

**Information on**

**Community Infrastructure Levy (CIL)**

**Surcharges**

**&**

**Late Payment Interest**

**Takes effect from**  
**1<sup>st</sup> September 2019**

The Community Infrastructure Levy Regulations (England & Wales) Regulations 2010 (as amended) set out specific circumstances where both Surcharges and Late Payment interest either must, or may be applied. The purpose of this document is to provide an informal overview of this information in a single location for those liable to pay CIL. This is for information only and it must be read in the context of the wider CIL Regulations as a whole.

From the 1<sup>st</sup> September 2019, in addition to the mandatory Late Payment Interest that applied prior to this date, the CIL Amendment Regulations 2019 2 SI 2019 1103 made on 9<sup>th</sup> July 2019 that came into force on 1<sup>st</sup> September 2019 introduced mandatory surcharges for specific breach of CIL process for the first time.

## Mandatory Additional Charges under CIL

Additional Charge Item	Circumstance under which Additional Charge Item must be applied and cost £
<p>Withdrawal of adopted Payment by Instalment Policy due to failure to make a payment by the due date</p>	<p>Whilst no additional financial charge is imposed, any failure to ensure that a CIL payment set out in a Demand Notice is received on time by the collecting authority results in an automatic withdrawal of the opportunity to pay by instalment.</p> <p>The impact of this is the issue of a replacement demand notice requiring the full outstanding amount (including any surcharges and LPI added) to be paid with immediate effect. That is with 24 hours of the Date on which it became due (which could be a date prior to the date of the Demand Notice).</p> <p>Any further failure to pay as stipulated would also invoke additional surcharges and LPI.</p> <p>This links to receipt of payment, so ample time must be made in advance of receipt due date to instruct transactions to ensure the payment is received by the due date.</p> <p>The direct cost is to the payee required expenditure on the payment of CIL far earlier in the construction process than expected.</p>
<p>Mandatory Surcharge for Failure to Submit a CIL Commencement Notice in advance of Commencement (Regulation 83)</p>	<p>Applies to:</p> <ul style="list-style-type: none"> <li>i) Any CIL Liability Notice or revised Liability Notice issued by a collecting authority on or after 1<sup>st</sup> September 2019; and</li> <li>ii) where a CIL Liable development benefits from any of the following exemptions or reliefs: <ul style="list-style-type: none"> <li>➤ Residential Annex Exemption; and/or</li> <li>➤ Self-Build Housing Exemption; and/or</li> <li>➤ Charitable Relief; and/or</li> <li>➤ Social Housing Relief and/or</li> </ul> </li> </ul> <p>and a CIL Commencement Notice is not submitted prior to commencement of development:</p> <p>A CIL Collecting Authority <b>must</b> impose a Surcharge:</p> <ul style="list-style-type: none"> <li>i) equal to 20% of the notional chargeable amount; or</li> <li>ii) £2,500, whichever is the lower</li> </ul>

<b>Additional Charge</b>	<b>Circumstance under which Additional Charge Item <u>must</u> be applied and cost £</b>
Mandatory Late Payment Interest (Regulation 87)	<p>Applies to any person (P) that is liable to pay an amount (A) under the CIL Regulations and it is not received in whole or part on the day on which the payment of A is due.</p> <p>That person <b><u>must</u></b> pay that late payment interest.</p> <p>That Late Payment Interest (LPI) must be calculated by the collecting authority starting from the day after the date the payment was due ending on the day payment is received and:</p> <ul style="list-style-type: none"> <li>➤ The LPI rate is based on an annual rate of 2.5% above the Bank of England Base rate.</li> <li>➤ LPI is not payable on LPI.</li> </ul>

### **Non-Mandatory Surcharges**

Due to the fact that informal advice and information about CIL process is provided within published CIL liability notices, and Demand Notices, The Council as CIL Charging authority is likely to automatically apply the following non-mandatory Surcharges:

