

Community Infrastructure Levy (CIL)

Spending and Reporting: A Guide to the Regulations

The CIL Regulations: Explanatory Note

Regulation 59A places a duty on charging authorities to pass some Levy funds to local councils where some or all of a chargeable development takes place in an area for which there is a parish or community council. Regulation 59A(8) sets out the proportion of the Community Infrastructure Levy raised in relation to a development that regulation 59A applies to. Regulation 59A applies to the proportion of Community Infrastructure Levy raised equal to the proportion of the gross internal area of the development in the area of the relevant local council.

In England, where there is a neighbourhood development plan in place, or permission was granted by a neighbourhood development order (including by a community right to build order), the charging authority must pass 25% of Community Infrastructure Levy funds to the parish councils in whose area the chargeable development takes place. Where there is no neighbourhood development plan this amount is 15%, subject to a cap of £100 per household in the parish council area per year. Parish or community councils have the discretion to decide that some or all of these funds should remain with the charging authority.

Regulation 59A(8) provides for where development crosses local council boundaries, so that the funds are split proportionally between the local councils. Regulation 59A(9) and (10) makes similar provision for when some of a development is granted permission by a neighbourhood development order, or is in an area for which there is a neighbourhood plan, and some is not.

Regulation 59B sets out how the duty in regulation 59A applies where the charging authority accepts a land payment.

On receipt of the funds, parish and community councils have wider spending powers than charging authorities, under regulation 59C.

Regulation 59D sets out a default provision for when payments are to be made to local council in the absence of an agreement with the charging authority.

Under regulation 59E the charging authority is able to recover funds from the local council in certain circumstances. That is if the local council has not applied the Community Infrastructure Levy to support the development of its area within 5 years of receipt or has applied the Levy otherwise than in accordance with regulation 59C. When Levy receipts are recovered from a local council, the charging authority must use those funds to support development in the area of that local council.

Regulation 59F makes provision for where the duty in regulation 59A does not apply, namely where a chargeable development (or part of a development) takes place in an area for which there is not a parish or community council. In that case, the charging authority

has wider spending powers in relation to those parts of its area for which there is not a parish or community council. Those powers are the same as those given to parish or community councils, and apply to those funds that would have been passed on had the development taken place in an area for which there is a parish or community council.

See the Council's [CIL Governance Framework](#) for further details in relation to spending and reporting for the Levy.

Relevant extracts from the CIL Regulations 2010 (as amended up to and including 2018)

Application to infrastructure

59. (1) A charging authority must apply CIL to funding the provision, improvement, replacement, operation or maintenance of infrastructure to support the development of its area.
- (2) CIL applied by the Mayor to funding infrastructure must be applied to funding the provision, improvement, replacement, operation or maintenance of roads or other transport facilities, including, in particular, funding for the purposes of, or in connection with, scheduled works within the meaning of Schedule 1 to the Crossrail Act 2008¹.
- (3) A charging authority may apply CIL to funding the provision, improvement, replacement, operation or maintenance of infrastructure outside its area where to do so would support the development of its area.
- (4) For the purposes of this regulation, any reference to applying CIL includes a reference to causing it to be applied, and includes passing CIL to another person for that person to apply to funding the provision, improvement, replacement, operation or maintenance of infrastructure.
- (5) This regulation is subject to regulations 59A, 59E, 59F, 60 and 61.

