



Bristol City Council

Community Infrastructure Levy

**Paper setting out how the Council has
complied with the relevant legislation and
regulations**

10 May 2012

Background

The purpose of this paper is to identify the legislation and regulations relating to the production of a Community Infrastructure Levy (CIL) Charging Schedule, and to show how the Council has complied with them.

Legislation relating to the introduction of CIL is set out in Part 11 of the Planning Act (2008) as amended by the Localism Act (2011). The provisions relating to the examination of a CIL Draft Charging Schedule are set out in the following section:

Section 212 Charging schedule: examination

The Planning Act (2008) allows for the production of CIL regulations. These are contained in The Community Infrastructure Levy Regulations (2010) as amended by The Community Infrastructure Levy (Amendment) Regulations (2011).

The regulations that apply to the processes involved in progressing a CIL Draft Charging Schedule to examination are as follows:

Regulation 12	Format and content of charging schedules
Regulation 13	Differential rates
Regulation 14	Setting rates
Regulation 15	Consultation on a preliminary draft charging schedule
Regulation 16	Publication of a draft charging schedule
Regulation 17	Representations relating to a draft charging schedule
Regulation 18	Withdrawal of a draft charging schedule
Regulation 19	Submission of documents and information to the examiner
Regulation 20	Consideration of representations by examiner
Regulation 21	CIL examination: right to be heard

The sections and regulations identified above are reproduced in this paper and the Council has indicated **in red text**, how it has complied with the regulations, where appropriate.

The Planning Act (2008) Part 11, as amended by the Localism Act (2011) Part 6, Chapter 2 (Community Infrastructure Levy)

Section 214 – Charging schedule: examination

(1) Before approving a charging schedule a charging authority must appoint a person ("the examiner") to examine a draft.

The Council has appointed Nigel Payne BSc (Hons), Dip TP, MRTPI, MCMI, to examine its Community Infrastructure Levy Draft Charging Schedule.

(2) The charging authority must appoint someone who, in the opinion of the authority—

- (a) is independent of the charging authority, and*
- (b) has appropriate qualifications and experience.*

Mr Payne is independent of the Council as he is a planning inspector provided by the Planning Inspectorate. He is currently the most experienced CIL examiner having examined Draft Charging Schedules for Newark and Sherwood, Huntingdon and Wandsworth.

(3) The charging authority may, with the agreement of the examiner, appoint persons to assist the examiner.

(4) The draft submitted to the examiner must be accompanied by a declaration (approved under subsection (5) or (6))—

- (a) that the charging authority has complied with the requirements of this Part and CIL regulations (including the requirements to have regard to the matters listed in section 211(2) and (4)),*
- (b) that the charging authority has used appropriate available evidence to inform the draft charging schedule, and*
- (c) dealing with any other matter prescribed by CIL regulations.*

(5) A charging authority (other than the Mayor of London) must approve the declaration—

- (a) at a meeting of the authority, and*
- (b) by a majority of votes of members present.*

(6) The Mayor of London must approve the declaration personally.

(7) The examiner must consider the matters listed in subsection (4) and—

- (a) recommend that the draft charging schedule be approved, rejected or approved with specified modifications, and*
- (b) give reasons for the recommendations.*

Paragraphs 4 to 7 above were superseded by the Localism Act, which substituted them for the following:

For section 212(4) to (7) (draft must be accompanied by declaration of compliance with requirements, and examiner must consider the requirements and make recommendations with reasons) substitute—

(4) In this section and sections 212A and 213 “the drafting requirements” means the requirements of this Part and CIL regulations (including the requirements to have regard to the matters listed in section 211(2) and (4)), so far as relevant to the drafting of the schedule.

(7) The examiner must consider whether the drafting requirements have been complied with and—

- (a) make recommendations in accordance with section 212A, and*
- (b) give reasons for the recommendations.*

(8) The charging authority must publish the recommendations and reasons.

(9) CIL regulations must require a charging authority to allow anyone who makes representations about a draft charging schedule to be heard by the examiner; and the regulations may make provision about timing and procedure.

(10) CIL regulations may make provision for examiners to reconsider their decisions with a view to correcting errors (before or after the approval of a charging schedule).

(11) The charging authority may withdraw a draft.

**The Community Infrastructure Levy Regulations (2010) as amended by
The Community Infrastructure Levy (Amendment) Regulations (2011).**

Regulation 12 – Format and content of charging schedules

(1) Subject to the provisions of this Part a charging authority may determine the format and content of a charging schedule.

