5)

This form must be used by a person who has assumed liability for a phase of a development which was originally granted planning permission before the adoption of a levy charging schedule in the area, but which is now subject to a levy liability, who wishes to apply a ‘phase credit’, created in a separate phase of the development, to offset the levy liability.

Information for levy authorities

Infrastructure Funding Statement: Authorities must publish infrastructure funding statements in accordance with the government’s data format (https://www.gov.uk/guidance/publish-your-developer-contributions-data).

The Secretary of State also provides templates for 3 further documents: liability notices, demand notices and default of liability notices. Details on how these should be used are provided on the Planning Portal website (https://auth.planningportal.co.uk/account/signin?ReturnUrl=%2fissue%2fwsfed%3fwa%3dwsignin1.0%26wtrealm%3dhttps%253a%252f%252f1app.planningportal.co.uk%252f%26wctx%3drm%253d0%2526id%253dpassive%2526ru%253d%25252flpahome%26wct%3d2016-11-10T11%253a12%253a07Z&wa=wsignin1.0&wtrealm=https%3a%2f%2f1app.planningportal.co.uk%2f&wctx=rm%3d0%26id%3dpassive%26ru%3d%252flpahome&wct=2016-11-10T11%3a12%3a07Z).

Template 1: Liability Notice (https://ecab.planningportal.co.uk/uploads/1app/forms/cil_template_1_liability_notice.doc)

A liability notice must be sent to all those parties who have assumed liability to pay the levy, following receipt of an assumption of liability form.

Template 2: Demand Notice (https://ecab.planningportal.co.uk/uploads/1app/forms/cil_template_2_demand_notice.doc)

A demand notice must be issued on commencement of development to all those parties who have assumed liability. It is important that charging authorities issue demand notices as soon as practicable once development has commenced. Failure to do so can result in delay to development and additional costs for developers.

Template 3: Default of Liability (https://ecab.planningportal.co.uk/uploads/1app/forms/cil_template_3_default_of_liability.doc)

A default of liability notice must be sent to all persons known as having a material interest in the land when the collecting authority has been unable to recover the outstanding levy charge in connection with the chargeable development.

Paragraph: 200 Reference ID: 25-200-20190901

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1. 1 September 2019 Updated to explain the Community Infrastructure Levy (Amendment) (England) (No. 2) Regulations 2019 which came into force on 1 September 2019.
2. 15 March 2019 Amended paragraphs 003, 008, 009, 011, 013, 014, 016-020, 038, 044, 081, 082, 093, 095, 097 and 106. Added new paragraph 176.
3. 22 March 2018 A revision has been made to Paragraph: 151.

4. 22 February 2018 The following paragraph has been added: 175 and these paragraphs have been amended: 002, 003, 139, 140, 149, 150 and 153.
5. 12 June 2014 First published.

Related content

- Community Infrastructure Levy review: report to government (https://www.gov.uk/government/publications/community-infrastructure-levy-review-report-to-government)
- Viability (https://www.gov.uk/guidance/viability)
- State aid: the basics (https://www.gov.uk/government/publications/state-aid-the-basics)
- Planning obligations (https://www.gov.uk/guidance/planning-obligations)
- Section 106 affordable housing requirements: review and appeal (https://www.gov.uk/government/publications/section-106-affordable-housing-requirements-review-and-appeal)

Detailed guidance

- Publish your developer contributions data (https://www.gov.uk/guidance/publish-your-developer-contributions-data)

Collection

- Planning practice guidance (https://www.gov.uk/government/collections/planning-practice-guidance)

Explore the topic

- Planning system (https://www.gov.uk/housing-local-and-community/planning-system)