

# Caerphilly County Borough Community Infrastructure Levy

## Guidance Note 3 Social Housing Relief Policy

Takes Effect From 1<sup>st</sup> July 2014

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## **PREFACE**

Caerphilly County Borough Council formally approved its Community Infrastructure Levy Charging Schedule (Charging Schedule) on 10 June 2014.

The Charging Schedule will take effect from 1 July 2014. This means that any planning application that is determined after that date will be subject to the provisions of the Charging Schedule.

This document is supplementary to the CIL Charging Schedule and sets out guidance on how the Council will apply Social Housing Relief to CIL chargeable development.

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### **3.1 Background**

- 3.1.1 Development that incorporates social housing, as defined by Regulation 49 of the CIL Regulations, is entitled to relief from CIL on the social housing element of the development. This form of relief is termed Mandatory Social Housing Relief.
- 3.1.2 Development that incorporates social housing, as defined by either Regulation 49A or 49C of the CIL Regulations, may be subject to relief from CIL on the social housing element at the discretion of the Charging Authority. This form of Relief is termed Discretionary Social Housing Relief.

### **3.2 Mandatory Social Housing Relief (Regulation 49)**

- 3.2.1 Regulation 49 of the Community Infrastructure Levy Regulations (2010) (as amended) sets out the conditions that must be met for a dwelling to be considered as social housing. In Caerphilly county borough, any dwelling that complies with the definition of Affordable housing as set out in Technical Advice Note 2: Planning and Affordable Housing is entitled to social housing relief.
- 3.2.2 In accordance with the CIL Regulations the Council will make available relief from CIL for social housing, as set out in Regulation 49, available to all qualifying developments.

### **3.3 Discretionary Social Housing Relief (Regulations 49A to 49C)**

- 3.3.1 Regulations 49A to 49C of the CIL Regulations make provision for the council to grant relief from CIL for social housing in qualifying developments that accord with definitions set out in Regulations 49A and 49C. This relief is granted at the discretion of the Council, although if the council chooses to grant such relief, it must be made available to all qualifying developments.
- 3.3.2 In accordance with the CIL Regulations the Council will make available discretionary relief from CIL for social housing, as defined by Regulations 49A and 49C, for all qualifying developments.

### **3.4 Process for claiming Social Housing Relief**

- 3.4.1 Regulation 51 of the Community Infrastructure Levy Regulations (2010) (as amended) sets out the procedures for claiming mandatory and discretionary social housing relief. It is important to note that unless these procedures are rigorously followed, development will cease to be eligible for social housing relief and/or claims for social housing relief will lapse.
- 3.4.2 In order to benefit from social housing relief, the person / organisation claiming social housing relief must:
  - 1. have assumed liability to pay CIL, through the submission to the Council of a CIL Assumption of Liability form, prior to the commencement of the chargeable development; and
  - 2. be an owner of the relevant land.
- 3.4.3 The claim must:
  - 1. be submitted to the Council on a CIL Claiming Exemption or Relief form, prior to commencement of the chargeable development; and

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2. include a relief assessment that identifies on a map the location of the dwellings to which social housing relief applies, sets out the gross internal area of each of the dwellings, and includes a calculation of the amount of social housing relief claimed.

3.4.4 If the chargeable development is commenced before the Council has notified the person / organisation claiming social housing relief of its decision, then the claim for social housing relief will lapse.

3.4.5 In addition, development will cease to be eligible for social housing relief if any of the following apply:

1. The Council has not received a CIL Commencement Notice prior to commencement of the chargeable development; or
2. The Council has received a Withdrawal of Assumption of Liability form from the claimant prior to commencement of the chargeable development; or
3. The Council has received a Transfer of Assumed Liability form prior to commencement of the chargeable development. (In this case a new claim for social housing relief can be made provided that it is made and determined prior to commencement of the chargeable development).

### **3.5 Summary**

3.5.1 In summary, to benefit from social housing relief the relevant person / organisation must be an owner of the land, must have assumed liability to pay CIL and must have submitted their claim for relief, and received the Council's determination, prior to commencing the chargeable development.

3.5.2 They must also have submitted a CIL Commencement Notice to the Council and not withdrawn or transferred liability to pay CIL, prior to commencement of the chargeable development.

3.5.3 The Social Housing Relief only applies in cases where the persons liable for paying CIL have complied with all the relevant regulations and requirements. These requirements are set out in Appendix 1.

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### Examples of how Social Housing Relief is calculated

The following examples show how Social Housing Relief will be calculated. Scenario 2 deals with how existing floorspace is taken account of in calculating Social Housing Relief.

