

Merton Coronavirus Instalment Policy Amendment (temporary) and Deferral Policy

Publication date: 11 September 2020

Effective from: 15 September 2020

Effective until: 31 July 2021

Preface

This policy has been introduced to manage the implementation of relief measures for small and medium sized businesses with respect of the impact presented by CIL payments given the challenging economic climate that is persisting due to the coronavirus pandemic.

The Government has introduced a deferral regime that may be applied to payments falling due during the period 21 March 2020 and 31 July 2021 (“the material period”). Government guidance also highlights measures within the existing CIL Regulations, such as amendments to instalment policies and the imposition of surcharges that can be utilised by Collecting Authorities, to help.

The intention of Government is for measures to have the swiftest and broadest effect as possible without undermining the ability of local authorities to continue to collect CIL to fund projects given the significant increase in demand for infrastructure funding and neighbourhood funding demands due to coronavirus and protect cashflow for local authorities.

Accordingly this policy has been introduced to provide a clear set of qualifying criteria and prescribed payment periods and instalment arrangements so as to minimise the scope for delays surrounding the uncertainty as to whether a development would qualify and with respect of the timing and amounts of payments due while protecting the council’s cashflow with respect of CIL which is vital for the provision of infrastructure and other demands development places on the borough put under stress due to Covid.

Merton’s Instalment Policy (Coronavirus temporary amendment)

Cases that qualify for the instalment policy amendment

Cases with respect of anticipated dates of Commencement specified in a valid Commencement Notice (in accordance with the CIL Regulations) between **15 September 2020** and **31 July 2021** (the date of when this amendment and the instalment provisions therein will cease to have effect in accordance with Regulation 69B(6)(a) of the Community Infrastructure Levy Regulations 2010 (as amended)) and with chargeable amounts of below £250,000.

Instalment arrangements:

Chargeable amounts less than or equal to £100,000

four instalments (percent of chargeable amount /number of days following commencement payment is due):

- 1) 20% at 60 days
- 2) 40% at 120 days
- 3) 30% at 180 days
- 4) 10% at 240 days

Chargeable amounts above £100,000 less than £250,000

four instalments (percent of chargeable amount /number of days following commencement payment is due):

- 1) 20% at 60 days
- 2) 20% at 180 days
- 3) 30% at 240 days
- 4) 30% at 300 days

Cases not covered by Merton's Instalment Policy (Coronavirus temporary amendment):

Chargeable amounts £250,000 and above with respect to which Merton's instalment policy terms will remain unaltered, i.e.:

Amounts from £250,000 to £500,000

Three instalments

- 1) *£100,000 payable within 60 days of commencement of development*
- 2) *Balance payable in a further two instalments of equal amounts within 120 and 180 days of commencement of development*

Any amount greater than £500,000

Four instalments

- 1) *£250,000 payable within 60 days of commencement of development*
- 2) *Balance payable in a further three instalments of equal amount within 120, 180 and 240 days of commencement of development.*

Deferrals

Applicability and qualification

This deferral policy will **not** apply to any cases that any of the following applies:

- 1) Payments that fail to qualify for deferral under Regulation 72A of the CIL Regulations (as added by the 2020 CIL Amendment Regulations)
- 2) Developments of 100 or more dwellings (for phased developments the aggregate total number of dwellings across all phases will be assessed).
- 3) Payments that are payable in accordance with Merton's Instalment Policy (Coronavirus temporary amendment) above,
- 4) Liable amounts of CIL with respect of which a deferral has already been granted under this policy
- 5) Developments that had achieved practical completion (Building Regulations Completion Certification), or observed as having been substantially complete more than 6 months prior to 21st March 2020.
- 6) payments for developments that have achieved occupations, sale of units or other significant income.
- 7) If the Mayor of London refuses to allow the deferral with respect of the Mayoral CIL liability (this deferral policy will not apply to either Mayoral or Merton CIL liabilities).
- 8) Developments with respect of which a social housing relief approval has been given and construction above ground has commenced without:
 - qualifying dwellings being transferred to a Registered Provider; and
 - written confirmation (with contractual evidence) from a not for profit Registered Provider of affordable housing that a transfer, completion of a lease or other payment arrangement couldn't be brought forward to secure income from the Registered Provider before the date the CIL amount payable is due.
- 9) Continued failure to meet deferral request submission requirements

For cases that qualify for deferral, deferral arrangements shall be as follows:

Either

- 1) **Deferral Period – payment due 5 months following date deferral request is received**

Qualifying criteria - deferrals requests received prior to 30th September 2020.

2) Deferral Period – payment due 3 months following date deferral request is received

Qualifying criteria

- cases that qualify for deferrals where requests are received from 30th September 2020 onwards, and
- for requests received from 30th November 2020 onwards those requests must be received within 14 days of the date the payment originally fell due.

Or

3) If the payments would be due earlier under a Mayoral deferral requirement and the Mayor of London rejects the application of the Merton deferral policy with respect to the subject payment or generally with respect to all or a type of Mayoral CIL liabilities, then the deferral will be in accordance with a Mayoral deferral requirement.

Notes/references:

- [CIL \(Coronavirus\) Amendment Regulations 2020](https://www.legislation.gov.uk/uksi/2020/781/regulation/3/made)
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- [Coronavirus \(Covid-19\) CIL Government Guidance \(link\)](https://www.gov.uk/guidance/coronavirus-covid-19-community-infrastructure-levy-guidance)
<https://www.gov.uk/guidance/coronavirus-covid-19-community-infrastructure-levy-guidance>
- All deferral requests must be made through submission of the **Merton Coronavirus Formal Deferral Request Declaration Form** which can be found on [Merton's CIL webpage](https://www.merton.gov.uk/planning-and-buildings/planning/community-infrastructure-levy)
<https://www.merton.gov.uk/planning-and-buildings/planning/community-infrastructure-levy>
- Any false information knowingly provided in support of deferral requests may trigger the imposition of measures under CIL Regulation 110 – Offence for supplying false information (the penalty may include a fine, conviction or imprisonment), and result in other enforcement actions being taken in accordance with Part 9 of the CIL Regulations which would apply to any nullified deferrals.
- Merton will continue to pursue payments – whether those payments fell due under the Merton Instalment Policy (Coronavirus temporary amendment) or other terms of instalment policies or under the deferral policy or otherwise – under the Enforcement provisions in Part 9 of the CIL Regulations as Amended, other than:
 - Surcharges (other than with respect of Regulation 86 Surcharge for failing to comply with an Information Notice) will not be imposed (in terms of new demand notices generated) during the material period from the date this policy comes into effect.