HOWARD KENNEDY



Building Safety Levy

DATE

June 2025



What is the Building Safety Levy?

The Building Safety Levy (the "Levy") is a charge being imposed on certain residential developments. The government plans to use the Levy to raise over £3 billion to cover the cost of building remediation once exchequer funding, industry pledges and contractual obligations have been taken into account.

It applies to all residential buildings (unless an exemption applies) that require a building control application.

The Levy is not limited to buildings of a specific height and will apply where there are at least 10 beds/units (or at least 30 bed spaces for PBSA).

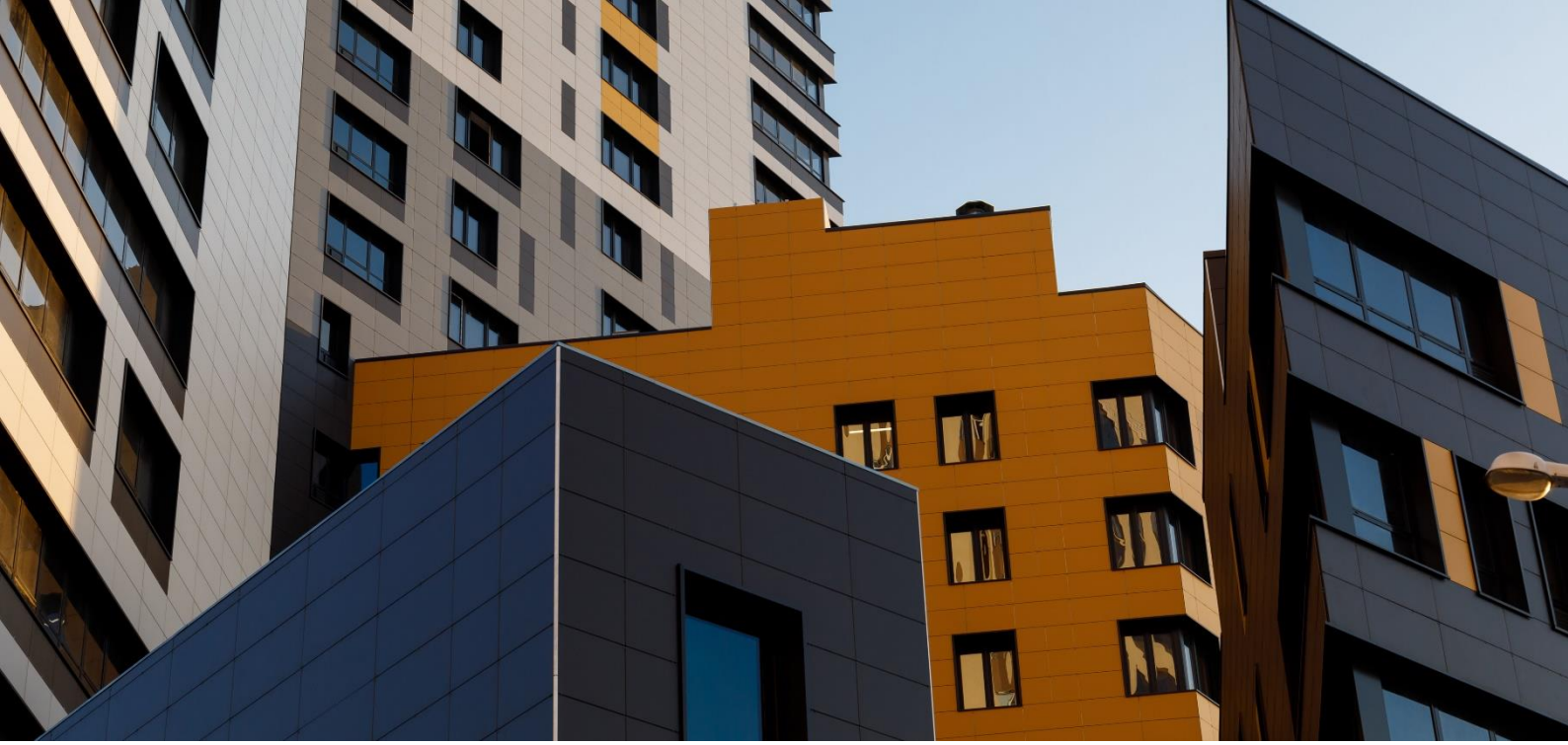
It applies on the creation of new residential floorspace, whether in a 100% residential development or in a mixed-use development. It will not apply to the commercial elements (e.g. retail units located on a ground floor).

The government's consultation response was released on 24 March 2025 which provided the basis for information contained in this note and can be accessed **here**. However, the government has said that additional information will be provided in the regulations which will enact the Levy, along with guidance to be published at a later date.

When will it take effect?

