

CIL GUIDANCE NOTE 9

HAMBLETON

DISTRICT COUNCIL

Community Infrastructure Levy (CIL) Appeals Procedures

September 2019

Is there a right of appeal against a Community Infrastructure Levy charge?

Appeals can be lodged against some aspects of a levy charge. The full range of appeals is shown in the table below:

Type of appeal	Who should appellants contact?	Who may appeal, and on what grounds?	What time restrictions apply?
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').

Type of appeal	Who should appellants contact?	Who may appeal, and on what grounds?	What time restrictions apply?
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')
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
Commencement of development (Regulation 118)	Planning Inspectorate	The appeal can be made by a person on whom a demand notice is served, on the grounds that the date of commencement has been wrongly determined	Within 28 days of the date the demand notice was issued
Issuing of a stop notice (Regulation 119)	Planning Inspectorate	The appeal can be made by a person who is aggrieved at a decision of a collecting authority to impose a levy stop notice	Within 60 days of the date when the stop notice takes effect

Relevant Regulations can be found here:

<http://www.legislation.gov.uk/uksi/2010/948/regulation/114/made>

<http://www.legislation.gov.uk/uksi/2010/948/regulation/115/made>

<http://www.legislation.gov.uk/uksi/2010/948/regulation/116/made>

<http://www.legislation.gov.uk/uksi/2014/385/regulation/11/made>

<http://www.legislation.gov.uk/uksi/2010/948/regulation/117/made>

<http://www.legislation.gov.uk/uksi/2010/948/regulation/118/made>

<http://www.legislation.gov.uk/uksi/2010/948/regulation/119/made>

(Link to Regulations 116A and 116B to be added when online version becomes available)

What are the requirements for lodging appeals?

A liable person can ask the levy collecting authority for a review of the chargeable amount, within 28 days from the date on which the liability notice (that outlines the chargeable amount) was issued. The collecting authority is required to review the calculation. This review must be carried out by someone who is senior to the person who made the original calculation, and who had no involvement in that original calculation. A decision must be issued within 14 days, and this decision cannot be reviewed again. Following this review, the liable person may submit an appeal to the Valuation Office Agency (see <http://www.voa.gov.uk/cil/index.html> for details).

Appeals made in connection with the calculation of the chargeable amount, an apportionment of liability, charitable relief and self-build exemptions should be submitted to the independent Valuation Office Agency, on a form provided by the Agency (see <http://www.voa.gov.uk/cil/index.html> for details).

Appeals related to enforcement (surcharges, commencement notices and stop notices) should be submitted to the Planning Inspectorate: (see <http://www.planningportal.gov.uk/planning/appeals/otherappealscasework/cilappeals> for details).

All appeals to the Planning Inspectorate must be made using the form published by the Secretary of State (or forms substantially to the same effect). This can be found on the Planning Portal website (as above).

Can an appeal be made if development has already started?

If a person intends to request a review of a liability notice (under Regulation 113), or lodge an appeal under Regulation 114(4) (except in respect of retrospective apps), Regulation 116(3), Regulation 116A or Regulation 116B, they must do this before development begins. The appeal will lapse if development is commenced before the appeal decision is received. See Regulation 7, and section 56(4) of the Town and Country Planning Act 1990, for the definition of 'commencement of development').

In some circumstances, however, this may not be possible. For example, if an apportionment of liability has been made after development has commenced or where planning permission is sought retrospectively, the liability notice can only be issued once the scheme is underway or complete. In such circumstances, relevant people may still request a review or appeal of the chargeable amount or the apportionment of liability. This applies to appeals lodged under Regulation 114 in respect of retrospective planning permissions, and Regulation 115.

Are levy appeal decisions published?

Appeal decision notices issued by the Valuation Office Agency are published in redacted form on the agency's website (see <http://www.voa.gov.uk/cil/cil-Appeals.html> for details). Appeal decision notices issued by the Planning Inspectorate will be published in redacted form on the Planning Portal website (see <http://www.planningportal.gov.uk/planning/appeals/otherappealscaseworkcilappeals> for details).