

Improving the Energy Performance of Privately Rented Homes in England and Wales

Citizens Advice response
to BEIS consultation
January 2021



Summary

We welcome the government's proposals for raising energy efficiency standards in rental homes. A target of EPC Band C, and the increased cost cap will help millions of tenants with their fuel bills. This proposal represents a significant step up in ambition needed to reach carbon and fuel poverty goals.

The success of the regulation will depend on the introduction of a suite of enforcement measures. Key among them is the introduction of a national landlord register, which will help local authorities efficiently and effectively take action against non-compliance. A national landlord register also has the potential to improve standards across the private rented sector (PRS) more generally, beyond just energy efficiency. Despite the size of this market, and the increasing cost of renting, renters do not receive the same level of protection as they do in other essential consumer markets, and many face bad outcomes.

Citizens Advice welcomes a cost cap of £10,000. The government should ensure that landlords have access to low or zero cost finance to reduce any negative impacts on housing availability and affordability. A £15,000 cost cap would go even further to achieve the aims of the regulation, but would need additional support to mitigate any impact on housing affordability.

Context

The private rented sector is an essential market that 4.7 million people rely on. This includes an increasing number of households with children.¹ Since 2000, the number of people renting privately has more than doubled. Long-term unaffordability of home ownership means more people are renting for the long-term².

Over the last year, we helped more than 200,000 people with housing issues. Over 70,000 of these people lived in the private-rented sector.

- 22% had issues with repairs and maintenance
- 18% needed help with their rent or other charges
- 15% had a problem with tenancy deposit protection

¹ Households with children made up 37% of PRS in 2018/19, compared to 30% in 2008/9, Ministry of Housing, Communities and Local Government (MHCLG), [English Housing Survey 2018-19](#), 2020.

² Citizens Advice, [A state of disrepair: Why renters deserve a better deal](#), February 2017

Demand for rental housing has pushed up rents, with housing affordability becoming a struggle for many tenants³. The English Housing Survey finds that private renters spend a higher proportion of their monthly income on housing costs than social renters or those with mortgages.⁴ The COVID-19 crisis has dramatically worsened the situation for many renters: 58% of all people who are currently behind on rent weren't in arrears before the crisis, with half a million people falling behind on their rent because of the pandemic⁵.

Despite high costs, many renters face poor outcomes in the market. People in the PRS are more likely to live in inadequate or unsafe housing. In 2018, 25% of private rented homes failed to meet the Decent Homes Standard, compared to 17% of owner occupier homes, and 12% of social rented homes⁶. Many tenants are reluctant to ask for repairs to their property because they are worried about how their landlord would react⁷.

The cost of living in private rented homes is made even higher by the fact they tend to be more expensive to heat. Without regulation, there is little incentive for landlords to improve the energy efficiency of their stock. While the landlord is responsible for how energy efficient the property is, the tenant typically pays the energy bill. Compared to other types of housing, private rented sector properties are more likely to be in the lowest energy efficiency rating bands of E and below⁸. And the less efficient a property is, the higher the energy bills are likely to be. Around 17.7% of private rented households in England are in fuel poverty, compared to 10.3% of all households⁹. The COVID-19 crisis has exacerbated the problem of energy affordability, and as a result of the crisis, 2.8 million additional people have fallen behind on their energy bills¹⁰.

³ Citizens Advice, 2021, [New year, same arrears: How the pandemic is leaving private renters with unmanageable debt](#)

⁴ MHCLG, [English Housing Survey 2018-19](#), 2020.

⁵ Citizens Advice, 2021, [New year, same arrears: How the pandemic is leaving private renters with unmanageable debt](#)

⁶ MHCLG, [English Housing Survey 2018-19](#), 2020.

