12 March 2018

Energy Saving Trust submission

Domestic Private Rented Sector minimum level of energy efficiency

Energy Saving Trust is pleased to submit evidence as part of the inquiry into minimum energy efficiency standards in the domestic private rented sector, launched by the Department for Business, Energy and Industrial Strategy.

The Energy Saving Trust is the leading, impartial sustainable energy organisation, focused on changing the way we use energy in homes, communities and road transport. We provide advice on sustainable energy to millions of citizens each year, work on behalf of governments and businesses to administer energy saving programmes, and carry out research. We work principally in the UK but also in partnership with other energy agencies across Europe and globally.

We seek to influence government to develop a positive and effective policy framework for sustainable energy. We provide policy insight to governments from our work with individual householders, community groups, businesses, local authorities and other stakeholders, and from our international insight.

EST is the leading organisation working with householders on energy efficiency. We run the Energy Saving Advice Service for BEIS and support energy suppliers in the delivery of their ECO obligations. In Scotland we are the Scottish Government’s main delivery partner in home energy efficiency programmes.

Introduction

Energy Saving Trust welcomed the commitment in the Clean Growth Strategy[1] for the Government to look to make the Minimum Energy Efficiency Standards (MEES) regulations more effective, and to look at the long-term trajectory for energy performance standards across the private rented sector (PRS), with the aim of as many private rented homes as possible being upgraded to Energy Performance Certificate (EPC) band C by 2030.

We also welcome the publication of this consultation. The implementation of these standards will not only improve the lives of the people living in some of the worst properties in the country, it will also offer significant economic and wider social benefits to the UK. We strongly support the principle now established through this consultation that landlords of low efficiency homes should have to pay towards bringing their properties to a minimum standard. Legislating for landlords to fund energy efficiency improvements will help grow and develop the energy efficiency sector, which will be essential if the UK is to meet its carbon reduction commitments. If retrofit were to be driven entirely by financial incentives, then it would place a considerable burden on the Exchequer, so mobilising private finance is essential.

However, we have a number of serious concerns regarding the policy proposals outlined in the consultation. We believe that the proposals strike the wrong balance between landlords and tenants. We believe the proposals should be focused on:

- minimising the number of households living in substandard conditions;
- contributing to meeting interim and long-term fuel poverty targets, as set out in the Fuel Poverty Strategy;
- supporting landlords to go beyond EPC band E and consider whole house approaches to fuel poverty-proof properties, therefore minimising the number of interventions required in each property over time and optimising the cost-effectiveness of the investments in terms of carbon emissions reductions; and,
- considering the additionality of the policy with Energy Company Obligation (ECO) when funding is not used to meet legal minimum standards.

This consultation therefore does not instill confidence that the Government is prepared to act in line with the level of ambition outlined within the Clean Growth Strategy.

In preparing this consultation EST has drawn on, and contributed to, the knowledge of PRS Coalition Group co-ordinated by the Association for the Conservation of Energy. The Coalition has identified the following relevant data on the condition of the PRS:

- Compared with other housing tenures, the PRS has the largest proportion of energy inefficient F and G rated properties (6.3% or 280,000 properties). In comparison, only around 0.7% of social housing is F and G rated[2].
- The government's most recent fuel poverty data[3] show that households living in the PRS have the highest prevalence of fuel poverty - 21.3% compared to 7.4% in the owner occupier

[1] www.gov.uk/government/uploads/system/uploads/attachment_data/file/651232/BEIS_The_Clean_Growth_online.pdf
[2] https://www.gov.uk/government/statistical-data-sets/live-tables-on-energy-performance-of-buildings-certificates
[3] https://www.gov.uk/government/statistics/fuel-poverty-detailed-tables-2017

sector but rising to a staggering 45.7% when focussing on F and G rated PRS F and G properties.

