



Ministry of Housing,  
Communities &  
Local Government

# Government response to supporting housing delivery through developer contributions

A summary of consultation responses and the Government's view on the way forward



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# Foreword

The Government recognises that there is no single solution to make the housing market work. Steps have been taken to tackle systemic issues, for example by reforming the plan-making system to ensure every part of the country has an up-to-date plan, and implementing a new approach to assessing local housing need. However, the Government acknowledges that there are still improvements that need to be made.

The complexity and uncertainty of the current system of developer contributions is acting as a barrier to the delivery of housing. The system does not react quickly to changes in market conditions or allow local authorities to effectively secure the contributions needed to support new development. It is also not as transparent as it should be; local communities are not clear what infrastructure is provided alongside new development. And the current system could also be more effective in securing funding towards strategic infrastructure and supporting cross boundary planning.

The Government has already introduced changes by reforming the approach to viability, which is set out in the revised National Planning Policy Framework and in associated national planning guidance. This new approach ensures that local plans clearly set out the contributions that developers are expected to make towards infrastructure and affordable housing; introduces a standard approach to establishing land value; and increases transparency and accountability through the publication of viability assessments and through improvements to the monitoring and reporting of section 106 planning obligations.

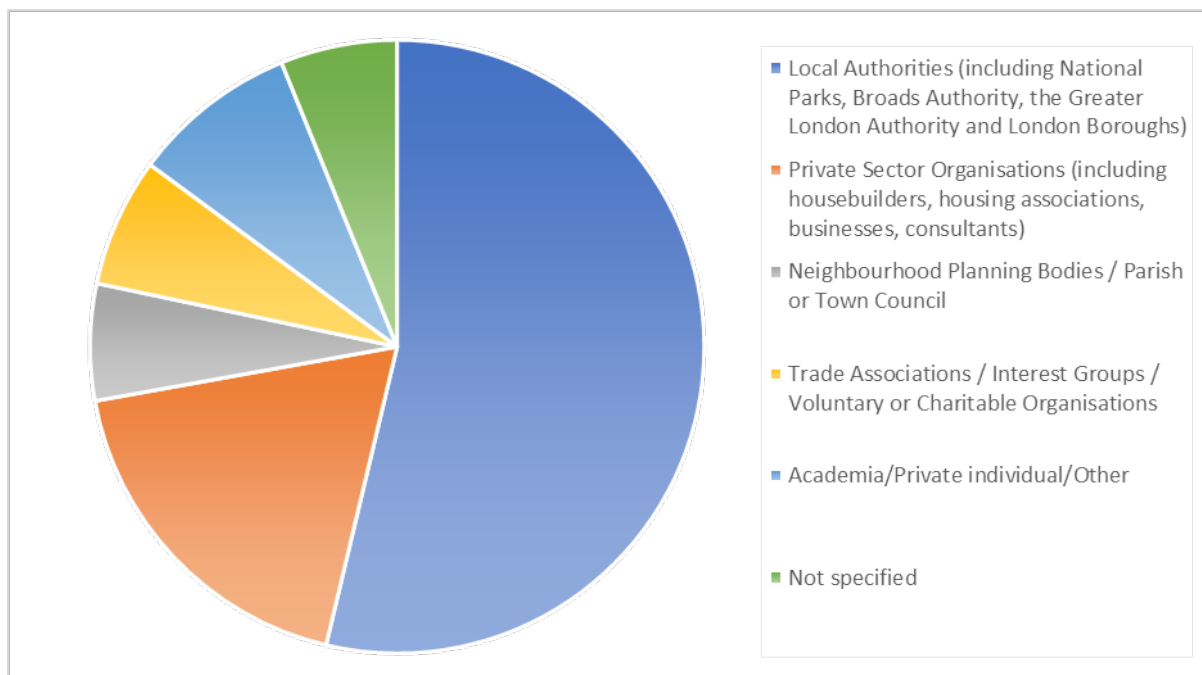
The Government plans to build on those improvements by introducing legislative reforms to developer contributions, in addition to those delivered through the National Planning Policy Framework. This response sets out how the Government plans to take forward changes to developer contributions that were consulted on in March 2018 alongside the draft Framework. They will go further in helping to address issues with the current system. For example, streamlining the consultation process will enable authorities to implement the Community Infrastructure Levy more quickly. Changes to the pooling restriction will give local planning authorities greater flexibility in securing the contributions needed to help speed up the delivery of infrastructure and support housing delivery.

The reforms will also provide clarity and certainty to developers around the contributions they are expected to make, particularly in light of any changes to their application once planning permission has been secured. Other reforms will support the changes already made to the National Planning Policy Framework so that local communities can see the value of the developer contributions secured and what this has helped deliver through the Infrastructure Funding Statement. Local planning authorities will also be given greater flexibility to deliver infrastructure across more than one area.

