

BUILDING SAFETY LEVY – 10 KEY QUESTIONS

The Building Safety Levy (Levy) is a tax on new residential development. It will be collected by local authorities and paid into a central pot to help fund cladding replacement. It is estimated that the Levy will raise £3.4bn over 10 years. On 10 July 2025, draft regulations were laid before Parliament to implement the Levy and it will come into effect on 1 October 2026. It will apply in England only. In this briefing we answer some key questions on the Levy.

What triggers Levy liability?

The process triggering Levy liability begins at the point an application for building control approval for relevant works is made (BCA Application), in one of the following ways:

- an application with full plans made to the local authority building control team (Building Regulations route) or the Building Safety Regulator; or
- Initial notices submitted by Registered Building Control Approvers under the BSA Higher-Risk Buildings regime.

Which developments does it apply to?

The Levy will, in principle, apply to building work if all three *Levy Charging Conditions* are satisfied:

- The building work under the BCA Application is a Major Residential Development, or forms part of one – at least 10 or more new dwellings or 30 new bed spaces in purpose built student accommodation.
- The works under the BCA Application will create new residential floorspace which is not exempted development: this will include either new dwellings, new PBSA or new communal areas.
- The client is not an 'exempt person' (Non-profit registered providers of social housing).

How much floorspace is chargeable?

The Levy is charged on works to create **new net** residential floorspace (gross internal area) created by the BCA application i.e. new or additional floorspace comprising:

- Dwellings;
- PBSA; or
- Chargeable communal areas: These are communal areas intended for the use by occupants of chargeable dwellings or PBSA. Where communal areas are shared by other non-chargeable uses, a proportion of those communal areas is chargeable.

Are any types of residential development exempted?

Yes, Social housing floorspace is exempted from the levy. However, BCA applications relating to social housing will still need to include relevant levy information, and the Client will need to provide evidence of exemption at completion stage.

Certain other residential development is also exempted from the levy (e.g. hotels and hospitals), but without any need for levy information to be provided.

What are the Levy rates?

Rates are set by Central Government for each local authority area based on average house prices. They are set per square metre of gross internal area of new chargeable floorspace. Rates initial set range from the highest (Royal Borough of Kensington and Chelsea) at £100.35/sqm and the lowest (County Durham) at £12.70/sqm.

Development on Previously Developed Land (PDL) is charged at 50% of the levy rate for the area. In order to qualify for the discount, at least 75% of the land within the redline planning boundary for the site under the planning permission must be PDL.

Development carried out under Permitted Development rules is also charged at 50% of the standard rate.

Who has to pay the Levy?

The client identified in the BCA Application is liable to pay the Levy. The identity of the client is specified for the different building control routes, and this person may change over time.

What is the process for Levy charging?

The process for the different stages of the Levy is broadly similar no matter which building control route is taken, but there are differences. For example, for a BCA Application under the Higher Risk Buildings regime, here are the key steps:

- Client submits BCA application to the Building Safety Regulator accompanied by initial Levy information relating to the development.
- Client submits first Commencement Notice to the Regulator, including further Levy information relating to the specific BCA Application. The client sends supporting evidence to the Charging authority.

- Collecting authority calculates levy charge and issues *Levy Liability Notice*, or *Notice of No Charge* within 7 weeks of receiving Commencement Notice and relevant information (10 weeks if a spot-check is taking place). The Regulator can request further information (extending the decision deadline to 5 weeks from receipt of such information). The giving of a *Levy Liability Notice* triggers liability for payment.
- Client applies for completion certificate from Regulator including submitting a *Levy Liability Statement*. Any Levy due must be paid in full before a completion certificate can be issued, or if earlier, before occupation of the building / or the relevant part of the building.

Given the complexity of the processes under the different building control routes, a series of [process maps](#) have been created by MHCLG.

What happens if changes need to be made to the BCA Application?

The answer depends on which building control route applies. We consider the Higher Risk Buildings regime route below.

If a *Change Control Application* needs to be made to vary aspects of the works (under the HRB Regulations), further levy information will need to be given. The collecting authority will recalculate the Levy payable and issue a new *Levy Liability Notice* or *Notice of No Charge* and the old notice will be cancelled. A refund may be due where the Levy amount due has reduced.

If works are varied but no Change Control Application is required, the client can submit a *Levy Update Notice* containing additional Levy information. This might be done if the proportion of social housing in the BCA Application has changed (e.g. if it is greater, less of the floorspace would become chargeable). A Levy Update Notice can also be given if details of the client, and/or exempt status of the client, changes. The collecting authority will recalculate the Levy charge and issue a new *Levy Liability Notice* or *Notice of No Charge*. A key condition for submitting a *Levy Update Notice*, is that the work has not yet been completed.

When will the Levy come into force?

BCA Applications submitted on or after 1 October 2026 will be subject to the Levy. BCA Applications made before that date will not be subject to the levy, even where they are varied after 1 October 2026.

What can I do if I'm unhappy with a Levy determination?

If the client wishes to dispute a *Levy Liability Notice* or revised notice believing that no charge should be applied, or the amount is incorrect, it can ask (within 28 days) for the notice to be reviewed by a senior person at the collection authority.

The decision on a review can be appealed to the First-Tier Tribunal. Various other decisions can also be appealed.

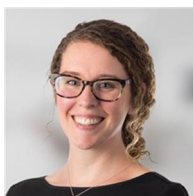
If you would like to understand how the Levy would apply to your development, please contact Nigel Howorth, or one of other the lawyers listed below.

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