Indeed, the Committee on Climate Change (CCC) highlights in its recent Independent Assessment of the Clean Growth Strategy[4] that "*Action is needed now to make the private-rented sector regulations fully effective*". The key issue arising in this consultation for us, and other stakeholders, is the level of the proposed price cap. BEIS's own Fuel Poverty Committee, in its most recent annual report[5], called for a price cap of £5,000 claiming it would provide £0.3billion of the £0.9billion 2020 funding target, and if the price cap did not go ahead the government would have to find extra funding from elsewhere. The Fuel Poverty Committee also considers a £5,000 cap to be a reasonable requirement for landlords, and claims tenants in EPC band F and G properties are effectively paying a rent premium of £918 and £1,568 per year (through higher energy bills compared to the national average). The government's own impact assessment finds that a £5,000 price cap would result in 93% of F and G band properties receiving significant investment in energy efficiency, even if they are not brought up to EPC band C. Conversely, the £2,500 price cap results in less than half of F and G band properties receiving energy efficiency investment.

If the government is serious about meeting its own fuel poverty targets[6] – which includes an interim milestone for as many as many fuel poor homes as is reasonably practicable to band E by 2020 – then greater ambition is required.

Question 1: Capped landlord contribution proposal

Do you agree with the policy proposal under consideration here to introduce a landlord contribution element where funding is unavailable to ensure improvements to Band F and G properties can be delivered (unless a valid exemption applies)? This would be subject to a cost cap as discussed below.

If you do not agree, what are your objections, and how do you recommend the energy efficiency minimum standard should be achieved, given the current funding climate? Please provide reasons and evidence where available to support your views.

Yes. EST agrees with the policy proposal that landlords should contribute to improving the energy efficiency of their property. Landlords, regardless of the number of properties they own, are businesses and as such they should meet minimum standards in order to operate in the market. It is unacceptable for landlords to be receiving income from renting out substandard properties that do not provide a healthy living environment that supports their tenants' wellbeing.

Question 2a: Setting a cost cap for the domestic minimum standard

Do you agree that a cap on costs for improving sub-standard domestic PRS property should be set at £2,500? If you do not agree, what would be the most appropriate level to set the threshold? Please provide reasons and evidence where available to support your views.

[4] www.theccc.org.uk/wp-content/uploads/2018/01/CCC-Independent-Assessment-of-UKs-Clean-Growth-Strategy-2018.pdf

[5] https://www.gov.uk/government/publications/committee-on-fuel-poverty-annual-report-october-2017

[6] Cutting the cost of keeping warm, A fuel poverty strategy for England: www.gov.uk/government/uploads/system/uploads/attachment_data/file/408644/cutting_the_cost_of_keeping_warm.pdf

No. EST disagrees that the cap on costs for improving sub-standard domestic PRS properties should be set at £2,500. We firmly believe that this should be set at £5,000 in order to maximise the number of properties that receive energy efficiency measures and to ensure that as many households as possible are taken out of fuel poverty.

Table 3 from the consultation highlights the number of properties that will be impacted by the policy across a range of cost cap options:

Table 3: Estimated impacts of cap level policy options 1 – 4 (see impact assessment for further analysis and discussion)

Cap Level	% of homes reaching Band E or above	Number of homes improved to E	Number of homes insulated by April 2020 (including those not reaching E)	Average cost of achieving Band E or above	Average cost for properties not reaching Band E*:	Estimated average annual energy savings for tenants
Option 1: £1,000	14%	40,000	129,400	£150	£325	£85
Option 2: £2,500	**30%**	**85,000**	**139,200**	**£865**	**£1,025**	**£95**
Option 3: £3,500	32%	90,000	155,600	£975	£1,430	£109
Option 4: £5,000	42%	120,000	260,400	£1,700	£2,100	£188

** Means average cost for properties which make as much progress as possible towards the minimum standard but are unable to reach E.*

This table highlights that the Government's preferred option (2 - £2,500) will only result in 85,000 (30%) of the 280,000 F and G EPC rated properties being improved to EPC band E or above.

In comparison, option 4 (£5,000) would result in 120,000 (42%) of F and G EPC rated properties being improved to EPC band E of above.

Table 3 also highlights that option 2 (£2,500) will only result in 139,200 (49.71%) of the 280,000 F and G EPC rated properties having some form of energy saving improvement. This will leave 140,800 homes (50.2%) with no improvements to their energy performance.

