

Community Infrastructure Levy

Social Housing Relief

Introduction

Social housing relief can be sought for most social rent and affordable rent dwellings provided by a local authority or private registered provider, and some shared ownership dwellings. It can also apply to some rented dwellings provided by other landlords and to some low cost dwellings for sale.

Definition of Social Housing

Regulation 49 of the Community Infrastructure Levy Regulations (2010) requires that at least one of the following five conditions is met for social housing relief to apply.

1. The dwelling is let by a local housing authority on a demoted tenancy, introductory tenancy, secure tenancy or an arrangement that would be a secure tenancy but for paragraph 4ZA or 12 of schedule 1 to the Housing Act 1985.
2. All of the following are met -
 - the dwelling is occupied in accordance with shared ownership arrangements within the meaning of section 70(4) of the Housing and Regeneration Act 2008,
 - the percentage of the value of the dwelling paid as a premium on the day on which a lease is granted under the shared ownership arrangement does not exceed 75% of the market value (where the market value at any time is the price which the dwelling might reasonably be expected to fetch if sold at that time on the open market);
 - on the day on which a lease is granted under the shared ownership arrangements, the annual rent payable is not more than 3% of the value of the unsold interest; and
 - in any given year the annual rent payable does not increase by more than the percentage increase in the retail prices index for the year to September immediately preceding the anniversary of the day on which the lease was granted plus 0.5%.
3. The dwelling is let by a private registered provider of social housing on an assured tenancy, an assured agricultural occupancy a demoted tenancy or an arrangement that would be an assured tenancy or assured agricultural occupancy but for paragraph 12 (1)(h) or 12ZA of schedule 1 to the Housing Act 1988 and one of the following criteria is also met;
 - The rent is subject to the national rent regime and regulated under a standard controlling rent set by the Regulator of Social Housing under section 194 of the Housing and Regeneration Act 2008:
 - The rent is not subject to the national rent regime; not regulated under the standard controlling rents set by the Regulator of Social Housing under section 194 of the Housing and Regeneration Act 2008 and is no more than 80 per cent of market rent

- The rent is not subject to the national rent regime and is regulated under a standard controlling rent set by the Regulator of Social Housing under section 194 of the Housing and Regeneration Act 2008 which requires an initial rent to be no more than 80 per cent of the market rent of the property (including service charges)
4. The dwelling is let by a person who is not a local housing authority, a private registered provider of social housing or a registered social landlord on one of the following:
 - a. an assured tenancy, an assured agricultural tenancy or an arrangement that would be a secure tenancy or an assured agricultural occupancy but for paragraph 12 (1)(h) of schedule 1 to the Housing Act 1988.
 - b. the dwelling is let to a person whose needs are not adequately served by the commercial housing market and the rent is no more than 80% of market rent (including service charges) **and**
 - c. a planning obligation under section 106 of the Town and Country Planning Act 1990 to ensure compliance with the above has been entered into.

 5. The first sale of the dwelling is for no more than 70% of its market value **and** a planning obligation has been entered into designed to ensure that any subsequent sale of the dwelling is for no more than 70% of its market value.

The Council does not offer discretionary relief (under Regulation 49A of the CIL Regulations) for housing sold at 80% of market value.

Process for claiming Social Housing Relief

A claimant must provide evidence that the chargeable development qualifies for social housing relief.

In order to benefit from social housing relief, the person/organisation claiming social housing relief must be the owner of the relevant land:

1. Assume liability to pay CIL, through the submission to the Council of a CIL **Assumption of Liability** form prior to the commencement of the chargeable development.
2. Submit to the Council CIL form - **Claiming Exemption or Relief**, prior to commencement of the chargeable development and provide a plan showing the location of the dwellings to which social housing relief applies, sets out the gross internal area of each of the dwellings, and includes a calculation of the amount of social housing relief claimed.
3. The Council will assess the claim and the developer will be notified of the decision.
4. Before development commences a **Commencement Notice** must be submitted to the Council. The Commencement date determines the start date of the seven-year claw back period for development provided by local authorities, registered providers and registered social landlords.

