

T: 0300 244 4000
E: scottish.ministers@gov.scot

Kenneth Gibson MSP
Convener
Finance and Public Administration Committee
The Scottish Parliament
Edinburgh
EH99 1SP
FPA.committee@parliament.scot

06/01/2026

Dear Kenneth

SCOTTISH GOVERNMENT RESPONSE TO THE FINANCE AND PUBLIC ADMINISTRATION COMMITTEE'S REPORT ON THE BUILDING SAFETY LEVY (SCOTLAND) BILL AT STAGE 1

I would like to thank Committee members for their detailed consideration of the Building Safety Levy (Scotland) Bill and the recommendations contained within its Stage 1 report. In particular, I note the Committee's decision to make no recommendation on the general principles of the Bill. Annex A to this letter responds to each of the Committee's recommendations.

The Scottish Government recognises the current challenges facing the housebuilding sector and the need for increasing housing supply in light of Scotland's housing emergency. We have worked constructively with representatives of the sector through our expert advisory group on the Levy, and as the response below details we intend to continue to work closely with industry stakeholders as this work progresses.

The tragic events at Grenfell in 2017 can never be witnessed again. The Scottish Government has been unwavering in its commitment to do what is right and necessary to fully address the remediation of buildings fitted with unsafe cladding.

Our current estimate of the costs of Scotland's Cladding Remediation Programme is between £1.7 to £3.1 billion. The Scottish Government considers it would be deeply unfair for this financial burden to be wholly borne by the general taxpayer, particularly in a context where developers will be contributing to the costs of cladding remediation in England through a Building Safety Levy.

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In designing this Levy, I have sought to balance this funding need against the health of the residential property development industry, to ensure that its costs do not unduly impede upon much-needed housebuilding activity.

I am grateful for all of the Committee's recommendations and I hope my responses provide additional assurance to the Committee and assist with its continued scrutiny.

It remains my intention to work towards securing cross-party support for the Bill, just as the UK Government achieved with its Levy in England. I look forward to continuing work with the Committee on this important fiscal measure to help deliver the critical remediation work to Scotland's affected buildings.

Yours sincerely,

IVAN MCKEE

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Annex A

SCOTTISH GOVERNMENT RESPONSE TO THE FINANCE AND PUBLIC ADMINISTRATION COMMITTEE STAGE 1 REPORT ON THE BUILDING SAFETY LEVY (SCOTLAND) BILL

For ease of reference, the Committee's points or recommendations are showed in bold text and numbered in line with how they appear in the report. The Scottish Government response is given directly underneath.

General Impacts

79. The Committee is persuaded by the evidence we received that the SBSL will have a macroeconomic effect of the Scottish housing market. At this stage, we anticipate the impact to be variable across the country, with the potential for particular challenges in remote rural areas where site viability is already an issue.

The accompanying Business and Regulatory Impact Assessment (BRIA) sets out the Scottish Government's position that as the proposed revenue target for the SBSL (£30 million per annum) is low relative to the value of the new build housing market (~£4.6 billion), the resulting impacts of the SBSL will be similarly low. The Committee may also wish to note the UK Government's impact assessment for its Building Safety Levy, which makes the same conclusion as the Scottish Government in this respect.¹

The Scottish Government recognises that SBSL is likely to impact different parts of the housebuilding sector in different ways. That is why the Bill contains various exemptions to protect certain developments, including those which require public subsidy (via the exemption for affordable housing), those which are geographically isolated (via the exemption for islands), and those where the developer is unable to absorb the costs associated with the levy more easily (via the setting of a levy free allowance).

80. The Committee does not consider the levy to be fully reflective of the sensitivities of the housing market in Scotland. We therefore recommend that the Scottish Government undertakes a sensitivity analysis to assess in more detail the impact of the levy on the housing market and in particular on rural sites and on SME developers. The sensitivity analysis should also consider the extent to which the levy would impact on private capital investment in Scotland.

