

Consultation Response

Reforming developer contributions

Executive Summary

The County Councils Network (CCN) represents 36 English local authorities that serve counties. CCN's membership includes both county council and county unitary authorities.

CCN welcomes the opportunity to respond to this consultation. Our members are vital to sustainable place-making, working with their district partners to plan for and deliver the necessary physical and social infrastructure that will help communities to thrive.

However, as we highlighted in our recent submission to the [MHCLG Select Committee inquiry on land value capture](#), CCN member authorities face severe infrastructure funding gaps that are only projected to get worse. This is especially the case for upper tier county councils who, despite being responsible for vital infrastructure, have very little power to set and negotiate the rates and ultimately the contributions that they receive.

Whilst the proposals in this consultation will alleviate some of the existing issues, we still argue however that they will not go far enough to bridge the funding gap. CCN's key points are:

- The network very much welcomes the lifting of the pooling restriction – this is something that we have been calling for since the restriction was introduced. This will allow authorities to pool more than five contributions towards a single piece of infrastructure helping to bridge funding gaps.
- Whilst we welcome the introduction of Infrastructure Funding Statements, this will require authorities to put additional resource in to them. In two-tier areas, we suggest that CIL regulations are amended to provide a small proportion of CIL receipts in return for formal input and monitoring for the Infrastructure Funding Statement.
- CCN members would welcome additional clarity, including a new definition, of 'collecting authority'. This would assist in clarifying which tier of local government would receive certain contributions, and would also assist in applying and collecting monitoring fees.

About the County Councils Network

The County Councils Network (CCN) represents 36 English local authorities that serve counties. CCN's membership includes both county council and county unitary authorities who serve over 25m people (47% of the population). CCN develops policy, shares best practice and makes representations to government on behalf of this significant proportion of the country outside of the big conurbations.

CCN is a member-led organisation which works on an inclusive and all-party basis and seeks to make representations to Government which can be supported by all member authorities. This submission has been developed in consultation with our county and county unitary authorities.

The county context

Whilst our upper tier county council members are not planning authorities, and therefore do not set or collect developer contributions, they do have an interest in the way the system operates. Our nine unitary members are planning authorities and experience to system entirely differently to county councils.

County councils are responsible for providing a range of social and physical infrastructure from schools to care facilities, to roads and ports. As previously mentioned, there are no statutory powers that require county councils to be at the negotiating table when individual contributions are being negotiated. As such, county councils are not in control of the funding they receive. In some cases, members have stated that the funds often do not filter through to their authority.

On the other hand, CCN's unitary authority members have the benefit of also being housing and planning authorities and are therefore able to plan strategically across county areas and join up planning housing, infrastructure and economic growth.

Our [recent report written in partnership with Catriona Riddell](#) demonstrated how county councils are embedded in the planning process, often preparing non-statutory documents to assist local plan-making and ensure that development is sustainable. Some have established more formal working relationships with their district partners through establishing growth boards which ensures that plan making and decision taking is properly joined up.

CCN hopes that some of the recommendations outlined in this response will assist ensuring that developer contributions are more fairly distributed across the tiers of local government. We also hope that the newly proposed Infrastructure Funding Statements will see more joined-up working to agree infrastructure need and priorities and rate setting.

Our full response to the consultation is set out below, and we would also point the department to the individual responses from CCN's member councils.

Consultation questions

Question 1

Are there any elements in regulation 3 which will prevent the Government achieving the policy intent?

No. We welcome the flexibility that this change would bring. Streamlining the process of amending and adopting charging schedules will make it easier for authorities to respond to market conditions.

However, this should not limit the opportunity for Charging Authorities to work with key infrastructure providers such as county councils. Any guidance that is published to support Charging Authorities in preparing charging schedules should encourage joint working across local government to ensure that rates are fair, and can support the range of infrastructure provided by both tiers of local government.

Question 2

Are there any elements in regulations 4 and 12 which will prevent the Government achieving the policy intent?

CCN wholeheartedly welcomes the removal of the pooling restriction, as this has hampered infrastructure delivery, and urge that work is undertaken to ensure that this is lifted as soon as possible. This will bring additional certainty to the development process and will also give local authorities the flexibility to 'top-up' CIL receipts to deliver 'big-ticket' infrastructure.

