

# The latest changes to the Community Infrastructure Levy

December 3, 2019

The Community Infrastructure Levy Regulations 2010 allow local authorities to charge a community infrastructure levy (CIL) on new developments to raise money to fund local infrastructure. The latest changes to those regulations came into effect on 1 September 2019 under the Community Infrastructure Levy (Amendment) (England) (No. 2) Regulations 2019.

The changes, which are largely uncontroversial, are summarised in Box 1 below. They are aimed at extracting more value from land, more quickly, and ensuring local communities are aware of the levy.

For example, penalties are more proportionate: a failure to notify a start on site will no longer invalidate exemptions and reliefs. Outline permissions granted after 1 September 2019 will no longer be exposed to CIL rate changes between grant of permission and reserved matters approval. Indexation is clearer and more certain. Communication is better: the published data will allow the developer contribution to affordable housing funding to be better understood.

## **But note that these changes:**

- Make it harder to withdraw from the CIL – withdrawal will require a consultation and explanation of how to replace lost infrastructure;
- Also delete the restrictions on “pooling” section 106 contributions and using section 106 for CIL items. This allows tariff-style section 106 charging to return, alongside CIL, as a value capture tool;
- Do not deal with all the current issues with the CIL. More reform will be needed, including those changes set out in Box 2.

## CIL changes at a glance (from 1 September 2019)

- New section 106 monitoring fees power
- Pooling and double-dipping restrictions removed
- Infrastructure funding statements required from 2020 (annual reporting on developer contributions, spending and CIL rates)
- Commencement notice penalties diluted
- Indexation arrangements clarified – RICS CIL Index from 2020
- Section 73 changes – balancing and indexation fixes, easing of relief arrangements
- Starter homes exemption clarified

- Charging schedule consultations reduced to one round with no mandatory timeframe
- Consultation where CIL is dropped
- Enforcement process upgraded: bailiffs replaced with High Court enforcement officer process

## Further reforms needed

- CIL appeals to run where development is started
- Partial reviews of charging schedules (in line with the 2017 Budget) – provide flexibility to correct strategic site assumptions
- Authorities to borrow against CIL to forward infrastructure identified in local plans
- CIL agreements for major schemes, including works in kind arrangements
- CIL reviews to be triggered where high CIL rates are causing “red flag” failures (e.g. affordable housing yield)

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