

# CIL Guidance Note

## Appeals

### Background

- 1.0 Appeals are only possible on the following grounds, that the Council:
- incorrectly calculated the amount of CIL. (Before making the appeal the developer must first request an internal review by the Council).
  - incorrectly apportioned liability between landowners.
  - incorrectly determined Charitable Relief.
  - With regard to residential annexes incorrectly determined that the development is not wholly within the curtilage of the main dwelling.
  - With regard to self build schemes incorrectly determined the value of the exemption.
  - incorrectly applied surcharges.
  - deemed the development to have commenced when it did not.
  - incorrectly issued a Stop Notice for non-payment.
- 1.1 Appeals can be made against aspects of the CIL collection and enforcement system, from the council's calculation of the amount due to any enforcement actions it may take. There are two exceptions where an appeal system does not exist, social housing relief and exceptional circumstances relief.
- 1.2 This note sets out the procedure for making such appeals: how to make an appeal, when to make an appeal by, and who to make the appeal to. A table summarising the Appeal Rights from the **2014 Community Infrastructure Levy Guidance** is included as Appendix 1 and you are recommended to read that guidance and the various CIL Regulations 2010-2014 if you require more information.

**Please note most appeals need to be submitted and determined before development commences**

### **Regulation 113: Review of Chargeable Amount**

- 1.3 If you have not commenced development and you feel that the amount of Community Infrastructure Levy set out in your Liability Notice has been calculated incorrectly, you can ask the Council to review the calculation.
- 1.4 Such a request must be made within 28 days of the date on which the Liability Notice stating the original chargeable amount was issued. This must be made in writing:  
  
By e-mail [CIL@bedford.gov.uk](mailto:CIL@bedford.gov.uk)  
  
By letter to CIL Team, Planning Department, Borough Hall, Cauldwell Street, Bedford MK42 9AP.
- 1.5 You may also submit whatever evidence in writing you may feel is appropriate to support your request to the Borough Council.
- 1.6 When the Council receives your request to review the amount, we will consider representations and ensure that the person conducting the review is senior to the one who carried out the original calculation. We will notify you of the decision of the review within 14 days of receiving your formal request, including the reasons for the decision. However, where development is commenced before you receive notification of this decision, the review will lapse and the original amount will become due for payment in the manner set out in the Liability Note or Demand Notice.
- 1.7 A person may not request a review under this regulation if a claim for relief has been submitted and the claim has not been withdrawn.

### **Regulation 114: Chargeable Amount: Appeal against decision made by the Council following a review of the chargeable amount**

- 1.8 If you are dissatisfied with the decision of the Council's review or have not been notified of the decision within 14 days of the review start date (the date which the Council receive your request for review), you may appeal to the Valuations Office Agency (VOA) <http://www.voa.gov.uk/cil>
- 1.9 This appeal must be made no later than 60 days beginning with the day on which the Liability Notice was issued. You may not appeal to the VOA on how the Community Infrastructure Levy amount due was calculated if development has commenced. This appeal will also lapse if development commences before you have been told of the outcome of the appeal.

- 1.10 Where an appeal is allowed the person appointed by the VOA will calculate a revised amount.

**Regulation 115: Appeals against the apportionment of liability for the Levy**

- 1.11 You may appeal to the VOA <http://www.voa.gov.uk/cil> against any apportionment of liability carried out by the Council. Any such appeal must be made within 28 days beginning with the day on which the Demand Notice stating the amount of CIL payable is issued by the Council. Where an appeal is allowed, any Demand Notices (including surcharges) relating to the development in question will cease to have effect and the appointed person will re-apportion liability between each material interest in the relevant land.

**Regulation 116: Charitable Relief: Appeal**

- 1.12 Where the authority has granted Charitable Relief you may appeal to the Valuation Office Agency <http://www.voa.gov.uk/cil/index.html> if you consider that the Council has incorrectly determined the value of the value of the charity's interest in the land. An appeal must be submitted within 28 days of the date of the Council's decision on the claim for CIL relief. Any appeal will lapse where the chargeable development is commenced prior to the Valuation Office Agency making its decision.

**Regulation 116A: Exemption Residential Annex**

- 1.13 You may appeal to the Valuation Office Agency if you consider that the Council has incorrectly determined that the annexe is not wholly within the grounds of the main dwelling. An appeal must be submitted within 28 days of the date of the Council's decision on the claim for exemption. Any appeal will lapse where the chargeable development is commenced prior to the Valuation Office Agency making its decision.

**Regulation 116B: Exemption for Self Build Housing**

- 1.14 You may appeal to the Valuation Office Agency if you consider that the Council has incorrectly determined the value of the exemption allowed. An appeal must be submitted within 28 days of the date of the Council's decision on the claim for

exemption. Any appeal will lapse where the chargeable development is commenced prior to the Valuation Office Agency making its decision.

#### **APPEALS TO THE PLANNING INSPECTORATE CONCERNING ENFORCEMENT ACTIONS REGARDING THE LEVY**

##### 1.15 First steps – contact the Council.

If you feel that CIL enforcement action is unwarranted or has been taken in error, you are encouraged in the first instance to contact the Council. This is because it may be a lot quicker and easier to resolve the issue by contacting us first 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 the Council only in the following circumstances:

#### **Regulation 117: Appealing against a surcharge**

[Note : Surcharges may apply for a range of reasons including failure to assume liability for the levy, failure to submit a valid commencement notice before development commences, failure to comply with a notice requiring information to be provided to the Council and late payment)

##### 1.16 You may appeal against a surcharge imposed by the Council to the Planning Inspectorate within 28 days of the surcharge being imposed

[http://www.planningportal.gov.uk/planning/appeals/otherappealscasework/cilappeals:](http://www.planningportal.gov.uk/planning/appeals/otherappealscasework/cilappeals) on the following grounds:

- the claimed breach which led to the imposition of the surcharge did not occur;
- the Council did not serve a Liability Notice in respect of the chargeable development to which the surcharge relates; or
- that the surcharge has been calculated incorrectly.