⁷ Citizens Advice, [A state of disrepair: Why renters deserve a better deal](#), February 2017

⁸ Citizens Advice, [Effective energy efficiency standards for private renters](#), October 2017

⁹ Department for Business, Energy and Industrial Strategy, 2020, [Annual Fuel Poverty Statistics in England, 2020 \(2018 data\)](#)

¹⁰ Citizens Advice, 2020, [Excess debts - who has fallen behind on their household bills due to coronavirus?](#)

To tackle fuel poverty in England the government has a statutory target to improve all fuel poor homes to an Energy Performance Certificate (EPC) rating of Band C by 2030. It also needs to bring all homes to Band C by 2035 to be on track for carbon targets.

Question 1: We would welcome views on possible impacts of the policy on the size of the PRS sector, the effect this could have on vulnerable households, and suggestions to mitigate this effect where it does occur, including any evidence.

We do not have the evidence to predict with certainty the effect the policy will have on the size of the PRS sector, but we expect it to be limited. Ensuring that landlords have access to finance and wider housing policy measures should be used to mitigate against any effects that do occur.

Making the required improvements will mean a significant cost for many landlords. However, several factors will limit the impact this could have on the availability and cost of housing¹¹, including:

- Supply of housing is relatively inelastic
- Landlords are relatively unlikely to leave the market due to the opportunity cost of lost rental income
- Improving the energy efficiency of a property is likely to increase the resale value of a property, even where it doesn't lead to an increased rent. Landlords would capture this in the long-term value of their asset, dampening their incentive to leave the market
- If a landlord does leave the market, then they are likely to sell their property. It is most likely to stay within the private rented sector, given the sector is increasing as a proportion of housing, and has been for some time¹². This may result in properties being sold from accidental landlords to professional landlords, with the latter better equipped to meet these and other minimum standards.
- If property moves to the owner-occupied sector, this would reduce the size of the rental sector, it would not necessarily reduce the availability of housing in general.
 - An exception to this is in areas which are attractive for second homes or holiday rentals. In this case properties may effectively move out of the local housing market and reduce the availability of

¹¹Frontier Economics, 2017, [The impact of minimum energy efficiency standards in the private rented sector: A report for Citizens Advice](#)

¹²Office for National Statistics, 2019, [UK private rented sector: 2018](#)

housing to meet local demand. In these areas specific support measures may be needed.

The balance of these impacts will depend on the specific character of local housing markets, including the interconnected factors of: rent levels, house prices, housing supply and housing demand and market structure.

A key measure that can help prevent negative effects on the supply of housing will be the ability of landlords to access low- or zero-cost finance, for example through mortgage providers. This will encourage landlords to spread the costs of improvements over time¹³, which will reduce the risk of steep rises in rents or unmanageable costs for landlords.

The government should also look at and set out the role of wider housing policy, and bodies like Housing England, in mitigating any negative impacts of the regulation on the housing market. This should particularly consider local areas and regions where there could be a particularly significant impact on the housing market, for example, in regions with particularly low rents, rural areas, or those that have a market for second homes or other specific local conditions. Between now and 2028, the impacts of the regulation are likely to be dwarfed by much wider issues of housing and planning policy, and any effects of the regulation and steps to mitigate them should be considered in this context

Question 2: Do you foresee any impacts for protected groups? Please provide evidence to support your answer.

We expect the proposals to particularly benefit certain protected groups, notably BAME households, homes where somebody has a disability and homes of pregnant women.

Households in non-white ethnic groups tend to more likely to be in private rented properties than white British households¹⁴. This applies across socio-economic groups and regions. Non-white ethnic groups are also more likely to live in poor quality housing: for example mixed White and Black Caribbean (13%), Bangladeshi (10%), Black African (9%) and Pakistani (8%) households are more likely to have damp problems than White British

¹³ Frontier Economics, 2017, [The impact of minimum energy efficiency standards in the private rented sector: A report for Citizens Advice](#)

¹⁴ UK Government, 2020, [Ethnicity facts and figures](#), Published 18 December 2020

households (3%). BAME households are also far more likely to be in fuel poverty than white households, an inequality that has gradually increased in recent years. They are also more likely to be behind on rental payments as a result of the COVID-19 crisis¹⁵. By improving housing quality and energy affordability in the private rented sector we expect the proposals to have a particular benefit for BAME households.

