

COMMUNITY INFRASTRUCTURE LEVY CONSULTATION 2026 – Proposed regulations for a time limited relief from the Community Infrastructure Levy in London

Richmond response, 18 September 2026

Consultation webpage: <https://www.gov.uk/government/consultations/time-limited-relief-from-the-community-infrastructure-levy-in-london>

Questions

Question 1: What is your name?

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Question 2: What is your email address?

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Question 3: Are you replying as an individual or submitting a response on behalf of an organisation?

On behalf of Richmond Borough Council

Question 4: What is the maximum proportion of the site that should be permitted to fall on excluded land for the development to remain eligible for the relief? Please explain your reasoning.

Additional clarity on excluded land is needed to ensure CIL relief is not provided on recently released Green Belt/MOL land. For example, the regulations could include a clause for Green Belt and Metropolitan Open Land that states: “Land designated as Green Belt and/or MOL from the date 01/01/2025, will be excluded from the relief”. This is to ensure that the proposed release or recent release of MOL or Green Belt land through a Local Plan does not result in significant reductions to CIL and inadvertently provide CIL relief on land which should have been excluded. Land is only released exceptionally from MOL/Green Belt with the expectation that it provides maximum community benefits, which includes CIL and affordable housing provision.

The maximum proportion of a site on excluded land should be no more than 10 per cent. Excluded land such as Green Belt and/or MOL has a significantly lower land value than brownfield land. If CIL relief is applied to Green Belt/MOL as part of a larger site, this will simply increase the value of excluded land, especially in those areas where excluded land sits adjacent to existing settlements and developable sites (the most sustainable locations). We would urge MHCLG officers not to apply any relief to excluded land. However, if this policy is taken forward, we would urge that no more than 10% is applied. Greenbelt and MOL are afforded the highest protections in National

Planning Policy, therefore any release of this type of land must be balanced with maximising public benefits which includes CIL.

Question 5: How straightforward would it be to evidence and verify the proportion of a site on excluded / non-excluded land, in a way which minimises scope for gaming? Please explain your reasoning.

The Council considers that evidencing the proportion of excluded and non-excluded land could be straightforward if the regulations include a clear, objective methodology. The regulations need to be specific as to whether the percentage of excluded land applies to the whole development site or just an individual phase of a larger site. This will relate to how commencement is defined, i.e. by phase or the whole site. If not specified, this could result in applicants using the percentage in their favour to seek further CIL relief.

The excluded and non-excluded land should be measured against the fixed red line boundary of the development and assessed against clearly defined land designations at a specified date (ideally this date should be prior to 2025 to allow for the changes to boundaries within recently adopted Local Plans). It should be specified within the regulations that the assessment of excluded land, will align with the date the CIL relief application is submitted and not when the original application was submitted for example, to ensure clarity. Any supporting plans provided by an applicant must be compared against Local Plan policy maps and relevant Land Registry information. Without this, there is a risk that applicants could structure site boundaries or rely on recent changes to Green Belt, Metropolitan Open Land or open space designations in a way that maximises eligibility for relief. The Council therefore considers that the regulations should require robust mapping evidence and a clear date against which the excluded land status is assessed. The Council should have the ability to challenge incorrect boundaries or insufficient information.

Question 6: Do you agree that the residential part of mixed-use developments should be eligible for relief?

Strongly agree / Partly Agree / Neither Agree nor Disagree / Partly Disagree / Strongly disagree

Please explain your reasoning

Partly agree. The Council accepts that the residential element of a mixed-use scheme may be the part most directly affected by the viability pressures the relief is intended to address. However, the regulations must be explicit about how residential floorspace is identified and apportioned, particularly where mixed-use schemes include commercial space, communal residential space, co-living, student accommodation, or other specialist residential uses. Without clear apportionment rules, there is a risk that non-

qualifying or marginal floorspace could be brought within the relief, reducing borough CIL receipts without a clear affordable housing benefit. This is especially relevant to floorspace which is shared between residential floorspace and other floorspace which is not eligible for relief (e.g. communal entrances).

Question 7: Do you agree that CIL liability attributable to the floorspace of communal space for residents should be eligible for relief?

Strongly agree / Partly Agree / Neither Agree nor Disagree / Partly Disagree / Strongly disagree Please explain your reasoning

Partly Agree. Communal space that is genuinely ancillary to qualifying residential accommodation may reasonably be treated as part of the residential development. A similar approach could be used as those which have shared ancillary space between private and affordable housing (which receives CIL relief). Generally, the shared ancillary floorspace is apportioned so that some but not all of it receive affordable housing relief. A similar approach should be taken in this instance and specified in the regulations for the time-limited CIL relief, i.e. Reg 49C (qualifying communal development).

Question 8: Do you agree with the proposed approach to defining excluded dwellings?

