



BOROUGH OF POOLE

COMMUNITY INFRASTRUCTURE LEVY

**GUIDE FOR DEVELOPERS AND
APPLICANTS**

Contents	Page
1.0 Introduction	3
2.0 Calculation of the CIL Chargeable Amount	6
Guidance Note 1: Existing buildings and calculating CIL	8
Guidance Note 2: The time when Planning Permission First Permits Development	8
Guidance Note 3: Definition of Gross Internal Area (GIA)	9
Guidance Note 4: Information to be submitted by applicants to assist with calculation of CIL liability	10
3.0 The CIL Payment Procedure	13
Guidance Note 5: Issue of Liability Notices	15
4.0 CIL Enforcement	16
5.0 CIL Relief	17
6.0 CIL Appeals	20

1.0 INTRODUCTION

- 1.1 Community Infrastructure Levy (CIL) is a new locally set charge which can be applied to development to help fund infrastructure required to accommodate growth in Poole. CIL finance can therefore be used to help fund new transport networks, flood defences, schools, hospitals and other health and social care facilities, park improvements, green spaces and leisure centres.

How is CIL Charged?

- 1.2 CIL takes the form of rates set in pounds (£) that are applied to each square metre of new floorspace (measured as gross internal area¹). CIL rates can differ by both location and development type and must be set out in a formal document called a Charging Schedule.
- 1.3 The Borough of Poole Charging Schedule was adopted by Council on 18th September 2012 and took effect on 2nd January 2013, meaning that development granted planning permissions may now be liable to pay CIL.
- 1.4 This guidance document sets out information on CIL in terms of how it is applied, calculated, collected and enforced. It is recommended that this guidance document is also read in conjunction with the Council's CIL webpage, which contains additional information and links to government guidance including all the administration forms that need to be submitted to the Council at various stages of the CIL collection process.

What types of development can be charged CIL?

- 1.5 The CIL Regulations define that, subject to viability testing, CIL can be charged on development that;
- is a building which people normally go into to use; and
 - If upon completion, the GIA of a new build (i.e. additional GIA over and above that that exists on the site before the chargeable development commenced) will be more than 100 square metres; or
 - Is creating 1 or more dwellings even where it is not a new building (e.g. through a change of use, or an extension to an existing building) and even where the new build floorspace is less than 100 square metres.

Exemptions from CIL

- 1.6 There are a number of exemptions from CIL as follows;

¹ See Guidance Note 3 on page 9 of this document for a definition of gross internal area for the purposes of calculating CIL

- Any development which proposes less than 100 square metres of new build GIA (n.b. – as stipulated on the previous page this restriction does not apply to new dwellings, which are always liable for CIL regardless of size);
- Any development type included within the adopted Borough of Poole Charging Schedule but which is zero rated;
- Social Housing provided by local Housing Authority, registered social landlord or registered provider of social housing and shared ownership housing subject to the specific provisions of CIL Regulation 49*;
- Development that will be used for charitable purposes*;
- Demonstration of exceptional circumstances*;
- Development considered as a self build scheme through the provisos and parameters set out in CIL Self Build Exemption Claim Forms SB1-1 and SB1-2;
- Approval of reserved matters applications where the outline planning permission was granted prior to 2nd January 2013 (this is the date on which CIL came into effect in Poole);
- Structures or buildings into which people do not usually go, or go into only intermittently for maintenance (e.g. sports pitches, sub-stations or wind turbines).

**Please note that applicants will have to formally apply for this relief through submission of CIL Form 2: Claiming Exemption and Relief (see the CIL Relief section on page 17 of this document for further information).*

What are the CIL Rates in Poole?

- 1.7 Following independent assessment of the viability of the development in Poole (that included examination in public by an independent Government inspector), the Council's adopted Charging Schedule contains CIL rates that will only be applied on proposals that create new dwellings.
- 1.8 Therefore all other development types (other than proposals that involve the creation of new dwellings) are set a £0 per square metre CIL rate and will not pay CIL at the present time. Please note that this is the Poole approach to CIL and other Local Authorities may have a different range of CIL rates that have been derived in view of the specific circumstances within their administrative areas.
- 1.9 The Borough of Poole CIL Charging Schedule sets three different rates on new dwelling development in Poole depending on location:

Charging Zone	Rate
Residential Dwellings - Zone A (Sandbanks, Canford Cliffs, Branksome Park and Lilliput)	£150 per square metre
Residential Dwellings - Zone B (Town Centre)	£100 per square metre
Residential Dwellings - Zone C (Rest of Borough)	£75 per square metre
All other development	£0 per square metre

The Borough of Poole CIL Zone Map

- 1.10 To view a detailed delineation of each CIL charging zone the Council has produced a CIL layer on its online 'Your Poole' mapping facility that allows customers to check in which zone a potential development site falls. To check the CIL zone for a particular site address online the 'Your Poole' mapping facility can be accessed from the Council's homepage.
- 1.11 Once in 'Your Poole', you will need to undertake the following;
- Find the site by typing the address details into the address search fields;
 - Select the site from the list of addresses that are shown – this will bring the site up on the GIS map shown on the screen;
 - Select the 'Interactive Mapping' tab;
 - From the layers that are now shown, select the 'CIL Zones' layer – this will then show the applicable CIL Zone to the site on the GIS map shown on your screen.