(2) A draft charging schedule submitted for examination in accordance with section 212 of PA 2008 must contain—

(a) the name of the charging authority;

The CIL Draft Charging Schedule confirms that the charging authority is “**The City Council of Bristol**” but that it is commonly known as Bristol City Council.

(b) the rates (set at pounds per square metre) at which CIL is to be chargeable in the authority’s area;

The CIL Draft Charging Schedule contains a table setting out the rates at which CIL is to be chargeable.

(c) where a charging authority sets differential rates in accordance with regulation 13(1)(a), a map which—

(i) identifies the location and boundaries of the zones,

(ii) is reproduced from, or based on, an Ordnance Survey map,

(iii) shows National Grid lines and reference numbers, and

(iv) includes an explanation of any symbol or notation which it uses

The CIL Draft Charging Schedule sets differential rates for residential development. The locations and boundaries of the zones are set out on a map which is reproduced from an Ordnance Survey map base, and which shows National Grid lines and reference numbers. The map identifies the differing zones by colour and includes a key showing which colours relate to which zones.

(d) an explanation of how the chargeable amount will be calculated.

The CIL Draft Charging Schedule explains that the chargeable amount of CIL will be calculated in accordance with Regulation 40 of The Community Infrastructure Levy Regulations (2010) as amended by Regulation 7 of The Community Infrastructure Levy (Amendment) Regulations (2011). It also explains that CIL charges will be indexed to the BCIS All-in Tender Price Index.

(3) A charging schedule approved by a charging authority must, in addition to the contents mentioned in paragraph (2), contain—

(a) the date on which the charging schedule was approved;

(b) the date on which the charging schedule takes effect; and

(c) a statement that it has been issued, approved and published in accordance with these Regulations and Part 11 of PA 2008.

(4) In paragraph (2)(c)(ii) “Ordnance Survey map” means a map produced by Ordnance Survey or a map on a similar base at a registered scale

Regulation 13 – Differential rates

(1) A charging authority may set differential rates—

- (a) for different zones in which development would be situated;*
- (b) by reference to different intended uses of development.*

(2) In setting differential rates, a charging authority may set supplementary charges, nil rates, increased rates or reductions

Regulation 14 – Setting rates

(1) In setting rates (including differential rates) in a charging schedule, a charging authority must aim to strike what appears to the charging authority to be an appropriate balance between—

- (a) the desirability of funding from CIL (in whole or in part) the actual and expected estimated total cost of infrastructure required to support the development of its area, taking into account other actual and expected sources of funding; and*

Anticipated levels of CIL funding and the Council's Infrastructure Funding Gap are summarised in the CIL Draft Charging Schedule. Evidence to support this is contained in the Council's Infrastructure Delivery Programme, the Funding Gap Background Paper, and the CIL Preliminary Draft Charging Schedule, all of which form part of the CIL evidence base.

- (b) the potential effects (taken as a whole) of the imposition of CIL on the economic viability of development across its area.*

The CIL Viability Study forms part of the CIL evidence base and this sets out the impact of CIL on development viability.

(2) In setting rates in a charging schedule, a charging authority may also have regard to actual and expected administrative expenses in connection with CIL to the extent that those expenses can be funded from CIL in accordance with regulation 61.

(3) In having regard to the potential effects of the imposition of CIL on the economic viability of development (in accordance with paragraph (1)(b)), a London borough council must take into account the rates set by the Mayor.

Not applicable to Bristol.

(4) For the purposes of paragraph (3), the rates set by the Mayor are the rates in the most recent charging schedule approved by the Mayor before the London borough council begins consultation on its preliminary draft charging schedule in accordance with regulation 15

Not applicable to Bristol.

Regulation 15 – Consultation on a preliminary draft charging schedule

(1) A charging authority which proposes to issue or revise a charging schedule must prepare a preliminary draft charging schedule for consultation.

Bristol issued a CIL Preliminary Draft Charging Schedule for consultation between 28 November 2011 and 20 January 2012.

(2) The charging authority must—

- (a) send a copy of the preliminary draft to each of the consultation bodies; and*
- (b) invite each of those bodies to make representations on the preliminary draft.*

Letters containing copies of the CIL Preliminary Draft Charging Schedule and inviting representations on it, were forwarded to the consultation bodies on 28 November 2011.