Strongly agree / Partly Agree / Neither Agree nor Disagree / Partly Disagree / Strongly disagree

Partly agree. We agree that not relying on use classes is welcome and agree with setting out specific definitions for excluded types of accommodation. The definitions for co-living accommodation and student housing seem acceptable. The definition of Temporary Accommodation (TA) is more difficult. Although TA is often provided by charitable organisations, or not-for-profit organisations, this is not always the case as more recently, the Council has seen an increase in TA that is developed by for-profit organisations. The Council recommends that the regulations specify that TA provided by a charitable organisation or directly delivered by a Local Authority is eligible to claim the time-limited CIL relief, but TA developed by a for-profit organisation would not be eligible for the relief.

Question 9: Do you agree with the use of “dwelling” (as opposed to the residential use classes) to define residential?

Strongly agree / Partly Agree / Neither Agree nor Disagree / Partly Disagree / Strongly disagree

Strongly agree. This is the preferred approach.

Question 10: Do you agree with excluding from the relief dwellings that are intended only to be occupied on a temporary basis?

Strongly agree / Partly Agree / Neither Agree nor Disagree / Partly Disagree / Strongly disagree

Strongly agree.

Question 11: Do you support the £500k threshold applying to the total development (inclusive of all phases), rather than the chargeable development?

Strongly agree / Partly Agree / Neither Agree nor Disagree / Partly Disagree / Strongly disagree

Strongly disagree. The Council considers this to be too low, especially for larger sites with multiple phases. We would recommend the threshold is increased to ensure the focus is only on larger sites which are likely to contribute the most in housing supply which is a key objective of the proposed regulations. This will in turn manage the number of sites applying for relief and the Council resources which would be needed to manage these, as well as mitigating the significant reductions in CIL income, as a smaller number of sites would be eligible for the relief.

Question 12: Do you foresee any risks or unintended outcomes as a result of allowing estimated CIL liabilities for the purposes of calculating the £500k threshold? Do you have any other observations to make on how this issue can be addressed? Please share your views

The Council considers that the £500,000 threshold creates a hard cut-off, which would require considerable checking to ensure there are no errors. If there is a disagreement between the applicant and the Council, the regulations should be clear that the Council's measurement is final, to prevent prolonged discussions where the figure cannot be agreed. This is a real possibility as there is no appeal process for this particular calculation (and the Council does not suggest that there should be one).

The regulations set out that the threshold should be defined removing Mayoral CIL and deducting the amount of any relief for which the residential part of the total development would be eligible. It is also worth emphasising that on large, phased outline developments there is often very limited information on what may be delivered in later phases (both floorspace as well as affordable housing product types) which will make it very difficult to determine an estimated CIL and may indeed be used to game the system. The Council is particularly concerned that estimates for later phases could create uncertainty and may result in relief being granted or reimbursed after CIL has already been allocated to infrastructure. The Council would recommend that the threshold is increased to £1m, as this would decrease the number of schemes which would be seeking relief and would only relate to much larger schemes that make a

significant contribution to the housing land supply. If the threshold is retained, the regulations should set out a single, objective calculation point, confirm whether the threshold is indexed, and confirm if it applies to a whole site, or single phase of a development.

Question 13: The Government welcomes views on the proposed approach of requiring both a planning obligation and the affordable housing requirements set out in the CIL social housing relief to be satisfied in the affordable housing requirements.

One point to note is that the requirement for the relief is to be based on the affordable being secured through a planning obligation, this could create issues where Councils are delivering housing on their own sites, as it is impossible for Councils to sign a legal agreement with themselves. This would mean Councils delivering homes themselves, may not be eligible for the relief. Currently the affordable is secured through a condition on the decision notice, failing the proposed test.

The Council notes that there is an issue within this proposal, namely that for phased schemes where affordable housing may come forward in later phases where the first permits date (under the CIL Regulations) has not been met, it will not be possible for the relief to have been granted before the London time-limited relief is granted (as required under the 54E(1)(d)). The charging authority cannot grant relief if the 'first permits' date has not been met for the phase it is located in.

However, the Council does support the requirement that there be both a planning obligation and that the social housing relief meets the criteria stated in Regulation 49.

The other point to note is the regulations are not clear enough regarding onsite and offsite delivery. It needs to be clearly set out in the regulations that the full 20% affordable housing requirement must be delivered onsite as a minimum. There then needs to be a clear clawback position if a development was switching from onsite to offsite delivery for example and what the repercussions would be, especially if it was not the fault of the developer if there is genuinely no Registered Provider interest. This point also key for Richmond small sites, where often the Payment in Lieu is equivalent to more than 20% affordable housing and this would not be meeting the aims and objectives of the measures which is to facilitate conventional housing and affordable housing delivery.

Question 14: Do you agree with the proposal to allow tenure flexibility for affordable housing over and above the first 35 per cent of affordable homes.