Other protected groups, while not necessarily more likely to be in fuel poverty, have a higher-than-average risk of harm from living in a cold home including pregnant women, people with a long-term disability and older people. People within these groups are particularly likely to receive health and comfort benefits from the introduction of the regulation.

Question 3: We would welcome views on any possible long-term impacts of COVID-19 that could impact on making the required energy efficiency improvements from April 2025 and suggestions to mitigate this effect where it does occur, including any evidence.

We do not expect the impacts of the COVID-19 crisis to significantly effect the practicality of making the improvements required by the regulation, for example through restricted access to properties under lockdown conditions. The long timescale for the introduction of the regulation, and the possibility of mitigating measures in combination with this timescale, make this unlikely.

At the same time, the crisis has highlighted the need for this regulation. The pandemic has led to higher household energy use, as people have followed stay-at-home measures. We expect the increase in costs to have been particularly high for those living in homes with low energy efficiency. At the same time, the economic impacts of the crisis have increased unemployment and lowered incomes, reducing people's ability to pay for energy. As a result of these two effects, 2.8 million additional people have fallen behind on their energy bills over the crisis¹⁶. This number, and the average size of debt, is likely to increase as the lockdown continues. Improving energy efficiency will make energy more affordable, mitigating against these issues continuing and occurring in future.

¹⁵ Citizens Advice, 2021, [New Years, same arrears: How the pandemic is leaving private renters with unmanageable debt](#)

¹⁶ Citizens Advice, 2020, [Excess debts - who has fallen behind on their household bills due to coronavirus](#)

However, the COVID-19 crisis will have long term effects that could impact the introduction of the regulation. The crisis may negatively affect:

- The availability of capital for some landlords and, as a result, their ability to fund measures
- The budgets of local authorities and, as a result, their ability to monitor and enforce the regulations

The government should consider mitigating measures to address these issues while ensuring that the aims of the regulation are met. Two particular measures that will be needed are:

- Ensuring that landlords have access to low- or zero-cost finance
- Ensuring there are specific and sustainable funding streams for local authorities to enforce the regulation

Question 4: Do you agree with the government's preferred new target of EER C as a minimum energy performance standard in the PRS?

We agree with the target of EPC band C as the minimum energy performance standard for private rented homes.

In the absence of other incentives, minimum energy performance standards are required to improve the energy efficiency of private rented homes. To meet its long-term targets on climate and fuel poverty the government will need to increase the minimum rating to C before 2030. This aligns with the statutory fuel poverty target for England, which states that all fuel poor homes will need to reach EPC Band C by 2030. It also aligns with the government's ambition, set out in the Clean Growth Strategy, that all homes in England and Wales will need to reach Band C by 2035. This ambition is a pillar of the government's commitment to reach its targets for climate reduction.

A single target of EPC Band C, rather than an interim target of Band D, will give landlords greater certainty, allow them more flexibility in planning works and reduce hassle costs, for example by creating greater opportunity to carry out works when properties are empty between tenancies.

However, it should be noted that because of the cost-cap, the regulation will not bring all rented homes up to Band C:

- If a £10,000 cost cap is adopted then 70% of private rented homes are expected to reach EPC Band C
- If a £15,000 cost cap is adopted then 74% of private rented homes are expected to reach EPC Band C

In each case, significant numbers of private rented households will not reach EPC Band C. Other policy measures will be required to improve these households, particularly for households in fuel poverty, otherwise there is the risk that the fuel poverty targets will not be met.

We think using the Energy Efficiency Rating (EER) metric in the Energy Performance Certificate is an appropriate basis for the target. This measure is based on running costs, so should ensure that the regulation is effective in reducing bills for tenants and, in doing so, tackling fuel poverty and meeting the fuel poverty target for England. The EER is also closely correlated with carbon reduction. It also provides continuity with the existing PRS regulations, and landlords are likely to be relatively familiar with the use of the EER rating and the system of recommendations provided by the EPC.

