

MAYOR OF LONDON

City Hall, London, SE1 2AA - london.gov.uk - mayor@london.gov.uk - 020 7983 4000

Mayor of London response to Building Safety Levy consultation

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Summary

The Mayor welcomes the opportunity to respond to the consultation on the Building Safety Levy.

The Mayor has been clear that no leaseholder should have to pay the cost of remediating mistakes that have resulted from regulatory failures. He is supportive of the government's efforts to raise funds dedicated to building safety remediation. In particular, he welcomes the recognition that the development industry should contribute to the cost of resolving the building safety crisis.

The Mayor has reviewed the Building Safety Levy proposals, and asks the government to revise these so that:

- Measures are in place to prevent developers from passing down levy contributions to communities, those in need of affordable housing, or housing associations, via S106/viability negotiations.
- Exemptions are extended to cover housing developed by for-profit entities whose profits are solely redirected into affordable housing.
- Exemptions are expanded to cover purpose-built student accommodation developed and managed by Higher Education Providers (HEPs) and charitable organisations.
- The design of the levy and the rate at which it is set minimise the risk of developers adapting scheme designs to evade the levy where this would undermine existing design requirements.

Please consider this submission jointly with the submissions from the G15 group of London's largest housing associations and the National Housing Federation (NHF), which offer valuable insights into the potential implications of the levy on the social housing sector. The GLA, G15 and NHF share the view that any solution to the building safety crisis must protect affordable housing delivery.

Response to consultation questions

1 Impact on local infrastructure and affordable housing supply

- 1.1 The Mayor is very concerned that without adequate safeguards levy costs will result in reduced local infrastructure and affordable housing provision. The planning process is the main mechanism through which developers can pass on levy costs. Because the levy is a site-specific charge, developers may elect to count levy payments as costs to individual schemes. If these contributions were included in viability assessments it would reduce the viability of delivering affordable housing, for which there is overwhelming need in London and infrastructure that is needed to support development. This would impact negatively on the outcome of the planning process and wider support for development and the Mayor recommends that provisions are built into the design to prevent this.

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- 1.2 Further, the Mayor is concerned that the government – correctly – flags that affordable housing supply may be reduced to maintain overall housing supply (paragraph 52 of consultation document). The objective of both the RPDT and the levy is to ensure that the development sector makes a fair contribution to help fund cladding remediation costs. This objective will be undermined unless it is clear, in both the legislation and guidance documents, that levy costs must not be taken into account as a consideration in S106 negotiations or viability assessments. It would be highly inequitable if developers were ultimately allowed to offset levy contributions via adverse impacts on those in need of affordable housing, as well as to communities, through reduced infrastructure and facilities that enable the delivery of sustainable development.
- 1.3 **As such, the levy should be applied and set at a rate that does not have an impact on infrastructure and affordable housing delivery. The Mayor asks the government to ensure that it is the developer (the ‘Client’, as defined in the consultation document) who bears the cost of the levy. Additionally, the Mayor urges the government to ensure that the policy and legislative frameworks, as well as planning guidance, prohibit the application of levy contributions in S106/ viability negotiations, preventing new or past S106 agreements to be amended to accommodate for levy costs. This should also be applied to any future replacement of the S106 process taken forward through the government’s intended planning reforms.**

2 Scope of the levy

Affordable housing

- 2.1 Increasing affordable housing supply is the most effective and long-term strategy to respond to the worsening housing crisis, not only in London but in other major cities and parts of the UK as well. The Mayor therefore welcomes the exclusion of affordable housing from the levy.
- 2.2 However, exemptions from the levy do not recognise that it is increasingly common for non-profit registered providers (RPs) to cross-subsidise development programmes with surpluses generated from homes built through for-profit subsidiaries. These subsidiaries develop private properties for market sale or market rent and Gift Aid one hundred per cent of their surpluses to the parent organisation, the charitable RP. The current design of the levy would place these properties within the scope of the charge.
- 2.3 Our partners have stressed that funds from commercial activities undertaken by RP subsidiary companies are essential to fund new affordable housing supply. The NHF has told us these funds are vital in ‘bridging the gap’ between what is needed to meet affordable housing demand, and the funding available from government grants and debt. Charging the levy on properties developed by subsidiaries is expected to lead to reduced affordable housing supply.
- 2.4 **The Mayor therefore asks that the government amends the levy’s exemption criteria to include private housing developed as part of cross-subsidy models that solely support affordable housing supply. Please refer to the consultation responses from the G15 and the NHF for further detail on this point.**

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Purpose-built student accommodation

- 2.5 Purpose-built student accommodation is a highly profitable venture and can have similar characteristics to the wider rental sector, especially when it is managed by private sector providers. The sector is currently estimated to be worth around £60 billion.¹ The Mayor therefore welcomes the application of the levy to purpose-built student accommodation, where these schemes are privately developed.
- 2.6 However, where the accommodation is developed and managed by Higher Education Providers (HEPs) as well as providers with a charitable status, the Mayor asks the government to exempt the schemes from levy charges. The reason for this is twofold. First, unlike conventional affordable housing developments, affordable student housing is not exempted from value-added tax, meaning that this accommodation is liable for a higher tax burden. Second, the London Plan's policy on purpose-built student accommodation acknowledges the need for affordable student housing that is managed by HEPs and charitable organisations.² HEPs tend to have a more direct relationship with students and are more likely to provide suitable lower cost accommodation than private providers.
- 2.7 Applying the levy to this form of development could limit the supply of accommodation developed and managed by HEPs and charitable organisations, which would increase the costs of student accommodation and put greater pressure on existing housing stock as students are more likely to seek accommodation in the wider rental market, including family sized housing which can be cheaper by room rented.
- 2.8 The Mayor asks that the government expands exemption criteria to include purpose-built student accommodation developed and managed by HEPs and charitable organisations.**

3 Possible impact on housing design

- 3.1 The Mayor is concerned by the potential for the levy to negatively impact housing design. The consultation documents acknowledge that, in response to the levy, developers may change development characteristics. This could be with the intent of securing an exemption from the levy, typically by reducing the size of the development to below 18 metres; or compensating for the levy by seeking unsuitable levels of density to increase revenue.
- 3.2 The London Plan advocates making the best use of land by optimising the capacity of development sites, rather than simply maximising density. Optimising site capacity requires responding to local needs, and balancing the capacity for growth and increased housing supply with an improved quality of life for Londoners. Developers wishing to avoid the levy or minimise their contributions to it, may choose to design smaller or denser schemes, even though this may not be the optimum design approach for the site. For example, these designs may lead to schemes that are less sustainable and less pleasant, as light and natural ventilation are unable to penetrate the deep footprints. This behaviour could result in more schemes under-optimising the use of development sites and undermining the objectives of the London Plan. Crucially, these schemes would compromise the benefits communities and neighbourhoods could derive

¹ [UK Student Accommodation Report | United Kingdom | Cushman & Wakefield \(cushmanwakefield.com\)](#)

² See Policy H15 here: [The_London_Plan_2021.pdf](#)

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from new developments. This risk is especially important in the context of London, where land supply is severely constrained and the opportunity to optimise the use of land can't be wasted.

- 3.3 The Mayor therefore urges the government to design the levy, including the rate at which it is set, in such a way that this will not lead to a decline in the quality of housing and overall housing standards, and which minimises the potential for developers to game the levy through scheme designs that seek to achieve exemption from the levy, reduce levy contributions, or offset this through excess height or density.**