

Department for Levelling Up, Housing and Communities Consultation on Building Safety Levy:

technical consultation

Response from Propertymark

February 2024

Background

1. Propertymark is the UK's leading professional body for estate and letting agents, property inventory service providers, commercial agents, auctioneers and valuers, comprising over 17,800 members representing over 12,800 branches. We are member-led with a Board which is made up of practicing agents and we work closely with our members to set professional standards through regulation, accredited and recognised qualifications, an industry-leading training programme and mandatory Continuing Professional Development.

Consultation – overview

2. The Building Safety Act 2022 introduced powers to impose a levy on certain new residential buildings in England, to raise revenue to be spent on building safety. The Department for Levelling Up, Housing and Communities (DLUHC) carried out a consultation on the levy which closed on 7 February 2023. The Department are running a follow up technical consultation which will concentrate on the methodology for levy calculation, the collection process, disputes and appeals and further exclusions.

Methodology for calculation of levy rates

Question 1: Do you have any comments on the proposed levy rate calculation methodology?

3. Propertymark is pleased that the UK Government intends to calculate the levy on a per square basis rather than per house. We argued in favour of square metre in the previous implementation of the Building Safety Levy consultation, because accruing the levy per house could deter house building. Equally, we are pleased that regulations set by central government, and a standard rate per square-metre for each local authority (LA) area will be published. This will reflect local authority land and property values and the impact on previously non-developed land.

4. If the aim of the Building Safety Levy is to ensure that as far as possible the cost of building safety does not fall on the shoulders of leaseholders, we have reservations that the target of revenue raised at £3 billion will suffice. However, we welcome the commitment shown by the UK Government to review this target as more information on the scale of building safety emerges. Furthermore, we are satisfied with the step by step process in calculating the levy. We would question the monitoring period of levy rates every three years. We recommend this should be constructed annually to reflect changes in property values.

Question 2: Do you think that floorspace should be calculated using Gross Internal Area? Please explain your answer.

5. We agree with the proposal to measure floorspace by Gross Internal Area in accordance with the Royal Institute of Chartered Surveyors (RICS) code of measuring practice. The code is internationally and sector-wide accepted and is appropriate for both residential and commercial measurement.

Collection process

Question 3: Do you have any comments on the process for the collection of the levy, as set out above?

6. Our response to the initial Building Safety Levy implementation consultation cautiously supported local authorities being the collection agents for the levy. We recognised a strong synergy between the collection of the levy and the work of local authority building safety and planning teams. However, we also acknowledged the pressure local authorities are under in terms of resources. To this end, we welcome the UK Government's intention to simplify the collection process with a single charge for the levy, and the scrapping of the proposal of the two-step payment process. On the other hand, we also welcome giving developers some degree of flexibility on payment, which should be over an agreed timescale.
7. We do not have any concerns with the process of the collection of the levy. However, we do feel that determination of the levy liability within five weeks could impact the viability of development especially for small and medium developers. We would recommend a more ambitious timescale of 21 days for the levy to be determined. Likewise, we also feel that the developer should be notified quicker than two weeks to acknowledge receipt of payment. We would welcome greater clarity on minimum standards that local authorities perform in spot-

checks and enforcing that levy information submitted is correct. We acknowledge that local collection authorities may not have the resources to check every site. However, failure to not exhibit robust enforcement may result in the misappropriation of accurate information. In examples where the developer has significantly misrepresented information, we would propose a series of sanctions that we outlined in our previous consultation response.

8. We accept and agree with the proposed process for the calculation of the levy in the event of changes of works. However, where the levy will reduce due to a downscale in proposed works, we would like clarity on how quickly collection agents would have to reimburse developers on the surplus of the levy. Likewise, how quickly would developers have to pay new rates of the levy should proposed changes of works increase the levy.

Question 4: Do you have any comments on the proposed approach to identifying previously developed land and application of the 50% rate?

9. We welcome the UK Government's proposed approach on the identification of previously developed land to be as straight forward as possible. We support the proposal to identify previously developed land to be land that includes at least 50% of the land that has been developed within the redline boundary. While we understand that the UK Government intends to submit guidance for developers on identifying previously developed land, we believe this should be relatively straight forward. Of the 50% of developed land, we would ask that the UK Government be as flexible as possible in the land type classification of eligible development.

Disputes

Question 5: Do you agree with the process for dealing with disputes outlined above?

10. Developer disputes are likely to be centred around levels of the levy, issues found from spot-checks, entitlement to refunds or disagreements over the level of sanctions. In these instances, we agree that the developer should seek resolution from the local authority and they in turn should respond within 28 days. The consultation is not clear on who should review the complaint other than the person who calculated the levy. We agree with this but would recommend that the complaint is resolved by the local authority monitoring officer or chief legal officer. This could be delegated to local authority legal staff but signed off by the monitoring officer or chief legal officer. To ensure that complaints are handled equally across all local authorities in England, we believe that the UK Government should consult with both

relevant stakeholders such as Propertymark, RICS and the Law Society on guidelines on the determination of complaints. When the developer continues to be dissatisfied on determination of the complaint, then we agree that the next stage would be to refer the matter to the First Tier Tribunal.

Further exclusions

Question 6: Do you think that the communal accommodation listed above should be excluded from the levy charge?

11. In our previous consultation response, we were supportive of exemptions for public sector buildings, and for local authorities to have the ability to apply for exemptions for private sector buildings that acted for the common good and could be adversely impacted by the levy. For example, a local authority could appeal that a private sector children's home could be negatively impacted by the charge of a levy and the UK Government would consider an exemption based on merit. We believe a similar arrangement should be in place for non-NHS hospitals, hospices, drug and alcohol treatment centres, temporary accommodation for the homeless and school premises for the housing of students. Monasteries, nunneries, seminaries and other religious colleges which include accommodation should be liable to the levy. However, we suspect many of these types of buildings would be exempt on the grounds that they are listed or historic buildings. We believe that hotels should be liable for the levy.

Public Sector Equality Duty

Question 7: Do you have any views on the potential impact of the proposals raised in this consultation on people with protected characteristics as defined in section 149 of the Equality Act 2010?

12. We do not have reason to believe that any individuals or groups that contain persons that have protected characteristics would be negatively impacted by the proposals raised.

Conclusion

13. We would like to thank the UK Government for taking our views into account. Propertymark would be delighted to further support the UK Government on this issue with any appropriate engagement with our members including roundtable discussions with property agents.