Question 5: We would welcome your views on the pros and cons of these alternative metrics, in relation to our overall policy goals around reducing carbon emissions, fuel poverty, and energy bills; please provide evidence with your answer.

We agree that EPCs, and the Energy Efficiency Rating they show, are the right way to measure progress on energy performance in housing, including in the private rented sector. However, their reliability is often poor and needs to be improved.

We do not see a strong rationale for moving away from the current metric, but would like to see improvements made to the quality of assessments. As it is based on running costs, it is relatively easy for consumers to understand, and ties in to the role of the EPC in providing information to occupiers and potential occupiers. It is an established metric, and already underpins the existing PRS regulations, as well as other government policies and targets, like the fuel poverty target for England and targets recommended to the Welsh Government by The Decarbonisation of Homes in Wales Advisory Group.

However, we have long-standing concerns about the reliability of the assessments that underpin EPCs. In the past, there has been significant variation in the quality of EPCs. This has been highlighted in research by UCL, and in responses to the government's call for evidence on EPCs¹⁷. This variation is great enough that a large number of homes are likely to be in the wrong EPC Band. The UCL research estimated that 24% of Band D homes are rated as Band C¹⁸. Past research for Citizens Advice suggested that the quality assurance framework may not provide enough incentive for firms to produce accurate EPCs, against pressures to keep costs competitive¹⁹. The long validity period for certificates (they are currently valid for 10 years) increases the chances of them being inaccurate.

The evidence shows a level of unreliability can make it hard for consumers to trust the accuracy of their EPC rating and could undermine their usefulness as a benchmark for minimum standard regulations. The PRS regulations increase the importance of EPCs being accurate. If an EPC inaccurately rates a property as EPC band C, the landlord will not be required to make improvements under the legislation. It also gives incentives to bend the rules to get a certain EPC result. Recent changes to quality assurance processes should have helped improve the quality of EPCs and the government's EPC action plan sets out further steps required to improve reliability. For the minimum standards to be effective, it is crucial that BEIS adequately resources and follows-through the steps in the action plan. These should be explicitly supported through the government's response to this consultation. Particularly areas where action needs to be taken:

- Better monitoring and benchmarking the reliability of EPCs
- More effective compliance and enforcement action against assessors producing sub-standard EPCs
- Reducing the validity period of EPCs, for example to 5 years

Question 6: Do you agree with the government's preferred policy scenario of requiring 'new tenancies' to reach EER C from 1 April 2025 and 'all

¹⁷ Jenny Crawley et al (UCL Energy Institute), 2019 [Quantifying the Measurement Error on England and Wales EPC Ratings](#), *Energies* 2019, 12(18), 3523

¹⁸ *ibid*

¹⁹ Pye Tait for Citizens Advice, 2015, [Research into quality assurance in energy efficiency and low carbon schemes in the domestic market](#)

tenancies' to reach EER C by 1 April 2028? If not, do you have alternative suggestions; please provide evidence with your answer.

Yes.

We agree with the proposed timescale. The 2025 new tenancies date and 2028 backstop date provides a good length of time for landlords to plan and prepare for work. It aligns with government climate and fuel poverty targets, particularly the statutory fuel poverty target and the Committee of Climate Change's advice for the Sixth Carbon Budget. Setting the backstop date two years before the fuel poverty target needs to be met is welcome. This ensures there will be time for action to ensure landlords are complying with the regulation, and for support measures to be introduced for those households that are not brought up to Band C by the regulations.

The government should set out plans to ensure that the supply chain will be scaled up sufficiently to meet the demand. Under the Green Homes Grants there has been anecdotal evidence that households have struggled to find qualified installers to carry out works. The supply chain will have to be expanded significantly to carry out the improvements created by this regulation and by other similar policies expected during the 2020s. Depending on rates of churn in rental housing, there is likely to be a significant spike in demand for works around the 2028 backstop date.

