Department for Communities and Local Government

Community Infrastructure Levy: Consultation on further Regulatory Reforms

Government Response

October 2013
Department for Communities and Local Government

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Introduction

The Community Infrastructure Levy allows local authorities in England and Wales to raise funds from developers undertaking new building projects in their area. The levy charge is a set tariff, subject to public consultation and independent examination, and is used to fund a wide range of infrastructure needed to support the development of the area.

The levy was introduced in 2010. The current package of proposed amendments will ensure that lessons from the early years of the levy's operation are captured. This will improve its operation and help to ensure that its potential, as a fair, transparent and efficient way for development to contribute to essential supporting infrastructure needs, is fully realised.

The proposals in our consultation document of April 2013 were informed by practice experience to date from the development industry and local government. We would like to thank all those who took the time to respond to the detailed consultation document and share their experience and evidence.

The consultation closed on 28th May 2013. We received 289 responses, broken down by respondent as shown in the table below. The majority of respondents answered most of the questions.

Table 1: responses to consultation

Organisations (total)	
• District / Met district council	51
• London borough	23
• Unitary /county/county borough council	56
• Parish / community council	11
• Professional trade association	19
• Land owner	8
• Private developer/house builder	45
• Developer association	2
• Voluntary sector/charity	4
• Other (including planners)	70
Total	289

Having had due regard to the consultation responses the Government is taking steps to implement regulatory amendments in line with the majority of the proposals as set out in the consultation document, including the proposed exemption from the levy for self build homes. There are a number of areas where the Government is responding to evidence and views submitted by taking forward regulatory amendments with variations from the consultation proposals. These are as follows:

- Extending the vacancy test to cover buildings that have been in use for a continuous period of six months in the last three years. Where there is no change of use, they will also be exempt from the levy, other than where there is an increase in floorspace, or where the building has been abandoned. This will help to facilitate empty buildings being brought back into use
- Extending the proposal to allow credit where the levy has already been paid and the proposed development is changed. We now propose to apply this to any incomplete building on a site where the levy has already been paid
- Exempting highway agreements relating to the trunk road network drawn up by the Highways Agency, Transport for London or Welsh Ministers from proposals to restrict the use of highway agreements by reference to the Regulation 123 list
- Not extending the consultation period on the draft charging schedule from four to six weeks
- Continuing to enable authorities to determine at their own discretion how to consult on any amendments to their Regulation 123 lists
- Not replicating in the levy regulations, in relation to “in kind” payments, the EU procurement limits applied in other regulations
- Exempting residential extensions and annexes from the levy.

The Government intends to develop regulations and guidance as quickly as possible, with the objective of laying new regulations in Parliament before the end of the year, to come into effect - subject to the Parliamentary process - by the end of January 2014.

The rest of this report sets out an overview of the responses to individual questions, and provides more detail on the Government’s proposals for implementing the package of reforms. Over and above the measures set out here, points raised in the consultation that housing relief should be extended to charitable bodies providing affordable housing that are not registered providers will also be considered further.

Responses to the Consultation

Section One: Rate Setting and Evidence (Questions 1-3)

1.1 Community Infrastructure Levy rates are set based on the economic viability of development and the need for supporting infrastructure. Our objectives in proposing reforms under this heading were to provide greater transparency and scrutiny, and to allow greater flexibility for authorities to set differential levy rates.

Question 1: We are proposing to require a charging authority to strike an appropriate balance between the desirability of funding infrastructure from the levy and the potential effects of the levy on the economic viability of development across the area
Do you agree with this proposed change?

Consultation Response:

Yes	**188**	**76%**
No	51	20%
Not Sure	9	4%
Total	248	

Question 2: We are proposing to allow charging authorities to set differential rate by reference to both the intended use and <u>scale</u> of development.
Do you agree with the proposed change?

Consultation Response:

Yes	**211**	**86%**
No	28	11%
Not Sure	7	3%
Total	246	

Question 3 – Should the consultation period on the draft charging schedule be extended from "at least 4 weeks" to "at least 6 weeks"?

