

Caerphilly County Borough  
Community Infrastructure Levy

# Guidance Note 4 Draft Charitable Relief Policy

March 2013

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### **Background**

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

### **Definition of Charitable Development entitled to mandatory relief**

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

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
3. The granting of mandatory relief would not constitute a state aid.

### **Discretionary charitable relief**

Discretionary charitable relief for investment activities (Regulation 44 the Regulations) and other charitable relief (Regulation 45) are not available in Caerphilly county borough.

### **Process for claiming mandatory charitable relief**

Regulation 47 of the Regulations sets out the procedures for claiming charitable relief. If these procedures are not rigorously followed, development will cease to be eligible for charitable relief and/or claims for charitable relief will lapse.

- 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.

### **Summary**

To benefit from mandatory charitable relief, the charitable institution must be the owner of the land and using the land wholly or mainly for charitable purposes. Prior to commencing the chargeable development, they must have submitted their claim for relief and received the Council's determination, and submitted a CIL Commencement Notice to the Council.

### Examples of how mandatory 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.

#### 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 mandatory 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)

### APPENDIX 1

#### CIL Charitable Development Relief Policy Guidance Note

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.

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))

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.

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.