It is likely to be harder to enforce the regulations between 2025 and 2028 due to the difficulty for enforcement bodies in determining which properties have new tenancies and are, as a result, within scope of the regulation. This could cause delays in meeting the minimum standards and create extra pressure on enforcement bodies and the supply chain around the 2028 backstop. The government should set out measures to boost compliance and enforcement during this period. This is likely to include, but not be limited to, empowering tenants to challenge non-compliant properties.

The government should clarify what is meant by new tenancy, including whether this includes when a fixed-contract ends and a tenant moves onto a rolling contract.

Question 7: Do you agree with increasing the cost cap to £10,000 inclusive of VAT as our preferred policy proposal? If not, please explain why not and provide evidence with your answer.

The nature of the cost cap

We agree that the cost cap should be set at a flat rate, rather than varying according to, for example, rental yield.

Firstly, a variable cost cap would add significant complexity to the regulation. This could fundamentally undermine the ability of local authorities to monitor and ensure compliance.

Secondly, the aim of the regulation is to lower energy bills, tackle fuel poverty and reduce carbon emissions. These are no less important for some properties than others. A cost cap that is lower for properties with lower rental values would lead to relatively fewer measures being installed in low-income households. These households are expected to be more likely to be in fuel poverty, fundamentally undermining the ability of the regulation to tackle fuel poverty.

Instead of a reduced cost cap for certain properties and landlords, the government should make sure that support is available, for example through zero or low-cost loans to make sure these properties can be improved.

The level of the cost cap

We welcome the proposal for a £10,000 cost cap. This would ensure that the majority of properties in the private rented sector reach EPC band C. Due to the expected distribution of the costs, as shown in the consultation document, any cost cap under £10,000 would steeply reduce the number of homes improved to Band C and the effectiveness of the regulation in achieving its aims.

However, a £15,000 cost cap would bring significant additional benefits. It would bring energy savings of £8.7 billion compared to £7.3 billion for a £10,000 cap. It would also bring greater comfort, health and carbon savings. A £15,000 cost cap is also better value. The net present value with a £15,000 cost cap is £3.2 billion, compared to £0.3 billion, with a £10,000 cost cap.

Net present value increases as the cost-cap increases

Net present value by cost cap level (£bn)



The average increase in costs of the higher cap across all properties would be relatively small (£600). However, it would be split between a small proportion of landlords - around 11% of landlords covered by the regulation. We recognise that the higher cap would increase the risk of unaffordable costs for these landlords and, more importantly, the knock-on impacts on housing costs and availability. In light of this, we recommend that the government considers a £15,000 cost with supporting measures to address affordability issues for landlords with costs above £10,000.

Question 8: Should the £10,000 cost cap be adjusted for inflation?

Yes. Inflation could significantly reduce the value of the cost cap over time, so adjusting for inflation is necessary to ensure the aims of the regulation are achieved.

Even a modest rate of inflation could significantly reduce the number of improvements delivered and, given the anticipated spread of costs across properties, the proportion of homes in the private rented sector reaching EPC Band C. This would undermine the effectiveness of the regulation and its contribution to tackling fuel poverty and carbon reduction.

A 2% rate of inflation, in line with the Bank of England's target rate, would mean the cost cap would be worth around 85% of its current value by 2028, without an inflation adjustment. At the rate of inflation seen over the past 8 years (2011-2019) the level would be around 80%. However, the uncertain economic

impact to the UK of the COVID-19 pandemic and Brexit, inflation could be much higher than this.

Having no adjustment for inflation could also incentivise delays to investment by landlords, delaying the benefits to tenants and to the climate, and reducing the net present value of the policy. It would be logical to review the cost cap in 2024 so it can be adjusted for inflation before 2025.

Under the existing minimum standards the cost cap was not adjusted for inflation. However, in this case an adjustment for inflation was less important as:

- The level of the cost cap was much lower
- The regulation was only expected to be in force for a relatively short period before being superseded by more ambitious regulations of the type proposed.