(3) For a charging authority in England, the consultation bodies are—

- (a) each of the following whose area is in or adjoins the charging authority's area—*

- (i) a local planning authority within the meaning of section 37 of PCPA 2004(1),*
- (ii) a local planning authority within the meaning of section 78 of PCPA 2004,*
- (iii) a county council,*
- (iv) a responsible regional authority;*
- (b) each parish council whose area is in the charging authority's area;*
- (c) the Mayor if the charging authority is a London borough council;*
- (d) any other person exercising the functions of a local planning authority (within the meaning of TCPA 1990) for an area within, or which adjoins, the charging authority's area.*

Insofar as Bristol City Council is concerned, the consultation bodies are South Gloucestershire Council, Bath and North East Somerset Council and North Somerset Council.

(4) For a charging authority in Wales, the consultation bodies are—

- (a) each of the following whose area is in or adjoins the charging authority's area—*
 - (i) a local planning authority within the meaning of section 78 of PCPA 2004,*
 - (ii) a local planning authority within the meaning of section 37 of PCPA 2004;*
- (b) any other person exercising the functions of a local planning authority (within the meaning of TCPA 1990) for an area within, or which adjoins, the charging authority's area; and*

(c) the Welsh Ministers.

Not applicable to Bristol.

(5) The charging authority must also invite representations on the preliminary draft from—

(a) persons who are resident or carrying on business in its area; and

The Council invited representations from all persons and organisations who were on the Bristol Development Framework consultation database.

(b) such of the following as the charging authority consider appropriate—

(i) voluntary bodies some or all of whose activities benefit the charging authority's area, and

The Council specifically sought representations from VOSCUR (an infrastructure organisation and a development agency for the voluntary, community and social enterprise sector in Bristol).

(ii) bodies which represent the interests of persons carrying on business in the charging authority's area.

The Council specifically sought representations from the Bristol Property Agents Association (BPAA) and Business West.

(6) The charging authority must make such arrangements as it considers appropriate for inviting representations under paragraph (5).

The Council advertised the CIL Preliminary Draft Charging Schedule in the Bristol Evening Post Newspaper on 25 November 2011. It also held workshops with Property Agents, Landowners, Developers and Planning Consultants (10 January 2012) and Business West (11 January 2012).

In addition, the CIL Preliminary Draft Charging Schedule and associated evidence were published on the Council's Web Site and linked to the Council's Consultation Hub Web Page.

Hard copies of the relevant documents were also made available in the Council House and Bristol Central Library.

(7) The charging authority must take into account any representations made to it under this regulation before it publishes a draft of the charging schedule for examination in accordance with section 212 of PA 2008.

The Council has published a summary of comments received and its response to them, on its website. A number of comments received contained evidence that resulted in changes to the proposed CIL charges.

(8) In this regulation “responsible regional authority” must be construed in accordance with Part 5 of the Local Democracy, Economic Development and Construction Act 2009(2).

Regulation 16 – Publication of a draft charging schedule

(1) Before submitting a draft charging schedule for examination in accordance with section 212 of PA 2008, the charging authority must—

(a) make a copy of the draft charging schedule, the relevant evidence and a statement of the representations procedure available for inspection—

(i) at its principal office, and

(ii) at such other places within its area as it considers appropriate;

Copies of the relevant documents were made available in the Council House and Bristol Central Library from 2 March 2012.

(b) publish on its website—

(i) the draft charging schedule,

(ii) the relevant evidence (to the extent that it is practicable to do so),

(iii) a statement of the representations procedure, and

(iv) a statement of the fact that the draft charging schedule and relevant evidence are available for inspection and of the places at which they can be inspected;

The information required in (b) (i) to (iv) was published on the Council's website on 2 March 2012.

(c) send to each of the consultation bodies—

(i) a copy of the draft charging schedule, and

(ii) a statement of the representations procedure; and

Letters containing copies of the CIL Draft Charging Schedule and the Statement of the Representations Procedure were forwarded to the consultation bodies on 1 March 2012.

(d) give by local advertisement notice which sets out—

(i) a statement of the representations procedure, and

(ii) a statement of the fact that the draft charging schedule and relevant evidence are available for inspection and of the places at which they can be inspected.

The information required in (d) (i) and (ii) was contained in a local advertisement notice, published in the Bristol Evening Post Newspaper on 1 March 2012.

