

The Building Safety Levy: Key Questions and Answers – October 2025 Update

Since our previous Q&A was published in the Spring, [*The Building Safety Levy \(England\) Regulations 2025*](#) have been published in draft, along with [*updated guidance notes from the Government*](#).

1) WHEN DO THE REGULATIONS COME INTO EFFECT?

The Regulations will come into effect on 1 October 2026, applying only to England, subject to Parliamentary approval.

Where a building control application is made prior to that date, or where any variation or commencement notice pre-dates that date, then the Levy will not apply.

The Regulations apply to developments as they pass through building control after they have gained planning permission – the important date is therefore the date of submission for building control, not the date of the permission itself.

2) WHICH BUILDINGS WILL THE LEVY APPLY TO?

It will apply to all buildings (including mixed-use buildings e.g. commercial with residential above) that create or increase residential floorspace which comprise a part of a “major residential development”. That is defined as a project which creates at least 10 dwellings or 30 bedspaces of Purpose Built Student Accommodation (PBSA).

These figures are “net”, so where there are existing dwellings/bedspaces, the scope of the Levy’s applicability is determined on the basis of whether there is a net increase of dwellings/bedspaces exceeding the respective 10/30 threshold.

Exempt buildings include those falling within the following categories:

- school accommodation – meaning residential accommodation provided by a school for the use of its students
- hotels and hostels
- care homes and hospices
- almshouses
- temporary accommodation for homeless people

For exempt buildings, there’s no requirement to provide Levy information as part of a building control application.

There are also exemptions for particular sorts of dwellings that otherwise are captured by the Levy’s requirements, including affordable housing and supported housing. The draft regulations contain prescriptive requirements as to tenures which qualify for the exemption.

3) WHAT ABOUT PHASED DEVELOPMENTS?

Whether or not works form part of a major residential development depends on what planning permission is obtained for – so the Levy can’t be avoided by “salami-slicing” a large scheme into multiple small building control applications.

If your overall planning permission is for 10+ net new dwellings (or 30+ net new PBSA bedspaces), the Levy applies, irrespective of your phasing in planning terms.

A building control application may be made for a planning phase or one or multiple buildings. What is relevant is what is submitted for building control approval to calculate the relevant Levy liability.

4) WHAT HAPPENS IF CHANGES ARE MADE TO THE DEVELOPMENT DURING CONSTRUCTION?

The draft Regulations would not apply to a variation application or a commencement notice made after the Regulations came into effect where the original application pre-dates them.

For scheme changes for applications which are caught by the Regulations, then there are mechanisms to resubmit details and recalculate liability, and where necessary, make further payments or receive refunds.

5) WHO WILL BE REQUIRED TO PAY?

The “client” for an application or initial notice will be responsible for paying the Levy where it is due. For most schemes this means the person named as the client on the building control application.

RPs benefit from a complete exemption - building work of any kind is exempt if it is built by a non-profit RP (for profit RPs do not benefit from the exemptions), or wholly owned subsidiaries thereof.

Care will need to be applied in the case of JVs involving exempt persons – as currently drafted the regulations do not extend exemptions to all JVs including exempt persons.

6) HOW WILL THE LEVY BE CALCULATED?

The levy liability amount is calculated using the formula

$$(A + C) \times R$$

Where:

A is chargeable accommodation floorspace (GIA),

C is chargeable communal space (GIA), and

R is the applicable area rate (noting that a 50% discount to the standard rate (listed [here](#)) is to be applied in the case of previously developed land – what amounts to PDL will be a matter on which we expect some disputes).

The calculation of communal space is not straightforward. Areas which are not wholly or mainly for the benefit of residents are excluded, and exemptions for social housing extend also to their associated communal space – where shared between exempt and chargeable accommodation this is calculated on a proportional basis.

7) WILL THE LEVY RATE BE INDEXED?

In short? No.

There are to be reviews of rates, which may result in increases, but there is no automatic indexation.

8) AT WHAT POINT MUST THE LEVY BE PAID?

At any point between receiving the Levy liability notice and notifying the local authority of completion – although the whole Levy charge has to be paid before a completion certificate can be issued for any of the works contained within it.

The effect of this is that no payment = no certificate = no lawful occupation.

9) WHO WILL THE LEVY BE PAID TO?

The “collecting authority”—typically your district council, unitary authority, London borough, or metropolitan borough. They can specify their own preferred payment methods so this should be checked early.

Even if you’re using an approved inspector or the Building Safety Regulator for building control, you still pay the Levy to the collecting authority.

10) WHAT HAPPENS IF THE LEVY AMOUNT IS DISPUTED?

For anyone who has dealt with CIL reviews and appeals, the mechanism here will be familiar.

If the Levy charged is considered to be incorrect (i.e. the decision was either based on an error of fact (e.g. a miscalculation of chargeable floorspace) or was wrong in law (e.g. exemptions were incorrectly applied), then a client can request a review of the amount. That has to be made to the collecting authority in writing no later than 28 days after the Levy liability notice is given.

That review has to be conducted within 28 days of receiving the review request, with the reviewer being someone senior to the person who originally made the decision and not having been involved with the original decision.

If a client is not satisfied with the outcome of a review, or the collecting authority fails to notify them of the outcome within 28 days, they may appeal the decision to the First-Tier Tribunal, with an appeal made within 28 days of receiving the review decision.

11) WHAT HAPPENS IF THE LEVY IS NOT PAID?

Non-payment means completion cannot take place, as there wouldn’t be a completion certificate issued, which would in turn inhibit disposals of units.

12) HOW LONG WILL THE LEVY LAST?

The Regulations don’t include any sunset provisions, so they will apply until repealed.

13) HOW DOES THE LEVY INTERACT WITH EXISTING CHARGES AND TAXES?

The Levy is separate and in addition to any other charges and taxes, including CIL, and there are no provisions for off-setting.

Please contact the Planning team at Winckworth Sherwood for more information.



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This briefing note is not intended to be an exhaustive statement of the law and should not be relied on as legal advice to be applied to any particular set of circumstances. Instead, it is intended to act as a brief introductory view of some of the legal considerations relevant to the subject in question.