

PLANNING

AN314 - Planning: Community Infrastructure Levy

See the Planning Act 2008, Part 11 (sections 205-225), the Community Infrastructure Levy Regulations 2010 (SI 2010 No 948) (as much amended) and the Town and Country Planning Act 1990, section 106.

Part 11 of the Planning Act 2008 makes provision for the Community Infrastructure Levy (CIL). This is a charge or tax on development, calculated on a rate per square metre of floorspace. The levy is to help deliver infrastructure to support the development of the areas, such as roads, schools, medical and recreational facilities. The detail of the levy is implemented by the CIL Regulations 2010 (SI 2010 No 948). A local planning authority is a charging authority (s.206(2) of the 2008 Act). If it chooses to set a CIL charge, it must issue a charging schedule setting rates or other criteria by reference to which the amount of CIL which is chargeable in respect of development in its area is to be determined (s.211). There are some exemptions and reliefs from CIL. Liability for payment of the charge is triggered by the commencement of development - unless the charging authority has a payment by instalments policy.

Importantly for local councils, the 2010 regulations have been amended (by SI 2013 No 982) so they require a charging authority to pass a proportion of the CIL receipts to local councils within whose area the chargeable development is taking place. In England, this proportion is 25% of the relevant CIL receipts if there is a neighbourhood development plan in place - or if permission was granted by a neighbourhood development order made under s.61E or s.61Q of the Town and Country Planning Act 1990 (see Neighbourhood Planning, beginning at paragraph G493 below). In any other case the proportion of the CIL receipts which the charging authority must pass to the local council is reduced to 15%. For community councils in Wales the proportion is 15% of the relevant CIL receipts. The total amount of CIL receipts is subject to a cap in each financial year, except where there is a neighbourhood plan in place where the amount will not be subject to an annual limit. See regulation 59A of the 2010 regulations.

Regulation 59D sets out when the payment must be made to the local council. This can be in accordance with a timetable agreed between the charging authority and the local council. In all other cases the charging authority must make payment in respect of the CIL it receives from:

1 April to 30 September in any financial year to the local council by 28 October of that financial year

- 1 October to 31 March in any financial year to the local council by 28 April of the following financial year

A local council's share of CIL receipts can be spent on a wider range of things than the rest of CIL, if it meets the requirement to 'support the development of the area', or any part of that area, by funding (see regulation 59C for details):

- The provision, improvement, replacement, operation or maintenance of infrastructure
- Anything else concerned with addressing the demands that development places on an area (regulation 59C)

There are provisions enabling the charging authority to recover CIL receipts which have been passed to local councils where the council has not applied the money to support the development of its area within

five years of receipt or has applied them otherwise than in accordance with regulation 59C (regulation 59E).

Guidance on the CIL published by MHCLG in June 2014 and updated in July 2022.