(2) In this regulation “statement of the representations procedure” means a statement specifying—

(a) the period within which representations about the draft charging schedule must be made in accordance with regulation 17(2)(a):

- (b) the address to which, and the name of the person (if any) to whom, representations about the draft charging schedule must be made in accordance with regulation 17(2)(b);*
- (c) that representations may be made in writing or by way of electronic communications;*
- (d) that persons making representations may request the right to be heard by the examiner; and*
- (e) that representations may be accompanied by a request to be notified at a specified address of any of the following—*
 - (i) that the draft charging schedule has been submitted to the examiner in accordance with section 212 of PA 2008,*
 - (ii) the publication of the recommendations of the examiner and the reasons for those recommendations, and*
 - (iii) the approval of the charging schedule by the charging authority.*

Regulation 17 – Representations relating to a draft charging schedule

(1) Any person may make representations about a draft charging schedule which a charging authority proposes to submit to the examiner.

(2) Any such representations must be—

- (a) made within the period which the charging authority specifies for the purposes of this paragraph; and*
- (b) sent to the address, and if the charging authority think it appropriate to specify a person, the person, which the charging authority specifies for the purposes of this paragraph.*

(3) The period which the charging authority specifies for the purposes of paragraph (2) must be a period of not less than four weeks starting on the day on which notice given pursuant to regulation 16(1)(d) is first published.

The notice pursuant to regulation 16(1)(d) was published on 1 March 2012, and the period for representation concluded on 30 March 2012.

(4) A person who has made representations about a draft charging schedule may withdraw those representations at any time by giving notice in writing to the charging authority.

Regulation 18 – Withdrawal of a draft charging schedule

Where a charging authority withdraws a draft charging schedule under section 212(11) of PA 2008 it must, as soon as practicable after it is withdrawn—

- (a) publish a statement of that fact on its website;*
- (b) give notice of that fact by local advertisement;*
- (c) notify any person that was invited to make representations on the draft charging schedule of that fact; and*
- (d) remove from its website and from the places at which they were made available any copies, documents, evidence and statements made available or published under regulation 16(1)(a) or (b).*

The City Council has not withdrawn its Draft Charging Schedule therefore this regulation does not apply.

Regulation 19 – Submission of documents and information to the examiner

(1) The charging authority must submit the following to the examiner (in addition to the declaration required under section 212(4) of PA 2008)—

Section 114 of the Localism Act 2011 (which came into operation on 16 November 2011) removes the Section 212(4) requirement on the charging authority to submit a declaration to the examiner.

- (a) the draft charging schedule;*
- (b) a statement setting out—*
 - (i) if representations were made in accordance with regulation 17, the number of representations made and a summary of the main issues raised by the representations, or*
 - (ii) that no such representations were made;*
- (c) copies of any representations made in accordance with regulation 17;*
- (d) where the charging authority modified the draft charging schedule after it was published in accordance with regulation 16, a statement of modifications; and*
- (e) copies of the relevant evidence.*

The following documents were submitted to the examiner (Planning Inspectorate) on 18 April 2012:

- Community Infrastructure Levy Draft Charging Schedule
- A statement in accordance with Regulation 19(1)(b)
- Copies of the representation that were made in accordance with Regulation 17
- The adopted Bristol Core Strategy
- The Bristol Infrastructure Delivery Programme
- Community Infrastructure Levy Funding Gap Background Paper
- Community Infrastructure Levy Viability Study
- Bristol City Council Cabinet Report of 23 February 2012
- Community Infrastructure Levy Draft Charging Schedule Statement of Representations Procedure
- Community Infrastructure Levy Draft Regulation 123 list
- Community Infrastructure Levy Preliminary Draft Charging Schedule
- Community Infrastructure Levy Preliminary Draft Charging Schedule summary of comments and responses
- Draft Revision to Bristol City Council Supplementary Planning Document 4 (Planning Obligations)

- (2) Of the documents and statements mentioned in paragraph (1)—*
- (a) a copy of each must be sent in paper form; and*

(b) a copy of those mentioned in paragraph (1)(a), (b) and (d) and, to the extent that it is practicable to do so, of those mentioned in paragraph (1)(c) and (e), must be sent electronically.

All the documents identified in Paragraph 1 were provided both in paper form and electronically.

(3) As soon as practicable after a charging authority submits a draft charging schedule to the examiner it must—

(a) make available at the places where the documents mentioned in regulation 16(1)(a) were made available, a copy of the draft charging schedule and of each of the documents mentioned in paragraph (1);

Copies of the documents identified in Paragraph 1 were made available in the Council House and Bristol Central Library from 20 April 2012.