What will the Council use CIL for in Poole?

- 1.12 The CIL Regulations allow the charging authority (which in the case of Poole is Borough of Poole) to clarify how it intends to spend CIL by publishing a list of infrastructure that will benefit in whole or in part through the use of CIL. This list is known as the Regulation 123 list after the corresponding section in the CIL Regulations 2010 (amended). The Borough of Poole's adopted Regulation 123 list is published on the Council's CIL webpage. The Regulation 123 list will be subject to periodic review to factor in changing and emerging infrastructure priorities.
- 1.13 In the main, the Council's Regulation 123 list of infrastructure focuses the use of CIL on the delivery of infrastructure required to mitigate development's impact on the Borough's internationally protected sites (Dorset Heathlands and Poole Harbour) and provide funding for strategic transport infrastructure (such as Twin Sails bridge and the Strategic Road Network), strategic open space and recreation facilities, strategic flood defences not being delivered by individual regeneration area sites, provision of pre-school, primary and secondary school places and Borough wide public realm projects.
- 1.14 A proportion of CIL funds will also be available for spending by neighbourhoods on local infrastructure need. This equates to 15% of all CIL receipts within the neighbourhood areas defined boundaries which are to be

outlined in the CIL Governance document. These funds will be retained by the Local Authority but are to be spent in agreement with the identified neighbourhood areas. Neighbourhood areas may form official Neighbourhood Forums and upon the adoption of a Neighbourhood Development Plan may then receive a 25% neighbourhood proportion as opposed to 15%.

What about Section 106 Planning Obligations?

- 1.15 The ability to use Section 106 planning obligations has not been removed now CIL has taken effect. The CIL Regulations do, however, introduce statutory restrictions on the use of planning obligations once CIL takes effect.
- 1.16 The restrictions include the provision that the Council cannot secure planning obligations through Section 106 arrangements for a type of infrastructure once it is identified for delivery through CIL on the Regulation 123 list. This provision is to ensure the Council will not double charge for the same item of infrastructure; it will either be delivered through CIL or Section 106, not both.
- 1.17 A Section 106 agreement can only be used to secure planning obligations that are directly related to the development, not being delivered through CIL and necessary to enable the grant of planning permission.
- 1.18 There may be instances where development will pay CIL as well as need to make a Section 106 planning obligation (i.e. to secure affordable housing, which is outside of CIL or a pedestrian crossing required to mitigate a specific impact). The Council will produce a Section 106 Supplementary Planning Document to clarify the approach to planning obligations and their relationship with CIL.

2.0 CALCULATION OF THE CIL CHARGEABLE AMOUNT

- 2.1 CIL Regulation 40 (amended) states that the CIL chargeable amount must be calculated using the following formula;

$$\frac{R \times A \times I_p}{I_c}$$

R = the relevant CIL rate as set out in the Charging Schedule

A = the deemed net area chargeable at rate R

I_P = the index figure² for the year in which planning permission was granted

I_C = the index figure² for the year in which the Charging Schedule containing rate R took effect

The value of A must be calculated by applying the following formula;

$$G_R - K_R - \frac{(G_R \times E)}{G}$$

G = the gross internal area of the chargeable development

G_R = the gross internal area of the part of the chargeable development chargeable at rate R

K_R = the aggregate of the gross internal areas of the following;

- (i) retained parts of in-use buildings; and
- (ii) for other relevant buildings, retained parts where the intended use following completion of the chargeable development is a use that is able to be carried on lawfully and permanently without further planning permission in that part on the day before planning permission first permits the chargeable development.

E = the aggregate of the following;

- (i) the gross internal areas of parts of in-use buildings that are to be demolished before completion of the chargeable development; and
- (ii) for the second and subsequent phases of a phased planning permission, the value E_x , unless E_x is negative;

provided that no part of any building may be taken into account under both of paragraphs (i) and (ii) above.

The value E_x must be calculated by applying the following formula;

$$E_P - (G_P - K_{PR})$$

E_P = the value of E for the previously commenced phase of the planning permission;

² The index referred to in the above formula is the national All-in Tender Price Index published from time to time by the Building Cost Information Service of the Royal Institution of Chartered Surveyors; and the figure for a given year is the figure for 1st November of the preceding year. However, in the event that the All-in Tender Price Index ceases to be published, the index referred to above is the retail prices index; and the figure for a given year is the figure for 1st November of the preceding year.

G_P = the value of G for the previously commenced phase of the planning permission; and

K_{PR} = the total of the values of K_R for the previously commenced phase of the planning permission.

Guidance Note 1: Existing buildings and calculating CIL

2.2 You will note that in calculating the chargeable area, Regulation 40 allows for existing, used floorspace that is either to be demolished ('E' in the second Reg 40 formula) or re-used through conversion/change of use (' K_R ' in the second Reg 40 formula) to be deducted from the proposed gross internal area to ensure that CIL is only charged on new floorspace over and above of what is already existing on the site.

2.3 However, it is important to note that for existing floorspace to be legitimately used to offset against the proposed gross internal area the CIL Regulations require it to be in lawful use, which at Regulation 40 (11) is defined as being:

A relevant building that contains a part that has been in lawful use for a continuous period of at least six months within the period of three years ending on the day planning permission first permits the chargeable development.