Legislation will be required in order to implement the changes set out in the consultation document. Therefore, the Government will be consulting on the draft regulations later this year.

# Overview

1. There were 309 responses to the consultation *Supporting housing delivery through developer contributions: Reforming developer contributions to affordable housing and infrastructure*. Consultation ran from 5 March to 10 May 2018.
2. The chart and table below provide a breakdown of the general consultation responses by type of respondent.



Local Authorities (including National Parks, Broads Authority, the Greater London Authority and London Boroughs)	166
Private Sector Organisations (including housebuilders, housing associations, businesses and consultants)	57
Neighbourhood Planning Bodies / Parish or Town Council	19
Trade Associations / Interest Groups / Voluntary or Charitable Organisations	21
Academia / Private individual / Other	27
Not specified	19
<b>Total</b>	<b>309</b>

3. During the consultation, the Planning Advisory Service hosted five consultation events in London, Leeds and Birmingham to seek the views of local authority stakeholders. 180 delegates attended the events from 127 councils. Officials also attended a number of other stakeholder events.

4. This document provides a summary of the consultation responses received, the views of event attendees and views expressed at other events and meetings during the consultation period. It does not attempt to capture every point made. This document also sets out the changes the Government has made in response to points raised during consultation.
5. Many of the proposals had been available for consultation previously, for example through the draft National Planning Policy Framework. Where the consultation on the reform of developer contributions raised no new issues, responses to previous consultations should be read. The Government has also taken into consideration comments on the draft revised National Planning Policy Framework consultation where relevant. The Government has had regard to its responsibilities under the Equality Act 2010 in considering the proposed reforms.
6. A number of measures outlined will require changes to the Community Infrastructure Levy Regulations 2010 (as amended). We will also consider whether changes could be made to the Community Infrastructure Levy to incentivise the build out of developments. The Government will consult on draft amendment regulations in due course.

# Reducing complexity and increasing certainty

## Aligning the evidence for Community Infrastructure Levy charging schedules and plan making

### Question 1

Do you agree with the Government's proposals to set out that:

i. Evidence of local infrastructure need for Community Infrastructure Levy-setting purposes can be the same infrastructure planning and viability evidence produced for plan making?

**Yes/No**

ii. Evidence of a funding gap which is significantly greater than anticipated Community Infrastructure Levy income is likely to be sufficient as evidence of infrastructure need?

**Yes/No**

iii. Where charging authorities consider there may have been significant changes in market conditions since evidence was produced, it may be appropriate for charging authorities to take a pragmatic approach to supplementing this information as part of setting the Community Infrastructure Levy – for instance, assessing recent economic and development trends and working with developers (e.g. through local development forums), rather than procuring new and costly evidence? **Yes/No**

### Question 2

Are there any factors that the Government should take into account when implementing proposals to align the evidence for Community Infrastructure Levy charging schedules and plan making?

### *Questions 1 and 2 response*

7. There were:

251 responses to question 1i. 234 respondents agreed with the proposal, whilst 17 respondents disagreed with it.

238 responses to question 1ii. 209 respondents agreed with the proposal, whilst 29 respondents disagreed with it.

242 responses to question 1iii. 205 respondents agreed with the proposal, whilst 37 respondents disagreed with it.

8. There were a total of 223<sup>1</sup> responses to question 2. Points raised include:

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<sup>1</sup> Figures attributed to all open ended questions do not include blank responses but do include all written responses, including those that did not wish to provide any further comments.

- The need to improve guidance to help local planning authorities align their evidence base for Levy-setting purposes and plan making. This could include more clarity on the level of detail to be included about infrastructure requirements and more clarity on the level of information needed to justify the introduction of the Levy.
- Potential risks around delays in adopting the local plan. Some respondents noted that any evidence that shows an infrastructure funding gap which is greater than potential Community Infrastructure Levy income could affect the deliverability of the plan and delay its adoption.

### *Government response*

9. The Government recently published the revised National Planning Policy Framework and planning guidance on viability. This includes policy and guidance on undertaking viability assessments, and on the evidence of infrastructure need that is required for plan-making. Planning practice guidance will also be further updated in due course to reflect changes to the National Planning Policy Framework where this is necessary.
10. The consultation responses signalled that there was a need for improved guidance, particularly to help provide local planning authorities with certainty around the level of detail needed in establishing an evidence base. The Government therefore intends to take forward the proposals on which it has consulted by making changes to guidance. This will support local authorities to adopt and revise Community Infrastructure Levy charging schedules. In developing guidance, the Government will consider issues raised, to ensure that Levy data requirements do not create unnecessary delays to plan making.

## Ensuring that consultation is proportionate

### **Question 3**

Do you agree with the Government's proposal to replace the current statutory consultation requirements with a requirement on the charging authority to publish a statement on how it has sought an appropriate level of engagement? **Yes/No**

### **Question 4**

Do you have views on how guidance can ensure that consultation is proportionate to the scale of any charge being introduced or amended?