81. The Committee requests that the results of the sensitivity analysis are published in time to inform the Scottish Government's decisions in setting levy rates and, where applicable, any reliefs, through secondary legislation. The Scottish Government should provide an explanation of how the Scottish Government has taken these findings into account as part of an updated BRIA to be published alongside this secondary legislation.

The Scottish Government will commit to producing and publishing an updated impact assessment alongside publication of the rates for the Levy.

¹ [Building Safety Levy: Assessment of Impact](#)

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82. The Committee believes there is a strong case for exempting ‘remote rural areas’ from the scope of the levy. While we recognise the challenges in developing an appropriate definition for remote rural developments, this should not be a barrier to introducing this important exemption. The Committee therefore recommends that the Scottish Government undertakes work in developing such a definition and exemption.

The Scottish Government has been undertaking work with rural stakeholders throughout Stage 1 to ascertain the most effective way of protecting rural developments and will continue to work with stakeholders throughout the passage of the Bill and intends to bring forward through secondary legislation a further exemption for the most remote parts of the mainland. We intend that this exemption will apply to those areas that currently receive a 100% relief on non-domestic rates (namely Knoydart, Scoraig and Cape Wrath).

In addition, the Bill allows for Ministers to set an annual allowance of tax-free units for each taxpayer (the Levy Free Allowance), which due to the small-scale nature of rural development will exempt proportionately more rural housebuilding than in urban areas. The Scottish Government proposes to set the Allowance threshold at 19 annual units. Our assessment is that this will have a proportionately higher impact in Remote Small Towns (Class 4) and Remote Rural (Class 6) areas, under the Scottish Government Urban Rural Classification, 6 fold.

83. The Committee asks that the Scottish Government considers calculating the levy based on market value of the property rather than total surface as a way of taking into account the particular features of local housing markets.

The Scottish Government initially considered using market value for the calculation of the SBSL and gathered evidence on this approach through a public consultation. 62% of those who responded opposed the levy being calculated on the market value of the property, with stakeholders raising concerns that such an approach would create uncertainty for developers in calculating costs. Furthermore, complex issues were identified regarding differences in valuations for buildings that were and were not intended for onward sale, but that were otherwise identical in construction, for example build-to-rent (BTR) developments. These complexities, including potential additional costs for taxpayers and the likelihood of disputed valuations, were factors in the Scottish Government’s decision to pursue an area based approach, in line with the Building Safety Levy in England.

84. The Committee has concerns about the fragility of the build-to-rent sector but on balance believes that providing an exclusion in this case would significantly limit the tax base for the levy. We therefore agree that the levy should apply to the build-to-rent sector as provided for in the Bill.

The Scottish Government notes the Committee’s views that BTR developments should be within scope of the SBSL. At the same time, we recognise the importance of the BTR sector in Scotland. That is why we have taken important steps to support the sector through the Housing (Scotland) Bill and our LBTT system continues to offer forms of relief for BTR developments that are not available in other parts of the UK.

85. The Committee welcomes the Scottish Government’s commitment to provide relief to brownfield site developments. We look forward to receiving an update regarding its decision on relief rates for brownfield sites and the factors it has taken into account to inform this decision.

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In recognition of concerns regarding the definition of brownfield land being used for the England-only levy, the Scottish Government is consulting with stakeholders on the most appropriate definition for use to deliver the policy intention of providing a reduced rate on land which has been previously-developed, reflecting the on average increased costs associated with developing such land.

The Scottish Government will set out its definition for previously developed land, alongside the reduced rates for this land, on the publication of indicative rates in June 2026.

86. The Committee recommends that the reporting requirements in section 45 of the Bill are strengthened so that the Scottish Government is required to report at mandatory intervals on the operation of the Bill. The report should include an assessment of how the levy is impacting the Scottish housing market in practice.

87. The Committee recommends that reports under section 45 of the Bill should be prepared every three years after enactment.

In line with the recommendation here and with the aim of strengthening the reporting requirements, the Scottish Government will seek to amend the Bill at Stage 2 to require reports under section 45 must be prepared at least every three years after commencement, and to require that these reports must include an assessment of the impact of the Levy on the Scottish housing market.

