



Rother District Council

Community Infrastructure Levy (CIL) Enforcement Policy

February 2025

For any enquiries regarding this policy email:
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What is the Community Infrastructure Levy (CIL)?

CIL is a charge on development which is calculated on a £ per square metre basis (sqm) which allows local authorities in England and Wales to raise funds from developers undertaking new building projects in their area. CIL can fund a wide range of infrastructure that is needed to support new development, including: transport schemes, schools, flood defences, health and social care facilities, parks, green spaces, leisure centres and other community and cultural facilities. As almost all development has some impact on the need for infrastructure, services and amenities, this tariff-based approach is seen as an effective, quicker and fairer framework to fund new infrastructure to support growth.

The purpose of this document

The Community Infrastructure Levy Regulations 2010 (as amended) give local authorities the ability to take a range of actions to ensure collection of the levy. This includes the power to issue surcharges, late payment interest, stop notices, and where required further legal action.

These enforcement procedures can be triggered by the following:

- Failure to complete and submit the relevant CIL form(s).
- Failure to inform of a disqualifying event
- Late Payment
- Failure to comply with an information notice from the Charging Authority

The surcharges and interest applied to CIL are solely for situations where the correct paperwork has not been submitted to the Charging Authority and/or that payment has not been received, meaning that the regulations' procedures have not been followed.

Please note the below is a summary – please see the [CIL Regulations 2010 \(as amended\)](#) for full details.

Surcharges

CIL Regulation	Surcharge	Amount of Surcharge	Applicable if
80.	Failure to assume liability (CIL Form 2)	£50 on each person liable to pay CIL	Liability for the CIL has not been assumed, and the chargeable development has commenced.
82.	Failure to submit a Notice of Chargeable Development (CIL Form 5)	20% of the chargeable amount payable or £2500; whichever is the lesser In addition, loss of payment by instalments	Planning permission has been granted for the chargeable development by way of general consent, and; The chargeable development has been commenced without the submission of CIL Form 5 to the Charging Authority
83.	Failure to submit a Commencement Notice (CIL Form 6)	20% of the chargeable amount payable or £2,500; whichever is the lesser amount In addition, loss of payment by instalments if the RDC Instalment Policy would be triggered by the liability.	The chargeable development has commenced before the Charging Authority has received a valid Commencement Notice (CIL form 6)
84.	Failure to notify of a disqualifying event	20% of the chargeable amount payable or £2,500; whichever is the lesser amount, and the loss of any exemption of relief from the CIL that has been granted.	Where a person who is required to notify the Charging Authority of a disqualifying event fails to do so before the end of the period of 14 days, beginning with the day on which the disqualifying event occurred.
85.	Late payment of CIL	5% of the overdue amount or £200, whichever is the greater. This surcharge can be applied up to three times at the following overdue intervals:	Where the CIL due is not received in full after the end of the 30-day period, beginning with the day on which payment is due. This surcharge can then be applied for 6 months overdue and

		<ul style="list-style-type: none"> - 30 days - 6 months; and - 12 months 	12 months overdue.
86.	Failure to comply with an information notice	20% of the relevant amount or £1,000, whichever is the lesser.	Where a person fails to comply with any requirement of an information notice before the end of the period of 14 days beginning with the day on which the notice is served.

Late Payment Interest

87.	Late payment interest	2.5 percentage points above the Bank of England base rate.	Payment is not received on the date it is due. Interest is calculated for the period starting on the day after the day payment was due and ending on the day the unpaid amount is received.
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CIL Stop Notices

Regulation	Process	Applicable where;
89. Preliminary steps	The Charging Authority may issue a warning notice of its intention to impose a CIL Stop Notice on the chargeable development.	An amount which has become payable in respect of the chargeable development has not been paid; and The Charging Authority considers it expedient that development should stop until the amount has been paid.
90. Service of CIL Stop Notice	The Charging Authority must have issued a warning notice (see above). The amount specified in the warning notice must not have been paid in whole or in part at the end of the specified period. The Charging Authority must display a copy of the CIL Stop Notice in writing on the relevant land, and it has an effect from the date specified in the notice until the date it is withdrawn by the Charging Authority. A CIL stop notice does not prohibit any work on the relevant land which is necessary in the interests of health and safety.	The Charging Authority has issued a warning notice in respect of the chargeable development. The amount specified in the warning notice remains unpaid (in whole or in part) at the end of the period specified in the notice.