2.4 Applicants need to be aware of the above provision when seeking to offset existing floorspace against proposed floorspace and provide evidence of lawful use in the context of CIL Reg 40 (11) with the planning application. Existing floorspace will not be taken into account in calculating CIL where the Council considers existing buildings have not been in lawful use for the required period set out above.

Guidance Note 2: The time when Planning Permission First Permits Development

2.5 It is also important to be aware of the meaning of the phrase "*the time when planning permission first permits development*", which is defined in CIL Regulation 8 as being the day that planning permission is granted for a CIL liable development subject to the following provisions:

(a) In the case of a grant of outline planning permission, planning permission first permits development on the day of the final approval of the last reserved matter associated with the permission.

(b) Where outline planning permission permits development to be implemented in phases, planning permission first permits a phase of the development on the day of the final approval of the last reserved matter associated with that phase, or if earlier, and if agreed in writing by the collecting authority before commencement of any development under that permission, on the day final approval is given under any pre-commencement condition associated with that phase.

- (c) In the case of a grant of planning permission which is not an outline application, planning permission first permits development upon receipt of **CIL Form 5: Notice of Chargeable Development** in accordance with CIL Regulation 64, or if no notice of chargeable development is submitted in accordance with Regulation 64, the day on which the last person is served with a notice of chargeable development in accordance with Regulation 64A(3).
- (d) Where a general consent planning permission allows development to be carried out in phases, planning permission first permits development on the day final approval is given under any pre-commencement condition associated with that phase; or where there are no pre-commencement conditions associated with that phase, on the day planning permission is granted.

2.6 Please be aware in view of this that the applicable three year period within which existing buildings need to be in continuous lawful use for six months in order to be used to offset against CIL liability will therefore often be the three years preceding approval of reserved matters or discharge of the final pre-commencement condition, as opposed to simply the three years prior to date when planning permission was first approved. The implication of this is that existing buildings will often need to remain in use beyond the time when the original planning permission is granted.

Guidance Note 3: Definition of Gross Internal Area (GIA)

- 2.7 CIL liability is calculated by deducting the Gross Internal Area (GIA) of the existing building (where in lawful use) from the proposed CIL liable GIA to arrive at the net chargeable area, which is then multiplied by the applicable CIL rate.
- 2.8 However, the definition of GIA for the purposes of calculating CIL is not specified in the CIL Regulations. The generally accepted method of calculation of GIA is set out in RICS Code of Measuring Practice 6th Edition (the RICS Code) as follows:

Core Definitions: Gross Internal Area (GIA)

Gross Internal Area is the area of a building measured to the internal face of the perimeter walls at each floor level.

Including

- Areas occupied by internal walls and partitions;
- Columns, piers, chimney breasts, stairwells, lift-wells, other internal projections, vertical ducts and the like;
- Atria and entrance halls, with clear height above, measured horizontally;
- Internal open side balconies, walkways, and the like;

- Structural, raked or stepped floors are to be treated as a level floor measured horizontally;
- Corridors of a permanent essential nature (e.g. fire corridors, smoke lobbies);
- Mezzanine floor areas with permanent access;
- Lift rooms, plant rooms, fuel stores, tank rooms which are housed in a covered structure of a permanent nature, whether or not above the main roof level;
- Service accommodation such as toilets, toilet lobbies, bathrooms, showers, changing rooms, cleaners' rooms and the like;
- Projection rooms;
- Voids over stairwells and lift shafts on upper floors;
- Areas with a headroom of less than 1.5m;
- Garages;
- Conservatories;
- Attic/loft space that is easily accessible (i.e. from a fixed staircase) and usable as habitable living accommodation.

Excluding

- Perimeter wall thicknesses and external projections;
- External open-side balconies, covered ways and fire escapes canopies;
- Voids over or under structural, raked or stepped floors;
- Greenhouses, garden stores, fuel stores, and the like in residential property.

2.9 The Council will apply RICS Core Definition of GIA when checking plans and calculating CIL liability. The applicant is therefore advised to follow the above RICS definition when supplying information on gross internal area to the Council.

2.10 Applicants will need to demonstrate clearly in the planning application any specific floorspace aspects of a proposed development that, in view of the above definition, they consider the Council should or should not be including within the assessment of existing and proposed gross internal area when calculating the CIL chargeable amount.

Guidance Note 4: Information to be submitted by applicants to assist with calculation of CIL liability

2.11 To ensure the correct calculation of CIL, applicants are advised to supply the following information with CIL liable planning applications:

- **CIL Form 0 - Determining whether a development may be CIL liable – Planning Application Additional Information Requirement Form** should be submitted (completed and signed) with the planning application and must clearly state the accurate GIA of all existing (that will be demolished or converted to make way for the proposed CIL liable development) and proposed buildings.

- **CIL Form 1 – Assumption of Liability** should be submitted with the planning application so it is clear to the Council who will be responsible for paying CIL.
- **Existing floor and site plans** clearly showing any existing buildings that you would like the Council to consider deducting the GIA from the proposed CIL liable floorspace. It is recommended for clarity that the existing floorplans are annotated to include the exact GIA of the existing buildings and any photos to aid the correct CIL calculation.
- **Proposed floorplans** clearly showing the accurate GIA of the proposed development.
- **Evidence on use of existing buildings** - Where applicants are seeking to deduct existing floorspace from proposed CIL liable floorspace it is important that the planning application includes evidence to demonstrate that a part of the GIA of the existing building has been in use for a continuous period of six months within the three years leading up to the time when planning permission first permits development.

