



Peyto Law

Community Infrastructure Levy

The Department of Communities and Local Government has today (24 January 2008) published new guidance explaining how the Community Infrastructure Levy (CIL) will work in practice.

The guidance explains:

- how the CIL will be set;
- how the CIL will be spent;
- the future of planning obligations;
- how, when and by whom CIL will be paid; and
- the approach to exemptions and thresholds.

The Planning Bill indicates that purpose of the CIL is to contribute to the costs of the infrastructure needed to support the development of an area. The Government believes that CIL should not be used for general local authority expenditure or remedy pre-existing deficiencies in infrastructure provision, unless these have been, or will in time be, aggravated by new development.

However, the guidance confirms that the Government expects the CIL to be levied on most types of development, both residential and commercial.

The CIL will be a standard charge decided by designated charging authorities and levied by them on new development. In setting the CIL, which will be "plan" led, authorities will need to undertake two main steps: identifying what infrastructure is needed and how much it will cost and working out what contribution each development should make to that cost.

Agreements under section 106 of the Town and Country Planning Act 1990 will be retained. However, where CIL has been implemented, section 106 agreements will primarily be required to:

- cover certain non-financial, technical or operational matters which cannot be dealt with outside the legal agreement framework;
- deal with the site-specific impacts that their development will have on the immediate area and without the mitigation of which the development ought not to be given planning permission; and

- ensure that there is sufficient affordable housing

The Government envisages that the CIL will be payable at the point of commencement of development and is proposing that both landowners and developers could be liable for the CIL (because of difficulties in collecting the levy from landowners where the land is unregistered or where the owner is based offshore).

Additionally, the Government has indicated that a failure to pay the CIL could result in a legal requirement to halt development.

Finally, the Planning Bill includes a power to create criminal offences surrounding the CIL. The guidance indicates that offences could apply in circumstances where a person has deliberately acted (perhaps by supplying misleading information), or has deliberately failed to act, with the intention of evading a CIL liability, or obstructing a public authority in relation to CIL.

The Government aims to consult on draft regulations in Autumn 2008, with a view to finalising them in Spring 2009.

Further Information

For further information on this topic or any local government law related matter please contact:

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This briefing note is intended merely to provide a summary of the law in this area and is not a comprehensive guide. It is not intended to provide legal advice for specific cases.