In comparison, option 4 (£5,000) would result in 260,400 (93%) of the 280,000 F and G EPC rated properties having some form of energy saving improvement. This will leave just 19,600 homes (7%) with no improvements to their energy performance.

Furthermore, it may be assumed that, under option 2, the vast majority of homes that benefit from efficiency improvements will be the easier to improve F band properties, meaning that many of those receiving no improvement will be the poorer performing G band properties. As option 4 results in 93% of properties receiving improvements, it is probable that almost all F band properties and many G band properties will be improved.

In terms of investments into energy efficiency, according to CCC[7], to meet the 2030 fuel poverty target of all fuel poor homes being brought up to we need to spend £1.2bn/year on energy efficiency measures. ECO only provides £640m a year, so an additional £560m/year is necessary. If

[7] https://www.theccc.org.uk/wp-content/uploads/2014/11/CCC_ModellingProposedFuelPovertyTargets_FinalReport_Nov2014.pdf

the government wishes to mobilise as much private funding into energy efficiency as possible, then option 4 (£5,000) results in nearly four times as much private funding in energy efficiency as option 2 (£2,500) does (£500m compared to £129).

Finally, this table highlights that the Government's preferred option (2, £2,500) will result in average savings to tenants of £95. In comparison, option 4 (£5,000) would result in average savings to tenants of £188. Homes should be affordable to rent and affordable to live in. If the government is serious about meeting its own fuel poverty targets[8] – which includes an interim milestone for as many as many fuel poor homes as is reasonably practicable to Band E by 2020 – then the cost cap must be set at £5,000 to ensure that as many households are supported.

Proposal 2, setting the cost cap at £2,500, goes against statements within the Clean Growth Strategy to "develop a long-term trajectory to improve the energy performance standards of privately rented homes" as it leaves 70% of properties in bands F and G.

EST considers that a £5,000 cost cap is not unreasonable. All responsible landlords have contingency funds for void periods, rent arrears, refurbishment, maintenance and repairs, such as a new boiler.

It has been suggested that a cost cap greater than £2,500 would lead to some landlords increasing rents to recoup their investment, or pulling their properties out of the rental market altogether to avoid having to make the investment. None of us can be certain whether this would happen, but we would argue:

- Only a small proportion of private landlords would be affected by the higher cap, only a proportion of these would be required to spend the full £5,000, and only a proportion would be tempted to stop renting or increase rents.
- If any properties were taken off the market as a result of a higher cap, these would all be substandard by definition and would have remained substandard under a lower cap. It has already been established that these properties are not fit to be rented out without substantial improvements.
- If substandard properties are taken off the market in significant numbers, then this may encourage more owners of energy efficient properties to enter the market.
- There is potential to use the introduction of the new regulations as a hook for an awareness campaign about the true costs of living in inefficient housing. Such a campaign could help mitigate the negative impacts of any rental increases that might occur, while also creating a more informed and market where it is less attractive to increase rents in any property towards the lower end of the EPC scale.

If the Government is concerned about the financial burden on smaller landlords, they should take steps to support landlords in the implementation of minimum energy efficiency standards. This could be through a variety of approaches:

- By designating energy efficiency measures as repairs, rather than improvements.

[8] Cutting the cost of keeping warm, A fuel poverty strategy for England: www.gov.uk/government/uploads/system/uploads/attachment_data/file/408644/cutting_the_cost_of_keeping_warm.pdf

- Reducing VAT on the purchase and installation (e.g. labour) of energy saving materials to 5% or 0% (as outlined in a recent ACE report: 'Incentives for home energy retrofit'[9]).

When considering the reintroduction of the Landlord Energy Saving Allowance (LESA), we can understand Treasury's supposed reluctance to take this approach, with the assertion that LESA is not an effective way of delivering desired policy outcomes. We would argue that LESA would be supporting the implementation of MEES, and MEES itself would be delivering the policy outcomes.

In conclusion, raising the cost cap will be vital to protect the most vulnerable tenants living in the worst-performing properties, eliminating the worst-performing properties from the rental market altogether and supporting the drive towards eliminating fuel poverty and moving the UK towards becoming a low carbon economy.