2.12 Please note that the Council will be checking all information supplied relevant to the calculation of CIL.

Examples of Calculating the CIL Chargeable Amount

2.13 The following examples use hypothetical development scenarios to demonstrate how CIL liability is calculated. Please note that the following are only illustrations and the precise CIL liability for development in Poole will depend on the specific circumstances (in terms of quantum of deductible existing floorspace and quantum of proposed chargeable floorspace) for each chargeable development.

Example	The amount of CIL payable
50 square metre (sq.m) residential extension	No CIL is payable as developments that do not create a dwelling less than 100 sq.m are not liable to pay CIL.
150 sq.m extension to a residential house	In Poole, no CIL will be payable at the present time on residential extensions as the Council's CIL Charging Schedule only sets rates for the creation of residential dwellings. The CIL liability would be worked out using a £0 per sq.m rate as follows: $£0 \times 150 \text{ sq.m} = £0$
Creation of 75 sq.m new dwelling on vacant site in Zone A (rate of £150 per sq.m)	With no existing floorspace to be used to deduct from the proposed floorspace the CIL liability is worked out as: $£150 \times 75 = £11,250$

<p>Creation of 75 sq.m metre dwelling in Zone A that requires demolition of 20 sq.m occupied garage and 20 sq.m of occupied outbuilding</p>	<p>In this case the existing floorspace of the garage and outbuilding being demolished can be taken into account.</p> $75 - 0 - (75 \times 40 \text{ divide by } 75 = 40) = 35 \text{ sq.m}$ $£150 \times 35 = £5,250$
<p>Creation of 150 sq.m dwelling following demolition of existing 75 sq.m dwelling in Zone B (£100 per sq.m)</p>	<p>CIL is applied on new dwelling floorspace, even where there is no net increase in the number of dwellings (i.e. one for one replacement).</p> $150 - 0 - (150 \times 75 \text{ divide by } 150 = 75) = 75 \text{ sq.m}$ $£100 \times 75 = £7,500$
<p>Mixed use development in Zone C (£75 per sq.m for residential dwellings and £0 for all other development) to create 150 sq.m of residential dwellings and 100 sq.m of office that involves the demolition of an existing 100 sq.m building</p>	<p>In this case, it is necessary to work out the chargeable area of both the proposed residential and office development to ensure that the existing floorspace is apportioned between the two (rather than being simply used in full to offset against the aspect with the higher CIL rate):</p> <p><u>Residential</u></p> $150 - 0 - (150 \times 100 \text{ divide by } 250 = 60) = 90 \text{ sq.m}$ $£75 \times 90 = £6,750$ <p><u>Office</u></p> $100 - 0 - (100 \times 100 \text{ divide by } 250 = 40) = 60 \text{ sq.m}$ $£0 \times 60 = £0$ <p>Total CIL liability for the scheme is £6,750</p>
<p>Change of use of a shop that has been vacant for four years to a residential dwelling in Zone C with a GIA of 100 sq.m</p>	<p>The shop has not been used for the required six month continuous period within the previous three years and therefore cannot be used to offset CIL liability.</p> <p><u>Residential</u></p> $100 - 0 - (100 \times 0 \text{ divide by } 100 = 0) = 100 \text{ sq.m}$ $£75 \times 100 = £7,500$

<p>Change of use of a shop to a residential dwelling that has recently closed but was used for six continuous months within the previous three years in Zone C with a GIA of 100 sq.m</p>	<p>The shop has been used for the required six month continuous period within the previous three years and therefore can be used to offset CIL liability.</p> <p><u>Residential</u></p> <p>100 – 100 - (100 x 0 divide by 100 = 0) = 100 sq.m £75 x 0 = £0</p>
---	--

3.0 THE CIL PAYMENT PROCEDURE

3.1 CIL is payable upon commencement of development. The CIL Regulations set out a clear statutory process for the collection of CIL that both applicants and the Council must follow. This process requires the submission of a number of new standard forms by the applicant (all available from the Planning Portal as well as the Council’s CIL webpage) and the issue by Borough of Poole of a number of new statutory notices. This section provides an overview of each form and when it should be submitted and it is recommended that it also read in conjunction with the Government’s guidance on CIL.

Table 1: CIL Forms to be submitted by the Applicant/Developer

CIL Form	When it should be submitted
<p>Form 0 – Determining whether a development may be CIL liable – Planning Application Additional Requirement Form</p> <p>This requires the applicant to supply to the Council the relevant floorspace detail of all existing buildings (that are to be demolished or re-used) and all proposed buildings. This information then enables the Council to calculate the correct CIL liability for the chargeable development.</p>	<p>With the planning application</p>
<p>Form 1 – Assumption of Liability</p> <p>The person who will pay CIL must first formally assume liability to do so by submitting CIL Form 1. CIL Form 1 must be submitted prior to the commencement of development.</p>	<p>With the planning application</p>