Consultation Response:

Yes	**207**	**89%**
No	22	9%
Not Sure	3	2%
Total	232	

1.2 All three proposals were strongly supported across the sector, and the majority of respondents considered that the proposals reflect emerging best practice.

1.3 We propose to implement the changes set out in Questions 1 and 2 of the consultation document as follows:

- Require authorities to strike an appropriate balance between the funding of infrastructure from the levy and the potential effects of the levy on the viability of development;
- Allow authorities to set differential rates (question 2) by reference to the proposed size of development, or the proposed number of units or dwellings; and

1.4 Although there was a positive response to Question 3 on extending the draft charging schedule consultation period, after consideration we believe that this is more appropriate to be left to authorities'discretion. This maintains authorities' flexibility to set their own timescales for consultation, based on local factors. We propose to address in guidance the circumstances in which authorities may wish to consider a longer period of consultation to be appropriate. This could be the case, for example, where authorities wish to align consultation on a draft charging schedule with consultation on other planning documents.

Section Two: The Infrastructure List (Questions 4-5)

2.1 A Regulation 123 infrastructure list identifies the projects, or types of infrastructure, which an authority intends to fund or part fund with levy receipts. One of the purposes of Regulation 123 is to ensure that authorities cannot seek contributions for infrastructure funding through Section 106 planning obligations when the levy is already expected to fund that same infrastructure. The infrastructure list does not form part of the Charging Schedule.

2.2 Our objectives in proposing reform under this heading were to increase the available evidence at examination and improve transparency. We sought views on whether any draft Regulation 123 list should inform the preparation of an authority's charging schedule and be included as part of the evidence at examination stage. We also proposed that changes to the list should be subject to proportionate consultation.

Question 4 – Should the Regulation 123 list form part of the relevant evidence under section 211(7A) and (7B) so that it is available during the rate setting process, including at the examination?

Consultation Response:

Yes	**192**	**83%**
No	36	16%
Not Sure	4	1%
Total	232	

Question 5 – We propose to amend the regulations so that a new infrastructure list can only be brought forward after proportionate consultation with interested parties.
Do you agree that this approach provides an appropriate balance between transparency and flexibility?

Consultation Response:

Yes	**192**	**80%**

No	38	16%
Not Sure	9	4%
Total	239	

2.3 Both proposals were well supported and many respondents said that it was appropriate that the public, developers and other interested parties were able to comment on the list and subsequent changes to it. Some requested that guidance should set out when a full review of a charging schedule would be appropriate. Some raised concerns over another consultation requirement, the consequent resource implications and expressed concerns about defining “proportionate” consultation.

2.4 Having regard to the responses received, we propose to implement the proposition within Question 4 that any draft Regulation 123 list forms part of the relevant evidence so that it is available during the rate setting process, including at the examination. On Question 5, after careful consideration, and in line with our conclusions on the appropriate way forward on question 3, we propose to leave the extent and duration of consultation on any amendments to the Regulation 123 infrastructure list to the discretion of the relevant authority.

Section Three: The Relationship between the Community Infrastructure Levy, Section 106 Planning Obligations and Section 278 Highways Agreements (Questions 6-7)

3.1 On adoption of the levy, or nationally from April 2014, authorities are restricted in their use of Section 106 planning obligations. A planning obligation (under Section 106 of the Town and Country Planning Act 1990) cannot be sought for infrastructure intended to be funded by the levy, and no more than five obligations can be pooled by the charging authority to provide for the same item of infrastructure. These restrictions do not currently apply in respect of infrastructure which is provided through Section 278 (of the Highways Act 1980) Agreements for highways works.

3.2 We proposed to move the date from which the pooling restrictions on Section 106 apply nationally to April 2015, to allow charging authorities sufficient time to reflect changes to operation of the levy arising through both this and earlier rounds of reform.

3.3 We also proposed to restrict the use of section 278 highway agreements by preventing a charging authority from seeking contributions towards the same infrastructure under both the levy and s278. We did not propose to impose a pooling restriction, or to apply statutory tests, for section 278 agreements.

