

Community Infrastructure Levy A Guide to Social Housing Relief

Introduction

East Cambridgeshire District Council introduced the Community Infrastructure Levy ('CIL') on 1 February 2013. CIL is a levy that is charged on most new development in the District. The money raised through this levy will be used to fund strategic infrastructure required to support development in the District. The Community Infrastructure Levy Regulations 2010 (as amended) ('the Regulations') provides that development that incorporates social housing is entitled to mandatory relief from CIL on the social housing element of the development.

Definition of Social Housing

Regulation 49 states; social housing relief applies where at least one of the following four conditions is met:

Condition 1

The dwelling is let by a local housing authority on one of the following:

- a) A demoted tenancy;
- b) An introductory tenancy;
- c) A secure tenancy;
- d) An arrangement that would be a secure tenancy but for paragraph 4ZA or 12 of Schedule 1 to the Housing Act 1985 (a).

Condition 2 is that all the following criteria are met:

- a) The dwelling is occupied in accordance with shared ownership arrangements within the meaning of section 70(4) of the Housing and Regeneration Act 2008(b);
- b) The percentage of the value of the dwelling paid as a premium on the day on which a lease is granted under the shared ownership arrangement does not exceed 75 per cent of the market value (where the market value at any time is the price which the dwelling might reasonably be expected to fetch if sold at that time on the open market);
- c) On the day on which a lease is granted under the shared ownership arrangements, the annual rent payable is not more than three per cent of the value of the unsold interest; and
- d) In any given year the annual rent payable does not increase by more than the percentage increase in the retail price index for the year to September immediately preceding the anniversary of the day on which the lease was granted plus 0.5 per cent.

Condition 3 is that:

- a) The dwelling is let by a private registered provider of social housing on one of the following:
 - i) An assured tenancy (including an assured shorthold tenancy);
 - ii) An assured agricultural occupancy;
 - iii) An arrangement that would be an assured tenancy or an assured agricultural occupancy but for paragraph 12(1)(h) or 12ZA of Schedule 1 to the Housing Act 1988(c);
 - iv) A demoted tenancy; and

- b) One of the criteria described below is met

The criteria:

- a) The rent is-
- i) Subject to the national rent regime, and
 - ii) Regulated under a standard controlling rents set by the Regulator of Social Housing under section 194 of the Housing and Regeneration Act 2008;
- b) The rent is-
- i) Not subject to the national rent regime;
 - ii) Not regulated under a standard controlling rents set by the Regulator of Social Housing under section 194 of the Housing and Regeneration Act 2008; and
 - iii) No more than 80 per cent of market rent;
- c) The rent is-
- i) Not subject to the national rent regime; and
 - ii) Regulated under a standard controlling rents set by the Regulator of Social Housing under section 194 of the Housing and Regeneration Act 2008 which requires the initial rent to be no more than 80 per cent of the market rent of the property (including service charges).

Condition 4 only applies to development in Wales.

A claimant for social housing relief must provide evidence that the development qualifies for social housing relief. The Regulations provide that where dwellings are no longer meeting these requirements the levy must be paid.

Process for Claiming Social Housing Relief

Regulation 51 sets out the procedure for claiming social housing relief. Unless these procedures are followed, a development will cease to be eligible for social housing relief.

The claimant must:

1. Assume liability to pay CIL by submitting Form 1: Assumption of Liability (available on the Council's website) **prior to the commencement of development**; and
2. Have a material interest in the relevant land

The claim for social housing relief must:

1. Be submitted to the Council on Form 2: Claiming Exemption or Relief (available on the Council's website) **prior to the commencement of development**; and
2. Include a relief assessment that identifies, on a plan, 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 is claimed; and
3. Include a copy of the signed Section 106 Agreement that secures the provision of the social housing

Development will cease to be eligible for social housing relief if:

1. The Council has not received Form 6: Commencement Notice (available of the Council's website) **prior to commencement of development**;

2. The Council has received a withdrawal of assumption of liability from the claimant prior to the commencement of development; or
3. The Council has received a transfer of assumed liability form prior to commencement of development

If the development commences prior to the Council notifying the claimant of their decision, the claim for social housing relief will lapse.

Withdrawal of Social Housing Relief

Social housing relief can be withdrawn for any qualifying dwelling where a disqualifying event occurs up to seven years from the commencement of development ('clawback period'). The relief for that dwelling must be paid by the beneficiary of relief.

The occupant of the dwelling will never pay the clawback, liability falls on the owner of the land immediately prior to the dwelling being made available for occupation.

Where a disqualifying event occurs prior to the commencement of development, social housing relief will cease to apply.

A disqualifying event is any change to a qualifying dwelling causing it to no longer qualify for social housing relief, e.g. by selling the dwelling to a private owner on the open market. However, the sale of a qualifying dwelling is not a disqualifying event if the proceeds of sale are spent on a qualifying dwelling. Transferring the sale proceeds to the Secretary of State, a local housing authority or the Homes and Communities Agency are also not classed as a disqualifying event. Disqualifying events do not include the purchase of social housing by the Regulator of Social Housing.

Where a disqualifying event occurs, the beneficiary of the relief on the dwelling concerned must inform the Council in writing within 14 days. Where this is not done, a surcharge equal to the lesser amount of 20 per cent of the chargeable amount or £2,500 may be applied. The notification must include the area of floorspace which is no longer eligible and a plan locating its position in the development.

The Council will calculate what clawback is payable, and notify the beneficiary in writing of the withdrawn amount and how this has been calculated. Alongside this, a new liability notice will be issued and a demand notice will be served to collect the clawback relief. This will be done even if the development has completed.

Further details

More information about CIL and links to the Regulations and guidance documents can be found on the East Cambridgeshire District Council Website:

<http://www.eastcambs.gov.uk/planning/community-infrastructure-levy>

Please contact Emma Grima, Infrastructure Programme Manager, if there are any queries-
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