Both these factors reduced the need for an inflation adjustment in that case but do not apply to the proposed £10,000 cost cap for the current regulations.

Question 9: Should a requirement for landlords to install fabric insulation measures first be introduced? If yes, when, and how should such a requirement be implemented? If no, what are the alternative installation methods that maximise energy efficiency outcomes? Please provide evidence to support your answer.

Yes.

We agree that a fabric first approach should be required. A fabric-first approach focuses on reducing a property's heat demand, which tends to be the best long-term way to reduce energy bills and tackle fuel poverty. This is recognised by the government in its draft fuel poverty strategy for England. A fabric first approach ensures that low-carbon heating systems can be installed in a cost-effective way. If a fabric first approach is not built into the policy it could result in a situation where a landlord making improvements to meet regulation increases costs for a tenant. For example, installing an air-source heat pump in a home that is not well-insulated would result in more expensive bills for tenants, due to the heat loss and the low operating temperature of the heating system.

Given the benefits of a fabric first approach, and the risks if it is not implemented, it should be mandatory. According to the impact assessment, a

fabric first approach would tend to be more cost effective for landlords. We therefore expect this requirement to have minimal negative impact on landlords, and could prevent significant adverse outcomes for both landlords and tenants. Relying on guidance would be more difficult to enforce and could end up having little impact on landlord behaviour.

It is unclear how windows and doors would be treated if a fabric-first approach is taken. They currently sit below low-carbon heating systems in the hierarchy of recommendations made on the EPC certificate. In most cases, this will be appropriate given their long-payback periods. But in homes with particularly poor quality windows and doors, improving their energy efficiency could have a significant impact on a property's heat demand. The government should consider whether certain improvements to windows and doors in certain types for properties should be classed as fabric measures and prioritised above low-carbon heating systems.

Question 10: We would welcome views on the alternative of a dual metric target to reach both EER Band C cost metric and also EIR Band C carbon metric, with an increased cost cap of £15,000 inclusive of VAT.

As outlined under question 7 we think that the government should consider an alternative cost cap of £15,000 with additional measures to address affordability concerns for landlords with costs over £10,000. A dual metric cost cap may be required to meet climate targets. This will also require supporting measures to address affordability and it may also require a longer timeline for implementation.

Question 11: Should government introduce an affordability exemption? If so, we would welcome views on how such an exemption should be designed and evidenced, and any potential impacts on the PRS market.

No. An affordability exemption would add complexity and undermine the effectiveness of the regulation. Other steps should be taken to help landlords where there are particular risks to the housing market.

We understand the rationale behind the proposal. Landlords with a particularly low level of turnover or profit may struggle to fund high cost improvements, particularly if there is a cap over £10,000. This creates a risk of negative impacts

on the housing market if this occurs in areas with a concentration of similar properties, with low rents, or in rural areas with a market for second homes. However, we do not think properties should be exempt from the regulation on the basis of affordability for several reasons:

- Tenants should not be left in a substandard property because of the specific circumstances of the landlord.
- It would rely on a new administrative process to define and prove a landlord's capability to pay, which is not defined in the proposals and is likely to add significant complexity.
- Landlords are likely to use this exemption to avoid complying with the regulations. This and the increased complexity would increase the administrative burden on local authorities and make it more difficult to ensure compliance with the regulation
- To tackle carbon and fuel poverty targets, the government needs to offer solutions that work for all eligible properties. An affordability exemption would simply mean that benefits to tenants and to the climate are delayed. Properties that are left exempt will still have to be improved in future.

Rather than making these properties exempt, the government should look at how it can support landlords of these properties with the affordability of measures, or to otherwise ensure that properties stay within the housing market, either in the form of private rented, social rented or owner-occupied housing. Low- or zero-interest loans are likely to be an important part of the solution. Grant funding could be considered for particularly low value properties with costs over £10,000. Support could also be provided through housing and regeneration policy within specific areas.