Duty to pass CIL to local councils

- 59A. (1) This regulation applies to that part of a chargeable development within the area of a local council.
- (2) Subject to paragraph (12) and regulation 59E(5) a charging authority, other than the Mayor, must pass to every local council within its area a proportion of CIL receipts calculated in accordance with this regulation and regulation 59B.
- (3) In England, where all or part of a chargeable development is within an area that has a neighbourhood development plan in place the charging authority must pass 25 per cent of the relevant CIL receipts to the parish council for that area.
- (4) In England, where all or part of a chargeable development—
- (a) is not in an area that has a neighbourhood development plan in place; and
 - (b) was granted permission by a neighbourhood development order made under section 61E or 61Q² (community right to build orders) of TCPA 1990, the charging authority must pass 25 per cent of the relevant CIL receipts to the parish council for that area.
- (5) In England, where all or part of a chargeable development—
- (a) is not in an area that has a neighbourhood development plan in place; and
 - (b) was not granted planning permission by a neighbourhood development order made under section 61E or 61Q (including a community right to build orders) of TCPA1990, then, subject to paragraph (7), the charging authority

¹ 2008 c.18

² Sections 61E and 61Q were inserted by paragraph 2 of Schedule 9 to the Localism Act 2011 (c. 20).

must pass 15 percent of the relevant CIL receipts to the parish council for that area.

(6) In Wales, where all or part of a chargeable development is within the area of a community council then, subject to paragraph (7), the charging authority must pass 15 per cent of the relevant CIL receipts to that community council.

(7) The total amount of CIL receipts passed to a local council in accordance with paragraph (5) or (6) shall not exceed an amount equal to £100 per dwelling in the area of the local council multiplied by I_A in each financial year.

(8) In paragraphs (3) to (6) the relevant CIL receipts are the proportion of CIL received in relation to a development equal to the proportion of the gross internal area of the development that is relevant development in the relevant area of the local council.

(9) In paragraph (8), the relevant area is—

(a) in relation to paragraph (3), that part of the parish council's area that has a neighbourhood development plan in place;

(b) in relation to paragraphs (4)(a) and (5)(a), that part of the parish council's area that does not have a neighbourhood development plan in place; and

(c) in relation to paragraph (6), the whole of the community council's area.

(10) In paragraph (8), the relevant development is—

(a) in relation to paragraphs (3) or (6), the whole of the development;

(b) in relation to paragraph (4)(b) that part of the development for which permission was granted by a neighbourhood development order made under section 61E or 61Q (community right to build orders) of TCPA 1990; and

(c) in relation to paragraph (5)(b) that part of the development for which permission was not granted by a neighbourhood development order made under section 61E or 61Q (community right to build orders) of TCPA 1990.

(11) In this regulation an area has a neighbourhood development plan in place in relation to a development, or part of a development, if—

(a) a neighbourhood development plan was made by a local planning authority in accordance with section 38A(4) of the Planning and Compulsory Purchase Act 2004 prior to the time at which planning permission first permits that development; and

(b) that neighbourhood development plan is extant in relation to the relevant area on the day when planning permission first permits that development.

(12) Where a local council notifies the charging authority in writing that it does not want to receive some or all of the CIL receipts that this regulation applies to before that CIL is paid to it, the charging authority must retain those CIL receipts.

Application of regulation 59A to land and infrastructure payments

59B. (1) Regulation 59A applies to land payments accepted by a charging authority in accordance with regulation 73(1) (payment in kind) and infrastructure payments accepted by a charging authority in accordance with regulation 73A(1) (infrastructure payments) as follows.

(2) For the purposes of regulation 59A(8), the CIL received in relation to a development includes the value of CIL that any land or infrastructure payments were accepted in satisfaction of.

(3) Any payments to a local council relating to a land or infrastructure payment must be paid to the local council in money.

Application of CIL by local councils

59C. A local council must use CIL receipts passed to it in accordance with regulation 59A or 59B to support the development of the local council's area, or any part of that area, by funding—

(a) the provision, improvement, replacement, operation or maintenance of infrastructure; or

(b) anything else that is concerned with addressing the demands that development places on an area.

Payment periods

59D. (1) This regulation applies where a charging authority is required to make a payment to a local council under regulation 59A or 59B.

(2) If the charging authority and the local council agree on a timetable for payment, the charging authority must pay the local council in accordance with that timetable.

(3) In all other cases, the charging authority must pay the local council in accordance with the following paragraphs.