Strongly agree / Partly Agree / Neither Agree nor Disagree / Partly Disagree / Strongly disagree

Strongly disagree. The tenure requirements for CIL relief should be aligned with the tenure mix required by the Local Plan. Allowing greater tenure flexibility where more than 35% affordable housing is delivered could lead to a higher proportion of intermediate affordable housing products being provided, despite these not representing the borough's highest-priority affordable housing tenure.

Maximising the delivery of Social Rent housing must be the primary focus of the time-limited CIL relief, particularly given the significant financial implications of the proposed measure. Increasing the delivery of Social Rent homes on-site would help to marginally offset the loss of CIL revenue and reduce reliance on temporary accommodation. If there is insufficient emphasis on maximising the provision of Social Rent housing, the combined effects of the CIL relief and the Support for Housebuilding measures, including the reduced 20% affordable housing requirement, could have a significant negative impact on many boroughs. This risk would be further exacerbated if additional flexibility were permitted in relation to affordable housing tenure and will likely lessen the number of Social Rented homes delivered overall, which is the highest priority for the Council to deliver. This will also impact on interest from Registered Providers, who generally want sites with a higher quantum of especially Social Rented homes, and will already be impacted by the reduction to 20% affordable, lessening the total number of affordable homes provided on each site, drawing less RP interest. Overall, this approach will not help to support the delivery of more Social Rented homes, which are the most in need. As a result, flexibility in relation to affordable housing delivered above 35% should not be included

Question 15: Do you agree that development on public sector land should be subject to a minimum 35 per cent affordable housing threshold in order to qualify for the CIL relief?

Strongly agree / Partly Agree / Neither Agree nor Disagree / Partly Disagree / Strongly disagree

Partly disagree. The threshold to qualify for the CIL relief for development on public land should be 50% of affordable housing. The delivery of housing on public sector land must maximise public benefits, as such it should provide at least 50% of affordable housing and follow the Local Plan tenure split. Lowering the threshold to 35% will simply increase land values and reduce the public benefits provided from developing public land.

Question 16: Do you agree that development on industrial land (where industrial floorspace capacity has not been re-provided) should be subject to a minimum 35 per cent affordable housing threshold in order to qualify for the relief?

Strongly agree / Partly Agree / Neither Agree nor Disagree / Partly Disagree / Strongly disagree

Strongly disagree. Development on industrial land (where industrial floorspace capacity has not been re-provided) should be subject to a minimum 50% affordable housing threshold to qualify for the relief. Once lost industrial land is challenging to replace especially in boroughs such as Richmond, where there are very limited sites available for development. Lowering this threshold to 35% will simply increase industrial land values, which will impact the long-term viability of industrial land and make it more difficult to retain industrial land.

Question 17: Do you agree that BtR developments which meet the relevant criteria should be able to qualify for relief by satisfying an alternative affordable housing tenure requirement, rather than the general requirement that at least 60 per cent of the affordable housing provided should be Social Rent?

Strongly agree / Partly Agree / Neither Agree nor Disagree / Partly Disagree / Strongly disagree

Strongly disagree. The Council considers that Build to Rent and other specialist housing should not be eligible for the relief if they do not provide Social Rented homes on-site. The greatest benefit to boroughs is the delivery of Social Rented homes which helps to reduce the reliance on Temporary Accommodation. By contrast, providing 80% of CIL relief on Build to Rent schemes which provide 35% of affordable housing where 100% of the units are delivered as intermediate does not generate sufficient community benefit to justify such a significant loss of CIL revenue. The maximum level of CIL relief available to BTR schemes should therefore either be capped at a lower rate (for example, a maximum of 60% relief) or be linked to the delivery of a minimum proportion of Social Rented homes. Overall, the regulations must ensure that higher levels of relief are linked to genuinely improved affordable housing outcomes, including the proportion of Social Rent delivered, rather than solely to the headline affordable housing percentage.

Question 18: Do you think that applicants for the relief should be required to provide evidence that a scheme is financially unviable in order to be eligible for the CIL relief (i.e. the revised approach set out in the Government response in March 2026)? If you agree, please explain why. If you disagree, please explain why.

Strongly agree / Partly Agree / Neither Agree nor Disagree / Partly Disagree / Strongly disagree

Partly agree. Applicants must be required to evidence that the CIL relief is necessary to bring the scheme forwards, as Councils are effectively subsidising development by granting the CIL relief. As a comparison, when making a GLA grant application, the applicant needs to evidence that the grant would provide value for money for the public. It is also accepted that as part of this process the GLA can request further information or ask for inputs to be amended to meet industry norms, and in some cases, refuse

grant if value for money is not demonstrated. A similar approach should be taken for the time-limited CIL relief. By not allowing the Council to contest unreasonable inputs and reject applications based on inaccurate information, the Council does not consider that the current Residual Appraisal Summary spreadsheet sufficiently ensures that the developments need the CIL relief due to viability pressures. As a result, the Council is concerned that the time-limited CIL relief will unreasonably subsidise private development at the expense of vital community infrastructure. If a requirement is that a development is unviable for the time-limited relief to be granted then this should be clearly identified by including it in Regulation 54E (1) which is not currently the case.