<p>91. Withdrawal of a CIL Stop Notice</p>	<p>A Charging Authority may withdraw a CIL stop notice at any time by serving a written notice to that effect to the persons served with a CIL stop notice.</p> <p>A Charging Authority must withdraw a CIL stop notice when the unpaid amount stated in the notice is paid in full.</p> <p>A Charging Authority which withdraws a CIL stop notice must display a notice of withdrawal on the relevant land in place of the CIL stop notice.</p> <p>A stop notice ceases to have effect on the day the Charging Authority serves notice of its withdrawal.</p>	<p>The unpaid amount stated in the notice is paid in full to the Charging Authority.</p> <p>The Charging Authority withdraws a CIL stop notice (without prejudice to its power to issue another) by serving written notice to that effect on the persons served with the CIL stop notice.</p>
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Recovery of unpaid CIL – Additional Legal Powers

Rother District Council has powers to recover unpaid CIL that is due using the mechanisms provided in regulations 95-107.

- **96 Reminder Notice** - Prior to putting into action the mechanisms below, the Collecting Authority must serve a reminder notice that states every owed amount of CIL. The reminder notice may be served in respect of any amount at any time after it has become due.
- **97 Liability Order** - Following the reminder notice, if the amount is still wholly or partly unpaid the Authority can apply to the Magistrates' Court for a Liability Order. This can include, if requested, recovering the cost of the application in the same order. The Court must make the liability order if it is satisfied that the amount has become payable by the defendant and has not been paid.
- **98 Distress** - Where a Liability Order has been made the Authority may levy the appropriate amount by distress and sale of goods of the debtor. No person making a distress may seize any clothing, bedding, furniture, household equipment or provisions which are necessary for satisfying the basic needs of the debtor and his/her family. If, before any goods are seized the outstanding amount is paid to the Authority, the Authority must accept the payment of the levy.
- **100 – 101 Commitment to prison** - Where an Authority is unable to recover debts due by way of the charging order or distress the Authority may ask to commit the debtor to prison.
- **103 – 104 Charging Orders** - As an alternative to recovering the debt via distress and where the outstanding debt is greater than £2000 the Authority can ask the Court to serve a charging order to recover the amount of debt owed.
- **107 Enforcement of local land charges** - As an alternative to recovering debt via distress and Charging Orders the Authority can enforce a local land charge if the outstanding amount of CIL due in respect of that development is less than £2000.

CIL Instalment Policy

Rother District Council has an adopted CIL Instalment Policy which allows payment of CIL in instalments if the amount is greater than £50,000.00. The full policy is as follows:

Amount of CIL Liability	Number of Instalments	Payment Periods and Amounts
Any amount less than £50,000	1 Instalments	<ul style="list-style-type: none">• 100% payable within 60 days of commencement
Amounts from £50,000 to £300,000	2 Instalments	<ul style="list-style-type: none">• 50% payable within 120 days of commencement• A further 50% payable within 360 days of Commencement (or upon completion of development if earlier).
Amounts over £300,000	3 Instalments	<ul style="list-style-type: none">• 30% payable within 60 days;• A further 35% payable within 420 days, and• The final 35% payable within 660 days (or upon completion of development if earlier).

Once the development has commenced, all CIL payments must be made in accordance with the above listed Instalment Policy. Where a payment is not received in full on or before the day on which it is due, the total CIL liability becomes payable in full immediately as set out in Regulation 70(8) (a).

Other enforcement provisions

The CIL Regulations lay out additional guidance for the recovery of CIL in certain scenarios. They also give guidance on the mechanisms for the Charging Authority to have the power to enter the relevant land relating to the chargeable development through regulations 108 – 111.

- **108 Outstanding liabilities on death** – Where the person liable for CIL is deceased with the chargeable development commenced and CIL liability still outstanding, the deceased's executor or administrator is liable to pay the unpaid amount and any interest, surcharges and costs applied to the unpaid amount.
- **109 Powers of entry** – A person authorised in writing by a Charging Authority may at any reasonable hour enter the relevant land to verify:
 - A chargeable development has commenced
 - Compliance for an imposed requirement of the Charging Authority has taken place
 - The calculation for chargeable amount payable in relation to the chargeable development where Form 5 – Notice of Chargeable Development has been submitted.