The Levy was due to come into force in Autumn 2025, however it has now been postponed to Autumn 2026. It is intended that this will provide additional time for developers and investors to factor the Levy into financial projections and administrative processes.

There is no transitional phase or grace period once the Levy takes effect, but it is anticipated that the Levy will only apply to developments for which no building control application has been made at the time the Levy takes effect. Developments which enter the building control process after the levy is launched will be subject to it.



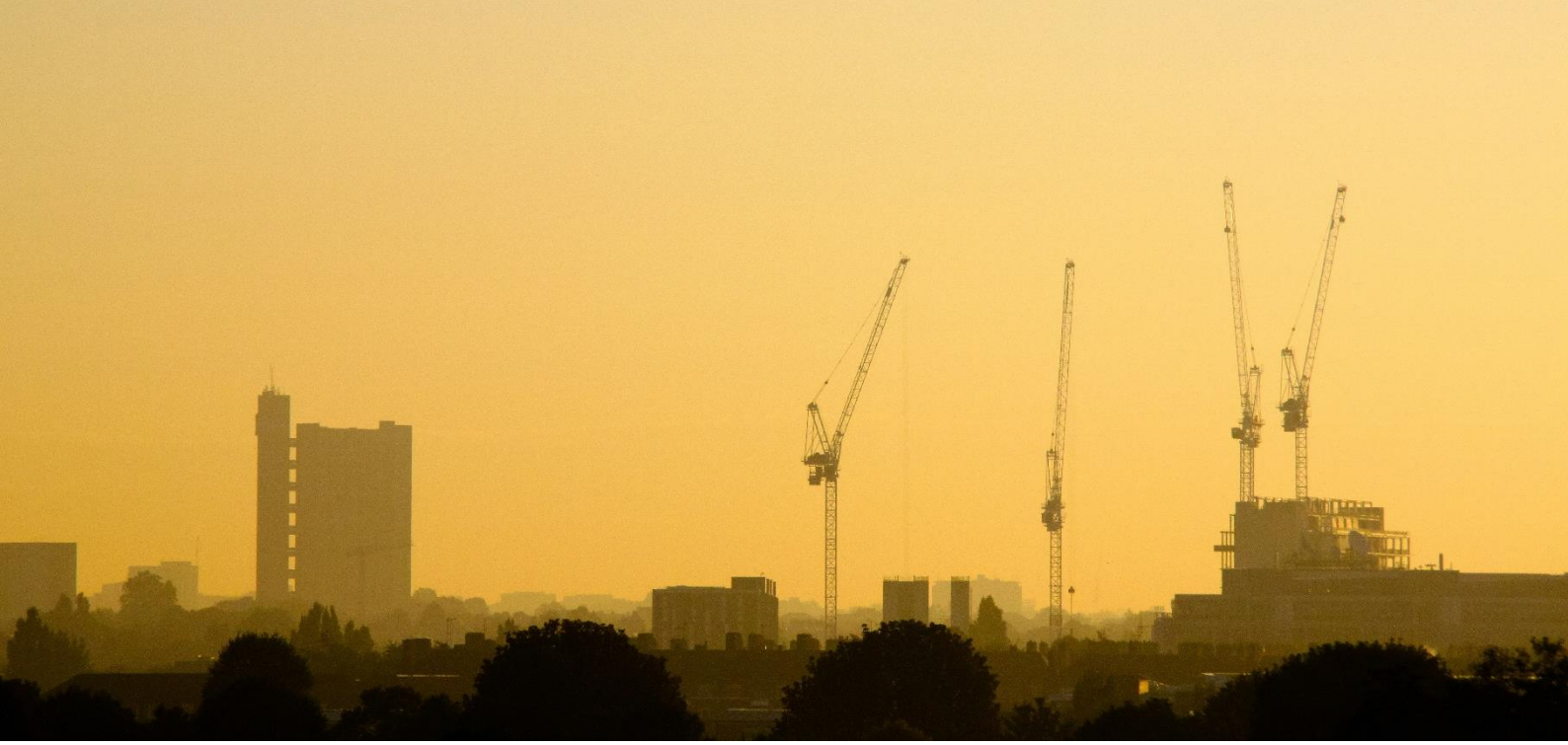
What is covered by the Levy?

The following are included in the Levy:

- All residential buildings (subject to exemptions below)
- Build to rent
- Purpose-built student housing (PBSA) (subject to exemptions below)
- Communal areas (a proportion will be charged where the communal area is shared with "non-chargeable units“, which are units to which the Levy does not apply).
- Conversions/change of use to residential
- Market-rate housing built by local authorities

Exemptions

- Small developments – those with fewer than 10 beds/units (or 30 bedspaces for PBSA)
- Social / affordable housing (where a development has a proportion of affordable and market-rate, it will only be calculated on the market-rate floorspace and communal area proportion) and intermediate housing provided to eligible households whose needs are not met by the market
- All housing built by a not-for-profit registered provider
- Care homes, hospices, NHS hospitals, armed forces accommodation, prisons
- Supported housing, children's homes, refuges
- Internal refurbishments



How much is the Levy?