Exemptions from the Charge

94. The Committee is concerned about the potential for the levy to contribute to the loss of historic buildings in Scotland. We recommend that the Scottish Government considers a targeted broadening of this exemption for conversions which will help to protect historic buildings that may otherwise remain abandoned.

The Scottish Government will undertake consideration of such an exemption, including an assessment of impact on both developments and on the tax base, in advance of Stage 2.

The exemption of certain social and affordable housing

101. The Committee recommends that affordable homes funded by local authorities should not be subject to the levy.

The Bill as introduced contains provisions which captures the vast majority of social and affordable homes being delivered. The Scottish Government will continue to engage with COSLA and local authorities to ensure the definitions in the Bill sufficiently capture the mechanisms used by local authorities to fund affordable housing so as to avoid any circularity in public funding.

102. We also request that, as part of the sensitivity analysis recommended above, the Scottish Government considers the potential effect of the levy on the delivery of much-needed affordable housing across Scotland, including that delivered through section 75 agreements.

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As part of the ongoing work to consider impacts arising from the SBSL, the Scottish Government will consider impacts on section 75 obligations by residential property developers as part of its commitment to publish an updated impact assessment alongside its rates publication in June 2026.

105. The Committee agrees that developments situated on Scotland’s islands should be exempt from the levy, as provided for in the Bill

I welcome the Committee’s view which reflects the Scottish Government position on exempting island developments.

112. The Committee accepts that there is an argument for large hotel developments to be included in the scope of the SBSL, particularly in areas where the hotel industry has more capacity to absorb the levy.

As set out in the policy memorandum, the Scottish Government has not included hotels as these buildings are distinctly different from the long-term accommodation types the SBSL seeks to charge, and are commercial entities not intended to be covered by the Cladding Remediation Programme. The number of new hotels being constructed in Scotland is small, therefore their inclusion within the SBSL will not have a material impact on the tax base. The exclusion of hotels also aligns with their exclusion in the UK Government’s England-only Levy

I note the comments made by stakeholders on the potential for a hotel exemption may incentivise this type of construction over residential development. The demand for hotels and the demand for housing are separate, although there will be areas where these demands will overlap. In those areas, the potential for incentivisation of hotels over housebuilding will depend on whether the rate(s) of the SBSL are set at a number high enough to disincentivise housebuilding. This is not the aim of the policy. The Scottish Government will therefore consider, as part of its work on assessing the impact of rates, any impacts which may result in the incentivisation of other development types.

122. The Committee agrees that the levy should not be considered a ‘polluter pays tax’ given that it applies to all housebuilders some of whom were not involved with, or were unaware of, using safe cladding.

I recognise there will be taxpayers for the SBSL for whom were not involved with the installation of unsafe cladding. The SBSL is intended to seek a contribution from the residential property development sector as a whole towards the costs of cladding remediation, just as the UK Government is seeking from the same sector through their Levy in England.

123. The Committee recommends that the Scottish Government considers legal options that would enable housebuilders to seek contributions for remediation work from others in the sector.

Housebuilders can already take legal action and seek damages against those in the supply chain whom they believe contributed to unsafe buildings.

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The Building Safety Act 2022² enacted two key provisions that apply to Scotland, firstly, it introduces new legal rights of action against parties who fail to comply with cladding or construction products including those that are defective or where misleading claims have been made about products. These provisions establish potential liabilities for anyone involved in manufacturing, marketing, supplying, or installing construction products. Secondly, the Act extended the prescription period for liability claims in respect of relevant construction products. We therefore do not see the need to consider separate legislation in Scotland.

The Act, while welcome to support housebuilders recouping costs from the supply chain, does not eliminate the need for funding to support the work of the cladding programme. It would also not be an option for buildings where there is no linked developer to initiate the recovery of costs.

As in England, we aim through the levy to generate a fair contribution from residential property developers to help meet the costs of cladding assessment and remediation in Scotland, which without the levy would fall to the taxpayer.