### *Questions 3 and 4 response*

11. There were 246 responses to question 3. 188 respondents agreed with the proposal, whilst 58 respondents disagreed with it. 122 local authorities agreed with the proposal with 17 local authorities against it. Contrastingly, 27 private sector respondents, which included developers, disagreed with the proposal, with 18 respondents from this stakeholder group in favour of it.

12. There were 221 responses to question 4. Points raised include:

- The need to ensure guidance clearly sets out the requirements around consultation. This includes setting minimum time periods for consultation and providing clarity on the extent to which a consultation should be advertised and communicated to the public.
- Recognition that the current process is onerous and **could be reduced to one round of consultation**, particularly in instances where the charging schedule is being reviewed.
- The need to **ensure that a statutory requirement for consultation is retained** in order to support opportunity to review viability evidence.

#### *Government response*

13. The Government acknowledges **the broad support for streamlining the current statutory requirement for two rounds of consultation, whilst recognising support for maintaining a statutory requirement for at least one round of consultation.**
14. The Government's proposals were intended make consultation more proportionate by giving charging authorities more scope to decide how engagement should best be undertaken, rather than removing consultation from the process of setting Levy rates entirely. It is important to ensure that charging authorities undertake appropriate levels of engagement. In doing this, there is a balance to be struck between the level of prescription that is set out in regulations, and the flexibility given to charging authorities to streamline their approach to setting the Levy. Giving charging authorities some additional flexibility would allow them to make a judgement on the level of engagement that is required in different circumstances, for instance, for a minor revision to a charging schedule, or the introduction of an entirely new charging schedule. Maintaining a statutory requirement to consult would give stakeholders clarity and confidence that they would have an opportunity to respond to proposed charging schedules.
15. Following consultation, therefore, the **Government intends to take forward a modified proposal to ensure that regulations continue to require charging authorities to consult on draft charging schedules, whilst removing the current statutory requirement for two separate rounds of consultation in every circumstance.** This will ensure that Charging Authorities can decide the most proportionate approach to consultation, speeding up the time taken to introduce and amend charging schedules. It will also ensure stakeholders have clarity over how they can respond to proposals.

## Removing unnecessary barriers: the pooling restriction

### Question 5

Do you agree with the Government's proposal to allow local authorities to pool section 106 planning obligations:

i. Where it would not be feasible for the authority to adopt the Community Infrastructure Levy in addition to securing the necessary developer contributions through section 106?

**Yes/No**

ii. Where significant development is planned on several large strategic sites? **Yes/No**.

### Question 6

i. Do you agree that, if the pooling restriction is to be lifted where it would not be feasible for the authority to adopt a Community Infrastructure Levy in addition to securing the necessary developer contributions through section 106, this should be measured based on the tenth percentile of average new build house prices? **Yes/No**

ii. What comments, if any, do you have on how the restriction is lifted in areas where a Community Infrastructure Levy is not feasible, or in national parks?

### Question 7

Do you believe that, if lifting the pooling restriction where significant development is planned on several large strategic sites, this should be based on either:

i. a set percentage of homes, set out in a plan, are being delivered through a limited number of strategic sites; or

ii. all planning obligations from a strategic site count as one planning obligation?

### Question 8

What factors should the Government take into account when defining 'strategic sites' for the purposes of lifting the pooling restriction?

### Question 9

What further comments, if any, do you have on how pooling restrictions should be lifted?

### *Questions 5, 6, 7, 8 and 9 response*

16. There were:

247 responses to question 5i. 234 respondents agreed with the proposal, whilst 13 respondents disagreed with the proposal.

251 responses to question 5ii. 239 respondents agreed with the proposal, whilst 12 respondents disagreed with the proposal.

177 responses to question 6i. 81 respondents agreed with the proposal, whilst 96 respondents disagreed with the proposal.

17. There were 180 responses to question 6ii. Points raised include:

- Support for lifting the pooling restriction in national parks.
- Concerns that basing the feasibility criteria for introducing a Levy on the tenth percentile of average new build house prices would be unfair on those local authorities that fall just outside of the threshold, as well as those local authorities that have taken steps towards adopting a Levy but deemed it unfeasible for their area. Alternative criteria were suggested, including increasing the threshold. There were also points raised around the complexities and uncertainty that could arise from situations where authorities may fall either side of the threshold between one year and another.
- That the approach taken to determine the feasibility of introducing a Levy could be complex, with local authorities having to determine and evidence whether they fall within the threshold.
- That it would be beneficial for the pooling restriction to be lifted in all areas. Respondents cited the impact the restriction has had in slowing down and, in some instances, preventing the delivery of infrastructure and housing. This was raised at the consultation events where local authorities unanimously stressed the importance of completely removing the restriction to help deliver infrastructure.