(4) The charging authority must make payment in respect of the CIL it receives from 1st April to 30th September in any financial year to the local council by 28th October of that financial year.

(5) The charging authority must make payment in respect of the CIL it receives from 1st October to 31st March in any financial year to the local council by 28th April of the following financial year.

Recovery of CIL passed in accordance with regulation 59A or 59B

59E. (1) This regulation applies to CIL receipts received by a local council in accordance with regulation 59A or 59B that the local council—

(a) has not applied to support the development of its area within 5 years of receipt; or

(b) has applied otherwise than in accordance with regulation 59C.

(2) The charging authority may serve a notice on the local council requiring it to repay some or all of the CIL receipts that this regulation applies to.

(3) A notice under paragraph (2) will be valid if it contains the following information—

(a) the amount of CIL receipts to be repaid;

(b) the reasons for requiring those receipts to be repaid; and

(c) the date by which repayment is to be made which must be no earlier than 28 days from the day the notice is served.

- (4) On receipt of a valid notice the local council must send to the charging authority any CIL receipts it has not spent up to the value set out under sub-paragraph (3)(a) within the time set out under sub-paragraph (3)(c).
- (5) If the local council is unable to repay the full amount set out under sub-paragraph (3)(a) out of unspent CIL receipts, the charging authority must recover the rest of that amount out of future CIL receipts that it would otherwise have to pass to the local council in accordance with regulation 59A or 59B.
- (6) If the charging authority recovers CIL receipts in accordance with paragraph (5) it must serve a notice on the local council when those receipts would otherwise be passed to the local council stating—
- (a) the amount of CIL receipts recovered; and
 - (b) the amount of CIL receipts still to be recovered by the charging authority from the local council.
- (7) A charging authority may withdraw a notice served under paragraph (2) at any time and if it does so any unspent CIL receipts recovered under paragraph (4) or (5) in accordance with the withdrawn notice must be returned to the local council.
- (8) A charging authority and a local council may at any time vary the terms of a notice served under paragraph (2) by agreement.
- (9) Part 9 (enforcement) does not apply in relation to this regulation.
- (10) CIL receipts recovered under this regulation must be used by the charging authority to support the development of the area of the local council they are recovered from by funding—
- (a) the provision, improvement, replacement, operation or maintenance of infrastructure; or
 - (b) anything else that is concerned with addressing the demands that development places on an area.

Use of CIL in an area to which regulations 59A and 59B do not apply

- 59F. (1) This regulation applies where all or part of a chargeable development is in an area in relation to which regulations 59A and 59B do not apply.
- (2) This regulation applies to those CIL receipts that would have been passed to a local council under regulations 59A and 59B had that part of the chargeable development been within the area of a local council.
- (3) The charging authority may use the CIL to which this regulation applies, or cause it to be used, to support the development of the relevant area by funding—
- (a) the provision, improvement, replacement, operation or maintenance of infrastructure; or
 - (b) anything else that is concerned with addressing the demands that development places on an area.
- (4) In paragraph (3), “relevant area” means that part of the charging authority’s area that is not with the area of a local council.”

Reimbursement of expenditure incurred and repayment of loans

60. (1) A charging authority may apply CIL to reimburse expenditure already incurred on infrastructure.
- (2) Where a charging authority, other than the Mayor, has borrowed money for the purposes of funding infrastructure, it may apply CIL to repay that money, and any interest, if the conditions set out in paragraphs (4) and (5) are both met.
- (3) Where the Greater London Authority or a functional body has borrowed money for the purposes of funding infrastructure consisting of roads or other transport facilities, the Mayor may apply CIL to repay that money, and any interest, if the conditions set out in paragraphs (4) and (5) are both met.
- (4) Condition 1 is that the charging authority has collected CIL, or CIL has been collected on its behalf, for at least one full financial year before the date on which CIL is to be applied to repay the money.
- (5) Condition 2 is that the total amount to be applied in any one financial year does not exceed the relevant percentage of CIL collected by or on behalf of the charging authority in the preceding financial year.
- (6) For the purposes of paragraph (5), the relevant percentage is such percentage as the Secretary of State may direct or, in the absence of a direction, zero per cent.
- (7) A direction under paragraph (6)—
- (a) must be made in respect of authorities generally;
 - (b) must be in writing;
 - (c) may be substituted or revoked at any time, any substitution or revocation being made by a further direction in writing.
- (8) In this regulation “functional body” means—
- (a) Transport for London; or
 - (b) the London Development Agency.