Question 19: Do you alternatively think that applicants for the relief should be required to provide evidence that a scheme will be made viable by the CIL relief (i.e. the original approach set out in the consultation in November 2025)?

If you agree, please explain why. If you disagree, please explain why.

Strongly agree / Partly Agree / Neither Agree nor Disagree / Partly Disagree / Strongly disagree

Partly disagree. This would be challenging, as it will be very likely that an applicant will demonstrate the site is unviable even with CIL relief. However, there could be a safeguard in such circumstances. For example, where a scheme remains in a significant deficit despite receiving relief, it could be concluded that the relief does not represent value for money, as viability constraints may still prevent the scheme from being delivered. Relief could therefore be refused on that basis. If relief is granted but the scheme remains in significant deficit, this suggests either that there is little assurance that the scheme is deliverable, or that the applicant has not been fully transparent in their viability assessment if they are willing to proceed despite the scheme being substantially unviable.

This could be an effective mechanism for ensuring that relief is only provided to schemes where it is genuinely capable of influencing delivery. In turn, this would help ensure that public funding is targeted more effectively and represents better value for money.

Question 20: The Government welcomes views on how best to ensure that, in cases where relief is granted, the amount of relief given is proportionate to the viability challenge facing the scheme. Please share your views and observations on this issue.

We are concerned that the proposed process appears to make relief effectively automatic once an applicant submits the required pro-forma and statutory declaration regardless of whether the Council considers this is proportionate. The biggest concern is that there is no process for the Council to disagree or withhold relief if the

assumptions applied are wholly unrealistic and do not represent industry norms. It is understood there is a need to have a process that is simple which allows for the relief to be applied quickly, however, there must be a safeguard for exceptional circumstances if assumptions applied are completely unrealistic and do not represent industry norms that relief would not be granted. The basis of CIL relief MUST be that it is genuinely necessary and proportionate to the specifics of the development, to ensure this is the case, Councils need to be able to scrutinise and question assumptions, this can be within a strict time frame, but there needs to be some allowance for scrutiny. If the information provided is not genuine, then in exceptional circumstances, boroughs should have the right to not grant relief.

The loss of CIL through this relief, in addition to government cuts to many London Boroughs, will have significant negative impact on services, infrastructure and facilities available for residents in Richmond – boroughs therefore must ensure that any relief provided is only to those developments that genuinely will not be able to progress without it. A purely administrative process such as that set out in this consultation would place significant financial risk on local authorities while limiting their ability to protect CIL income and affordable housing outcomes. The regulations as mentioned must include a safeguard that in exceptional circumstances where an applicant has not provided transparent information and clarification on assumptions applied, the Council can withhold relief. The regulations could specify that this route must be considered as the exception rather than the rule.

Many boroughs will also not have the in-house expertise to interpret the pro-forma in detail or understand the context of the assumptions within the pro-forma to assess if the relief provided is genuinely necessary. As a result, we recommend that a proportion of the £25,000 fee is able to be used for viability support to ensure boroughs can secure the necessary expertise to assess these and request additional clarification if needed.

Question 21: Do you agree that Government should require applicants to submit a pro forma for viability evidence?

Strongly agree / Partly Agree / Neither Agree nor Disagree / Partly Disagree / Strongly disagree Please explain your reasoning

Partly disagree. The Council accepts a standardised pro-forma will speed up the process, but the proposed viability information requirements appear too limited, effectively meaning boroughs are expected to grant relief without scrutiny, applicants should also be expected to submit evidence alongside their proforma if there is deviation from the standardised inputs, this will save time for Councils requesting this. There must also be an allowance for boroughs to question inputs within the pro-forma, and request sufficient information to understand the basis of the residual appraisal inputs and withhold relief until this is provided, with timeframe for a decision halting

until the information is provided by the applicant. This is critical as a default grant of relief if the Council hasn't issued a decision within the required timeframe will incentivise developers to delay responding to necessary requests for additional information or clarification. Where assumptions fall outside reasonable benchmark ranges or differ materially from area-wide viability assessment, boroughs must be able to request clarification before relief is granted.

Question 22: Do you have any views on how the draft pro forma (the “Residual Appraisal Summary Template”) could be improved, including if any additional or different information should be sought? Please explain your reasoning. The Government intends to work with boroughs on the data to inform benchmarks - this will vary by borough, where this is best drawn from their existing policies.

Although over-simplified, the use of a pro-forma in principle is considered generally acceptable by the Council, as it provides a clear and consistent way for applicants to set out the current viability of the scheme. The benchmarking for the assumptions should come from the Local Plan Viability Assessment and be produced in conjunction with the Local Authority to set out the template. This could then be published by each Local Authority on their website.