Question 2b: Treatment of value added tax (VAT) under a cost cap

Do you agree that a cost cap for improving sub-standard domestic private rented property should be set inclusive of VAT?

No. EST disagrees that a cost cap for improving sub-standard domestic private rented property should be set inclusive of VAT. By excluding VAT from the cost cap, we can maximise the amount of money spent on energy efficiency improvements. It should then be for the Exchequer to decide if they wish to reduce VAT on energy efficiency improvements in order to support landlords.

Question 3: Pre-October 2017 Energy Efficiency Improvements

Do you agree that a cost cap should not take account of spending on energy efficiency improvements incurred prior to 1 October 2017?

If you do not agree, what would be the most appropriate way of taking account of previous spending on measures which have failed to raise a property above EPC F or G? Please provide reasons and evidence where available to support your views.

Yes. EST agrees that the cost cap should not take account of spending on energy efficiency improvements incurred prior to 1 October 2017. While it is good that landlords have invested to improve their property, if it is still substandard then this investment should not be taken into account.

Question 4: Third Party Finance - reducing costs to landlords under a cost cap

Do you agree with the proposal that where a landlord contributes to the improvement, the cost cap threshold should be inclusive of any funding which can be obtained through a 'no cost' finance plan (including a Green Deal finance plan), Supplier Obligation Funding (for example, ECO: Help to Heat or a 41 Chapter Three: Consultation proposals and questions successor scheme), or energy efficiency grant funding from a Local Authority or other third parties?

[9] www.ukace.org/wp-content/uploads/2018/01/Incentives-for-Energy-Efficiency-Retrofits-Survey-Report.pdf

If you do not agree, please provide reasons and evidence where available to support your views.

No. EST disagrees that the cost cap threshold should be inclusive of any funding which can be obtained through a 'no cost' finance plan, supplier obligation funding or energy efficiency grant funding from a local authority or other third parties. Landlords should meet minimum standards in order to operate in the market. EST considers that a cost cap set at £5,000 represents a reasonable burden to landlords; there is therefore no justification for allowing other sources of funding to meet it.

It is also questionable over whether using ECO funding to meet the minimum requirement is eligible under Ofgem's ECO regulations. In Ofgem's current ECO2t Guidance[10] (paragraph 2.2): *"A qualifying action is the installation at domestic premises of a measure that meets the eligibility criteria specified in the ECO2 Order. The act of promotion is therefore linked to the act of installing a measure. A supplier promotes the installation of a measure if it is a cause of that measure being installed".* This implies that ECO funding cannot be used to install measures that the landlord is already legally required to install. We understand that ECO funding cannot be used where energy efficiency improvements are formally required under environmental health regulations (HHSRS) and do not see why the situation with regard to MEES should be different.

In addition, the proposal to amend the regulations means that a landlord is only legally required to meet the standard if they have to spend less than the cost cap, including any money supplied by ECO. In the absence of any ECO (or other) funding, they would still have to spend up to the cost cap. We are concerned that this will create an uneven playing field. ECO funding is not available to all landlords; a key factor will be if the tenant is in the ECO qualifying group. We do not see why landlords of tenants who happen to in the ECO-qualifying group should effectively have less onerous regulations.

Use of Green Deal finance is also dubious. Under such finance the tenants would fund the improvement works through levies on their energy bills, thus shifting the cost of meeting the requirements from the owner of the property to those renting it out. In a way, this would be obliging tenants to pay for the landlord's failure to bring the property up to standard.

In some locations grant funding from local authorities, including carbon offset funds, and other third parties is available. In such situations we would again argue that additionality rules should be applied.

It has been argued that excluding external funding from the cap would make the scheme more difficult to police. The argument is that the regulator would have difficulty in obtaining true costs for any improvements supported under ECO, and would therefore find it difficult to determine when a cap had been reached.

