

Caerphilly County Borough  
Community Infrastructure Levy

# Guidance Note 4 Charitable 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 Charitable Relief to CIL chargeable development.

## **Community Infrastructure Levy Guidance Note 4: Charitable Development Relief**

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### **4.1 Background**

4.1.1 Certain types of charitable development are entitled to an exemption from CIL. This guidance note identifies those types of development that qualify for exemption, provides information regarding the process for claiming charitable relief, and sets out examples of how it is to be calculated.

### **4.2 Definition of Charitable Development Entitled to Mandatory Relief**

4.2.1 Regulation 43 of the Community Infrastructure Levy Regulations 2010 (as amended) sets out the conditions that must be met for a charitable development to be entitled to mandatory relief from CIL. These are:

1. The owner must be a charitable institution (i.e. a charity, or a trust of which all the beneficiaries are charities, or a unit trust scheme in which all the unit holders are charities); and
2. The chargeable development must be used wholly or mainly for charitable purposes and it must be occupied by or under the control of a charitable institution; and

4.2.2 Relief under Regulation 43 does not apply, however, where:

1. Part of the exempted development would be not be occupied or under the control of a charitable institution, or
2. The material interest is owned jointly, with one or more owners not being a charitable institution, or
3. The granting of mandatory relief would constitute a state aid.

### **4.3 Discretionary Charitable Relief**

4.3.1 The CIL Regulations also make provision for a Charging Authority (the council) to grant relief from CIL for certain charitable developments. Such relief is offered at the discretion of the Charging Authority, and is not granted as a matter of right.

4.3.2 Regulation 44 makes provision for the council to grant relief from CIL for qualifying charitable investment developments. Such relief can be offered to the owner of a development if:

- (a) The council is granting such relief; and
- (b) The owner is a charitable institution; and
- (c) the whole or the greater part of the chargeable development will be held by C or by C and other charitable institutions as an investment from which the profits will be applied for charitable purposes (whether of C or of C and other charitable institutions).

4.3.3 Discretionary Relief under Regulation 44 does not apply, however, where:

- (a) The owner will use the development for activities other than the sale of goods where the proceeds are applied to the charitable purpose, or
- (b) The material interest is owned jointly, with one or more owners not being a charitable institution.

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- 4.3.4 The council will grant discretionary relief from CIL for qualifying charitable investment developments under Regulation 44.
- 4.3.5 Regulation 45 makes provision for the council to grant relief from CIL for qualifying charitable developments where:
- (a) the exemption of a charitable institution from liability to pay CIL in respect of a chargeable development would constitute a State aid; and
  - (b) the charitable institution would otherwise be exempt from liability in respect of that development under regulation 43 (mandatory relief).
  - (c) discretionary charitable relief is available in the area in which the chargeable development will be situated; and
  - (d) the collecting authority is satisfied that the aid in question does not need to be notified to and approved by the European Commission.
- 4.3.6 The council will grant discretionary relief from CIL for qualifying charitable developments under Regulation 45.

### **4.4 Process For Claiming Mandatory Charitable Relief**

4.4.1 Regulation 47 of the Regulations sets out the procedures for claiming charitable relief:

- The charitable institution claiming relief must submit a claim to the Council on a CIL Claiming Exemption or Relief form, prior to commencement of the chargeable development.
- if the chargeable development is commenced before the Council has notified the charitable institution of its decision; the claim for relief will lapse.
- development will cease to be eligible for charitable relief if the Council has not received a CIL Commencement Notice prior to commencement of the chargeable development.

4.4.2 If these procedures are not rigorously followed, development will cease to be eligible for charitable relief and/or claims for charitable relief will lapse.

### **4.5 Examples of how charitable relief is calculated**

#### **Scenario 1**

A charitable institution gains planning permission for a supported housing residential development of 1,315 m<sup>2</sup> Gross Internal Area (GIA) on a cleared site in the Higher Viability Zone.

The residential CIL rate in the Higher Viability Zone is £40m<sup>2</sup>; therefore the CIL liability is £52,600.

Prior to the commencement of the development, the Council receives a claim for charitable relief.

The Council grants mandatory charitable relief because the tests in Regulation 43 are satisfied, and the CIL liability is reduced to £0.

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### **Scenario 2**

A charitable institution gains planning permission for a supported housing residential development of 1,315 square metres GIA, and a retail unit (which will be occupied by the charitable institution) of 75m<sup>2</sup> GIA on a cleared site in the Higher Viability Zone.

The residential CIL rate in the Higher Viability Zone is £40m<sup>2</sup> and the retail CIL rate is £100m<sup>2</sup>, therefore the total CIL liability is £60,100 (i.e. Residential liability of £52,600 + Retail liability of £7,500).

Prior to commencement of the development, the Council receives a claim for charitable relief.

The Council grants charitable relief for the residential element because the tests in Regulation 43 are satisfied, but does not grant charitable relief for the retail element because that is classed as an investment activity and the Council is not offering discretionary charitable relief for investment activity.

Consequently the CIL liability is reduced to £7,500 (i.e. the retail liability)

### **4.6 CIL Charitable Development Relief Policy Guidance Note**

- 4.6.1 Regulation 43 of the Community Infrastructure Levy Regulations 2010 (as amended) sets out the requirements that must be complied with in order to benefit from charitable development relief.
- 4.6.2 The CIL Charitable Development Relief Policy will only apply in the following circumstances:
1. Where the Council has received a CIL Claiming Charitable Development Relief Form prior to commencement of the chargeable development (Regulation 47(2)(a)), and
  2. Where the Council has received a CIL Commencement Notice prior to commencement of the chargeable development (Regulation 51(3)(b))
- 4.6.3 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.
- 4.6.4 In summary, to benefit from the CIL Charitable Development Relief Policy, the relevant forms must be submitted to the Council prior to the commencement of the chargeable development.