If the Levy applies, then it is calculated on the internal floorspace of a property (Gross Internal Area).

The rates per square metre have been set by local authorities based on local land values and property prices. By way of example, developers in Kensington and Chelsea will be faced with the highest rate (£100.35 per square metre) whilst developers in Sunderland will have the lowest rate (£7.13 per square metre). The full list of rates can be found **here**.

Although there will be no indexation, the rates will be subject to review by the Secretary of State at least every three years.

Discounts

Developments where at least 75% of the site falls within "previously developed land" (PDL, commonly referred to as Brownfield Land) are eligible for a 50% discount under planning regulations.

The official definition of PDL will be confirmed in forthcoming Levy regulations, but the government has indicated it will align with the National Planning Policy Framework (NPPF), defining PDL as land previously occupied by a permanent structure.



When and how is it calculated?

Developers will need to submit information at the building control application and initial notice stage. This will include details of the planning permission or planning application under which the development in the building control application or initial notice is to be carried out and the number of new dwellings or beds (for a PBSA) which will be created. This information will be used to identify whether the Levy will be payable. For instance, if the number of beds proposed for a PBSA development is 31, then the Levy will apply to the development.

If the Levy is payable, then at the first commencement notice stage, developers will need to submit information on:

- whether it believes any exemptions from payment apply;
- whether the development is on PDL; and
- the gross internal area of the chargeable floorspace.

This will enable the local authority to calculate the amount which will be payable for the development.

Developers will need to file supporting evidence at both stages, but specific details are not yet known. The government has indicated that it will prepare guidance to assist. If insufficient evidence is provided, the local authority will be able to reject the application or notice. The local authority will not check all information provided but it will carry out spot checks. A liability notice setting out the amount due (but not yet payable) will be issued.

If the number of chargeable beds/units changes then the local authority must be informed and a new notice will be issued to reflect the adjusted Levy rate. In this case:

- if the original liability sum has been paid: the payment will be credited against the new total.
- where the levy liability decreases: the developer will be entitled to a refund within 2 weeks of the issue of the updated Levy liability notice.

When is the Levy Payable?

There is flexibility as to when the Levy is paid. It is payable on receipt of the liability notice and up until a developer applies for a building control completion certificate or approval of a final certificate.

There are no partial payment allowances for staged developments. This means that where there is a phased development, the full Levy will need to be paid before any completion certificate can be issued or final certificate accepted for any part of the works specified in the application or notice, including partial or interim certificates.

It is worth noting as the entire Levy must be paid prior to completion of the first phase, a developer will not be able to circumvent the Levy by building groups of 9 houses where 10 or more houses are actually planned.

The local authority will be responsible for collecting the Levy and has two weeks to issue a confirmation of payment receipt.



Sanctions

The sanction for non-payment of the Levy will be the withholding of a building control completion certificate or rejection of a final certificate. It is a legal requirement before occupation for buildings over 18m (and even if under 18m a funder will usually require this) to have a completion certificate. As a unit/bed cannot be occupied without a completion certificate, this will impact a developer's ability to sell and/or occupy the building.

Who will it affect?

Primarily developers, but also funders and investors as additional funding will be required.

What can be done now to prepare for the introduction of the Levy?

Now that the process for payment of the Levy as well as the rates chargeable have been published, developers and investors can start to factor in the Levy's cost implications into their financial projections and profitability calculations as well as the impact on project timelines in readiness for when the Levy takes effect in Autumn 2026.

For legal advice or if you have any queries please get in touch with your contact at Howard Kennedy or one of our team below:

Bhavini Patel (Senior Associate, Co-Head of Building Safety), Kate Woodgate (Parter, Head of Development) or Jade Chalmers (Partner, Head of Planning and Construction).

Key contact



Kerry Price

Associate and author of this brochure

+44 (0)20 3755 5830

Kerry.price@howardkennedy.com



Bhavini Patel

Senior Associate, Co-Head of Building Safety

+44 (0)7970 200 352

Bhavini.Patel@howardkennedy.com



Kate Woodgate

Partner, Head of Development

+44 (0)7790 921 479

Kate.Woodgate@howardkennedy.com



Jade Chalmers

Partner, Head of Planning and Construction

+44 (0)7725 639 363

Jade.Chalmers@howardkennedy.com

Chambers AND PARTNERS

The LEGAL 500

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No.1 London Bridge
London SE1 9BG

T: +44 (0)20 3755 6000
F: +44 (0)20 3650 7000

DX 144370 Southwark 4
www.howardkennedy.com

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