18. There were 158 responses to question 7. 51 respondents thought that lifting the pooling restriction where significant development is planned on several large strategic sites should be based on the criteria set out at option 7i, whilst 107 respondents thought that it should be based on the criteria set out at option 7ii.

19. There were 216 responses to question 8. Points raised include:

- Concerns around having a nationally applied definition of strategic sites, which could unintentionally help some areas more than others. This is because what some local planning authorities consider a strategic site could be considered a 'normal' site in another local planning authority.
- Leaving the definition of strategic sites to the discretion of the local planning authority would allow them to identify the sites they consider to be strategic for their area and would be key to the deliverability of their local plan.
- Suggestions on how to define strategic sites including identifying a site as strategic within a local plan, requiring a minimum number of homes to be delivered, and assessing the impact of a site in terms of job creation and

infrastructure delivery.

- That removing the pooling restriction in all areas would remove the need to define a strategic site. This point was also made strongly at the consultation events.

20. There were 214 responses to question 9. Points raised include:

- That removing the pooling restriction in all areas would help delivery of infrastructure and housing.
- That abolishing the restrictions that prevent Community Infrastructure Levy funds and section 106 planning obligations contributing towards the same infrastructure would further increase the effectiveness of developer contributions and aid the delivery of infrastructure.

### *Government response*

21. The Government acknowledges the support for the proposals outlined in the consultation document. In addition, the Government recognises the broad support, particularly during consultation events, for removing the pooling restriction in all areas.
22. The Government's original proposal sought to strike a balance between lifting restrictions, while ensuring that local authorities were incentivised to use the Community Infrastructure Levy as a mechanism for developer contributions. The Government recognises stakeholder concerns that, if the proposal were taken forward in this form, there would be an additional administrative burden in implementing the approach, including determining whether their area falls within the feasibility threshold for introducing a Levy. In particular, the Government recognises concerns that where restrictions are lifted there would be a risk of additional bureaucracy and uncertainty. This could create uncertainty for developers and local planning authorities about where and when the restriction applies.
23. Furthermore, the Government accepts that these proposals would not benefit all local planning authorities, which could mean that the pooling restriction would continue to slow down and prevent the delivery of infrastructure and housing in these areas.
24. The Government accepts the argument that lifting the pooling restriction in all areas would remove barriers to development, and could in some circumstances give local planning authorities the ability to secure more funding through s106 to deliver the infrastructure needed to support development. Nevertheless, it remains the Government's intention that the Community Infrastructure Levy should be used to secure contributions to address the cumulative impact of development in an area, and that the uptake and use of the Levy should be incentivised.
25. Therefore, the Government has decided to take forward a modified proposal and intends to lift the pooling restriction in all areas. So that the Community Infrastructure Levy remains an effective mechanism for collecting contributions towards addressing

the cumulative impact of development, the Government will ensure measures are in place to incentivise uptake and continued use of the Levy.

## Improvements to the operation of the Community Infrastructure Levy

### *A more proportionate approach to administering exemptions*

#### **Question 10**

Do you agree with the Government's proposal to introduce a two month grace period for developers to submit a Commencement Notice in relation to exempted development?

**Yes/No**

#### **Question 11**

If introducing a grace period, what other factors, such as a small penalty for submitting a Commencement Notice during the grace period, should the Government take into account?

#### **Question 12**

How else can the Government seek to take a more proportionate approach to administering exemptions?

### *Questions 10, 11 and 12 response*

26. There were 210 responses to question 10. 138 respondents agreed with the proposal, whilst 72 disagreed with the proposal.

27. There were 186 responses to question 11. Points raised include:

- That introducing a grace period could generate complexity, including increasing the administrative burden that charging authorities could face.
- Concerns that Charging Authorities would not have clarity on when the two-month grace period would begin (in the absence of a Commencement Notice). Respondents raised concerns that the ambiguity around this could cause delays and complexity.
- A mixed reaction to the proposal to introduce a surcharge for submitting a Commencement Notice during the grace period. Concerns included that this would place a further cost and administrative burden on local planning authorities. In this view the surcharge was unlikely to recover the costs and was contrary to introducing a grace period in the first place. Those that agreed with introducing a surcharge stated that it should be small and/or proportionate to the amount of relief being claimed.

28. There were 175 responses to question 12. Points raised include:

- Proposals to change the way in which exemptions work, including removing them in some instances but keeping them in others, removing the need for a formal exemption for self-build extensions and annexes and charging the Levy on self-builds if the floorspace is more than 100sqm.
- Proposals to remove exemptions altogether, or at the very least to allow local authorities to seek a small fee to help cover administration costs. Other respondents suggested extending exemptions to a wider range of development, including other forms of affordable housing, and particular types of development on the basis of viability.
- The need for better guidance around claiming exemptions, and for changes to the forms that applicants are required to fill in, to make it easier for them to meet the requirements.

