

Building Safety Levy

Consultation response to the proposals set out by the Department for Levelling Up, Housing and Communities

A submission by:
The Chartered Institute of Public Finance and Accountancy (CIPFA)

Date: 8 February 2023

CIPFA, the Chartered Institute of Public Finance and Accountancy, is the professional body for people in public finance. CIPFA shows the way in public finance globally, standing up for sound public financial management and good governance around the world as the leading commentator on managing and accounting for public money.

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1. Introduction

1.1. CIPFA welcomes the opportunity to respond to the Department for Levelling Up, Housing and Communities (DLUHC) consultation on the Building Safety Levy. Broadly, CIPFA supports the proposal to implement a levy to ensure that the cost of safety remediation works is borne by those accountable rather than residents or taxpayers. However, at present, the consultation does not include sufficient detail regarding several key areas that CIPFA considers will be important to prevent unintended consequences of the scheme impacting negatively on local authorities, particularly in relation to their proposed roles as both potential collection agencies for the levy and regarding their enforcement roles in their existing capacity in respect of building control.

1.2. Much of the consultation is aimed at the building developers who will pay the levy. As such, CIPFA's response focuses only on the questions/areas where we add most value through our expertise within local government. CIPFA's response is therefore set out to address the following:

- The proposal for local authorities to act as collection agents and new burdens payments.
- The frequency by which the collection agent will return revenue receipts.
- The role of building control in enforcement of the levy.
- Proposed exclusions from payment of the levy.

There are likely to be financial administration and reporting arrangements relating to the levy. CIPFA is happy to discuss these with government during the development of the levy arrangements.

2. Local authorities acting as collection agents and new burdens payments

2.1. CIPFA would agree that local authorities are likely to be best placed to act as the collection agency for the Building Safety Levy. They have an existing role in the building control process and established mechanisms for collecting levies as an agent on behalf of government. CIPFA would suggest, however, that this is subject to ensuring the resource burden is fully addressed and that there are detailed discussions with the sector.

2.2. CIPFA would note that local authorities are under substantial resource constraints and would need to be fully compensated for the costs incurred in acting as a collection agency. We support the principle, as set out in the consultation, that these costs are covered by local authorities retaining a proportion of levy receipts to pay for the additional administrative burden. However, CIPFA recognises that the cost will vary between local authorities and is of the view that the government would need to ensure any decision on burdens is supported by evidence and in consultation with the sector. CIPFA notes that a proposal to compensate authorities by having them retain a standard proportion of levies collected might adversely affect smaller authorities that may incur

administration costs but not collect enough levies to yield a retention amount that adequately covers their costs.

- 2.3. CIPFA would be happy to support further investigation into potential methods of compensating the additional administration costs that would be incurred and would encourage DLUHC to work with the sector to test any assumptions, which may include unintended consequences of collection burdens adversely affecting smaller authorities with collection responsibilities.

3. Frequency of revenue returns (receipts)

- 3.1 CIPFA is of the view that the frequency of returns to central government should be carefully considered, minimising any additional burden to local authorities and ensuring the additional requirements are proportionate. In recognising that the regular return of receipts from the levy is an important element in ensuring cash flows from the collecting agency to central government are timely, available to support the objectives of the levy and the development of the levy system, they should be made with sufficient regularity to avoid any issues with backlogs or cash flows.
- 3.2 CIPFA agrees that unlike other larger collections (like non-domestic rates), quarterly revenue returns would appear to be an appropriate frequency to ensure the cash flows swiftly to central government through the new system.
- 3.3 CIPFA is of the view that the revenue returns should be made based on a cash-collected basis. This would ensure that local authorities do not bear the burden of any possible non-payment.
- 3.4 CIPFA is of the view that the requirements for 'agreed management information' should be clear and transparent and would be happy to discuss this further with government.
- 3.5 CIPFA notes that paragraphs 38 to 41 of the consultation refer to the 'levy review point'. This appears to focus on the amount of the levy and the levy rate. CIPFA is of the view that any new system should be subject to regular reviews. Whether a part of the levy review point or other review (such as a post-implementation review), CIPFA considers that the collection and administrative arrangements and the system of levying should also be subject to review.

4. The role of building control in enforcement of the levy

- 4.1. The consultation proposes that the enforcement of the levy is through the building control process. CIPFA thinks that where an authorised inspector is used by the developer instead of the local authority, there may be unintended consequences that should be addressed within the final legislative arrangements for the levy. For this reason, we would encourage further discussions with key stakeholders.
- 4.2. CIPFA is concerned that in such instances, local authorities may not receive adequate notification that a levy is due for collection, and this could place an overly burdensome

duty on the authority to chase potential levy liabilities. There does not appear to be a consideration of this outlined in the consultation proposals for authorities to act as collection agents. This presents a risk to local authorities that the resources required to collect the levy in these instances are not adequately accommodated within the new burdens payments. The different relationship with the authorised inspector could potentially put authorities in the position of being responsible for non-collection of the levy where they are not aware of a collection being required.

4.3. CIPFA considers it essential that if payment of the levy is to be enforced via the building control process, mechanisms are in place to ensure authorised inspectors have a duty of enforcement placed upon them. CIPFA considers this necessary to ensure those responsible for paying the levy are identified and payment is received before the authorised inspector can issue a completion certificate.

4.4. Further to this, CIPFA notes that the proposed sanctions presented in the consultation are centred around the halting of the building development progression and ultimately the sign-off of a completion certificate. While CIPFA notes the proposed approach to sanctions, there does not appear to be an enforceable sanction option that the local authority can initiate should a completion certificate be obtained from an authorised inspector without full payment of the levy. CIPFA would suggest that further consideration is given to how authorised inspectors and the Building Safety Levy will interact to ensure no unintended consequences or unforeseen deviation from the proposed process outlined in the consultation document.

4.5. CIPFA would welcome the opportunity to work with DLUHC and the sector to find a viable solution to these issues to prevent any unintended consequences. CIPFA would suggest that the following needs to be considered and would welcome clarification on their resolutions:

- Proposals to facilitate adequate communication between local authorities and authorised inspectors.
- The enforcement role of authorised inspectors in relation to the levy.
- If there is any potential recourse available beyond that affecting project progression should it be required.
- If there is any proposed recourse to be made available to local authorities against authorised inspectors should sign-off occur without levy payments.

4.6. Before commenting further, CIPFA also seeks clarification as to whether new powers of enforcement will be required to ensure that non-payment of the levy is considered adequate grounds to withhold sign-off of a completion certificate, and whether DLUHC seeks to make this a legal condition of sign-off for a completion certificate.

5. Proposed exclusions from payment of the levy

5.1. CIPFA welcomes the proposal to provide exclusions for certain public sector properties, which will help prevent further burdens on public sector resources. CIPFA recognises that exclusions from payment of the levy, while necessary, have the potential to increase the level of administrative complexity to the collection process for the levy. CIPFA is of the view that this should be considered when assessing new burdens requirements.