<p>Form 2 – Claiming Exemption or Relief</p> <p>Relief from CIL via this form is available for development by charities, social housing and exceptional circumstances. For relief to be granted, the person seeking relief first has to formally submit a claim (before commencement of development) to the Council through submission of CIL Form 2.</p>	<p>With the planning application</p>
<p>Form 3 – Withdrawal of Assumption of Liability</p> <p>A party who has assumed liability to pay CIL but no longer wants to have assumed liability to pay CIL must submit CIL Form 3 to the Council.</p>	<p>Prior to commencement of development</p>
<p>Form 4 – Transfer of Assumed Liability</p> <p>A party who has assumed liability to pay CIL can transfer that assumed liability to another party through submitting CIL Form 4 to the Council.</p>	<p>No later than the day on which the final payment of CIL is due in respect of the chargeable development</p>
<p>Form 5 – Notice of Chargeable Development</p> <p>CIL Form 5 is required to be submitted prior to commencement of development where a CIL liable development is proposed that ordinarily would not require planning permission (i.e. permitted development).</p>	<p>Prior to commencement of development</p>
<p>Form 6 – Commencement Notice</p> <p>CIL Form 6 is required to notify the Council that a chargeable development is about to be commenced. Submission of CIL Form 6 is therefore the trigger that starts the payment of CIL from the person who has assumed liability to the Council. Failure to follow the correct procedure may see the Council impose surcharges and take enforcement action. Upon receipt of a valid Commencement Notice, the Council will acknowledge receipt in writing.</p>	<p>Prior to commencement of development</p>
<p>Form SB1-1 Self Build Exemption Claim Form: Part 1</p> <p>CIL Form SB1-1 is effectively a declaration by the applicant that they meet the self-build criteria and are aware of the disqualifying events that could see this form of relief revoked.</p>	<p>Prior to commencement of development</p>

<p>Form SB1- 2 Self Build Exemption Claim Form: Part 2</p> <p>CIL Form SB1-2 is accompanied by all the necessary evidence that is required to prove that the dwelling is self-build. Applicants should make sure that they can meet these requirements prior to claiming the self-build exemption.</p>	<p>Within 6 months of completing the self-build dwelling</p>
---	---

Table 2: Notices to be issued by Borough of Poole

CIL Notice	When it should be sent
<p>Liability Notice</p> <p>The Liability Notice is the statutory document that sets out how much CIL is due on a chargeable development. The Liability Notice will be sent to;</p> <ul style="list-style-type: none"> ▪ the person who applied for planning permission; ▪ any person known to the Council as an owner of the land; ▪ Any person that has formally assumed liability to pay CIL. <p>Once the Liability Notice is issued, the chargeable amount of CIL becomes a local land charge.</p>	<p>As soon as practicable after the time when planning permission first permits development (see guidance note below)</p>
<p>Demand Notice</p> <p>The Demand Notice is essentially an invoice and will confirm the terms of payment (including details of paying by instalments) subject to any subsequent changes since the issue of the original liability notice.</p>	<p>After commencement of development</p>

Guidance Note 5: Issue of Liability Notices

- 3.2 CIL Regulation 65 requires that Borough of Poole must issue a Liability Notice as soon as practicable after the day on which a planning permission first permits development, which as explained on page 8 of this guidance document may be some time after the date when the planning application is first approved (i.e. at the point either reserved matters are approved or pre-commencement conditions are discharged).
- 3.3 However, for information purposes Borough of Poole may issue a Liability Notice following the initial grant of planning permission for a chargeable development but before the time on which that planning permission first permits a development. This is to ensure that it is clearly indicated to applicants from the point planning permission is first granted that there is a CIL liability on the land, and at the time of issue how much that liability is.

- 3.4 Once Borough of Poole issues a subsequent Liability Notice after the day on which planning permission first permits development in accordance with CIL Regulation 65, any earlier Liability Notice issued by Borough of Poole in respect of the same chargeable development will cease to have effect.

Payment of CIL and the Borough of Poole CIL Instalment Policy

- 3.5 It is important to applicants and developers to understand the need to follow the Council's CIL payment procedure, which essentially requires the submission of the relevant forms, set out in Table 1, at the appropriate juncture prior to commencement of development.
- 3.6 Once development is commenced and CIL becomes payable the Council will issue the person with liability to pay CIL a Demand Notice. The Demand Notice will set out all the relevant information in terms of how much CIL is payable and by when. It is important to follow the payment procedure set out within the Demand Notice to avoid the Council adding surcharges or taking enforcement action to recover the money (enforcement is covered in Section 4.0 of this guidance document).
- 3.7 Where the payment procedure is followed correctly, the CIL Regulations enable Borough of Poole to apply its adopted Instalment Policy that allows CIL to be spread over a number of prescribed payment periods. The Council's adopted Instalment Policy can be found on the CIL webpage.
- 3.8 Once full payment of CIL has been received, the Council will remove the charge on the land and the liability to pay CIL is discharged.

4.0 CIL ENFORCEMENT

- 4.1 Where the Council's payment procedure is not followed the CIL Regulations include a number of provisions that enable Borough of Poole to apply surcharges as well as ensure the effective enforcement to recover CIL once there is delay or problems within the collection process. The penalties and enforcement powers available to Borough of Poole include:
- **Loss of ability to pay in instalments** – Any late payment will see the ability to pay instalments removed and trigger the payment of any outstanding CIL liability in full immediately.
 - **Surcharges to CIL liability** can be applied on:
 - Failure to submit a valid **CIL Form 1: Assumption of Liability** prior to commencement of development
 - Apportionment of liability³

³ Borough of Poole has powers to apportion liability to the landowner in the event a chargeable development has commenced and no party has come forward to formally assume liability. Where this occurs, Borough of Poole can apply a surcharge.