### *Government response*

29. **The Government intends to retain current exemptions.** The Government has noted the concerns raised around the proposed grace period, in particular around clarity for charging authorities about the date at which the two month grace period would commence, and the potential complexities that this could cause. It is not the intention of the Government to create barriers to development and place unnecessary administrative burdens on local planning authorities. However, the Government continues to recognise the disproportionate impact of the penalties for failing to submit a Commencement Notice before development starts, under which the exemption is withdrawn, and the whole Community Infrastructure Levy liability becomes immediately payable. The Government believes that there is a need to address this impact, which can particularly affect self-builders.
30. The Government has already taken steps to clarify for claimants the steps necessary to claim an exemption and has worked with the Planning Portal to improve clarity of the relevant Community Infrastructure Levy forms. The Government will continue to look at ways in which this could be further improved.
31. The Government recognises concerns about increasing the administrative burden on local authorities. Therefore, the Government has decided to take forward a modified proposal by making changes to the penalties associated with the failure to submit a Commencement Notice prior to development being started. This will ensure that any penalty is set at a proportionate level and will not result in the whole liability becoming payable immediately.
32. The Government will continue to consider if further clarification is needed in this area as part of our regular monitoring of guidance. A number of responses sought additional exemptions to address the unintended viability impacts of Levy liabilities on particular forms of development. The Government will consider how guidance could be used to manage these effects by encouraging authorities to take account of these issues when setting Levy rates and choosing how they use existing powers for discretionary social housing relief. In addition, the Government has already committed to bring forward legislation to exempt Starter Homes from the Community Infrastructure Levy.

***Extending abatement provisions to phased planning permissions secured before introduction of the Community Infrastructure Levy***

***Applying indexation where a planning permission is amended***

**Question 13**

Do you agree that Government should amend regulations so that they allow a development originally permitted before the Community Infrastructure Levy came into force, to balance Levy liabilities between different phases of the same development?

**Yes/No**

**Question 14**

Are there any particular factors the Government should take into account in allowing abatement for phased planning permissions secured before introduction of the Community Infrastructure Levy?

**Question 15**

Do you agree that Government should amend regulations on how indexation applies to development that is both originally permitted and then amended while a Levy is in force to align with the approach taken in the recently amended regulations?

***Questions 13, 14 and 15 response***

33. There were 201 responses to question 13. 171 respondents agreed with the proposal, whilst 30 disagreed with the proposal.
34. There were 140 responses to question 14. Points raised include:
- Updating guidance to make clear how this policy would work in practice, including around how it is expected to be administered, reviewed and recorded by local planning authorities.
  - Updating guidance to encourage better collaboration between local planning authorities and developers on phased developments.
35. There were 184 responses to question 15. 173 respondents agreed with the proposal, whilst 11 disagreed with the proposal.

***Government response***

36. The Government acknowledges the points raised in relation to the need for additional guidance, in addition to regulatory change. The Government proposes to take forward these proposals, taking account of the points raised through consultation on how this is implemented.

# Increasing market responsiveness

## Setting charging schedules with reference to the existing use of land

### Question 16

Do you agree with the Government's proposal to allow local authorities to set differential Levy rates based on the existing use of land? **Yes/No**

### Question 17

If implementing this proposal do you agree that the Government should:

- i. encourage authorities to set a single Levy rate for strategic sites? **Yes/No**
- ii. for sites with multiple existing uses, set out that liabilities should be calculated on the basis of the majority existing use for small sites? **Yes/No**
- iii. set out that, for other sites, liabilities should be calculated on the basis of the majority existing use where 80% or more of the site is in a single existing use? **Yes/No**
- iv. What comments, if any, do you have on using a threshold of 80% or more of a site being in a single existing use, to determine where liabilities should be calculated on the basis of the majority existing use?

### Question 18

What further comments, if any, do you have on how the Levy should operate on sites with multiple existing uses, including the avoidance of gaming?

### *Questions 16, 17 and 18 response*

37. There were:

229 responses to question 16. 173 respondents agreed with the proposal, whilst 56 disagreed with the proposal.

205 responses to question 17i. 136 respondents agreed with the proposal, whilst 69 disagreed with the proposal.

196 responses to question 17ii. 130 respondents agreed with the proposal, whilst 66 disagreed with the proposal.

195 responses to question 17iii. 121 respondents agreed with the proposal, whilst 74 disagreed with the proposal.

