



PINS NOTE 4/2014r2

To: All Inspectors

Date of Issue: 12 March 2014

Currency: review at 6 months after issue

Last updated: 23 June 2014 – Paragraph 3 updated to note that Community Infrastructure Levy Guidance has been published on the Planning Practice Guidance website, as a replacement for the standalone guidance (February 2014).

The Community Infrastructure Levy (Amendment) Regulations 2014

Action

1. Inspectors should be aware that the [Community Infrastructure Levy \(Amendment\) Regulations 2014](#) have been made and came into force on 24 February 2014. Transitional provisions¹ have been included, so that changes relating to the charge setting process will not apply to authorities who have already published a draft charging schedule.
2. The changes introduced by the regulations are:
 - Authorities are required to strike an appropriate balance between the funding of infrastructure from the levy and the potential effects of the levy on the viability of the development;
 - Authorities are allowed to set differential rates by reference to the proposed size of development, or the proposed number of units or dwellings;
 - If an authority prepare a draft list of the infrastructure intended to be funded through the levy, it must be used to inform their charging schedule;
 - Extends the transition period for the further limitations on the use of pooled planning obligations from April 2014 to April 2015;
 - Agreements under s278 of the Highways Act 1980 cannot be used to fund infrastructure which is earmarked to be funded by the levy;

¹ See Regulation 14.

- Charging authorities can accept payments in kind through the provision of infrastructure on or off site for the whole or part of the levy;
- The provisions for phasing levy payments have been extended to all types of planning permission;
- The range of existing buildings to which a credit against the levy can be applied, has been extended;
- Levy charges paid in relation to a development that has begun but not completed, can be credited against development on the same site;
- Rental housing provided at no more than 80% of market rent will be eligible for social housing relief. Communal development (ie stairs, common rooms, car parking) also benefit from social housing relief;
- The requirements relating to discretionary relief for exceptional circumstances have been amended. There will no longer be a requirement for the cost of complying with the linked planning obligation to be greater than the relevant chargeable amount;
- The introduction of exemptions for people building or extending their own homes;
- Where planning permission is obtained after development has commenced, an application to review and appeal the chargeable amount can be made;

3. On 12th June 2014, DCLG added [CIL guidance](#) to the Planning Practice Guidance website, as a replacement for the standalone guidance published in February 2014. The guidance sets out the main procedures local authorities need to follow when introducing and operating CIL and also explains the changes made by the CIL Amendment Regulations 2012, 2013 and 2014. However there are minor changes since the February 2014 version:

- Clarification around the operation of reg 128A in respect of transitional arrangements for section 73 applications
- Reference to local authorities giving consideration to setting differential rates in respect of alternative models of social housing provision
- Reference to how instalment policies can assist viability and delivery of development within the buy to let sector
- Clarification around how the restriction on the pooling of planning obligations relates to staged section 106 payments.

Background

4. During Spring 2013, the Government consulted on a number of proposals to amend the legislation², particularly in relation to rate setting and the operation of the levy in practice. [The Government's response to the consultation](#) was published in October 2013, stating that amending legislation would be progressed and the guidance document updated, by the end of January 2014.
5. PINS Note 41/2013 is cancelled.
6. Please contact XXXX if you have any queries on this Note.

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Acting Chief Planning Inspector

² The Community Infrastructure Levy Regulations 2010, as amended.