This argument makes no sense to us, as there is no need to establish the true cost of ECO improvements unless external support is included in the cap. If external funding is excluded, then the landlord will need to provide evidence of their contribution to any ECO work, plus their payments for any non-funded works, in order to claim an exemption. There would be no need for energy suppliers to provide costs of works in individual properties, or for a regulator to consider

[10] https://www.ofgem.gov.uk/publications-and-updates/energy-company-obligation-2017-18-eco2t-guidance-delivery

these total costs at all. We argue that excluding external funding sources from the cap will make the regulations easier to police, not more difficult.

Therefore, EST would recommend that any additional finance and funding should not be included in the cap, and instead be used to support energy efficiency improvements beyond legal requirements. EST instead feels that landlords should be encouraged to use additional finance to go beyond the minimum standards, and thus future proof their properties against further rises in minimum standards. Such an approach would promote whole house retrofit approaches beyond EPC band E, which could fuel poverty proof a property. This would also benefit landlords by minimising the number of energy efficiency interventions required over the period of MEES and the regulations move up the EPC bands.

Question 5: Identifying supplier obligation spend

Do you agree that it is not necessary to place a regulatory duty on energy suppliers, or their agents, to provide landlords with cost information relating to the value of energy efficiency improvements made to the landlord's property through a supplier obligation?

No. If ECO funding is included within the cost cap, then it is essential that landlords have access to cost information. If ECO funding is not included in the cost cap then this becomes less of an issue; not including ECO in the cost cap will reduce regulatory complexities, such as the issue raised here. We also feel that there should be more guidance and advice for landlords on how to access and make the best use of ECO funding.

Question 6: Demonstrating an exemption where a sub-standard property cannot be improved to E within the cap

Where a landlord is intending to register a 'high cost' exemption, should the landlord be required to provide three quotes for the cost of purchasing and installing the measures, in line with the non-domestic minimum standards?

If you do not agree, please provide reasons and evidence where available to support your views.

Yes. EST agrees with this proposal. Landlords who are intending to register a 'high cost' exemption should be required to provide three quotes for the cost of purchasing and installing the measures. There is no reason why this requirement should be any different to the MEES regulations in the non-domestic sector. It will of course be necessary to establish a robust framework to test the validity of the quotes, and to investigate if the quotes seem excessive.

Question 7: Curtailment of existing 'no cost' exemptions

Do you agree with the proposal to limit the validity of any 'no cost to the landlord' exemptions (under Regulation 25(1) (b)) registered between October 2017 and the point at which a capped landlord contribution amendment comes into force?

If you do not agree, what are your objections, and how do you recommend that the minimum standard regulations be amended to ensure the energy efficiency improvements are delivered to

such properties which might otherwise be left unimproved once the amended regulations came into force? Please provide reasons and evidence where available to support your views.

Yes, EST agrees that the government should limit the validity of any 'no cost to the landlord' exemptions registered between October 2017 and the point at which a capped landlord contribution amendment comes into force.

We would recommend however that BEIS seeks legal advice, to ensure that any appeals to the FTT would be quashed and engage with the First Tier Tribunal (FTT) on this issue.

Local authorities will also require reassurance that that they can successfully revoke exemptions without risk of cases being overturned at the FTT. The resource burden on local authorities to prepare for, and attend, FTT cases can be considerable. Government should take steps to minimise this additional burden. Government should also provide clear legal guidance to local authorities demonstrating the legality of curtailing existing exemptions.

Question 8: Exemption where a tenant has refused consent to a Green Deal Plan

Do you have views on whether the consent exemption under Regulation 31(1) (a)(ii) should be removed from the minimum standard regulations or retained? Please provide reasons to support your views

Yes. EST feels that consent exemptions should be removed, especially if Green Deal finance is included in the cost cap. There should not be an onus on tenants to help fund the landlord's legal obligations. The landlord should be required to bring properties up to minimum standards regardless of whether tenants are willing to pay for the required measures through increases to their energy bills. There are further concerns over policing of such an exemption, local authorities may struggle to enforce the proposed regulations in general, without having to also engage with tenants who are said to have refused consent. If Green Deal funding is not included in the cost cap, then this exemption will not be necessary, reducing the regulatory complexity.

Miscellaneous questions

Question 9: Do you have any comments on the policy proposals not raised under any of the above questions?