38. There were 154 responses to question 17iv. Points raised include:
- Proposals for alternative thresholds that could be appropriate. Some respondents noted that the Government's proposal could result in the lower of two or more Levy rates applying across an entire development.
  - Proposals for alternative approaches, such as using the rate with the highest Levy charge, or the possibility of local authorities setting their own threshold.
39. There were 162 responses to question 18. Points raised include:
- Concerns that the Community Infrastructure Levy was not an appropriate mechanism to achieve the desired objective.
  - Significant concerns about the complexity involved in implementing the proposal through the Community Infrastructure Levy which would create delay and increase costs. Particular concerns included the additional complexity of calculating Levy liabilities and the need for additional evidence. At consultation events, while local authorities were broadly in favour of the principle of setting charging schedules with reference to the existing use of land, there was widespread concern that operational complexity would prevent take-up.
  - Concerns about a potential impact on affordable housing provision.
  - Concerns that approaches to avoid gaming could create additional complexity. Suggestions included requiring evidence from developers related to the viability of the existing use of sites, and setting time limits in relation to previous uses on a site.

### *Government response*

40. The Government's proposal sought to allow local authorities better to capture increases in land value where this was justified by infrastructure needs. The proposal recognised and sought to address complexities in implementation. However, the Government recognises the inherent tension within this proposal between seeking to increase market responsiveness, and the wider objectives to reduce complexity and increase certainty.
41. The Government acknowledges the concerns raised, in particular those related to the inherent complexity of the proposals. At consultation events local authorities broadly supported the Government's objective but noted that take-up of the new form of rates would be very limited given the complexity in implementation.
42. The Government therefore is not proposing to take forward the proposal through legislation. However, the Government has reviewed this proposal and considers there are existing flexibilities in the Community Infrastructure Levy Regulations that, through the use of differential Levy rates, will allow local authorities to go some way towards achieving the objective of the proposed reform. The Government therefore proposes to make changes to guidance to support local authorities to set differential rates more effectively.

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# Indexing Community Infrastructure Levy rates to house prices

## Question 19

Do you have a preference between Levy rates for residential development being indexed to either:

- a) The change in seasonally adjusted regional house price indexation on a monthly or quarterly basis; or
- b) The change in local authority-level house price indexation on an annual basis

## Question 20

Do you agree with the Government's proposal to index Levy rates to a different metric for non-residential development? **Yes/No**

## Question 21

If yes, do you believe that indexation for non-residential development should be based on:

- i. the Consumer Price Index? **Yes/No**
- ii. a combined proportion of the House Price Index and Consumer Price Index? **Yes/No**

## Question 22

What alternative regularly updated, robust, nationally applied and publicly available data could be used to index Levy rates for non-residential development?

## Question 23

Do you have any further comments on how the way in which the Community Infrastructure Levy is indexed can be made more market responsive?

## *Questions 19, 20, 21, 22 and 23 response*

43. There were:

153 responses to question 19. 32 respondents preferred Levy rates being indexed to the measure set out at option A, whilst 121 respondents preferred the measure set out at option B.

192 responses to question 20. 145 respondents agreed with the proposal, whilst 47 disagreed with the proposal. 83 thought that non-residential development should be based on the Consumer Price Index, whilst 36 thought that it should be indexed to a combined proportion of the House Price Index and the Consumer Price Index.

44. There were 155 responses to question 22 and 143 responses to question 23. Points raised include
- Concerns about the stability of local-level House Price Index data. Alternative approaches suggested included the Retail Price Index, retaining the use of Building Cost Information Service<sup>2</sup> or using the Consumer Price Index for all Levy indexation.
  - Concerns about house prices being used to index the value of non-residential development. Alternative approaches suggested included retaining the use of the Building Cost Information Service, or using the Retail Price Index.
  - The complexity of using two different indexes based on the use of floorspace. This could require amendments to the way in which Levy liabilities are calculated.
  - Questions about the relationship between the proposed indexes and the overall purpose of the Levy.
  - Improving the relationship between the point at which Levy rates are indexed and the development process, particularly for phased developments (where indexation may be fixed some time in advance of development commencing).

#### *Government response*

45. The Government acknowledges the points raised, in particular on the preferred approaches to indexation included in the consultation (for residential development the local-level House Price Index on an annual basis, rather than the regional level House Price Index on a quarterly basis; and the Consumer Price Index over the 'combined proportion' of the Consumer Price Index and the House Price Index for other uses). The Government also acknowledges points raised relating to the complexity of multiple indexes based on land-use, and recognises the need for clear guidance. While respondents expressed a view that the Retail Price Index could be used, the Government recognises that this index is not seen by the Office of National Statistics as a good measure of inflation.
46. The Government proposes to consult on changes to indexation of Levy rates and the way in which it would be implemented. Through consultation on the draft amendment regulations the government will test changes that:
- index Levy rates for residential development to the House Price Index using local-level data on an annual basis. This will help ensure that Levy rates remain responsive to changes in market conditions. The Government recognises concerns raised about the stability of this data and will consider whether measures may be needed to reduce annual volatility in indexation rates. This would ensure an appropriate balance between market responsiveness and

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<sup>2</sup> Community Infrastructure Levy rates are currently indexed with reference to the Building Cost information Service of the Royal Institute of Chartered Surveyors.

certainty for developers and local authorities.

