



Department for Levelling Up,
Housing & Communities

**Department for Levelling Up,
Housing and Communities**

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www.gov.uk/dluhc

To:

The Chief Executive
The section 151 officer of the Local Government Act 1972
Unitary, Metropolitan, District and London Borough
Councils in England
The Town Clerk, City of London
The Clerk, Council of the Isles of Scilly
The Sub-Treasurer, Inner Temple
The Under Treasurer, Middle Temple
The Head of Building Control
Unitary Metropolitan, District and London Borough
Councils in England
City of London
Council of the Isles of Scilly

3 Nov 2022

Dear Sir or Madam,

The Building Safety (Fees and Charges) Regulations 202[3] and proposed Building Safety Regulator Charging Scheme

The Building Safety Regulator's (BSR) consultation on proposals for BSR fees and charges regulations closed on Friday 7th October 2022 [[BSR consultation on proposed fees and charges regulations - Health and Safety Executive - Citizen Space \(hse.gov.uk\)](https://www.hse.gov.uk/citizen-space/bsr-consultation)]. This set out the Building Safety Regulator's proposals for the Building Safety (Fees and Charges) Regulations together with an underpinning charging scheme. As part of the cost recovery proposals for the BSR, "relevant authorities" under the Building Safety Act (BSA22) will be asked or directed to assist the BSR in carrying out its chargeable functions and the BSR will look to recover those costs from legal entities within BSA22. It has been agreed that LABCs, as one of those relevant authorities, will set their own hourly rates (alongside Fire and Rescue Services and the BSR itself). These rates will initially be used to inform the BSR Full Business Case (FBC) for approval by HM Treasury. Final rates will need to be agreed and published in advance of the chargeable functions going live, currently from October 2023, and will inform the reimbursement process.

Scope of this Circular Letter

The guidance in this Circular Letter applies to local authority buildings control teams, buildings and building work in England.

Background

BSA22 establishes BSR within the Health and Safety Executive (HSE). The BSR will have three main functions:

- leading implementation of the new regulatory regime for higher-risk buildings (which includes high-rise buildings);
- helping and encouraging the built environment industry and building control professionals to improve their competence and organisational capability; and
- overseeing the safety and standards of all buildings.

Cost recovery will be one source of BSR's funding. Under BSA22, regulations can be made to allow BSR to charge fees and recover charges for, or in connection with, carrying out its relevant ("chargeable") functions. This includes the recovery of expenditure incurred by a relevant authority or third party as a result of any action taken to comply with a BSR request or direction for assistance.

Section 13 of the BSA22 provides for a relevant authority (local authority or fire and rescue authority) to provide assistance to BSR in delivering a function. This assistance will be delivered through a multi-disciplinary team (MDT) convened by BSR. The BSR reimbursement rates for local authorities and fire and rescue authorities are to be determined independently. These relevant authorities are responsible for calculating their own hourly rates for BSR's reimbursement purposes in line with the relevant elements of Managing Public Money and the Chartered Institute of Public Finance and Accountancy (CIPFA) local authority building control accounting guidance. These hourly rates will inform the BSR Full Business Case (FBC) and ensure the BSR's financial case is a true reflection of the expected local authority costs alongside the relevant operational assumptions.

The draft charging scheme for BSR fees and charges, published alongside the consultation, sets out a series of schedules which detail the functions that will be charged for under the Building Safety (Fees and Charges) Regulations, who will pay, the basis of the fees and charges, and where the costs of relevant authorities and/or third parties may be included.

You are listed as a relevant authority under the Building Safety Act 2022 and these cost recovery proposals are applicable where BSR requests (or directs) the expertise and/or assistance of your local authority building control team. The Joint Regulators Group is also currently conducting in occupation policy design trials, that have included representatives from local authority building control, to refine how MDTs will work in practice and this detail will be published in due course.

LABC hourly rates

We need an estimated 2023/24 hourly rate for your building control team in supporting the BSR to inform the FBC for approval by HM Treasury and there will be an opportunity to further refine this in advance of the chargeable functions going live from October 2023 and publication of the rates in advance of this go live date. It is not proposed to consult on the individual cost recovery rates of relevant authorities, and these should be calculated in accordance with your normal practices (Annex A to the draft Charging Scheme provides an example of how HSE sets fees and charges).

It is anticipated that the day-to-day administration of the MDT, IT infrastructure and overall project management will be provided directly by BSR. The building control hourly rate to support the BSR should, therefore, be calculated on the basis of the individual/s providing the professional support to BSR. These individuals will need to have the right skills, knowledge and experience to undertake the relevant duties. As such they might be the more experienced members of your building control team, registered as Building Inspectors as described in Part 3, section 44 of BSA22, but do think about who is most appropriate. It is important that the hourly rates to support BSR are calculated transparently and on the basis of cost recovery only as they will be audited as part of your normal annual audit but also as part of the proposed future audit of building control teams. A consultation on the registration of building control inspectors and associated competence levels will be issued shortly.

The cost of registration of building control inspectors, validation of competence and audit of building control teams should not be included within the building control hourly rate to support BSR as these will be considered separately.

Next steps

I would be grateful therefore if you would forward details of your proposed hourly rate to support BSR, authorised by your local authority's s.151 Officer, together with a brief explanation of how this rate has been calculated to bsr-fees-charges@hse.gov.uk headed [local authority name]BSR rates by no later than 16th November 2022.

There will be a further opportunity to update rates prior to October 2023 when the full Fees and Charges Regulations are expected to come into force. These rates will be made available on the LABC website and cross-referenced in the BSR Charging Scheme published before the regulations come into force. Rates will be reviewed annually and referenced in any new Charging Scheme published.

Enquiries

Enquiries on this letter should be sent to bsr-fees-charges@hse.gov.uk headed [local authority name]enquiry. (This is a shared email, monitored Monday to Friday usual hours.)

Yours faithfully,

A handwritten signature in black ink that reads "V. Molho". The signature is written in a cursive, slightly slanted style.

Victoria Molho
Deputy Director
Technical Policy Division

***Department for Levelling Up,
Housing and Communities***