If development begins before a commencement notice is received the claim for relief will lapse.

Disposal of land before occupation

The beneficiary of all relief on a chargeable development is the claimant regardless of whether the claimant owns the land on which the social housing will be situated.

However the relief attached to each qualifying dwelling will transfer whenever the land on which the dwelling(s) sit is sold before they are ready for occupation. In this event the relief applicable will be recalculated and transferred to the new beneficiary.

If the development is sold the beneficiary must;

- Notify the collecting authority in writing of the sale and copy this to the previous beneficiary.
- Provide a plan showing the gross internal area of the qualifying dwellings
- Provide a plan showing the location of the dwellings
- Give the name and address of the seller the buyer and former beneficiary

Once a qualifying dwelling is made available for occupation the beneficiary remains the beneficiary regardless of future ownership arrangements.

Withdrawal of social housing relief

Social housing relief can be withdrawn for any qualifying dwelling where a disqualifying event occurs up to seven years, from the commencement of development, (the “clawback period”) for development provided by local authorities, registered providers and registered social landlords and seven years, from the commencement of the first let, for rented properties provided by other landlords. In the case of the first sale of the dwelling being no more than 70% of its market value and this being secured by a planning obligation, the clawback period ends on the day on which the qualifying dwelling is first sold in accordance with the condition of the relief. Any relief which is withdrawn must be repaid by the beneficiary of relief.

The occupant of the dwelling will never pay clawback – liability falls on the owner of the land immediately prior to the dwelling being made available for occupation.

Where a disqualifying event occurs prior to the commencement of development, social housing relief will cease to apply.

A disqualifying event is any change to a qualifying dwelling causing it to no longer qualify for social housing relief. However the sale of a qualifying dwelling is not in itself a disqualifying event if the proceeds of sale are spent on another qualifying dwelling or the sale is the first sale of a dwelling provided at 70 % of market value under Reg 49 7(B). Transferring the sale proceeds to the Secretary of State, a local housing authority, the Homes and Communities Agency or the Regulator of Social Housing are also not disqualifying events.

Where a disqualifying event occurs, the beneficiary of relief on the dwelling concerned must inform the Council in writing within 14 days. Where this is not done,

a surcharge equal to the lesser amount of 20 per cent of the chargeable amount or £2,500 may be applied. The notification must include the area of floor-space which is no longer eligible and a map locating its position within the development.

The Council will calculate what clawback is payable and notify the beneficiary in writing of the withdrawn amount and how this has been calculated. A demand notice will be served to collect the clawed back relief. This will be done even if the development is complete.

Examples of how social housing relief is calculated

Scenario 1

A social housing residential development of 2,000sq m GIA on a cleared site in Zone A (the Inner Zone) is granted planning permission. The developer is a housing association. The residential CIL rate for zone A is £75 per sq m; therefore the CIL liability is £150,000.

Prior to the commencement of the development, the Council receives a claim for 2,000sq m of Social Housing Relief, as the whole of the development will be social housing.

Consequently Social Housing Relief is granted on the whole development and the CIL liability is reduced to £0.

Scenario 2

A residential development of 4,000sq m Gross Internal Area (GIA) on a cleared site in the Zone B (the Outer Zone) is granted planning permission. The residential CIL rate in Zone B is £50 per sq m; therefore the CIL liability is £200,000.

Prior to the commencement of the development, the Council receives a claim for 950sq m of Social Housing Relief.

The calculation of the revised CIL liability is as follows:

Process 1 – Deduct the GIA eligible for relief from the total GIA

The total GIA (4,000sq m) – the GIA eligible for relief (950sq m) = 3,050sq m

Process 2 – Recalculate the CIL liability

3,050sq m x £50 = **Revised CIL liability of £152,500**

For further assistance

Refer to [About the Community Infrastructure Levy](#) or contact avarney@s-norfolk.gov.uk