- index Levy rates for non-residential development to the Consumer Price Index.  
This reflects the preference of respondents for a simple measure of indexation.

47. The Government will take account of transitional issues in introducing new indexation measures, and will make any necessary changes to guidance.

# Improving transparency and increasing accountability

## Question 24

Do you agree with the Government's proposal to:

- i. remove the restrictions in regulation 123, and regulation 123 lists? **Yes/No**
- ii. introduce a requirement for local authorities to provide an annual Infrastructure Funding Statement? **Yes/No**

## Question 25

What details should the Government require or encourage Infrastructure Funding Statements to include?

## Question 26

What views do you have on whether local planning authorities may need to seek a sum as part of section 106 planning obligations for monitoring planning obligations? Any views on potential impacts would also be welcomed.

### *Questions 24, 25 and 26 response*

48. There were:

236 responses to question 24i. 213 respondents agreed with the proposal, whilst 23 disagreed with the proposal.

237 responses to question 24ii. 215 respondents agreed with the proposal, whilst 22 disagreed with the proposal.

49. There were 225 responses to question 25. Points raised include:

- Concerns that the removal of the regulation 123 list would result in 'double dipping' (where developers are charged twice through section 106 planning obligations and Community Infrastructure Levy receipts for the same infrastructure spending).
- The potential of the Infrastructure Funding Statement to improve transparency around developer contributions.
- Suggestions that the Infrastructure Funding Statement should include details on income from Community Infrastructure Levy receipts and section 106 planning obligations, and set out what the money has been spent on (including the infrastructure that has been delivered) and future spending priorities.

- Suggestions were also made that the Infrastructure Funding Statement could include details of the funding from other sources, such as section 278 of the Highways Act 1980.

50. There were 228 responses to question 26. Points raised include:

- Support for allowing local planning authorities to seek a sum for monitoring planning obligations. It was noted that this would help local planning authorities to adequately resource themselves to carry out what can be quite a complex task.
- The potential for the monitoring sum to help improve the transparency and accountability of section 106 planning obligations, which could assist in the delivery of housing and infrastructure.
- Preferences that any monitoring sum should be proportionate and capped. Suggestions were made that the sum could mirror the percentage of Community Infrastructure Levy that are allowed to be allocated to cover administration costs (up to 5%). It was noted that some local planning authorities already seek a monitoring sum from applicants.
- Reporting on the amount that has been secured for monitoring purposes through the Infrastructure Funding Statement.

#### *Government response*

51. Through changes made to the National Planning Policy Framework and National Planning Guidance on viability, the Government has started to introduce measures to improve transparency around the system of developer contributions. Viability guidance sets out the Government's recommended approach to reporting on developer contributions through an Infrastructure Funding Statement. The Government intends to strengthen this approach by taking forward proposals to require reporting of developer contributions from the Community Infrastructure Levy and section 106 planning obligations through the Infrastructure Funding Statement on a statutory basis. The Government has noted the information that stakeholders would like to see reported on through the Infrastructure Funding Statement and is encouraged that there is agreement across all stakeholder groups that this information is key in helping communities to better understand the benefits that are delivered alongside development.
52. The Government recognises the preference to remove restrictions in regulation 123 related to regulation 123 lists. The Government proposes to remove these restrictions. These currently prevent section 106 planning obligations being used to collect contributions towards infrastructure included on a Charging Authority's 'regulation 123 list'. New reporting standards, which are set out in the Infrastructure Funding Statement, will address concerns about double dipping by ensuring that there is transparency over how developer contributions from both CIL and section 106 planning obligations are being used, rather than by placing formal restrictions in regulations.

53. The Government also recognises the need to address existing uncertainty around using section 106 planning obligations to collect monitoring sums. The Government therefore intends to take forward proposals to make clear that local authorities can seek a fee from applicants towards monitoring planning obligations. In developing these proposals, the Government will consider how best to ensure that monitoring sums are set at an appropriate level.

# A Strategic Infrastructure Tariff

## **Question 27**

Do you agree that combined authorities and joint committees with strategic planning powers should be given the ability to charge a Strategic Infrastructure Tariff? **Yes/No**

## **Question 28**

Do you agree with the proposed definition of strategic infrastructure? **Yes/No**

## **Question 29**

Do you have any further comments on the definition of strategic infrastructure?

## **Question 30**

Do you agree that a proportion of funding raised through the Tariff could be used to fund local infrastructure priorities that mitigate the impacts of strategic infrastructure? **Yes/No**

## **Question 31**

If so, what proportion of the funding raised through the Tariff do you think should be spent on local infrastructure priorities?

