

**Bath & North East Somerset Council**

**Community Infrastructure Levy**

**Surcharges and Enforcement Policy**

## Introduction

This document has been prepared to advise and inform developers of the requirements of CIL and the consequences of not complying with the relevant regulations.

Contained within this document is information regarding Bath & North East Somerset Council's CIL surcharging policy and the enforcement powers available to the Council for non-compliance with CIL Regulations.

For more information you can:

- Visit the Council's CIL web pages:  
<http://www.bathnes.gov.uk/services/planning-and-building-control/apply-planning-permission/community-infrastructure-levy-cil>
- Read the CIL National Planning Policy Guidance (NPPG):  
<https://www.gov.uk/guidance/community-infrastructure-levy>
- Email: [cil@bathnes.gov.uk](mailto:cil@bathnes.gov.uk)
- Call Bath & North East Somerset Council on 01225 394041
- Visit the Planning Portal for information and downloadable forms:  
[https://www.planningportal.co.uk/info/200126/applications/70/community\\_infrastructure\\_levy](https://www.planningportal.co.uk/info/200126/applications/70/community_infrastructure_levy)

## CIL Surcharges

Where there are problems in collecting the levy, the Council (as charging authority) has the means to penalise late payment through the use of surcharges.

In Bath & North East Somerset, surcharges will be applied in line with the below table and in accordance with the CIL Regulations 2010 (as amended).

Failure to comply with the CIL requirements may trigger enforcement action by the Council. In cases of persistent non-compliance the regulations allow the Council to consider more direct action such as the issuing of a CIL Warning Notice and subsequent Stop Notice or applying to the courts for seizure of assets to pay the outstanding monies or for custodial sentences.

It is possible to appeal to the Planning Inspectorate against a surcharge or enforcement action taken by us in relation to the non-payment of CIL. Details of how to appeal a surcharge can be found at Regulation 117 and details of how to appeal a CIL Stop Notice at Regulation 119.

The following table sets out the surcharges Bath & North East Somerset Council will apply in the event of non-compliance with the Regulations, in line with Part 9 of the Community Infrastructure Levy Regulations 2010 (as amended). The table is a summary and you should refer to the CIL Regulations 2010 (as amended) for full details concerning surcharging

<b>Surcharge for</b>	<b>Amount</b>	<b>CIL Regulation</b>
<b>Failure to assume liability.</b> Where no one has assumed liability and chargeable development has commenced	£50 on each person liable to pay CIL	80
<b>Apportionment of liability.</b> Where the Council is required to apportion liability for CIL between those with a material interest in the land the Council can impose a surcharge in respect of each of these interests.	£500	81
<b>Failure to submit notice of chargeable development (Form 5)</b> (i.e. development has taken place under general consent)	20% of the chargeable amount or £2500, whichever is lower	82
<b>Failure to submit a commencement notice</b> (prior to development starting)	20% of the chargeable amount or £2500, whichever is lower	83
<b>Disqualifying events</b> (Where a person fails to notify the Council of a disqualifying event before the end of the period of 14 days with the day being the date on which the disqualifying event occurs).	20% of the chargeable amount or £2500, whichever is lower	84
<b>Late payment</b>	5% of the outstanding chargeable amount or £200, whichever is greater. Payment not received within 30 days of due date. If the sum is not paid in full within 6 months a further surcharge of 5% or of the unpaid amount or £200 whichever is the greater, the same surcharge can be applied at 12 months.	85
<b>Failure to comply with an Information Notice</b>	20% of the relevant amount or £1000, whichever is lower	86
<b>Late Payment Interest</b>	When the CIL liability is not received (in whole or in part) on the day payment is due, late payment interest will become payable on the unpaid amount. Late payment 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 at an annual rate of 2.5 percentage points above the Bank of England base rate.	87

## CIL ENFORCEMENT

### **The CIL Stop Notice and Warning Notice**

In some cases the Council may believe that interest and late payment surcharges will be ineffective in securing payment of the overdue CIL.

In such circumstances, the Council may decide to serve a CIL stop notice on the development in question. A CIL stop notice prohibits development from continuing until payment is made.

Continuing to develop in the presence of such a notice is a criminal offence, punishable by potentially unlimited fines. (Regulation 89)

Before serving a CIL stop notice however, the Council will first issue a warning to the person liable to pay the amount, the land's owners, occupiers and all those who will be affected by the notice. It will also post a warning on the site itself. This warning will state that continued non-payment may result in a CIL stop notice being issued. It will also set out the amount overdue and the number of days after which a CIL stop notice may be served if payment continues not to be made. If payment is not made by the end of this period, the Council may serve a stop notice, which will prohibit development with immediate effect immediately until payment of the outstanding amount is made.

### **Distress and Sale of Goods (asset seizure)**

When you fail to pay CIL the Council may apply for a Liability Order and seek a court's consent to seize and sell your assets to recover the money due. These assets may include any land you hold. The collecting authority must send you notice of its intention to do so beforehand. (Regulations 96- 98)

### **Committal to prison**

If you continue to evade paying CIL, the Council can ask a magistrates' court to commit you to prison for no more than three months. To do this, the Council must be able to demonstrate to the court that it has been unable to recover the CIL amount due by seizing and selling your assets and land. (Regulation 100-101)

### **Enforcement of Land Charge**

CIL is registered as a local land charge and the charge can be enforced if payment is not received (Regulation 107)