- Failure to submit a valid **CIL Form 5 – Notice of Chargeable Development** prior to commencement of development
 - Failure to submit a valid **CIL Form 6 – Commencement Notice** prior to commencement of development
 - Late Payment
 - Failure to comply with an Information Notice⁴
- **Late payment interest** – Borough of Poole can apply interest on any outstanding CIL in the event of late payment.
 - **CIL Stop Notices** – A CIL Stop Notice can be issued in the event of late payment that will prohibit development from continuing until CIL is paid. It is an offence to contravene a CIL Stop Notice and the Council can issue an injunction to enforce the compliance of a CIL Stop Notice.
 - **Liability Orders and distress** – A Liability Order enables Borough of Poole to seek a court’s consent to seize and sell assets of the liable party to recover outstanding CIL liability. In the very small number of cases where a Collecting Authority can demonstrate that recovery measures have been unsuccessful, a court may be asked to commit the liable party to a short prison sentence.

4.2 With regards to self-build schemes a claim for relief will be deemed void if development commences prior to being notified by the Council of a decision on the relief claim or if development commences prior to the submission of a Commencement Notice. Upon completion of the development, and within six months of the date of the compliance certificate for the development, any entitlement to relief will be lost if Self Build Exemption Claim Form: part 2 is not submitted along with the relevant evidence confirming that the development is self-build housing. Relief shall also cease to exist if the dwelling changes ownership, is sold or let within three years following first occupation of the dwelling. Should any of these disqualifying events occur CIL will become payable to an amount equal to that that would have been payable on commencement of the development if the relief had not been granted.

5.0 CIL RELIEF

5.1 CIL will in most cases be a fixed non-negotiable charge on development. The CIL Regulations, however, do include a number of provisions, some compulsory, others non compulsory that enable Borough of Poole to give relief from the levy. It is strongly recommended when considering whether relief is available to development that, in addition to the overview in this section, customers review the Government guidance on CIL Relief to fully understand the processes involved where relief is available:

<http://planningguidance.planningportal.gov.uk/blog/guidance/community-infrastructure-levy/relief/>

⁴ Borough of Poole can issue an Information Notice requiring a party to supply information relevant to CIL. Failure to comply enables Borough of Poole to apply a surcharge.

General Provisions for CIL Relief

- 5.2 Relief from the levy is only applicable where the claimant is an “owner of a material interest in the relevant land”. A ‘material interest’ is a freehold interest or a leasehold interest the term of which expires more than seven years after the date on which planning permission first permits development. The “relevant land” in which such an interest must be owned is the land which will be developed when building the chargeable development.
- 5.3 All claims for relief from CIL must be submitted by an owner of a material interest in the relevant land on **CIL Form 2 – Claiming Exemption and Relief**, except for self build exemptions which have separate unique forms.

Compulsory CIL Relief Provisions - Charitable Development

- 5.4 Where a charitable institution is the owner of the material interest and the chargeable development will be used wholly or mainly for charitable purposes, the development is exempt from the CIL liability that would have ordinarily been applied. The exemption for development by charities only applies to the charitable institution claimant’s share of the charge.

Compulsory CIL Relief Provisions - Social Housing

- 5.5 Where claimed, Borough of Poole must give full relief from paying the levy on the portions of the chargeable development intended for social housing. To qualify for relief the claimant must have assumed liability to pay the levy on the chargeable development. As part of providing evidence that the chargeable development qualifies for social housing relief, **CIL Form 2** requires that the claimant must identify where on the chargeable development qualifying dwellings will be built through the use of a map.
- 5.6 A claimant must also submit a “relief assessment” with its claim. The format of this assessment is laid out in **CIL Form 2**. If Borough of Poole decides the assessment is inaccurate, they may revise the assessment and/or, under Regulation 54, serve an Information Notice on the claimant to assist it in deciding whether to give relief and how much relief to provide. Borough of Poole must inform the claimant in writing of its decision, the reasons for it, and the amount of relief granted.
- 5.7 It is important to note that a valid **CIL Form 6 – Commencement Notice** must still be submitted for chargeable developments granted social housing relief. The date of commencement determines the start of a seven year clawback period within which the Council is able to revoke the amount of relief previously granted and require its immediate payment should a disqualifying event occur. Where a **CIL Form 6 – Commencement Notice** is not submitted, the claimant is no longer eligible for relief from the levy and the full charge plus any surcharge is immediately payable. A claim for relief will also lapse if development commences on the chargeable development before the Council has notified the claimant of its decision.

- 5.8 Regulation 49 states that social housing relief applies in England where at least one of three conditions is met:
- Condition 1 is that the dwelling is let by a local housing authority on one of the four tenancy agreements identified in Regulation 49(3).
 - Condition 2 requires a series of criteria to be met in accordance with Regulation 49(4). The dwelling will be occupied according to statutory shared ownership arrangements, the initial share in the dwelling will not exceed 75% of the total value, the rent payable will be no more than 3% of the unsold interest and the rise in annual rent will be limited to the rate of inflation plus 0.5%.
 - Condition 3 is that the dwelling is let by a private registered provider of social housing on one of the four tenancy agreements identified in Regulation 49(5) and meeting a criterion outlined in Regulation 49(6).
- 5.9 When applying for relief, a claimant must provide evidence that the chargeable development qualifies for social housing relief. The CIL Regulations state that dwellings no longer meeting these requirements must pay the levy.