#### Scenario 1

A residential development of 4,000m<sup>2</sup> Gross Internal Area (GIA) on a cleared site in the Higher Viability Zone is granted planning permission.

The residential CIL rate in the Higher Viability Zone is £40 per m<sup>2</sup>; therefore the CIL liability is £160,000.

Prior to the commencement of the development, the Council receives a claim for 950m<sup>2</sup> of Social Housing Relief.

The calculation of the revised CIL liability is as follows:

Process 1 – Deduct the GIA eligible for relief from the total GIA

The total GIA (4,000m<sup>2</sup>) – the GIA eligible for relief (950m<sup>2</sup>) = 3,050m<sup>2</sup>

Process 2 – Recalculate the CIL liability

3,050m<sup>2</sup> x £40m<sup>2</sup> = **Revised CIL liability of £122,000**

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### Scenario 2

A residential development of 4,000m<sup>2</sup> GIA in the Higher Viability Zone is granted planning permission.

It is on a site currently occupied by a house in lawful use comprising 125m<sup>2</sup> GIA, which is to be demolished.

The residential CIL rate in the Higher Viability Zone is £40m<sup>2</sup>. The existing floor-space is deducted from the CIL liability because it is in lawful use, giving a CIL chargeable area of 3,875m<sup>2</sup>, and a CIL liability of £155,000.

Prior to the commencement of the development, the Council receives a claim for 950m<sup>2</sup> of Social Housing Relief.

It is tempting to multiply the floor area of the social housing units (950m<sup>2</sup>) by the rate of the CIL charge (£40m<sup>2</sup>) to determine the amount of relief and then deduct this from the total CIL liability calculated before relief was considered, to obtain the final liability, as was the case in Scenario 1. However, that would be wrong because there is demolition to consider and just as the demolished floor area reduced the total CIL liability, it also produces a pro rata reduction in the amount of Social Housing Relief.

The calculation of the revised CIL liability is as follows:

Process 1 – Calculate what percentage of the total GIA the discounted GIA comprises  
Discounted GIA (125m<sup>2</sup>) / total GIA (4,000m<sup>2</sup>) x 100 = 3.125%

Process 2 – Calculate 3.125% of the GIA claim for Social Housing Relief to ascertain the level of GIA to be deducted from the relief claim  
GIA claim for Social Housing Relief (950m<sup>2</sup>) / 100 x 3.125 = 30m<sup>2</sup>

**Note:** the above figure of 30m<sup>2</sup> has been rounded to the nearest square metre.

Process 3 – Calculate the revised GIA of the relief claim  
Relief claim (950m<sup>2</sup>) – pro rata deduction (30m<sup>2</sup>) = 920m<sup>2</sup>

Process 4 – Deduct the GIA eligible for relief from the total chargeable area  
Total chargeable area (3,875m<sup>2</sup>) – GIA eligible for relief (920m<sup>2</sup>) = 2,955m<sup>2</sup>

Process 5 – Recalculate the CIL liability  
2,955m<sup>2</sup> x £40 per m<sup>2</sup> = **Revised CIL liability of £118,200**

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### Scenario 3

A social housing residential development of 2,000m<sup>2</sup> GIA on a cleared site in the Higher Viability Zone is granted planning permission.

The developer is a housing association.

The residential CIL rate in the Higher Viability Zone is £40m<sup>2</sup>; therefore the CIL liability is £80,000.

Prior to the commencement of the development, the Council receives a claim for 2,000m<sup>2</sup> of Social Housing Relief, as the whole of the development will be social housing.

Consequently Social Housing Relief is granted on the whole development and the CIL liability is reduced to £0.

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### **APPENDIX 1**

#### **CIL Social Housing Relief Policy Guidance Note**

Regulation 51 of the Community Infrastructure Levy Regulations 2010 as amended by the Amendment Regulations 2014 sets out the requirements that must be complied with in order to benefit from social housing relief.

The CIL social housing relief policy will only apply in the following circumstances:

1. Where the Council has received a CIL Claiming Social Housing Relief Form prior to commencement of the chargeable development (Regulation 51(3)(a)), and
2. Subject to Paragraph 4(a), Where the Council has received a CIL Commencement Notice prior to commencement of the chargeable development (Regulation 51(3)(b))

If either of the above requirements are not complied with, the total CIL liability will become payable within 60 days of the commencement of the chargeable development. In addition, surcharges may apply due to the CIL Assumption of Liability Form and / or the CIL Commencement Notice not being submitted to the Council prior to the commencement of the chargeable development.

In summary, to benefit from the CIL Social Housing Relief Policy, the relevant forms must be submitted to the Council prior to the commencement of the chargeable development.