Administrative expenses

61. (1) A charging authority may apply CIL to administrative expenses incurred by it in connection with CIL.
- (2) A collecting authority which collects CIL on behalf of a charging authority may apply that CIL to administrative expenses incurred by it in connection with that collection.
- (3) In relation to a charging authority which collects CIL charged by it—
- (a) in years one to three, the total amount of CIL that may be applied to administrative expenses incurred during those three years, and any expenses incurred before the charging schedule was published, shall not exceed five per cent of CIL collected over the period of years one to three;
 - (b) in year four, and each subsequent year, the total amount of CIL that may be applied to administrative expenses incurred during that year shall not exceed five per cent of CIL collected in that year.
- (4) In relation to a collecting authority which collects CIL on behalf of a charging authority—
- (a) in years one to three the total amount of CIL that may be applied to administrative expenses incurred in connection with that collection during those three years, and any expenses incurred before the charging schedule

was published, shall not exceed four per cent of CIL collected on behalf of the charging authority over the period of years one to three;

(b) in year four, and each subsequent year, the total amount of CIL that may be applied to administrative expenses incurred in connection with that collection during that year shall not exceed four per cent of CIL collected on behalf of the charging authority in that year.

(5) In relation to a charging authority which does not collect CIL charged by it—

(a) in years one to three the total amount of CIL that may be applied to administrative expenses incurred during those three years, and any expenses incurred before the charging schedule was published, shall not exceed the relevant percentage of CIL collected over the period of years one to three;

(b) in year four, and each subsequent year, the total amount of CIL that may be applied to administrative expenses incurred during that year shall not exceed the relevant percentage of CIL collected in that year.

(6) In paragraph (5) the relevant percentage is five per cent less any CIL which is applied by the collecting authority pursuant to paragraph (4).

(7) For the purposes of this regulation reference to CIL collected in a year includes the value of acquired land acquired by virtue of a land payment made in that year.

(7A) For the purposes of this regulation reference to CIL collected in a year includes the value of infrastructure provided, or to be provided, by virtue of an infrastructure payment accepted in that year.

(8) In this regulation—

(a) year one begins on the date on which the charging authority's first charging schedule takes effect³ and ends at the end of the first subsequent full financial year;

(b) years two to four are the consecutive financial years that follow; and

(c) in relation to a collecting authority, the reference to a charging authority in this paragraph is a reference to the charging authority on behalf of whom CIL is collected.

Reporting

62. (1) A charging authority must prepare a report for any financial year ("the reported year") in which:

(a) it collects CIL, or CIL is collected on its behalf; or

(b) an amount of CIL collected by it or by another person on its behalf (whether in the reported year or any other) has not been spent.

(2) Nothing in paragraph (1) requires an authority to prepare a report about CIL which it collects on behalf of another charging authority.

(3) For the purposes of paragraph (1), CIL collected by a charging authority includes land payments made in respect of CIL charged by that authority, and CIL collected by way of a land payment has not been spent if at the end of the reported year—

(a) development within the meaning in TCPA 1990 consistent with a relevant purpose has not commenced on the acquired land; or

³ See section 214 of the Planning Act 2008 and regulation 28.

(b) the acquired land (in whole or in part) has been used or disposed of for a purpose other than a relevant purpose; and the amount deemed to be CIL by virtue of regulation 73(9) has not been spent.