Question 6 – We are proposing to move the date from when further limitations on the use of pooled planning obligations will apply (to areas that have not adopted the levy) from April 2014 to April 2015.
Do you agree?

Consultation Response:

Yes	**207**	**89%**
No	18	8%

Not Sure	7	3%
Total	232	

Question 7 – Do you agree that Regulation 123 (excluding Regulation 123(3)) should be extended to include Section 278 Agreements so that they cannot be used to fund infrastructure for which the levy is earmarked?

Consultation Response:

Yes	**111**	**47%**
No	109	46%
Not Sure	15	7%
Total	235	

3.4 Those who responded to Question 6 strongly supported the extension of the deadline for restrictions on pooling Section 106 contributions to April 2015 and we propose to implement this change.

3.5 On Question 7 the response was more balanced. There was an overall consensus that improved clarity on the interaction between the levy and Section 278 was desirable, and necessary to avoid the risk of double charging from the levy and Section 278 agreements, but opinion was divided as to the best way of achieving this. Generally, developers supported the proposal but authorities in general were more cautious. Some respondents were concerned that it could restrict the ability to secure essential local and nationally significant highway infrastructure. We believe that at a local level these concerns can be addressed through effective collaboration between the responsible authorities, to ensure that the Regulation 123 infrastructure list is developed and implemented to properly support the provision of highways infrastructure and we will develop guidance to support this.

3.6 However, we recognise that it is harder to do this where relevant highway infrastructure spans a significant number of local authority areas. Taking on board consultation responses, we propose to implement this provision but exempting highway agreements which are drawn up by the Highways Agency, Transport for London or Welsh Ministers, relating to the trunk road network.

3.7 In the consultation document we also referred to minor drafting changes that we were considering to improve drafting consistency between regulations 122 and 123. We have considered further, and on the basis the two regulations have different aims, we have decided to leave the language as it is. Only two respondents commented directly on the second issue of standardising the drafting of the phrase “project[,] or type of infrastructure” in regulations 122 and 123. On the basis that losing the comma might lead to a more restricted interpretation of the measure than intended, we propose to retain the comma.

Section Four: Community Infrastructure Levy Payments (Questions 8-16)

4.1 Payments in Kind (Questions 8-10)

4.1. Levy charging authorities can currently accept land (including infrastructure on the land) as 'payment' in respect of part or all of a levy liability. We proposed to extend that to include the future provision of infrastructure, and infrastructure on land not owned by the person liable to pay the levy. We proposed to allow the provision of infrastructure either on or off the site of the chargeable development in question as 'payment in kind'. Payment in kind can enable developers, users and authorities to have more certainty about the timescale over which certain infrastructure items will be delivered. In some cases it may also be more cost-effective for a developer to provide this infrastructure than it would be for the local authority to procure it themselves.

Question 8 – Do you agree that, where appropriate and acceptable to the charging authority, the levy liability should be able to be paid (in whole or in part) through the provision of both land and/or on-site or off-site infrastructure?

Consultation Response:

Yes	**210**	**87%**
No	21	9%
Not Sure	11	4%
Total	242	

Question 9 – Do you agree that actual construction costs and fees related to the design of the infrastructure should be used to calculate the sum by which the amount of levy payable will be reduced, when the levy is paid by providing infrastructure in kind?

Consultation Response:

Yes	**189**	**83%**
No	29	13%
Not Sure	9	4%
Total	**227**	

Question 10 – Should the payment in kind provisions be limited to the capital value ceilings as set out in the EU procurement rules – currently the thresholds of £173,934 for goods and services and £4,348,350 for works?

Consultation Response:

Yes	82	41%
No	**100**	**50%**
Not Sure	19	9%
Total	201	

4.2. There was strong support from responders across the sector for allowing infrastructure to be included as a payment in kind on this basis and for the actual construction costs and fees related to the design of the infrastructure to be used to calculate the contribution. Many referred to the additional flexibility it would give charging authorities and developers, as well as potential additional benefits and greater value to the public. Therefore, we propose to implement these payment in kind provisions in line with Questions 8 and 9.