The biggest concern as mentioned above, is that there is no process for the Council to disagree or withhold relief if the assumptions applied are unrealistic. We understand the need to have a process that is simple which allows for the relief to be applied quickly, however, there must be a safeguard for exceptional circumstances if the assumptions applied are completely unrealistic and do not represent industry norms. At present the only way to do this is through the use of a clawback provision through litigation. After the relief is granted, it is highly unlikely that any clawback would be paid even if the clawback was agreed through litigation.

Many boroughs will not have the in-house expertise to interpret the pro-forma in detail or understand the context of the assumptions within the pro-forma. As a result, we recommend that a proportion of the £25,000 fee is able to be used for viability support to ensure boroughs can secure the necessary expertise to assess these and request additional clarification if needed.

Question 23: Do you agree with the use of benchmarking against datasets derived from individual boroughs?

Strongly agree / Partly Agree / Neither Agree nor Disagree / Partly Disagree / Strongly disagree

Strongly agree. The benchmarking assumptions should be derived from the evidence base of individual boroughs. This will also strengthen the position of boroughs if the submitted pro-forma is going to be challenged at any time.

Question 24: Do you agree with the proposed wording for the statutory declaration?

Strongly agree / Partly Agree / Neither Agree nor Disagree / Partly Disagree / Strongly disagree

Please explain your reasoning

Partly disagree. The wording of the statutory declaration needs to be tightened to ensure there are assurances between the Council and owner of the site. The declaration does not currently appear to require the individual signing the declaration to set out what their connection is with the land. The declaration should include a section which defines the individual's connection with the land. It is difficult to see how a consultant signing the declaration would be linked to the landowner or developer, and how it could then be enforced at a later date if required, particularly if the site were to change hands. For example, if the site were sold, it is unclear how compliance with the declaration would be secured.

Question 25: Do you have any observations on the use of the statutory declaration as a method of securing the required assurances?

A statutory declaration will not provide a sufficient safeguard against fraud and should not be treated as such. It is very unlikely that a declaration relating to the inputs included within the accompanying pro-forma would be enforceable through litigation. Statutory declarations are already currently used in CIL, however, many CIL forms are already not correctly filled out despite applicants having to declare this is the case. Using this method to ensure the inputs applied within the viability pro-forma are accurate and realistic will not provide the necessary assurances. When the Council negotiates viability on a case-by-case basis, we require evidence to justify inputs which are different from our Local Plan assumptions. If this evidence is not submitted, we will not accept the inputs. The regulations must require the declaration to cover both factual information and assumptions, confirm that the appraisal has been prepared by a suitably qualified practitioner who is a chartered surveyor, and allow boroughs to request clarification where information appears materially inconsistent, unsupported or outside reasonable benchmark ranges. As mentioned in the previous answers, there must be a safeguard that in exceptional circumstances if the charging authority is really concerned about the inputs, there MUST be an opportunity not to grant relief.

Question 26: Do you agree that the revised commencement deadline of 31 March 2030 provides a more workable timeframe for development to follow the required steps and apply for the relief?

Strongly agree / Partly Agree / Neither Agree nor Disagree / Partly Disagree / Strongly disagree Please explain your reasoning

Partly agree. This appears acceptable, given that the relief was originally proposed to be implemented in the first half of 2026 and that there are still delays associated with obtaining Building Safety Regulator Gateway 2 approval for higher-risk residential buildings, which could affect commencement deadlines. However, we would be concerned if this date were to be continually pushed back and consider that it should remain at 31 March 2030. This date also aligns with the end of the financial year, which is beneficial for monitoring and reporting purposes.

Question 27: Do you agree with the proposed timescales for LPAs to determine relief applications?

Strongly agree / Partly Agree / Neither Agree nor Disagree / Partly Disagree / Strongly disagree Please explain your reasoning

Partly disagree. We consider that 28 days would be challenging, especially as they will include weekends and bank holidays (consideration should be given to making this 28 working days); Another point to note is that the application of the threshold will also impact on the time limits, as if the £500,000 threshold were removed, this would significantly increase the number of applications seeking relief and make it much more difficult to meet the deadline even in 28 working days. Conversely, if the threshold were increased to £1,000,000, as suggested previously, the timeframe would be more manageable on the basis of working days, as there would be fewer applications for relief.

We would reiterate that, where there are delays in developers providing the information required by the Council, the 28-day determination period should be paused until the necessary information has been received from the applicant.

Question 28: Do you agree with the proposed timescales developers must follow when returning requested information during the new relief application process?

Strongly agree / Partly Agree / Neither Agree nor Disagree / Partly Disagree / Strongly disagree Please explain your reasoning

Strongly agree. We agree the onus should be on developers to provide requested information in a timely manner to ensure there is enough time to make an informed decision.

Question 29: Do you agree that, as a default position, development should be expected to complete within five years of commencement in order to retain relief?