(3A) For the purposes of paragraph (1), CIL collected by a charging authority includes infrastructure payments made in respect of CIL charged by that authority, and CIL collected by way of an infrastructure payment has not been spent if at the end of the reported year the infrastructure to be provided has not been provided.

(4) The report must include—

(a) the total CIL receipts for the reported year;
(b) the total CIL expenditure for the reported year;
(c) summary details of CIL expenditure during the reported year other than in relation to CIL to which regulation 59E or 59F applied including—

- (i) the items of infrastructure to which CIL (including land payments) has been applied,
- (ii) the amount of CIL expenditure on each item,
- (iii) the amount of CIL applied to repay money borrowed, including any interest, with details of the infrastructure items which that money was used to provide (wholly or in part),
- (iv) the amount of CIL applied to administrative expenses pursuant to regulation 61, and that amount expressed as a percentage of CIL collected in that year in accordance with that regulation;

(ca) the amount of CIL passed to—

- (i) any local council under regulation 59A or 59B; and
- (ii) any person under regulation 59(4);

(cb) summary details of the receipt and expenditure of CIL to which regulation 59E or 59F applied during the reported year including—

- (i) the total CIL receipts that regulations 59E and 59F applied to;
- (ii) the items to which the CIL receipts to which regulations 59E and 59F applied have been applied; and
- (iii) the amount of expenditure on each item;

(cc) summary details of any notices served in accordance with regulation 59E, including—

- (i) the total value of CIL receipts requested from each local council; and
- (ii) any funds not yet recovered from each local council at the end of the reported year.

(d) the total amount of—

- (i) CIL receipts for the reported year retained at the end of the reported year other than those to which regulation 59E or 59F applied;
- (ii) CIL receipts from previous years retained at the end of the reported year other than those to which regulation 59E or 59F applied;
- (iii) CIL receipts for the reported year to which regulation 59E or 59F applied retained at the end of the reported year; and
- (iv) CIL receipts from previous years to which regulation 59E or 59F applied retained at the end of the reported year ”; and.

- (e) in relation to any infrastructure payments accepted by the charging authority—
 - (i) the items of infrastructure to which the infrastructure payments relate,
 - (ii) the amount of CIL to which each item of infrastructure relates.
- (5) The charging authority must publish the report on its website no later than 31st December following the end of the reported year.
- (6) For the purposes of this regulation—
 - (a) the value of acquired land is the value stated in the agreement made with the charging authority in respect of that land in accordance with regulation 73(6)(d);
 - (b) the value of a part of acquired land must be determined by applying the formula in regulation 73(10) as if references to N were references to the area of the part of the acquired land whose value is being determined.

Reporting by local councils

- 62A. (1) A local council must prepare a report for any financial year (“the reported year”) in which it receives CIL receipts.
- (2) The report must include—
- (a) the total CIL receipts for the reported year;
 - (b) the total expenditure for the reported year;
 - (c) summary of CIL expenditure during the reported year including—
 - (i) the items to which CIL has been applied; and
 - (ii) the amount of CIL expenditure on each item; and
 - (d) details of any notices received in accordance with regulation 59E, including—
 - (i) the total value of CIL receipts subject to notices served in accordance with regulation 59E during the reported year;
 - (ii) the total value of CIL receipts subject to a notice served in accordance with regulation 59E in any year that has not been paid to the relevant charging authority by the end of the reported year.
 - (e) the total amount of—
 - (i) CIL receipts for the reported year retained at the end of the reported year; and
 - (ii) CIL receipts from previous years retained at the end of the reported year.
- (3) The local council must—
- (a) publish the report—
 - (i) on its website;
 - (ii) on the website of the charging authority for the area if the local council does not have a website; or

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- (iii) within its area as it considers appropriate if neither the local council nor the charging authority have a website, or the charging authority refuses to put the report on its website in accordance with paragraph (ii); and
- (b) send a copy of the report to the charging authority from which it received CIL receipts, no later than 31st December following the reported year, unless the report is, or is to be, published on the charging authority's website."