4.3. A small majority were against the proposal in Question 10 to limit "in kind" payments to EU thresholds, citing unnecessary duplication with other regulations. We accept this point and do not therefore intend to implement this measure by amending the levy regulations, but to make reference to the procurement thresholds in revised guidance.

4.2 Phased Payments / Commencement of Development (Questions 11-14)

4.4 The levy regulations currently allow each phase of an outline planning permission to be treated as a separate chargeable development, but do not make the same provision for each phase of a full planning permission which is to be implemented in phases. We proposed to ensure that where full and outline permissions, and hybrid permissions combining the two, are phased development, each phase can be treated as a separate chargeable development. This was to ensure the fair treatment of more complex developments where site preparation and demolition, for example, are necessary.

4.5 We also proposed to allow for a re-calculation of levy liability when the provision of affordable housing is varied, as can happen when part of a mixed site is transferred to a registered housing provider, often after development has commenced.

4.6 We also proposed to change the date at which the levy liability is calculated, in relation to planning permissions which are subject to a condition requiring pre-commencement approval. The relevant date would be when the planning permission was granted (rather than when the pre-commencement approval was obtained) for the scheme or phase, to ensure greater certainty.

Question 11 – Should all planning permissions (outline and full) be capable of being treated as phased development with each phase a new chargeable development?

Consultation Response:

Yes	**201**	**85%**
No	25	11%
Not Sure	9	4%
Total	235	

Question 12 – Do you agree that the phasing of levy payments will make adequate provision in relation to site preparation?

Consultation Response

Yes	**177**	**77%**
No	42	18%

Not Sure	12	5%
Total	231	

Question 13 – Do you agree that the regulations should make it possible for a charging authority to re-calculate the levy liability of a development when the provision of affordable housing is varied?

Consultation Response:

Yes	**195**	**90%**
No	18	8%
Not Sure	5	2%
Total	218	

Question 14 – Should we amend the regulations so that the date at which planning permission first permits development is the date of the final approval of the last reserved matter associated with the permission or phase?

Consultation Response:

Yes	**124**	**58%**
No	64	30%
Not Sure	27	12%
Total	215	

4.7 These proposals were strongly supported across all respondent groups, although Question 14 on when "planning permission first permits development" was more mixed as some respondents appeared to be unclear on the proposition. The purpose of this proposed amendment is to ensure that liability for the levy is calculated in relation to the date when planning permission is granted or when the last reserved matter is approved – i.e. that it will no longer be set by reference to pre-commencement conditions. This ambition was welcomed by the majority of respondents.

4.8 Consequently, we propose to implement these measures in line with the propositions set out in Questions 11, 12 13 and 14.

4.3 The Vacancy Period / Abatement Provisions for Earlier Payments (Questions 15 – 16)

4.8 There is currently a 'vacancy test' within the levy regulations which allows the off-setting of existing floorspace against a levy liability when a building has been in continuous lawful use for at least six of the previous 12 months. We proposed to remove the test so that only increases in floorspace in refurbishment and redevelopment schemes would be chargeable, providing that the use of the buildings on site had not been abandoned. The proposal sought to ensure that the levy regulations would not act as a disincentive to bringing buildings back into use and to avoid developments only creating a limited new burden on infrastructure being unfairly charged.

4.9 Current abatement provisions, which ensure that multiple levy payments/liabilities are not triggered for the same development proposals by allowing credit for previous payments, only relate to planning permissions granted under section 73 of the Town and Country Planning Act 1990. We proposed to extend the abatement provisions for previous payments of the levy so that they apply to new planning permissions which are brought forward under a new, stand alone, planning application to make changes to an existing scheme during construction.

Question 15 – Should we change the regulations to remove the vacancy test, meaning the levy would generally only be payable on any increases in floorspace in refurbishment and redevelopment schemes, provided that the use of the buildings on site had not been abandoned?