Appealing against a surcharge will suspend its effect until the Planning Inspectorate has decided the appeal in question who may confirm, quash or re-calculate the surcharge.

### **Regulation 118: Appeals against decisions by the Council to deem that development has commenced**

- 1.17 You may appeal to the Planning Inspectorate against any decision by the Council to deem that development has commenced.  
<http://www.planningportal.gov.uk/planning/appeals/otherappealscasework/cilappeals>  
This appeal must be made within 28 days beginning with the day the Demand Notice is issued by the Council.
- 1.18 Where an appeal is allowed, any enforcement decisions relating to the deemed date of commencement, including the imposition of any surcharges, will be suspended pending the outcome of the appeal.

### **Regulation 119: Stop Notices**

- 1.19 You may appeal to the Planning Inspectorate against any decision by the Council to deem that development has commenced on the basis the development has not commenced or that no warning notice was given.  
<http://www.planningportal.gov.uk/planning/appeals/otherappealscasework/cilappeals>:  
This appeal must be made within 60 days beginning on the day which the CIL: Stop Notice takes effect. The CIL Stop Notice continues to have effect while the appeal is outstanding.

NOTE: This Guidance Note does not set out the Community Infrastructure Levy regulations in detail and is simply a summary of the relevant provisions. You should seek your own advice if you are in any doubt as regards how the Community Infrastructure Levy operates or affects your own position

### **Contact Information**

If you wish to request a review under Regulation 113 Request please contact [CIL@bedford.gov.uk](mailto:CIL@bedford.gov.uk)

Regulation 114 – 116 appeals should be submitted to the Valuation Office Agency on a form provided by the agency ( see [www.voa/cil/index.html](http://www.voa/cil/index.html) )

Regulation 117 – 119 appeals relating to enforcement should be submitted to the Planning Inspectorate (see [www.planningportal.gov.uk/planning/appeals/otherappealscasework/cilappeals](http://www.planningportal.gov.uk/planning/appeals/otherappealscasework/cilappeals))

**Appendix 1.**

**Extract from Community Infrastructure Levy Guidance February 2014 page 46-49**

<b>Type of appeal</b>	<b>Who should appellants contact?</b>	<b>Who may appeal, and on what grounds?</b>	<b>What time restrictions apply?</b>
Calculation of chargeable amount (Regulation 114 )	First: ask the levy collecting authority for a review, in accordance with the procedures in Regulation 113 Second: appeal to the Valuation Office Agency	The Valuation Office Agency can only accept an appeal from the person who asked the collecting authority to review the chargeable amount under Regulation 113. An appeal to the Valuation Office Agency can only be made on the ground that the chargeable amount has been calculated incorrectly.	Development must not have commenced. The first review to the charging authority must be made within 28 days A subsequent appeal to the Valuation Office Agency must be made within 60 days of the date when the original liability notice was issued. An appeal to the Valuation Office Agency cannot be made until at least 14 days after the collecting authority has been asked for a review.
Apportionment of liability (Regulation 115)	First: ask the levy collecting authority for a review Second: appeal to the Valuation Office Agency	The appeal can only be made by the 'owner of a material interest' (defined in Regulation 4(2)) in the 'relevant land' (defined in Regulation 2). An appeal to the Valuation Office Agency can only be made against an apportionment of the liability made under Regulation 34.	Within 28 days of the date when the demand notice stating the amount payable by the appellant was issued.

Charitable relief (Regulation 116)	First: ask the levy collecting authority for a review Second: appeal to the Valuation Office Agency	The appeal can only be made by an 'interested person' (defined in Regulation 112(2)(b)). An appeal can be made to the Valuation Office Agency only if it is considered that the collecting authority has incorrectly determined the value of the interest in land used in an apportionment assessment.	Within 28 days of the collecting authority's decision on the claim for charitable relief. Development must not have commenced (see Regulation 7, and section 56(4) of the Town and Country Planning Act 1990, for the definition of 'commencement of development').
Residential annexe exemption (Regulation 116A, inserted by the 2014 Regulations)	Appeals can be lodged directly with the Valuation Office Agency	The appeal can only be made by the person who was granted the exemption. An appeal can be made to the Valuation Office Agency only if it is considered that the collecting authority has incorrectly determined that the annexe is not wholly within the grounds of the main dwelling.	Within 28 days of the collecting authority's decision on the claim for an exemption. Development must not have commenced (see Regulation 7, and section 56(4) of the Town and Country Planning Act 1990, for the definition of 'commencement of development').
Self build exemption (Regulation 116B, inserted by the 2014 Regulations)	Appeals can be lodged directly with the Valuation Office Agency	The appeal can only be made by the person who was granted the exemption for self-build housing, on the grounds that the collecting authority has incorrectly determined the value of the exemption allowed	Within 28 days of the collecting authority's decision on the claim for an exemption. Development must not have commenced (see Regulation 7, and section 56(4) of the Town and Country Planning Act 1990, for the

			definition of 'commencement of development')
Surcharges (Regulation 117)	Planning Inspectorate	The appeal can be made by a person who is aggrieved at a decision of a collecting authority to impose a surcharge	Within 28 days of the surcharge being imposed