130. The Committee welcomes the Scottish Government's decision to delay the implementation of the levy, which we consider will provide the housing industry with sufficient lead in time to prepare for its introduction.

I welcome the Committee's view on our decision to increase the lead-in time for taxpayers.

131. The Committee urges the respective Scottish Governments in place both before and after the election to carry out the necessary preparatory work in order to be able to publish the levy rates as planned in June 2026.

The Scottish Government has committed to publishing indicative rates in June 2026, giving industry nearly two years to prepare for introduction of the SBSL.

146. The Committee sees some merit in the arguments presented by witnesses that it would be inappropriate for the proceeds of the levy to be used for any other building safety expenditure given that the Scottish Government's consultation processes focussed exclusively on cladding remediation.

The Scottish Government has set out that the proceeds from the SBSL will be used to fund the work of the Cladding Remediation Programme. As the work of Programme is currently estimated to cost between £1.7 billion and £3.1 billion (of which the SBSL is expected to contribute to £360 million -£450 million), it is therefore highly unlikely that there will be residual funds from the SBSL to fund any additional work to remediate buildings during the lifetime of the Programme.

147. We remain to be convinced of the Minister's argument that restricting the proceeds of the levy to cladding remediation only will result in additional cost and complexity. We therefore recommend that the Scottish Government gives further consideration to adding such a restriction to the Bill and that it reports back to the Committee on its findings at the earliest opportunity.

² [Building Safety Act 2022](#)

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As set out in my letter to the Finance and Public Administration Committee on 24 November 2025, it would be possible for the Building Safety Levy (Scotland) Bill to refine the hypothecation set out in Section 80O Scotland Act 1998 (as amended). However, the existing hypothecation reflects that used by the UK Government in establishing enabling powers for the Building Safety Levy in England. It is the Scottish Government's view that introducing further hypothecation could result in additional cost and complexity in achieving the aim of delivering funds to support the Cladding Remediation Programme, and create additional restriction in Scottish system compared to that in England.

The principal objective of the Cladding Remediation Programme is to identify the work required to eliminate or mitigate risks to life that are created or exacerbated (directly or indirectly) by a building's external wall cladding system. The Programme provides support to building owners to support the identification of relevant buildings, alongside the assessment and mitigation of relevant risks. The standard set out in the Single Building Assessment Specification is "tolerable risk" which is commensurate with the assessment standards adopted across the UK.

There can be significant variation in the methods and materials used in a given building's construction or refurbishment, resulting in significant variations in overall risk profile. As such it is not possible to specify the exact works that may be required to bring a building to tolerable risk, which will depend on the outcome of a Single Building Assessment. The works may well include the removal and replacement of external wall cladding panels, but works may include other actions to mitigate the risk to life created or exacerbated by a building's external wall cladding system.

Therefore, retaining the broader definition of "building safety expenditure" will ensure that revenue raised through the Levy can be spent for its intended purpose, without increasing administrative burdens in determining which funds were allocated to specific activities within the Programme or arbitrarily curtailing the ability of Scottish Ministers to fund cladding remediation work in comparison to their UK Government counterparts.

In addition to this, if the purposes for which the proceeds could be spent were limited further there would be an increased chance of disputes with taxpayers over whether expenditure fell within the scope of permitted expenditure.

Nevertheless I note the Committee's concerns over the current definition. I will consider whether this wording may be tightened to provide greater certainty or the reporting requirements strengthened to provide for greater transparency.

148. The Committee recommends that the Bill is amended to include a sunset clause to provide an opportunity to robustly review after 15 years how the levy is operating and for the Scottish Parliament to then decide whether the law should remain in place. This, we consider, should provide much-needed reassurance to the industry that the levy is not intended to become a permanent tax on housebuilding.

The Scottish Government sought views on a sunset clause provision in our public consultation. While some respondents expressed support for such a provision, others noted that an end date may not be feasible and that a sunset clause may incentivise developers to delay the introduction of developments.