Question 3

Are there any elements in regulation 7 which will prevent the Government achieving the policy intent?

CCN members understand the rationale behind amending the regulations so that developers are not unfairly penalised when they may not be familiar with the requirements of the legislation. However, care needs to be taken to ensure that this does not lead to a situation where developers can 'game' the system and contributions that should have been paid are lost. We therefore suggest that the situation is monitored as the new regulations are implemented.

Question 4

Are there any elements in regulation 13 which will prevent the Government achieving the policy intent?

CCN has no comments to make but would refer to responses submitted by our member authorities.

Question 5

Are there any elements in regulation 6 which will prevent the Government achieving the policy intent?

CCN has no comments to make but would refer to responses submitted by our member authorities.

Question 6

Are there any elements in regulation 5 which will prevent the Government achieving the policy intent?

No. This amendment will help to take account of local circumstances in property values.

Question 7

Do you have any further comments in relation to the Government's proposed approach to Community Infrastructure Levy indexation including, for residential development, the approach of using a smoothed index using local prices?

CCN has no comments to make but would refer to responses submitted by our member authorities.

Question 8

Are there any elements in regulation 10 which will prevent the Government achieving the policy intent?

CCN welcomes the introduction of Infrastructure Funding Statements (IFS) as this will improve transparency for developers, communities and authorities and allow for greater understanding of required infrastructure across the plan period. A yearly update will help to keep this current and up to date and respond to developments that have come forward, or that are in the pipeline.

In two tier areas, we believe that planning authorities should work with county councils to prepare and monitor IFS. This would have multiple benefits including building a full list of infrastructure requirements based on planning policy, and it would also help authorities in two-tier areas to discuss rate setting and distribution of contributions. This will hopefully result in a system that would give all authorities a fairer distribution of contributions across local government tiers. We also believe that the distribution of funds between upper and lower tier councils should be monitored as part of the data tools being prepared to support the production of IFS.

It is also important to note that the introduction of IFS will result in additional administrative burdens for our members. Whilst charging authorities can use a proportion of CIL receipts to cover administration, this would exclude county councils. We therefore suggest that a similar incentive currently offered to parish councils is offered to county councils whereby a small proportion of CIL funds are provided, such as 5%, to assist in covering the costs of inputting and monitoring activity for the IFS. This could easily be included in the regulations.

Our members have also mentioned that the regulations should clearly set out a definition of 'collecting authorities' along with a clear statement of how the regulations should apply in two-tier areas. As county councils are direct recipients of

funding for section 106 and section 278 agreements, the regulations should set a definition of a 'collecting authority' that clarifies this.

In terms of timescales, our members have suggested that, in order to give sufficient lead-in time for authorities to properly prepare statements, and to get new monitoring arrangements in place, a deadline of December 2020 for initial IFS would be most appropriate.

Finally, the consultation document does not mention reporting on commuted sums, and the network would like to see this mentioned in the guidance. We believe that authorities should be required to report on the total commuted sums they have acquired each year, and report on how they intend this to be used.

Question 9

Are there any elements in regulation 11 which will prevent the Government achieving the policy intent?

CCN welcomes draft regulation and the ability for authorities to seek a monitoring fee through Section 106. Monitoring of such agreements is not just undertaken by local planning authorities, but also by counties as infrastructure providers, education authorities and travel plan guardians. Generally county councils have more complex obligations to monitor associated with major infrastructure projects such as road schemes and new schools which can take many years to complete.

CCN therefore proposes that the regulations are amended and refer to 'local authority' or 'collecting authority'. This would mean that the regulations would apply to all of local government who could then request monitoring fees proportionate to the activities they undertake.

Question 10

Are there any elements in regulation 8 which will prevent the Government achieving the policy intent?

CCN has no comments to make, but would refer to responses submitted by our member authorities.

Question 11

Are there any elements in regulations 13 to 15 which prevent the Government achieving the policy intent?

CCN has no comments to make, but would refer to responses submitted by our member authorities.