Discretionary CIL Relief Provisions - Charitable Investment Relief

- 5.10 Borough of Poole may give relief from the levy to a charitable institution where the whole or the greater part of the chargeable development will be held as a charitable investment (applying to the charitable institution's share of the charge only) or a charitable institution has been refused a mandatory charitable exemption on state aid grounds, but to grant relief would not constitute a notifiable state aid (applies to charitable institution's share of the charge only). However, please note that for this to apply Borough of Poole first needs to make available discretionary relief for charitable investment, which currently it has not done so.

Discretionary CIL Relief Provisions - Exceptional Circumstances Relief

- 5.11 A charging authority (Borough of Poole) may give relief from the levy where a specific scheme cannot afford to pay the levy in exceptional circumstances. Borough of Poole has decided to introduce relief for exceptional circumstances and it is therefore available in Poole.

Self Build Exemption

- 5.12 An exemption is applicable to homes built or commissioned by individuals for their own use. Community group self build projects also qualify for the exemption where they meet the required criteria. Further information regarding the self build exemption can be found online at:

<http://planningguidance.planningportal.gov.uk/blog/guidance/community-infrastructure-levy/relief/self-build-exemption/>

6.0 CIL APPEALS

- 6.1 Appeals can be made against the majority of the CIL collection and enforcement system. The only exception where there is no appeal system within CIL is for Social Housing or Exceptional Circumstances relief. This section provides a summary of the various appeal provisions and should be read in conjunction with the National Planning Policy Guidance on CIL appeals available at:

<http://planningguidance.planningportal.gov.uk/blog/guidance/community-infrastructure-levy/cil-appeals/>

- 6.2 It is also recommended for customers to view the Planning Portal's CIL guidance webpage where there is further information on CIL appeals including the various forms and submission procedures:

<http://www.planningportal.gov.uk/planning/appeals/cilguidance>

- 6.3 Appeals can be made either to the Valuation Office Agency (VOA) or the Planning Inspectorate. The VOA appeals relate to matters involving calculating of the CIL amount of liability and the Planning Inspectorate matters involving enforcement.

Valuation Office Agency Appeals (Calculation of CIL and Liability)

- 6.4 The submission of the following appeals to the VOA requires the appellant to fill in a standard appeal form and follow standard appeal guidelines. Full details on how to submit an appeal to the VOA (including downloading of the appeal forms, submission address details and CIL appeal form guidance notes) can be found on the following link:

<http://www.voa.gov.uk/cil/index.html>

- 6.5 This web link confirms that CIL appeals (including any attachments) can be submitted to the VOA by either:

Hard copy: Valuation Office Agency
Statutory Valuations Team (CIL)
SVT Hub
BP5202
Dunstanburgh House
Benton Park View
Longbenton
Newcastle upon Tyne
NE98 1ZZ

Electronically: cil.appeals@voa.gsi.gov.uk

Review of the Chargeable Amount Procedure

6.6 Borough of Poole will issue a Liability Notice following the grant of planning permission for a CIL liable development. The Liability Notice will set out the amount of CIL due at commencement of development. If, however, the person(s) receiving the Liability Notice consider that the CIL chargeable amount has been calculated incorrectly, they can submit a request in writing to Borough of Poole asking for the calculation to be reviewed.

6.7 A request for a review of the chargeable amount must be made in writing within 28 days of the date on which the Liability Notice was issued. When submitting a review request to Borough of Poole please send it (including any attachments) in writing to:

Hard copy: Head of Planning & Regeneration Services including
Building Consultancy
Borough of Poole
Civic Centre
Poole
BH15 2RU

Electronically: planning@poole.gov.uk marked "Request for CIL S113 Review"

6.8 Borough of Poole will then notify the person asking for a review of its decision within 14 days from the day the request was received. Please note that a request for a review to the Borough of Poole will lapse and the original amount will become due if the chargeable development is commenced before a decision has been issued.

6.9 If the person(s) who submitted a review request are dissatisfied with the Borough of Poole's decision, or have not been notified within the 14 day period, they can then appeal to the Valuation Office Agency (VOA). An appeal to the VOA must be made no later than 60 days beginning with the day on which the Liability Notice was issued. Please note that the person(s) seeking a review cannot appeal to the VOA if the chargeable development has commenced. The appeal to the VOA will also lapse if development commences before the person(s) submitting the appeal have been told of its outcome.

Appeals against the apportionment of Liability

6.10 The CIL Regulations enable Borough of Poole to default and apportion the liability to pay CIL to each person who has a material interest in the land (i.e. the freehold owner of the land and/or the leaseholder with more than seven years left on the lease). The circumstances where Borough of Poole may apportion liability to the landowner are:

Default liability – This is where the chargeable development has commenced but no party has come forward to formally assume liability to pay

CIL. In this scenario Borough of Poole has the power under Regulation 33 to default liability to the landowner(s), or where a person is developing the site without the landowner(s) person, that person.

Default of liability – This is where a party has formally assumed liability to pay CIL but following commencement of development Borough of Poole has not been able to recover the CIL payable. Borough of Poole can then default the liability to pay CIL to the landowner(s).