Consultation Response:

Yes	**166**	**70%**
No	62	26%
Not Sure	11	4%
Total	239	

Question 16 – We are proposing to amend the regulations so that new applications bringing forward design changes, but not increasing floorspace (other than Section 73 applications), would trigger an additional liability to pay the levy but the amount would be reduced by the levy already paid under the earlier permission. Do you agree with the proposed change?

Consultation Response:

Yes	**198**	**88%**
No	16	7%
Not Sure	12	5%
Total	226	

4.10 Generally developers supported removal of the vacancy test, and authorities supported modification of it. However, reliance only on an abandonment test was not widely supported, due to the difficulty in proving the intent of the owner. Authorities overall were evenly split on the proposition but urban authorities in particular pointed to potentially significant loss of levy revenue if this were implemented.

4.11 We propose to reform the vacancy test but recognise the concerns expressed by respondents about basing the measure only on an abandonment test. We therefore propose to extend the vacancy test to cover buildings that have been in use for a continuous period of six months in the last three years. This reflects the fact that the impact on infrastructure will be limited where there has only been a relatively short gap between occupiers and provides an incentive for bringing empty buildings back into use. Some responses pointed to major regeneration works potentially spanning a significantly longer period. However, an extension to three years combined with other changes (for instance, on phasing) should provide enough flexibility for the vast majority of large developments while striking a balance to ensure an appropriate level of contribution to infrastructure by developers. Where the use of a building is not changing, we are also

proposing that this will be exempt from the levy, other than for an increase in floorspace, or where the building is abandoned, on the basis that where a former use is continued no significant new burden on infrastructure is created.

4.12 There was very strong support from both the public and private sectors for the proposal to allow levy payments made to be fairly credited against revised full planning applications for changes to the same development (Question 16). Given the complex nature of many development sites, and the degree to which proposals evolve during the design and build process, respondents agreed that such a provision would offer a useful degree of flexibility. We propose to implement this change. We have also been persuaded that it would be beneficial to expand this proposal so that any levy payments made in respect of an incomplete building can be credited against site-wide liability, in the event of changes to the overall scheme between commencement and completion. This is to ensure that the charge is not levied twice (or more) for the same overall net increase in floorspace on a site.

Section Five: Exemptions and Reliefs (Questions 17-21)

5.1 Social Housing Relief (Questions 17-19)

5.1 Social Housing relief from the levy currently applies to social rent housing, intermediate rent or shared ownership. We considered whether social housing relief should be amended to reflect the Government's reforms of social housing tenure, and the introduction of Affordable Rent. We proposed to extend statutory social housing relief to cover communal areas such as stairs and corridors and ancillary areas such as car parks. We also proposed to clearly allow relief for discount market sale homes, where they meet appropriate national criteria, at local authority discretion.

Question 17 – Would you support giving charging authorities the discretion to apply social housing relief for discount market sales within their local area, subject to meeting European and national criteria?

Consultation Response:

Yes	**142**	**66%**
No	58	27%
Not Sure	15	7%
Total	215	

Question 18 – If the social housing relief was to be extended, do you agree the key national criteria for defining the types of affordable housing provided through intermediate tenures, to which social housing relief could apply, should be that:

1. The housing is provided at an affordable rent / price (at least 20% below open market levels);
2. The housing is meeting the needs of those whose needs are not being met by the market, having regard to local income levels and local house prices (either rent or sales prices); and
3. The housing should either remain at an affordable price for future eligible

households or, if not, the subsidy (amount of social housing relief) should be recycled for alternative affordable housing provision?

Consultation Response:

Yes	**149**	**75%**
No	36	18%
Not Sure	14	7%
Total	199	

Question 19 - Do you agree that we should amend regulation 49 so that the areas taken into account when assessing eligibility for social housing relief include the gross internal area of all communal areas (including stairs and corridors) and communal ancillary areas (such as car parking) which are wholly used by - or fairly apportioned to - people occupying social housing?

Consultation Response:

Yes	**186**	**93%**
No	9	4%
Not Sure	6	3%
Total	201	

5.2 The proposals on social housing relief were generally well supported across all groups, although some responses queried the rationale for variation from the established definition of Affordable Housing in the National Planning Policy Framework. The reason for this is that the definition in the levy regulations needs to reflect the legislative requirements set out in previous Housing Acts and the Localism Act, and ensure that in all cases the relief granted will meet the State Aid tests of being a service of general economic interest.