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The Scottish Government considers it paramount that the Cladding Remediation Programme is sufficiently funded in order to carry out the much-needed work to safely remediate our existing housing infrastructure. Providing a hard end-date may be premature and invites risk in the delivery of the Programme, particularly in comparison with the powers for UK Ministers whose England-only levy does not contain a sunset clause. I will, however consider whether the reporting provisions in the Bill can be strengthened to include a clear date for review of the SBSL, ahead of Stage 2.

155. The Committee believes that Revenue Scotland is well placed to administer the SBSL given its experience in collecting a range of devolved national taxes.

I welcome the Committee's views.

156. We are concerned that the initial set-up costs for the administration of the levy are well in excess of Revenue Scotland's target of 1% of revenues generated. We remain to be convinced that these costs are proportionate to the likely revenues expected to be raised by the levy.

I note the Committee's views regarding Revenue Scotland's costs as set out in the Financial Memorandum. The costs set out in the Financial Memorandum, if scaled over a Levy lasting for 15 years (i.e. alongside the anticipated duration of the Cladding Remediation Programme), will represent £12.5 million against revenues of £450 million, a net positive of £437.5 million. With no corresponding UK-wide tax in Scotland, there are no costs due to HMRC and no Block Grant Adjustment, meaning this represents wholly additional revenue for the Scottish Budget. Furthermore, as Revenue Scotland referenced in their session with the Committee, it is expected that the additional yearly running costs of administration will be within 1 per cent of revenues collected.

Accompanying documents – Financial memorandum

164. The Committee is concerned that the Scottish Government is not in a position to provide more accurate costs for the cladding remediation work required in Scotland.

I note the Committee's concerns regarding the cost estimates for the Cladding Remediation Programme.

We published capital costs estimates³ in June 2025 which forecast that over a 15-year period the cost to the Scottish Government to assess and undertake essential remedial works on residential buildings over 11 metres will cost between £1.7 billion and £3.1 billion. As outlined in the release, the figures are based on an estimated 1,260 -1,450 residential buildings over 11 metres requiring assessment and works to address risk. The figures also account for optimism bias and construction inflation over this period.

As is normal in large capital projects a range is provided, and we will continue to refine costs as more information becomes available and will release further information ahead of stage 2 that demonstrates the anticipated share of capital costs to be borne by the taxpayer and developers compared to England.

³ [Cladding remediation: capital spend forecasting - gov.scot](https://www.gov.scot/news/2025/06/25/cladding-remediation-capital-spend-forecasting/)
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The response to the open call⁴ and our work with the social housing sector on the number of potential buildings in the programme are in line with our initial building estimates on which the costs forecasts are based. Secondly, at this time the unit costs that were used remain valid, as does our assumptions for optimism bias and construction inflation.

165. On the basis of the evidence we received, the Committee finds the target proceeds of £30 million to be an arbitrary figure and optimistic given the uncertainties around the potential impacts and behaviours. We request that this figure is reviewed once the Scottish Government has carried out the sensitivity analysis recommended above and has considered the impact that the £30 million target will have on the housing market.

The £30 million is based on what the Scottish Government would have expected to receive in consequential had the UK Government Levy been extended UK wide. At 0.6% of the value of the residential property market in Scotland, the Levy is set at a rate that is consistent with levels of fluctuation in the housebuilding market and equivalent to the Building Safety Levy being applied in England.

The Scottish Government will continue to review this as part of the wider work to consider impacts in relation to the setting of rates.

Delegated Powers Memorandum

171. This Committee agrees with the recommendations made by the DPLR Committee in its report and recommends that the Bill is amended as it has suggested.

As set out in my letter to the DPLRC convener on 31 October 2025, I am considering the points raised by the Committee with a view to amending the Bill at stage 2.

