

## CIL GUIDANCE NOTE 4



### Community Infrastructure Levy (CIL) Charitable Development Relief

September 2019

#### 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) (CILR 2010) 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 of the CILR 2010) and other charitable relief (Regulation 45 of the CILR 2010) will be considered in Hambleton. **CIL FORM 10** – Charitable or Social Housing Relief should be completed and submitted to be considered by the Council.

#### Process for claiming mandatory charitable relief

Regulation 47 of the CILR 2010 sets out the procedures for claiming charitable relief. These are set out below. 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 using a Charitable or Social Housing Relief form (**CIL FORM 10**) prior to the 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.
- Also, development will cease to be eligible for charitable relief if the Council has not received a CIL Commencement Notice (**CIL FORM 6**) prior to commencement of the chargeable development.

#### Summary

To benefit from mandatory (or discretionary) 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 sq.m Gross Internal Area (GIA) on a cleared site. The residential CIL rate is £65 per sq.m. Therefore, the **CIL liability is £85,475**.

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 of the CILR 2010 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 sq.m GIA and a retail unit (which will be occupied by the charitable institution) of 75 sq.m GIA on a cleared site. The residential CIL rate is £65 and the retail rate is £10 per sq.m (all other chargeable development). Therefore, the total **CIL liability is £86,225** (i.e. residential liability of £85,475 + retail liability of £750).

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, in this case, does not offer discretionary charitable relief for investment activity.

Consequently, the **CIL liability is reduced to £750** (i.e. the retail liability).

### Scenario 3

A university gains planning permission for 5,000 sq.m GIA of new lecture theatre and science laboratories and 3,000 sq.m GIA of student accommodation. The CIL rate for non-residential institutions is £0 per sq.m and the CIL rate for student accommodation is £65 per sq.m (the CIL residential rate). Therefore, the total **CIL liability is £195,000** (i.e. non-residential institutions' liability of £0 + student accommodation liability of £195,000).

Prior to commencement of the development, the Council receives a claim for charitable relief. The Council grants mandatory relief for the lecture theatre and science laboratories because the tests of Regulation 43 are satisfied and in any case, the CIL liability would be £0. However, granting CIL relief for the student accommodation element would be considered to constitute a state aid and therefore no relief would be granted.

Consequently, the CIL liability remains at £195,000 (i.e. the student accommodation liability).