5.3 Many respondents said the proposal on social housing relief for communal areas should increase development viability on mixed schemes.

5.4 We propose to ensure that developments of Affordable Rent properties will qualify for mandatory social housing relief, and to provide for relief to be granted for communal areas in proportion to the social housing in the development. We are also proposing to enable local authorities to give discretionary social housing relief for discounted housing market homes which meet the defined criteria at European and national level.

5.5 Points raised in the consultation, that housing relief should be extended to charitable bodies providing affordable housing that are not registered providers, will also be considered further.

5.2 Discretionary Relief for Exceptional Circumstances (Question 20)

5.6 Exceptional circumstances relief can currently only be considered if a Section 106 agreement is in place which imposes a higher contribution to infrastructure costs than the levy liability. We proposed three options. Two were to keep the requirement for a Section 106 to be in place but remove the need for it to exceed the levy liability. The third was to keep the requirement as it is.

Question 20 - Which of the following options do you prefer:
(a) remove the requirement for a planning obligation which is <u>greater</u> than the value of the levy charge to be in place, before discretionary relief in exceptional circumstances can be provided; or
(b) change the requirement so that the relevant planning obligation must be greater than a set percentage of the value of the levy charge (for example, 80%); or
(c) keep the existing requirement?

Consultation Response:

Option A	**102**	**51%**
Option B	16	8%
Option C	62	32%
Not Sure	17	9%
Total	197	

5.7 There was a general split between option A which was favoured by developers and option C, which was mainly favoured by local authorities. We propose to take forward the proposal (option A) where a planning obligation still needs to be in place but does not have to be greater than the levy as this will provide greater flexibility to both local authorities and developers, and it was broadly supported by the consultation responses.

5.3 Self Build Housing (Questions 21 – 22)

5.8 We proposed to provide relief from the levy for genuine self builders. Self builders are private individuals who typically self-finance their own projects and who build or commission the build of their home, either by working on their own or working with builders. Feedback from the National Self Build Assocation (NaSBA) has indicated that many self builders find levy charges too costly, resulting in making their projects unviable. A relief was proposed in order to make it easier for more people to build homes for their own occupation, in turn stimulating the growth of housing supply and the self-build housing sector, promoting economic growth, enabling local job creation and helping to diversify the home building sector.

Question 21 - Should we introduce a relief from the payment of the levy for self-build homes for individuals as set out above?

Consultation Response:

Yes	88	39%
No	125	55%
Not Sure	13	6%
Total	226	

Question 22 - We are proposing to amend the regulations to reflect the above process and the evidence self-builders would need to provide to qualify for relief from the levy, including provisions to avoid misuse by non-self-builders. Do you agree that this approach provides a suitable framework to provide relief for genuine self-builders?

Consultation Response:

Yes	80	40%
No	106	52%
Not Sure	16	8%
Total	202	

5.9 Responses for Question 21 were fairly balanced, although the majority of authorities were opposed. Many respondents argued a relief would be contrary to the principles behind the levy and/or would reduce revenues. Developers were divided between those who thought it unfair to favour a particular sector and that a relief would be open to misuse and distort the land market, and those who welcomed a relief. Self-builders were in favour of the proposal. We received a response from the National Self Build Association representing 604 individual self builders, and those who build for them, of which 98% of responses were in favour of a relief.

5.10 In relation to Question 22, authorities raised concerns over the complexity of a self-certification process and the resource impact in terms of administration and monitoring. Developers raised concerns that the proposed process for administering a relief was not robust enough and it would be open to abuse. An occupancy clause was widely suggested to stop commercial activity and prevent resale of properties for profit on completion.

5.11 There were strong arguments set out for and against our proposals. After careful consideration we propose to proceed with introducing a relief, from the levy for all homes built or commissioned by individuals or groups of individuals for their own use, either by building the home on their own or working with builders. Community group self build projects will also qualify for relief. The relief for self build housing will be reviewed after three years.