Strongly agree / Partly Agree / Neither Agree nor Disagree / Partly Disagree / Strongly disagree

Please explain your reasoning

Partly agree. As a rule of thumb, having a completion deadline is useful. Although clawback will be extremely difficult to achieve if the completion deadline is not met, it will still be useful to incentivise developers to ensure completion within a specified time period. We agree, however, that where both parties are in agreement, an extension of time could be granted if appropriate, having regard to the type and scale of the scheme. Any extension should only be applied where all parties agree that additional time is justified.

Question 30: The Government welcomes examples of circumstances in which a longer timeframe would be needed, and whether case-by-case agreement would allow for this. Please share your views

An extension of time agreement should be the only mechanism through which a longer timeframe is agreed. It should be considered strictly on a case-by-case basis and only where all parties agree that such an approach would be acceptable.

Question 31: Do you consider the proposed additional clawback mechanism to be necessary? If not, what safeguards already exist to ensure that relief is not provided on phased developments and affordable housing delivery subsequently delayed to later stages? Are there wider considerations, including current market conditions, which render such concerns unnecessary?

Partly agree. The Council supports clawback in principle, as relief should be recoverable where eligibility conditions are not met, affordable housing is reduced, information is materially incorrect or misleading, or the development does not proceed within the time limit required. Given the scale of relief that could be involved, robust safeguards are essential. Where relief may be worth several million pounds, there is a clear incentive for applicants to maximise eligibility, particularly if the application process is relatively light-touch and the information requirements are limited. Due to this we would strongly recommend multiple safeguards are put in place to ensure relief is directed to developments which need it most and to ensure those developments meet the required parameters.

The clawback provisions must be clearly defined and enforceable. Seeking payments back from applicants is extremely tricky, especially when landowners/developers are unlikely to be a single person or entity. One solution could be to stagger the relief in a similar way to phased CIL payments. This would mean that if a disqualifying event occurs, the relief could be halted. The general premise is that the clawback mechanism must be genuinely enforceable and must have a direct impact on the developer being able to sell/occupy units if a clawback payment is owed. Otherwise, the clawback payment may not be paid. The regulations should also confirm what constitutes completion, how the five-year expectation operates and is intended to be monitored,

how phased schemes are treated, whether clawback binds successors in title, and which CIL enforcement routes and appeal or review mechanisms apply.

Question 32: Do you have any other views on how regulation 54E could be revised to ensure the relief achieves the intended objective?

Overall, the Council considers that the level of relief is far too generous and should be capped at 60% relief if 35% affordable housing is delivered at 100% Social Rented housing, reflecting the local authority's policy compliant tenure mix. This would still provide developers with substantial relief but would allow Local Authorities to collect necessary CIL income to invest in local infrastructure. The relief could, for example, start at 30% and go up to a maximum of 50% if 35% affordable housing is provided according to the local authority's policy compliant tenure mix, or 60% if 100% of the affordable homes are delivered as Social Rented housing. The overall objective of the relief is to speed up build out and to support the delivery of affordable housing. The proposed amendment to the relief levels would still achieve this objective but would be more proportionate. If this level of CIL relief is not considered as a sufficient incentive, then the difference could be made up from a proportional reduction in Mayoral CIL.

The drafting of 54E currently states the following:

“(1) A charging authority must grant relief (“London time-limited relief”) from liability to pay CIL in respect of a chargeable development (D) if the following conditions are met—”

This drafting makes it clear that charging authorities must grant relief. However, elsewhere in the legislation (54(G)), it implies that charging authorities may refuse a relief by stating:

“(a) its decision on the claim and the reasons for the decision, and

(b) if relief is granted, the amount of the relief, and provide an explanation of the requirements of regulation 67(1). (5) A claim for London time-limited relief is valid if it complies with the requirements of paragraph (2)”.

We would recommend that 54E is amended to say “should” rather than “must”, giving Councils some discretion, and aligning 54E with 54G which does refer to a decision being made by the charging authority if the relief is granted, rather than when relief is granted. This would allow for some form of decision making from the charging authority, which is absolutely necessary to ensure value for money is achieved, and relief is only provided to the schemes which genuinely need it.

The section relating to Build to Rent (54E(6)) requires some updating to make more sense, for example:

“(a) at least 20% of the housing units comprised in the total development to be affordable housing, and

(b) all of the affordable housing to be intermediate rent accommodation where at least 30% of the housing units comprised in the total development are to be rented out at or below the London Living Rent (at the rate published by the Mayor of London in January 2026).”

The above should be amended to say “or” at the end of limb (a) rather than “and”, otherwise the regulation is unclear. At the moment, regulation 54E reads as if in the case of Build to Rent, the developer would need to provide a minimum of 20% affordable housing by dwelling if using the 60% rule, or if they provided 30% of all the housing units as intermediate rent, this would allow them to meet minimum requirements. If this was the case, the formula to calculate the level of relief based on the percentage of affordable housing provided would need to be adapted to take this amendment in tenure into account.