## **Question 32**

Do you agree that the Tariff should be collected by local authorities on behalf of the charging authority? **Yes/No**

## **Question 33**

Do you agree that the local authority should be able to keep up to 4% of the Strategic Infrastructure Tariff receipts to cover the administrative costs of collecting the Tariff? **Yes/No**

*Questions 27, 28, 29, 30, 31, 32 and 33 response*

54. There were:

219 responses to question 27. 188 respondents agreed with the proposal, whilst 31 disagreed with the proposal.

194 responses to question 28. 141 respondents agreed with the proposal, whilst 53 disagreed with the proposal.

194 responses to question 30. 152 respondents agreed with the proposal, whilst 42 disagreed with the proposal.

187 responses to question 32. 174 respondents agreed with the proposal, whilst 13 disagreed with the proposal.

180 responses to question 33. 160 respondents agreed with the proposal, whilst 40 disagreed with the proposal.

55. There were 183 responses to question 29. Points raised include:

- That the Strategic Infrastructure Tariff should be made available to other groups of local authorities working together to produce joint plans and not just restricted to Combined Authorities and joint planning committees.  
*this is an incentive for mayors.*
- Concern over whether the introduction of a Tariff would lead to a reduction in funding secured through local developer contributions.
- The appropriate level of definition for strategic infrastructure, with some respondents considering that the definition needed to be further clarified and others considering that this would be best identified by the relevant authorities to ensure the Strategic Infrastructure Tariff would work effectively at the local level.

56. There were 167 responses to question 31. Points raised include:

- Discussion of the appropriate proportion of the Tariff to be spent on local infrastructure, with the majority of respondents suggesting that this should be between 5% and 20%. Other respondents suggested that the proportion of the Tariff to be spent on local infrastructure should be dependent on local circumstances and priorities.
- Concern that spending the Tariff on local infrastructure priorities would duplicate the role of existing developer contributions and potentially result in developers being double charged.

### *Government response*

57. The Government has decided to take forward a modified proposal, to enable Combined Authorities with strategic planning powers to take forward a Strategic Infrastructure Tariff, and to encourage groups of charging authorities to use existing powers to more effectively support the delivery of strategic infrastructure through the pooling of their local Community Infrastructure Levy receipts. In the longer term, the Government will bring forward proposals for allowing joint planning committees to charge the tariff, and will review options for giving other groups the power to levy a Tariff.
58. The existing powers through the Local Democracy, Economic Development and Construction Act 2009 allow Combined Authorities to carry out the same functions as the Mayor of London and charge a Community Infrastructure Levy. This power permits the Government to allow Combined Authorities to introduce a Tariff through Combined Authority orders. This approach will enable the Government and Combined Authority to negotiate and agree the introduction of the Strategic Infrastructure Tariff.
59. The proposals put forward by the Government allowed for Combined Authorities and joint planning committees to introduce a Tariff. Comments received in response to the consultation stated that the scope should be broadened to include other local planning authorities. The Government recognises the benefits of supporting authorities to fund strategic infrastructure outside locations covered by the original

proposal. Therefore, the Government will amend guidance to encourage other groups of charging authorities to use the Levy more effectively to support the delivery of cross boundary strategic infrastructure that benefits multiple authorities through pooling their local CIL. This will support charging authorities to work across boundaries to raise funding for locally agreed priorities such as strategic, large-scale infrastructure projects that cross administrative boundaries.

60. Consultation included a number of specific points regarding the operation of a Tariff, including what the definition of strategic infrastructure should be and whether a proportion should go to local infrastructure priorities. Responses to the consultation suggested that determining how these questions are addressed will depend on local circumstances. The Government will work with Combined Authorities to determine the best approach for their areas; to be defined as strategic, infrastructure must benefit multiple authorities. The Government will ensure that up to 4% of Tariff receipts can be kept by the local authorities to cover the administrative cost of collection, as is the case with the Mayor of London.

# Technical clarifications

## **Question 34**

Do you have any comments on the other technical clarifications to the Community Infrastructure Levy?

### *Questions 34 response*

61. There were 165 responses to question 34. Points raised include:

- A broad welcome for the technical clarifications included in consultation, in particular for greater clarity around multiple section 73 applications and indexation. Some respondents raised comments about implementation of these clarifications.
- A number of respondents sought simplified regulations and guidance or greater clarity and consistency in Community Infrastructure Levy forms and notices.
- Particular issues raised, where further clarification was sought included the definition of gross internal area, implementation of the Levy in particular circumstances (such as in relation to development that takes place in a number of phases or there is a change of use), and the operation of exemptions and reliefs, indexation and in-kind payment.
- Some respondents suggested alternative systems that might replace the Community Infrastructure Levy.

### *Government response*

62. The Government has noted the responses received for this question, as well as the feedback the Government has received from stakeholders at the consultations events and during other engagements. The Government will consider the implementation issues raised in relation to the technical clarifications included in the consultation document. The Government will also continue to consider changes to guidance and legislation that may be required to improve the operation of the Levy, including in relation to issues raised by respondents.