While the UK Government is delivering its Building Safety Levy substantially through secondary legislation, the Scottish Government recognises that mirroring the UK Government's approach (to introduce an enabling power in primary legislation and detail of the Levy through secondary legislation) would not provide the Scottish Parliament with sufficient ability to scrutinise the proposals. The Scottish Government has therefore chosen a balanced approach in legislating for the Scottish Building Safety Levy. The Bill as introduced contains provisions relating to taxpayer and tax point, administration, compliance and enforcement. Setting these provisions out in primary legislation provides greater opportunity for parliamentary scrutiny, greater certainty for stakeholders and aligns with the legislative approach taken for Scotland's other devolved taxes.

Alignment between the English and Scottish levies has been a key message from industry stakeholders who operate cross-border, in order to minimise any regulatory burden and avoid market distortions. To ensure that the two levies are broadly aligned, delegated powers have been taken so that Ministers and Parliament have the option to respond flexibly via regulations to changes made to the England-only levy.

172. As requested by the DPLR Committee, the Committee gave further consideration to the following matters.

⁴ <https://www.gov.scot/publications/scotlands-cladding-remediation-programme-monthly-management-information-november-2025/>

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- 1. The Committee agrees that the power in section 6(3) is not appropriately limited in scope and recommends that this power is removed.**
- 2. We considered the possibility of limiting the criteria around the use of section 11(1) which enables Scottish Ministers to make provision for and in connection with reliefs from the Levy in relation to certain building control events.**

The Committee accepts the explanation provided by the Scottish Government that flexibility is required to be able to respond to the demands on the housebuilding sector by providing for types of relief which will reduce the levy payable.

I note the concerns that the power in section 6(3) is overly-broad. The power in section 6 provides for the modification of the list of cases in section 4(2) and 4(3), and the meaning of “exempt new residential unit” in section 5. Section 5 contains several exemptions that are defined through reference to existing statutes, for example the definition of a Scottish Secure Tenancy as set out in section 34 of the Housing (Scotland) Act 2001.

As noted above, alignment with the UK Government’s England-only levy has been a key ask of stakeholders. In order to allow for alignment (where necessary) to future changes in the UK regulations, the Scottish Government recognises it may be necessary to amend other statutes to achieve the desired alignment. The scope of the power in section 6(3) therefore allows Scottish Ministers to adjust primary legislation promptly to avoid market distortion and administrative challenges for cross-border developers.

On point 2, I welcome the Committees view that flexibility is required to enable the Scottish Government to tailor the SBSL to demands on the housebuilding sector.

Conclusions and recommendations on the general principles of the Bill

173. The Committee understands the Scottish Government’s intent but believes that the introduction of the levy carries significant risk. We have concerns regarding the potential impact of the levy on the housing market and on the delivery of houses in areas where the viability of building sites is already a problem.

I note the Committee’s views. The Bill as introduced contains provisions designed to mitigate impacts from the SBSL on developers and sites, such as exemptions for affordable housing and islands, alongside the use of a Levy Free Allowance which will support smaller developers and small-scale rural development by removing them from charge. As set out above, the Scottish Government proposes the Allowance threshold is set at 19 annual units.

174. The Committee is unconvinced that the Scottish Government has fully considered the implications of its self-declared housing emergency when designing the policy approach for this levy. We also believe that the policy design has been focussed on the arbitrary figure that the levy could raise and not sufficiently on developing a good, well-structured levy that is sustainable.

I note the Committee’s view. The Scottish Government considers the revenue target secures a fair contribution from developers towards cladding remediation and by applying a rate of

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tax that is equivalent to that which will be in place in the majority of the rest of the UK, any risks associated with tax arbitrage are mitigated.

175. On the basis of the evidence received, the Committee makes no recommendation on the general principles of the Bill. We trust that the Scottish Government will respond positively to our recommendations to inform further discussion of the general principles during the Stage 1 debate in the Chamber in January 2026.

I thank the Committee for its consideration of the Bill at Stage 1. As set out in the points above, the Scottish Government will continue to work with Parliament and stakeholders to deliver legislation that provides the necessary funding needed to support cladding remediation efforts, whilst operating with as little friction as possible on the housebuilding industry. The Scottish Government will also continue to work towards securing cross-party support for the Bill, just as the UK Government achieved with its Levy in England.

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