



Catalyst Response to Consultation on the Building Safety Levy

Catalyst is one of the UK's leading housing associations, with over 37,000 homes housing over 70,000 customers in London and the South East. We are a member of the G15 group of large London housing associations and BuildEast group of large developing housing associations in the East of England.

We are a major developer of affordable housing across London, the South East and East of England

We are delighted to have the opportunity to provide a response to this consultation.

If you have any questions or require further information on this response, please **contact**:

David Flindall, Policy Manager, david.flindall@chg.org.uk, 07525 905132
Catalyst Housing Ltd, Ealing Gateway, 26–30 Uxbridge Road, London W5 2AU.

Introduction

Not-for-profit housing associations represent a key resource for the country to deliver enough affordable homes for those in need of them.

We believe that exemption from the proposed Gateway Two Levy should be extended to include not only affordable housing, as defined in the consultation document, but also all buildings (including social, affordable, market rent or sale, community facilities etc) developed by:

- Not-for-profit registered providers of social housing
- All companies that are wholly owned by non-profit registered providers of social housing.

Not-for-profit housing associations cross subsidise new social and affordable housing using receipts from market sale homes and other for-profit initiatives. All profit generated by not-for-profit housing associations must ultimately be reinvested in affordable homes for them to retain their status as not-for profit bodies.

Comments on specific elements of the consultation

Our response to the consultation document is limited to the following questions. In preparing our response, we have consulted extensively with our colleagues in other housing associations, in particular the G15, our representative body, the National Housing Federation, and with their tax advisers, RSM.

Q2: Do you agree that affordable housing should be excluded from levy charges? Please explain.

Call for evidence (A): The government would welcome views and evidence on the potential impacts of either applying the levy to affordable housing or excluding affordable housing from the levy; on how an exclusion for affordable housing might be delivered (including how the levy might be administered for mixed-purpose developments incorporating some affordable housing); on potential market impacts; and on how these impacts and potential “gaming” might be mitigated.

Q10: Do you have an alternative proposal as a basis for the levy? If so, please explain why you consider it better.

Q14: Is there anything further the government might want to consider in relation to the design of the levy which would help minimise the impact on housing supply?

We believe that not-for-profit bodies, e.g. housing associations, should be made exempt for liability for this proposed levy. This exemption should cover all bodies, including groups, where the 'parent' is a not-for-profit body, e.g. profit is recycled within the group to support further development, maintenance, improvement or other activity that could be shown to have a social purpose. This would include housing associations with for-profit elements, providing the parent is a not-for profit body and profit is recycled to support the group's not-for-profit activities.

We also think this should include situations where a not-for-profit body engages in joint ventures with other companies, either directly or through a subsidiary. Housing associations do this in order to undertake larger developments and to redistribute profits from homeownership products to cross subsidise the development of affordable homes. As such, it would be appropriate to extend the exemption to not-for-profit housing associations, or their subsidiaries, within these arrangements. Ideally, the Levy should be targeted to the investing partner directly rather than the joint venture, so that there is no need to claim back funds, and to further ensure that no creative mechanisms can be created whereby a for-profit partner is able to claim some of the benefit intended for the housing association partner. (For more detail about joint ventures, see below.)

In our view this is the correct approach for the following reasons:

- Taxation of not-for-profit bodies, primarily set up to provide affordable housing, directly reduces our ability to meet the government's expectations regarding the delivery of much needed new homes for hard working families.
- It could also affect our ability to finance the safety work that this Levy is intended to support.
- Because we mainly develop affordable housing, most housing associations are likely to pay either nothing or very little towards this proposed Levy. However, proving this is likely to lead to a significant amount of administrative activity which could be avoided via an exemption from the levy.
- Subjecting new, safer buildings to a levy designed to pay for the remediation of older unsafe homes is not an approach that we can support. We think it would be better to maximise the production of new safer buildings. This is particularly true for regeneration schemes, where older buildings are being replaced by newer ones.
- The proposed Levy may affect our ability to compete for land with private developers, who are able to maximise value through more efficient tenure mixes and reduced build costs, relegating not-for-profit housing associations to reliance on Section 106 obligations to develop new affordable homes – thus reducing the supply of affordable tenure homes.
- If the levy reduces housing associations' interest in joint venture activities, it may have the unintended consequence of slowing housing delivery and encouraging land banking. Housing associations are driven to develop out their land quickly in order to achieve their social goals, whereas developers/investors are more likely to build at a pace that suits their profit targets, occasionally holding land as a long-term investment to achieve future goals if the current ones are already met. Housing Association involvement creates an environment where this is being constantly challenged, accelerating commencements.
- It will ensure that housing associations engaging in joint ventures retain access to funds to cross subsidise affordable housing and retain the benefits of undertaking and influencing larger projects.

Q19: How might levy design avoid mistakes, gaming and fraud, or else maximise positive incentives?

A levy imposed at Gateway Two may be too early in a scheme's life to capture the final number of affordable homes delivered by the scheme, as schemes are often reassessed during the delivery process. This could mean that affordable homes could be incorrectly subject to the Levy or market sale homes may not be charged the Levy. This could be avoided either by charging or fully reviewing the Levy at Gateway Three.

Call for evidence (B): To support the government's eventual decision on the levy funding level and payment mechanisms, we would welcome further information from those potentially subject to the levy covering:

- How higher-rise building projects are structured in terms of company structures/ Special Purpose Vehicles/ Joint Ventures

While the majority of building by housing associations tends to be affordable housing delivered via land led or Section 106 arrangements, increasingly housing associations are undertaking joint ventures to develop affordable, low-cost and market sale ownership homes to create diverse neighbourhoods and generate profit margins to support their affordable housing pipeline.

In order to deliver these homes at the most efficient build cost possible and share the risk of any volatility in the sales market, many associations have entered into joint ventures on a per project basis with development partners. Generally these partners are building contractors, but there are other configurations such as associations partnering associations, or associations partnering with the local authorities. Joint ventures are normally on a 50-50 basis, but other percentages do exist.

These arrangements usually involve the association getting first refusal of the affordable homes on the site.

Housing associations viability test each joint venture, considering any subsidy required for affordable homes and potential profit from any sales when determining whether to enter the arrangement. In most cases, the not-for-profit entity will contract to develop the affordable housing and a subsidiary, normally a for-profit development vehicle, taking the risk of the Market Sale.

In order to retain this method of procuring new homes, housing associations need to be able to extend any exemption from the levy to their share of the venture. Failing to do so would make joint ventures considerably less viable reducing the opportunities available to the sector. This would mean that associations are likely to be unable to access lower build prices and be more reluctant to take on the risk associated with larger opportunities. Any reduction in housing association involvement in these larger projects would also reduce the voice of those with a "social purpose" in the design and delivery of them.

Recommendations:

- Any exemption from the Levy would need to cover each type of joint venture arrangement (entity, contractual arrangement, etc) while being robust enough to only extend the benefit to the housing association.
- There shouldn't be a distinction between affordable homes and market sale homes within a joint venture, because profit from market sale homes is used to finance the affordable homes. Any exemption should be applied to the association's entire interest in the venture.
- Each entity in the association's group should be considered exempt due to the multiple party arrangements where the developing entity and affordable procuring entity will not be the same.
- The association's share should be exempt on entirely market sale based ventures, as the association will use the return from that project to increase the viability of its pipeline as a whole, supporting the development of more affordable homes
- Ideally the Levy should be exempted rather than levied and then reclaimed, in order to avoid unnecessary bureaucracy and spikes of capacity resulting from reclaiming tax.