In the Council’s view, Build to Rent developments should be required to provide a minimum of 30% affordable housing by unit and comply with the tenure mix specified in the Local Plan. Such schemes are generally associated with lower levels of risk than for sale market housing developments, and this should be reflected in the level of affordable housing they are required to deliver to be eligible for the CIL relief.

54E (1)(c) - this requires the authority to have granted all relief on the total development, before it can grant the time-limited relief. For a multi-phased permission, the charging authority may not be able to grant all the relief on the total development as the first permits date may not have been met for later phases. This creates a scenario where it may be impossible for a development to qualify for the relief.

54E(1)(d) – the amount payable has been raised in other areas of this response, however there is also an issue that there may be disagreements over how much the estimated CIL is, and this even highlights the issues with 54E(1)(c) in that the other types of relief amounts to be claimed may not be known as not all details approved by the planning authority on outline multi-phased permissions.

54E (1)(e) the 'affordable housing condition' is not a clearly defined term in draft regulations, opening up to interpretation and dispute. Does it include off site provision, or payment in lieu? This is a critical requirement, and is needed to be clearly defined to avoid disputes arising.

Regulation 54E(1)(d) should state: ‘the estimated amount of CIL payable in respect of the residential part of the total development, before London time-limited relief is granted, amounts to at least £1,000,000;’

54E (3)(b) - it may not be clear if all other reliefs may ultimately be eligible for the site. There are normally checks to be carried out on ownership, what housing products will be provided etc before determining if a relief would be applicable. This increases the likelihood of dispute when estimating the CIL.

Definitions: 'excluded dwelling' - (c) how should the charging authority determine any dwelling is to be occupied on a temporary basis. What is the definition of this?

Question 33: Do you have any other views on how regulation 54F could be revised to ensure the relief achieves the intended objective?

The Council is concerned that the proposed level of relief is too generous. We do not agree that 80% relief should apply to schemes providing 35% affordable housing with a 60:40 tenure split (Social Rented to Intermediate). We would recommend that the maximum relief is reduced, with the highest level of relief applied only to schemes which provide 35% affordable housing with all provided as Social Rented housing as this is the tenure most needed in London. This could be a simple calculation to incentivise an improved offer i.e. for each additional 5% of affordable homes delivered as Social Rented above the minimum 60% requirement, an additional 3% of CIL relief is granted up to a maximum cap.

A further concern relates to the proposed 80% relief. Developments that provide affordable housing often generate a substantial need for the infrastructure and services that CIL is intended to help fund. Where schemes receive full CIL relief for affordable housing units, alongside an additional 80% relief for market housing units, the cumulative impact could be significant. In the context of continued reductions in local authority funding, this would substantially reduce the resources available to deliver the infrastructure and services required to support both existing and future residents of the borough. The money for these services and facilities will have to come from somewhere and the government needs to consider the long-term implications of this significant reduction in funding. If relief must be provided, a maximum relief rate of 60% should be implemented. The relief could also begin at 30% rather than 50%. In summary, the proposed level of relief is too generous and should be capped at 50% where 35% affordable housing is delivered in accordance with the local authority's policy-compliant tenure mix, or 60% if 100% of the Affordable homes are delivered as Social Rented housing. This would still provide developers with substantial relief while enabling local authorities to retain the CIL income necessary to invest in local infrastructure. For example, relief could start at 30% where 20% affordable housing is provided and increase on a sliding scale to a maximum of 50% where 35% affordable housing is delivered in accordance with the local authority's policy-compliant tenure mix, or 60% if 100% of the affordable homes are delivered as Social Rented housing.

It is also suggested that if the criteria are that the affordable housing is secured as a planning obligation, but elsewhere states that it must also comply with the conditions of the social housing relief criteria elsewhere in the Regulation 49 that this be spelled out clearly here as well.

Question 34: Do you have any other views on how regulation 54G could be revised to ensure the relief achieves the intended objective?

Regulation 54G(2)(c)(i) should include an additional point, (cc), stating:

"the inputs and assumptions contained within the London Emergency CIL Relief Residual Appraisal Summary Template are accurate, realistic, and consistent with the RICS Professional Standards Financial viability in planning: conduct and reporting"

54G requires that the viability shows the development is not viable BUT this isn't a condition of the relief itself. it imposes a condition of approval through the process route when it is better placed in Regulation 54E(1)

54G(4) allows for 28 days but this in reality is much shorter as it will include weekends and bank holidays. Suggests that it be 28 working days.

Question 35: Do you have any other views on how regulation 54H could be revised to ensure the relief achieves the intended objective?

54H (2)(d) it is unclear what X and Y stand for in this regulation. Why X and Y, is this a % we set as part of the S106 agreement?