<b>Surcharge Matter</b>	<b>Circumstance under which Surcharge can be applied and cost £</b>
Failure to Assume Liability to pay CIL Surcharge (Regulation 80)	<p>Applies where:</p> <ul style="list-style-type: none"> <li>a) nobody has assumed liability to pay CIL; and</li> <li>b) development has commenced,</li> </ul> <p>The CIL collecting Authority may impose a £50 surcharge on <u>each</u> person liable to pay CIL.</p>
Apportionment of CIL Liability Surcharge (Regulation 81)	<p>Applies where:</p> <p>The Collecting Authority is required to apportion liability between each material interest in the relevant land. To be paid by the owner of that material interest.</p> <p>The CIL collecting Authority may impose a surcharge of £500 in respect of <u>each</u> of those interests.</p> <p>This is not payable where the collecting authority is required to apportion a surcharge</p>

<b>Surcharge Matter</b>	<b>Circumstance under which Surcharge can be applied and cost £</b>
<p>Failure to submit a Notice of Chargeable Development 'NCD' Surcharge (Regulation 82)</p>	<p>Applies if:</p> <ul style="list-style-type: none"> <li>• A development is granted under a 'General Consent' (as defined in the CIL Regs) has commenced and a Notice of Chargeable Development has not been submitted</li> </ul> <p>Swindon Borough Council may impose a surcharge;</p> <p>a) equal to 20% of the chargeable amount payable in respect of the development; or</p> <p>b) £2,500, whichever is the lower amount.</p>
<p>Failure to submit a Commencement Notice Surcharge (Regulation 83) <i>Excluding circumstances listed in Mandatory Surcharge</i></p>	<p>If development has commenced and a Commencement Notice has not been submitted, Swindon Borough Council may impose a surcharge equal to 20% of the chargeable amount payable in respect of the development or £2,500, whichever is the lower amount.</p>
<p>Disqualifying Events Surcharge (Regulation 84)</p>	<p>This applies to:</p> <ul style="list-style-type: none"> <li>i) CIL Social Housing Relief (Mandatory)</li> <li>ii) CIL Social Housing Relief (Discretionary)</li> <li>iii) CIL Self-Build Exemption</li> <li>iv) CIL Residential Annex Exemption</li> <li>v) Charitable Relief (Mandatory)</li> <li>vi) Charitable Relief (Discretionary)</li> </ul> <p>If a person fails to notify Swindon Borough Council as the CIL Charging and Collecting Authority of a disqualifying event before the end of the period of 14 days beginning with the date on which the disqualifying event occurs, the relevant authority may impose a surcharge of equal to:</p> <p>a) 20% of the chargeable amount payable in respect of the chargeable development to which the disqualifying event relates; or</p> <p>b) £2,500 whichever is the <u>lower</u> amount.</p>

<b>Surcharge Matter</b>	<b>Circumstance under which Surcharge can be applied and cost £</b>
<p>Late payment Surcharge (Regulation 85)</p>	<p>a) When the CIL liability is not received in full after the end of the period of 30 days beginning with the day on which the payment is due, Swindon Borough Council may impose a surcharge;</p> <ul style="list-style-type: none"> <li>i) equal to 5% of the amount payable (A); or</li> <li>ii) £200,</li> </ul> <p>whichever is the greater amount.</p> <p>b) If any part of A is not received after the end of the period of 6 months beginning with the day on which the payment is due, Swindon Borough Council may impose a surcharge:</p> <ul style="list-style-type: none"> <li>i) equal to 5% of the unpaid amount; or</li> <li>ii) £200,</li> </ul> <p>whichever is the greater amount.</p> <p>c) If any part of A is not received after the end of the period of 12 months beginning with the day on which the payment is due, Swindon Borough Council may impose a surcharge</p> <ul style="list-style-type: none"> <li>i) equal to 5% of the unpaid amount; or</li> <li>ii) £200,</li> </ul> <p>whichever is the greater amount.</p>
<p>Failure to comply with a CIL Information Notice (Regulation 86)</p>	<p>Applies to: A person that fails to comply with an information notice before the end of the period of 14 days beginning with day on which notice is served, the collecting authority may impose a surcharge;</p> <ul style="list-style-type: none"> <li>i) equal to 20% of the CIL liability; or</li> <li>ii) £1,000,</li> </ul> <p>whichever is the lower amount.</p>