



**BUILDING SAFETY LEVY:
SECOND CONSULTATION
CONSULTATION RESPONSE**

PREPARED AND SUBMITTED BY

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Respondent

This response is made on behalf of the British Property Federation

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Introduction

1. We welcomed the first consultation on the Building Safety Levy, which has led to a better designed policy. There remains, however, three areas we suggest require further attention.

Affordable Student Accommodation

2. The first, concerns the treatment of Affordable Student Accommodation.
3. This is affordable accommodation that is not defined in the annex to the NPPF or CIL, and we are concerned it may therefore not be included in the BSL regulations. Purpose Built Student Accommodation has traditionally not had an affordable housing requirement (though that might change if the Infrastructure Levy is introduced), but 'local' policy has been changing, driven by London Plan Policy H17 (see enclosed link below).
https://www.london.gov.uk/sites/default/files/new_london_plan_december_2017.pdf
4. It is not inconsequential, with the London Plan aiming for 35% of student accommodation to be 'affordable'. There is associated guidance which explains who is eligible for the accommodation, and the cost is defined as:
"The definition of affordable student accommodation is a PBSA bedroom that is provided at a rental cost for the academic year equal to or below 55 per cent of the maximum income that a new full-time student studying in London and living away from home could receive from the Government's maintenance loan for living costs for that academic year."
5. There is also quite detailed associated GLA planning guidance, which explains allocation policy, rent setting limits, etc.
6. Similar policies are now being pursued in other higher-cost accommodation cities, such as Manchester and Bristol (links also below). As there is no strategic planning authority in these localities, it is local plan policy, and we would expect more cities to follow suit, given the shortage, and therefore cost of student accommodation.

<https://democracy.manchester.gov.uk/ieListDocuments.aspx?CId=151&MeetingId=4476>

<https://www.bristol.gov.uk/files/documents/2703-purpose-built-student-accomodation-consultation/file>

7. In the same way that Government believes affordable housing should be exempt for the social benefits it brings, we would hope it would see the same advantage of encouraging the provision of affordable student accommodation, which is ultimately helping less well-off students access higher education. Levying such property will ultimately mean less of it is provided, hurting less well-off students.
8. We would therefore hope you can exempt this form of accommodation in the regulations, perhaps with reference to London Plan policy and similar local policies.

Charitable provision of Affordable Housing

9. Not all affordable housing is provided by registered providers, and there are some charities that are active in building new affordable housing. Such homes may not be defined as affordable under planning, because they are voluntarily rented as affordable by the charitable owner. There is a CIL exemption for affordable housing that is not defined as affordable under a planning agreement but where the owner provides it as affordable housing for a term of at least 7 years. It is important this captures the charitable sector.

Communal space

10. Typically, in the Build-to-Rent sector, 10-20% of the development will be devoted to communal space - work space, play space, gyms, lounges, roof terraces, and guest rooms. It is what makes the sector, creating communities, instead of soulless buildings.
11. A block of flats for the 'for-sale' market is unlikely to have such space and therefore placing a levy on it puts Build-to-Rent developers at a competitive disadvantage and creates an unlevel playing field.
12. There is no technical barrier to Build-to-Rent communal space being exempted. It is quite separate and distinct space from peoples' homes. It is also easy to measure.
13. Our understanding is that only communal space in affordable housing will be excluded, but in mixed tenure blocks it will be apportioned by percentage, so a part of it will be excluded, to reflect the proportion of affordable housing. This underlines it can be measured.
14. We are glad to see that affordable housing residents will not see their communal space levied, because of the social benefits it provides, but surely private sector tenants should also have access to the benefits of communal space. We fear by levying it, such communal space will be reduced.
15. We would also like to clarify that commercial space in a residential building – shop units, etc. will not 'count' for floorspace calculations.

Questions

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

16. Even with the proposed calculation methodology the levy will have a disproportionate impact on areas with lower land values. At present, about 80 local planning authorities still do not charge CIL, presumably because there is low or no value to extract. All areas, however, will be charging the BSL, providing a disincentive to development in some of the poorest areas of the country.
17. We would also flag that this statement in the consultation paper is very misleading:
- However, we note that in 2018/19, developers contributed about £7 billion through Community Infrastructure Levy charges and Section 106 contributions. Over 10 years that would be around £70 billion. A £3 billion levy over 10 years represents around 4% of that figure.*
18. The £7 billion raised through CIL is from a very different tax base than that which the BSL will be raised from. CIL is derived from a far wider tax base that also includes commercial property, and smaller developments. It is therefore statistically misleading to quote the figure of 4%, because the taxpayers for CIL will be different to the taxpayers for the BSL. The impact on the BSL tax base will therefore be higher than 4%.

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

19. We support the use of GIA.
20. As we have raised in our introductory remarks, however, we would make the case for exempting communal space, which is far more prevalent in rental accommodation.

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

21. We have no specific comments on the process of collection, but would urge that as well as guidance for local authorities, there is also guidance for levy payers.

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

22. This all looks broadly sensible and therefore has our support. The use of existing definitions, such as those used for Biodiversity Net Gain is welcome.

Do you think that, to qualify for the discount rate, more than 50% is the correct threshold the area within the planning permission redline that must constitute previously developed land types?

23. Any choice of a percentage is to some extent going to be arbitrary. In the absence of any other compelling evidence, however, this seems sensible.

Question 5: Do you agree with the process for dealing with disputes outlined above? Please explain your answer.

24. The process for dealing with disputes broadly has our support.
25. For reasons of simplicity and clarity, however, we would suggest the time the client has to appeal to the First Tier Tribunal should also be 28 days, rather than the 21 days suggested.

Question 6: Do you think that the communal accommodation listed above should be excluded from the levy charge? Please explain your answer.

26. We support the exclusion of the accommodation that is listed. Hotels and private hospitals are commercial premises, and most of the other communal accommodation listed is used for charitable purposes.
27. There is also a difference between accommodation that is used as someone's permanent home, and most of the accommodation listed, which is used for temporary purposes.
28. It, however, exposes further problems with the 'level playing field' argument, which has seen rental accommodation providers included in the levy. Build-to-Rent and Purpose-Built Student Accommodation will often be competing for land with uses such as 'hotels' and will be put at a competitive disadvantage. The impact will be that the Government is therefore promoting leisure uses before homes.

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? Please explain your answer

29. There is a race impact. The proposals will likely have a significantly greater impact on people from minority ethnic backgrounds than under the first consultation. This is because 23% of people living in the private rented sector are of ethnic origin, whereas only 8% of owner occupiers are minority ethnic. By including rather than excluding new-build rental property as a result of the first consultation, there is therefore a race impact.