The future trajectory of MEES

While BEIS has noted its intention to consult on the trajectory of MEES later in the year, EST would recommend that details of the overarching trajectory – that PRS properties will be required to meet EPC band C by 2030 – should be included in guidance to landlords and local government as soon as possible. This will reaffirm government's commitments set out in the Clean Growth Strategy.

Some local authorities have aspirational targets to reach EPC band D and C as part of accreditation schemes for example, and that it is unhelpful that they can only state the initial milestone associated with MEES.

Outlining the trajectory of MEES will promote whole house retrofit approaches beyond EPC band E, which could fuel poverty proof a property, and support clean growth. This would also benefit landlords by minimising the number of energy efficiency interventions required over the period of MEES as the regulations move up the EPC bands.

A firm trajectory will also enable the energy efficiency supply chain to better plan resources for delivery, helping to ensure the availability of qualified and experienced installers at the right time.

Enforcement of regulations
EST believes that more needs to be done to support local authority enforcement teams and ensure they have adequate resources. The government needs to provide clear guidance on how to enforce regulations, and take measures to encourage sharing of best practice enforcement between authorities.

Advice services
EST believes that the proposed regulations would be more effective if the government were to provide clear advice, or even run an advice service, through which landlords could access information on how to comply with regulations and how best to improve their properties in order to bring them up to minimum standards. Such a service could also encourage them to go beyond minimum standards to future proof their properties against future increases in minimum standards.

Examples of support schemes offered by EST Scotland
In Scotland there are several schemes run by EST on behalf of the Scottish Government (SG), which could be replicated in England and Wales to provide support to landlords in meeting the minimum standards. A summary is provided below, see here for full details.

- **Home Energy Scotland Loan:** An interest free loan (funded by SG), provided to small (3 properties or less) landlords to make energy efficiency improvements, install home renewables or connect to a district heating scheme.
- **HEEPS Equity Loan:** A pilot equity release scheme, where SG allows landlords to borrow against the value of their home(s) to make repairs and energy efficiency improvements.
- **Resource Efficient Scotland SME Loan:** Interest free loans of £1,000 to £100,000 to help private sector landlords improve the energy efficiency of their properties.

Question 10a: Do you have any evidence or comments regarding the consultation impact assessment (including views on any of the assumptions we have made to support our analysis), which could inform the final stage impact assessment?

As EST understands it, the impact assessment assumed financial support and funding for energy efficiency would be included in the cost cap. Has there been an assessment of the impacts if such support were not included in the cap?

We are also concerned that the impact assessment seems to indicate that benefits to landlords, such as reduced maintenance, reduced voids, lower levels of rent arrears, and improved asset value, have not been taken into account.

Question 10b: Do you have any evidence or information on the potential for these proposals to impact on the PRS market, including any potential for landlords who are required to act by the minimum standard regulations to pass through costs to tenants after making improvements to their properties?

Yes, Citizens Advice commissioned a report last year by Frontier Economics[11] assessing the impacts of the minimum standards in a variety of properties across the UK, including an assessment of the impacts of a £5,000 price cap. They found that even if the landlord did fully pass through costs to the tenants, they would still (on average) save several hundred pounds per year (depending on the property); with the reduction in fuel bills more than compensating any increase in rent. The report also found that spending £5,000 would only negatively impact the landlords net yields by 0.02 – 0.05% for F band properties, and 0.05 – 0.17% for G band properties. The report also found it highly unlikely that properties would leave the market, due to the relatively small cost imposition and the opportunity cost of lost rent.

Question 10c: Can you provide any evidence on the likely costs associated with the compilation of evidence in advance of registering an exemption on the PRS Exemptions Register?

Details of the evidence a landlord would be required to submit to support an exemption registration are at Appendix A.

No.

11 https://www.citizensadvice.org.uk/Global/CitizensAdvice/Energy/Frontier%20Economics%20for%20Citizens%20Advice%20-%20The%20Impact%20of%20Minimum%20Energy%20Efficiency%20Standards%20in%20the%20Private%20Rented%20Sector.pdf