(b) publish on its website—

(i) the draft charging schedule and the documents mentioned in paragraph (1)(a), (b) and (d),

(ii) any of the documents mentioned in paragraph (1)(c) and (e) which it is practicable to so publish, and

(iii) a statement of the fact that a copy of the draft charging schedule and of each of the documents mentioned in paragraph (1) are available for inspection and of the places at which they can be inspected; and

Copies of the documents identified in Paragraph 1 were published on the Council's website on 20 April 2012.

(c) give notice to those persons who requested to be notified of the submission of the draft charging schedule to the examiner that the draft has been so submitted.

All persons who submitted responses to the CIL Draft Charging Schedule were notified of its submission on 26 April 2012.

(4) Where the charging authority modified the draft charging schedule after it was published in accordance with regulation 16, the charging authority must send a copy of the statement of modifications to each of the persons invited to make representations under regulation 15.

Regulation 19(4) was amended by the Community Infrastructure Levy (Amendment) Regulations 2011. However, as the Council has not modified its Draft Charging Schedule following publication, the amended regulation does not apply.

Regulation 20 – Consideration of representations by examiner

The examiner must consider any representations made in accordance with regulation 17 before complying with section 212(7) of PA 2008.

Regulation 21 – CIL examination: right to be heard

(1) A person who makes representations about a draft charging schedule in accordance with regulation 17 must (if the person so requests) be heard by the examiner.

(2) A request under paragraph (1) must be submitted to the charging authority in writing before the end of the period the charging authority specifies for the purposes of regulation 17(2)

One request (from CSJ Planning) to be heard was received within the period for making representations.

(3) Where a charging authority modifies a draft charging schedule after it is published in accordance with regulation 16, any person may request to be heard by the examiner in relation to those modifications.

(4) The right to be heard under paragraph (3) applies only in relation to the modifications made to the draft charging schedule as set out in the statement of modifications.

(5) A request under paragraph (3) must—

(a) be submitted to the charging authority in writing before the end of the period of four weeks beginning with the day on which the draft charging schedule is submitted to the examiner in accordance with regulation 19(1); and

(b) include details of the modifications (by reference to the statement of modifications) on which the person wishes to be heard.

(6) The charging authority must submit a copy of each request it receives under paragraph (3) to the examiner as soon as practicable after the end of the period mentioned in paragraph (5)(a).

(7) A person who has made a request to be heard under paragraph (3) may withdraw that request at any time before the opening of the examination by giving notice in writing to the charging authority.

Bristol City Council has not modified its Draft Charging Schedule therefore paragraphs (3) to (7) above do not apply.

(8) Where a person has submitted a request to be heard by the examiner, the charging authority must—

(a) publish the matters mentioned in paragraph (9) on its website;

The Council published the time and place of the CIL examination and the name of the examiner on its website on 9 May 2012.

(b) notify the following of those matters—

(i) any person who has made a representation in accordance with regulation 17, and not withdrawn that representation, of those matters,

The Council notified all persons who made representations in accordance with Regulation 17, by letter or email, on 4 May 2012

(ii) any person who has made a request to be heard under paragraph (3); and

Bristol City Council has not modified its Draft Charging Schedule therefore paragraph (8)(ii) does not apply.

(c) give notice by local advertisement of those matters.

The Council advertised the time and place of the CIL examination and the name of the examiner in the Bristol Evening Post Newspaper on 3 May 2012

(9) The matters referred to in paragraph (8) are—

(a) the time and place at which the examination is to be held; and

(b) the name of the examiner.

(10) Subject to paragraph (11), the charging authority must comply with the requirements set out in paragraph (8) at least four weeks before the opening of the examination.

The requirements set out in paragraph (8) were complied with between six and seven weeks before the opening of the examination

(11) Where a person has made a request to be heard by the examiner under paragraph (3), the charging authority must comply with the requirements in paragraph (8) at least two weeks before the opening of the examination.

Bristol City Council has not modified its Draft Charging Schedule therefore paragraph (11) does not apply.

(12) Without prejudice to section 212(9) of PA 2008—

(a) it is for the examiner to decide how the hearing is to be conducted;

(b) the examiner may, in particular, decide the amount of time to be allowed at an examination for the hearing of representations;

(c) the examiner may refuse to allow representations to be made at the hearing if the examiner considers that the representations are irrelevant, frivolous, vexatious or repetitious.