The Clawback period currently only runs to the end of the construction point of the development (compliance certificate), however there may cases where, following completion the developer seeks to amend/reduce the affordable housing as it determines it is not viable at the point they seek to occupy. If the development has completed, and they reduce it to below the threshold, the Council has no recourse to withdraw the time limited relief. This is unlike the CIL Social housing relief which has a stated period for clawback. It would be better if there was a stated period (x number of years after completion) for the clawback to run to avoid gaming the system.

Question 36: Do you have any other views on how regulation 54I could be revised to ensure the relief achieves the intended objective?

It is positive that development receiving time-limited relief will not also be able to receive other forms of relief such as discretionary relief to prevent developers from gaming the system so to speak. However some of the wording should be tightened to ensure there is greater consistency in evidential requirements, this would help both applicants and collecting authorities and help reduce disputes and delays. It would be helpful if Regulation 54I expressly clarified the consequences of providing incomplete or inaccurate information and confirms that relief may be refused or withdrawn where

sufficient evidence is not provided. This would reinforce the integrity of the relief and support effective monitoring and enforcement and would help reinforce the points made above regarding gaps in viability information to justify relief and/or not providing the required justification when requested.

Question 37: Do you have any other views on how any other aspects of the proposed Statutory Instrument could be revised to ensure the relief achieves the intended objective?

All views have been covered in the answers to previous questions.

Question 38: Do you have any other observations to make on any of the proposals in this consultation?

As stated the overall level of relief is far too generous. The level of relief will result in a significant reduction in CIL income impacting on councils' ability to provide the infrastructure, services and facilities needed to support local communities.

For existing communities, CIL-funded improvements to services, facilities and infrastructure often help to mitigate the impacts of nearby development. If CIL receipts are substantially reduced, Councils may be unable to provide even the minimum infrastructure required to support new development.

This concern is heightened where affordable housing delivery generates additional demand for local services, including from households with higher support needs and families with children. The combined effect of CIL relief on affordable housing, further relief on market housing, and wider reductions in Local Authority funding could therefore have significant negative consequences for communities.

The Council fully recognises the importance of delivering new homes. However, housing delivery must be supported by adequate infrastructure, services and facilities if new and existing residents are to form sustainable communities. With funding pressures increasing across all areas, and the ongoing cost of living crisis limiting Councils' ability to identify alternative funding sources, the proposed reductions in CIL will create serious infrastructure gaps across London.

The Council also strongly recommends there is a monitoring requirement within the regulations for the Mayor to monitor how successful this measure is over the coming years, including assessing the quantitative impacts of the relief on overall levels of housing delivery, as well as the wider impacts on reduced levels of CIL throughout London.

Question 39: We need to assess the equality implications of the policy (i.e. understanding who the policy will impact on and what this impact may be; and then decide what the department needs to do about it (if anything)). Do you have any comments on any potential impacts for you, or the group or business you

represent, and on anyone with a relevant protected characteristic that might arise under the Public Sector Equality Duty as a result of the proposals in this document? Please share your views.

The Public Sector Equality Duty assessment should more fully assess the potential impacts of reduced infrastructure funding on communities. Borough CIL supports local infrastructure that can be important to equalities outcomes, including community facilities, accessible transport, open space and social infrastructure. If relief reduces the resources available for these purposes, the potential impacts on protected groups should be identified and mitigated.

The availability of relief for excluded land within a wider site could also create an incentive to release Green Belt or other protected land where CIL relief is available. Where such land forms part of a larger allocation, it is likely to be in a relatively sustainable location, but its release would permanently remove valued land from the local community and in addition to this these losses will not be suitably mitigated by a CIL payment to provide other benefits to the local community.

Question 40: Is there anything that could be done to mitigate any impact identified? Please share your views.

As noted above, the Council considers that the proposed level of relief is too generous and should be capped at 50% where 35% affordable housing is delivered in accordance with the local authority's policy-compliant tenure mix, or 60% if 100% of the affordable homes are delivered as Social Rented accommodation. This would still provide developers with substantial relief while enabling local authorities to retain the CIL income necessary to invest in local infrastructure. For example, relief could start at 30% where 20% affordable housing is provided and increase on a sliding scale to a maximum of 50% where 35% affordable housing is delivered in accordance with the local authority's policy-compliant tenure mix, or 60% if 100% of the affordable homes are delivered as Social Rented housing.

The Council also recommends that the qualifying threshold for developments is increased from £500,000 to £1,000,000.

Question 41: Do you have any views on the implications of these proposals for the considerations of the 5 environmental principles identified in the Environment Act 2021?

Partly agree. The Council considers that the Environmental Principles assessment should address the potential consequences of reducing CIL funding for environmental infrastructure, including open space, green infrastructure, sustainable transport and climate resilience projects. The assessment should also consider the risk that relief could affect development incentives around excluded land, Green Belt, Metropolitan

Open Land and locally significant open spaces. Strong safeguards are needed to ensure that the relief does not undermine environmental protection or infrastructure delivery.