5.12 We acknowledge that incrementally this form of housing adds to the overall impact on infrastructure. However we remain of the firm view that people who build their own homes don't compete on a level playing field with builders, for the reasons set out in the consultation document, and that many find the levy charges prohibitively expensive and that they can threaten the viability of their projects. A relief would help to boost this important sub-sector of the housing industry which has significant growth potential, helping to support smaller builders and promoting local economic activity and job creation. This is in line with our ambition set out within the Housing Strategy for England to double the size of this sector over the next ten years and support anyone who is taking the initiative to build their own home.

5.13 We have carefully considered the concerns raised by authorites and developers around the misuse and administrative burden of the relief. To address these concerns we propose to establish a tough eligibility test which balances robustness and simplicity, and which ensures minimum administrative burdens on charging authorties.

5.14 The proposed methodology for implementation of the relief will be a simple two stage process. Prior to commencement of their project legitimate self builders will be asked to declare that their project qualifies for relief. This will be followed by a requirement to submitsupporting evidence on project completion. We propose that this evidence will comprise:

- Proof of building ownership and occupation by the self builder
- Building completion or compliance certificate

5.15 In addition to the above, self builders will also have to provide evidence of one of the following:

- Self build Mortgage
- Approved VAT refund under VAT431NB - VAT refunds for DIY housebuilders
- Self Build Warranty

5.16 Existing provisons in the levy regulations relating to disqualifying events and enforcement mechanisms such as surcharges, together with a 3 year owner occupation clause, will prevent the relief from being misued.

5.17 A number of responses assumed or questioned whether the relief would extend to householder extensions or annexes, given the incongruity if it did not (extensions over 100 square metres, and any new dwelling, currently trigger a levy charge). We agree that it would be inconsistent to exempt self build housing, but not residential extensions or free-standing 'residential annexes' within the grounds of existing homes. Therefore we also propose to exempt this residential development from the levy, subject to robust but straightforward eligibility tests.

Section Six: Appeals (Questions 23-24)

6.1 We proposed two changes to the appeals process. The first proposal intended to improve administration by requiring comments on appeals to be 'received' rather than 'sent' within 14 days, and allowing discretion for that period to be extended. The second proposal was to allow the review and appeals process to extend to those obtaining planning permission after development has commenced. This would overcome the current difficulty where an applicant has no right of review or appeal because the development has already commenced. This could apply to retrospective planning permissions, section 73 applications or new planning permissions which change the design of a commenced scheme.

Question 23 - Should we change regulation 120 so that any comments must be received within 14 days and allow discretion for the appointed person to extend the representations period in any particular case?

Consultation Response:

Yes	**188**	**93%**
No	12	6%
Not Sure	3	1%
Total	203	

Question 24 - Should we amend the regulations to allow for the review or appeal of the chargeable amount in relation to planning permissions granted after development has commenced?

Consultation Response:

Yes	**164**	**76%**
No	48	22%

Not Sure	3	2%
Total	216	

6.2 Both of these proposed amendments to the appeals process were strongly supported, and we propose to implement them as set out in Questions 23 and 24.

Section 7: Transitional Measures

7.1 We proposed that any changes to the charge setting process (Questions 1-4) should not apply to authorities who have already published a draft charging schedule. This is to encourage continued progress in implementation of the levy and to avoid penalising those who have made significant progress to date.

Question 25 - Do you agree that changes related to the charge setting process and examination should not apply to authorities who have already published a draft charging schedule?

Yes	**140**	**64%**
No	71	33%
Not Sure	7	3%
Total	218	

7.2 There was a distinct 2-1 split, with strong support from authorities and strong opposition from developers and landowners. Many authorities said the proposal would reduce abortive work and ensure adoption of the levy is not slowed. Developers suggested the proposal would create a two-tier system with some authorities facing a less robust examination of proposed levy rates.

7.3 We propose to implement this measure in line with Question 25. The existing examination process already includes a robust viability test, and the December 2012 guidance contained strengthened evidence requirements.