- 6.11 Where the above default situations occur, Borough of Poole will apportion the CIL liability (along with new Demand Notices) to each person with default liability worked out to correlate to the value of each material interest in the relevant land.
- 6.12 Where this happens, a person with default liability that is aggrieved at Borough of Poole's decision to apportion liability can appeal to the VOA. Such appeals must be made within 28 days of receiving notice of Borough of Poole's decision to apportion liability. All Demand Notices that have been issued on the site subject to the appeal are suspended until the outcome of the appeal and cease to have effect where the appeal is then allowed.

Charitable Relief Appeal

- 6.13 Interested persons who are aggrieved at Borough of Poole's decision to grant Charitable Relief may appeal to the VOA on the ground that Borough of Poole has incorrectly determined the value of the interest in land in respect of which the claim was allowed. Interested persons in respect of Charitable Relief Appeals are either the person who made the claim for charitable relief or the person who has assumed liability to pay CIL for the chargeable development to which charitable relief relates.
- 6.14 A Charitable Relief Appeal must be made before the end of 28 days beginning with the date of Borough of Poole's decision on the claim for charitable relief. A Charitable Relief Appeal will lapse if the chargeable development is commenced before the VOA has notified the appellant of the decision of the appeal. Where a Charitable Relief Appeal is allowed, the VOA can amend the amount of the charitable relief granted to the appellant.

Planning Inspectorate Appeals (CIL Enforcement)

- 6.15 The submission of the following appeals to the Planning Inspectorate requires the appellant to fill in a standard appeal form and follow standard appeal guidelines. Full details on how to submit an appeal to the Planning Inspectorate (including downloading of the appeal forms, submission address details and CIL appeal form guidance notes) can be found on the following link:

<http://www.planningportal.gov.uk/planning/appeals/cilguidance>

Enforcement action appeals – general guidance

- 6.16 If you feel that a levy enforcement action is unwarranted or has been taken in error you are encouraged in the first instance to contact Borough of Poole. This is because it may be a lot quicker and easier to resolve the issue by contacting Borough of Poole before taking more formal action. However, you should be aware that a formal appeal can be lodged no later than 28 days after the date of your notification by Borough of Poole.

Appeal of a Surcharge

- 6.17 A person who is aggrieved at Borough of Poole's decision to impose a surcharge can appeal to the Planning Inspectorate on any of the following grounds;
- the claimed breach which led to the imposition of the surcharge did not occur;
 - Borough of Poole did not serve a Liability Notice in respect of the chargeable development to which the surcharge relates; or
 - the surcharge has been calculated incorrectly.
- 6.18 Appeals relating to CIL surcharges must be made to the Planning Inspectorate within 28 days of the surcharge being imposed. Surcharges are suspended and not payable while the appeal is outstanding. Where a surcharge appeal is allowed the Planning Inspectorate can quash or recalculate the surcharge subject to this appeal. The types of surcharges that can be imposed are set out on pages 16 and 17 of this guidance document.

Deemed Commencement Appeals

- 6.19 Borough of Poole must deem the date of a chargeable development where development has commenced but a Commencement Notice has not been received or where a Commencement Notice has been received, Borough of Poole has reason to believe commencement occurred earlier than the date given in the notice.
- 6.20 The person on whom a Demand Notice has been served that states a deemed commencement date may appeal to the Planning Inspectorate on the ground that Borough of Poole has incorrectly determined that date. This appeal must be made within 28 days of receiving notice of such a decision by the levy collecting authority. Demand Notices and Surcharges (relating to deemed commencement) are suspended and not payable while the appeal is outstanding. Where a deemed commencement appeal is allowed all earlier Demand Notices served in relation to the site cease to have affect. The Planning Inspectorate can also quash a deemed commencement surcharge subject to this appeal.

CIL Stop Notices Appeals

- 6.21 Where Borough of Poole is unable to recover CIL monies that are now due following commencement of development, the Council can issue a CIL Stop Notice that requires all works on site to cease until the CIL due is paid. A person who is aggrieved at Borough of Poole's decision to impose a CIL Stop Notice can appeal to the Planning Inspectorate on either (or both) of the following grounds;
- Borough of Poole did not serve a Warning Notice before imposing a CIL Stop Notice; or
 - the chargeable development to which the CIL Stop Notice was imposed has not commenced.
- 6.22 A CIL Stop Notice subject to an appeal continues to have effect while the appeal is outstanding. A CIL Stop Notice appeal must be made before the end of 60 days beginning on which the CIL Stop Notice takes effect. On an appeal, the Planning Inspectorate can correct any defect, error or incorrect description contained in the CIL Stop Notice, vary any of the terms of the notice or, in the event of the appeal being allowed, quash the CIL Stop Notice.

Costs

- 6.23 CIL Regulation 121 confirms that the appointed person (either the VOA or Planning Inspectorate) may make orders as to the costs of the parties to the appeal and as to the parties by whom such costs are to be paid.

Further Information

If you require any further information, advice or guidance on CIL having read this guidance document please do not hesitate to contact the Planning Policy & Implementation team:

In writing: Planning Policy & Implementation
 Planning & Regeneration Services including Building
 Consultancy
 Civic Centre
 Poole
 BH15 2RU

Telephone: 01202 633321

Email: planning@poole.gov.uk