

Equalities Analysis in Lambeth

Proposal Title *

Update of Policy Statements on CIL Discretionary Relief

Author

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Please provide name of lead author and/or those within project team who may be required to contribute to this assessment

Who will sign off the assessment?

Nabeel Khan

Please indicate who will be involved in approving this assessment. This will need to be signed off by the Director

Q1a. What is changing?

The main purpose of the Cabinet Member Delegated Decision Report is to introduce minor amendments to two policy statements offering Discretionary Relief for Exceptional Circumstances and Discretionary Charitable Relief to keep both in line with current legislation by removing all references to EU state aid.

In both policy statements, discretionary relief was subject to a requirement that granting relief would not constitute state aid which would need to be approved by the European Commission. This requirement no longer applies as the UK is no longer subject to EU state aid rules.

On 31 January 2020, the United Kingdom (UK) formally left the European Union (EU) and the transition period in which the UK remained a member of the single market and customs union ended on 31 December 2020. From 1 January 2021, the UK was no longer subject to EU law and the rulings of the European Court of Justice.

The State Aid (Revocations and Amendments) (EU Exit) Regulations 2020 took effect from 31 December 2020, including several amendments to the CIL Regulations 2010 in which all references to EU state aid requirements were removed. In particular, this affected Regulation 55 on Discretionary Relief for Exceptional Circumstances and Regulations 44, 45 and 46 on Discretionary Charitable Relief.

What is the most significant or key change taking place? Can you indicate the type of change in your response (e.g. policy/decision/strategy/ service/procedural/ geographic/procurement etc.) so it is clear what is being equalities

assessed? Why is this change happening? What do you aim to achieve? Can you clearly indicate what decision-makers are being asked to take a decision on?

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Q1b. Who will be involved in approving this decision?

Cllr Matthew Bennett – Deputy Leader of the Council (Planning, Investment and New Homes)

Who else will be involved in signing-off this decision?

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Q2a. What do we know about the people who will be impacted by this change?

The proposed amendments to the two CIL policy statements offering Discretionary Relief for Exceptional Circumstances and Discretionary Charitable Relief will have no direct negative impacts on any of the groups with protected characteristics in Lambeth. However, the proposed amendments can have direct positive impacts on groups with protected characteristics in Lambeth.

The requirement to comply with EU state aid rules was an important consideration for a developer in order to apply for discretionary relief. The proposed amendments to both policy statements makes clear that this requirement has been removed. This will be a positive benefit for a developer or any development that caters to groups with protected characteristics in Lambeth. The provision of discretionary relief from CIL may contribute to the delivery of such development where the liability for CIL might have an unacceptable impact on the economic viability of that development or where the profits from that development will be applied to charitable purposes.

What does your information tell you about the people who will affected by this change? Are protected groups impacted? What information do you hold on the protected characteristics of the people affected by the change? (Age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief, gender, sexual orientation, health, socio-economic, language) Are there any gaps or missing information?

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Q2b. How will they be impacted by the change?

Ever since Lambeth adopted its first CIL Charging Schedule in 2014 and issued these policy statements on Discretionary Relief for Exceptional Circumstances and Discretionary Charitable Relief, the Council has not actually received any application for CIL reliefs of either type of discretionary relief. The requirement to comply with EU state aid rules was

an important consideration for a developer in order to apply for discretionary relief. The proposed amendments to both policy statements makes clear that this requirement has been removed. As already mentioned, this can be a positive benefit to a developer or any development that caters to groups with protected characteristics in Lambeth. Where having to pay CIL might have an unacceptable impact on the economic viability of that development or where the profits from that development will be applied to charitable purposes, the grant of discretionary relief may contribute to the delivery of such development.

Would you assess the impact as positive, adverse, neutral? Do you have any uncertainty about the impact of your proposal? Is there a likelihood that some people will more impacted than others? Can you describe the ways in which they will be affected? How might this change affect our 'general duty'?

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Q3a. How do you plan to promote and deliver any positive impacts of the proposal?

The policy statements are published on the website. Discretionary relief is available to any developer if they comply with the other criteria for relief.

For Discretionary Relief for Exceptional Circumstances, this includes the following:

- A Section 106 agreement has been entered into and is attached to the planning permission
- Viability evidence that shows payment of Lambeth CIL would have an unacceptable impact on the economic viability of the chargeable development.

For Discretionary Charitable Relief, the following criteria applies:

- the claimant owns a material interest in the relevant land and is a charitable institution
- the whole or greater part of the chargeable development will be used as an investment where the profits will be applied for charitable purposes.

Where either is applicable on an individual case, the developer will be informed directly that applying for discretionary relief is available as an option.

How might the principles of fairness, equality of opportunity and positive relationships be further promoted as a consequence of this proposal? How do you propose to measure your positive outcomes and the benefits outlined to find out if these have been achieved?

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Q3b How do you plan to address and mitigate any negative impacts of the

proposal?

We do not foresee any negative impact from the proposed amendments to the two CIL policy statements offering Discretionary Relief for Exceptional Circumstances and Discretionary Charitable Relief. There can be only positive impacts from this.

What impact has this evidence had on what you are proposing? What can you do differently that might lessen the impact on people within the timeframes i.e. development-implementation? Who can help you to develop these solutions?

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Q4. How will you review/evaluate your proposal, mitigating actions and/or benefits? Who will be responsible for this?

The offer of Discretionary Relief for Exceptional Circumstances and Discretionary Charitable Relief is governed by the CIL Regulations 2010 (as amended). It is not possible to offer anything more outside of the Regulations.

As also previously mentioned, the Council has not actually received any application for CIL reliefs of either type of discretionary relief since the adoption of Lambeth CIL in 2014. The Council will find out about the impact of the proposed amendments once an application is received and whether the removal of the requirement on EU state aid has made any difference.

Who will you be accountable to for the above actions/outcome? How will those responsible know these actions have worked? What performance indicators will you use to demonstrate this? Are there any other forms of evidence you can use to support this assessment of their effectiveness?

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Section to be completed by Sponsor/Director/Head of Service

Outcome of equality impact assessment

- No adverse impact, no change required
- Low adverse impact, minor adjustment required
- Significant adverse impact, further action required
- Significant impact identified unable to mitigate fully
- Unlawful in/direct discrimination, stop and rethink

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Comments from Sponsor/Director/Head of Service

Submit for approval

Pending

Executive Approval

Pending

Attachments

Close