

# Town and Parish Councils and the Community Infrastructure Levy

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Since 2010, local authorities in England and Wales can choose to charge a community infrastructure levy on new developments in their areas. The Government says that the levy is designed to be fairer, faster and more transparent than the system of agreeing planning obligations between councils and developers under section 106 of the Town and Country Planning Act 1990, although it anticipates that “section 106 agreements” will continue to be used in a reduced and restricted form. So how does the levy work?

## Who decides whether to charge the levy?

The decision to charge a community infrastructure levy can only be made by a “charging authority”. Charging authorities include district councils, metropolitan district councils, London borough councils, unitary authorities, national park authorities and the Broads Authority. In Norfolk, Broadland District Council, Norwich City Council and South Norfolk District Council have made the decision to charge the community infrastructure levy. Breckland District Council and North Norfolk District Council have decided, at least for the present, not to do so. The Borough Council of King's Lynn & West Norfolk is working towards introducing the levy.

## How much is it?

Each charging authority sets out its rates in a charging schedule. The charges are based on the size and nature of the development. The charging schedules issued by Broadland District Council, Norwich City Council and South Norfolk District Council can be accessed from:

<http://www.greaternorwichgrowth.org.uk/planning/cil/>

## Which developments does the levy apply to?

The community infrastructure levy applies to:

- all developments which create net additional floor space where the gross internal area of new build exceeds 100 square metres; and
- single houses and flats of any size except where they are built by “self-builders”.

A number of developments are exempted from liability; primarily social housing, charitable developments and buildings which people don't normally enter.

## Who has to pay?

The landowner is ultimately liable but anyone involved in a development can agree to accept liability for the community infrastructure levy.

## All very interesting but how does this affect town and parish councils?

Town and parish councils are entitled to a percentage of any community infrastructure levy paid in respect of developments in their areas. The basic amount is 15% subject to a limit of £100 per existing dwelling within the town or parish that is liable to council tax. In England, for communities that:

- adopt a neighbourhood plan or neighbourhood development order that includes a community right to build order; and
- secure the consent of local people by means of a referendum;

the percentage is increased to 25% with no upper limit.

## Do town and parish councils have to collect the community infrastructure levy?

No. The community infrastructure levy is collected by the charging authority which must pay the relevant percentage to town and parish councils every six months at the end of April and October unless the parties agree otherwise. Developers can agree to pay the charging authority “in kind” in the form of land or infrastructure but the charging authority must account to town and parish councils in cash. A town or parish council can also allow the charging authority to keep its portion of the levy on terms that the charging authority will spend it on infrastructure that will support the development of its area.

## What can we spend the levy on?

The levy must be used to fund projects that “support the development” of a town or parish council’s area. This might include funding affordable housing, play space, open space, the provision of allotments and other community buildings, and other facilities. A town or parish council must spend the levy within five years of receipt or it may have to repay it to the charging authority.

## Nice of you to tell us about this but where do you come into it?

nplaw is a shared legal service for Norfolk councils based at County Hall in Norwich. We have over 70 legal advisers working in five teams:

- property;
- planning and environment;
- governance, public law and standards;
- public protection and dispute resolution;
- child protection,

and offer years of experience together with real expertise in planning law and governance. We can advise you on the legislation, including how you are allowed to spend the community infrastructure levy, governance considerations and accounting and audit requirements.

## What are your charges?

nplaw usually prefers to charge on a fixed fee basis and can offer highly competitive rates, but we are flexible in our charging arrangements and will negotiate with you to find an arrangement that is within the constraints of your budget. nplaw also offers town and parish councils a subscription service, which we believe offers excellent value for money. For details see our brochure: Legal Services for Town and Parish Councils.

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