Given the lack of detail in these proposals, and the accompanying Impact Assessment, if the government was to introduce an affordability exemption it would need to consult separately on this. We suggest that it instead consults on a broader suite of support proposals that ensure that no property is left behind.

Question 12: What should the eligibility criteria be for an affordability exemption if it is introduced, and how can the criteria accommodate

fluctuations in a landlord's finances and/or in the value of a property?

Please provide evidence to support your answer.

See answer to question 12 above.

Question 13: Should we incorporate TrustMark into energy performance improvement works? If not, please explain why not and provide evidence with your answer.

Yes. We agree that the scheme should encourage the use of Trustmark registered tradespeople.

Energy efficiency work has too often been undermined by poor quality installations and other shortfalls in consumer protection. Calls to Citizens Advice's national consumer helpline demonstrate the problems consumers face with home energy installations²⁰. We are pleased to see BEIS has acknowledged the seriousness of these issues and started to take action²¹.

The proposed private rented sector regulations, along with other policies required to tackle fuel poverty and net zero, will lead to a significant increase in the number of home energy installations in coming years. Without additional protections, this could see a significant increase in consumer problems which will likely undermine consumer confidence and engagement in net zero. In the private rented sector, it could result in damp and cold conditions for tenants and expensive, long-term damage to their property for landlords

The [Each Home Counts review](#) set out a range of measures that together could address quality problems. Many of these have been taken up by Trustmark. Key measures included:

- A single quality mark for all energy efficiency and low carbon home improvements
- A clear redress process with minimum timescales and minimum standards for guarantees
- Improved standards for installation, through improvements to PAS 2030
- Introduction of the retrofit coordinator role, through PAS 2035 to cover the whole lifecycle of a project from assessment, design, installation, and evaluation, to help avoid unintended consequences

²⁰ Citizens Advice, 2020, [Blog: Net zero will require big changes in our homes — we need consumer protections to match](#)

²¹ BEIS, 2019, [Energy Company Obligation \(ECO3\): improving consumer protection](#)

- Improved compliance and enforcement, with stronger oversight of certification bodies

Using TrustMark installers in energy efficiency programmes is essential to ensure that households receiving measures are protected, and the issues outlined above are addressed.

However, while Trustmark is a key protection, the government needs to do more to make sure that the scheme delivers its aims and demonstrate this to consumers. We support the recommendation of the BEIS select committee, that the government should:

put in place the necessary monitoring and feedback mechanisms to ensure that the TrustMark scheme is operating effectively to provide consumers with adequate protection²²

How quality standards can and should be integrated in the minimum standard regulation

There are three options for how the government could encourage landlords to use Trustmark registered traders when carrying out improvements to comply with the regulation.

Firstly, the government should recommend that landlords use Trustmark-registered installers, through government communications and guidance. This would be welcome, but on its own likely to have little impact on landlord behaviour.

Secondly, the government should require Trustmark-registered installers for any work supported with government-backed finance (for example low-cost loans or grants for high-cost properties). This is appropriate and aligns with the approach taken in other policies, like the Energy Company Obligation. The government should also take steps to encourage private-sector green finance providers to make Trustmark to be a requirement of work they support.

Thirdly, the government should require all work done to meet the target be done by Trustmark-registered installers. This would include work that is self-financed by landlords. This would be welcome insofar that it would help

²² House of Commons Business, Energy and Industrial Strategy Committee, 2019, [Energy efficiency: building towards net zero Twenty-First Report of Session 2017–19](#)

raise the standards of all installations under the regulation. However, in the current market landscape, we acknowledge that it would be difficult to implement. Trustmark is one quality mark but does not cover the whole energy efficiency market. This requirement would result in complex issues for landlords and enforcement bodies. Enforcement bodies would have to determine not just whether or not the property meets the required EPC standard, but who did the work, and when. It is not clear what would happen in a situation where a landlord has installed the measures required to comply with the regulation, but used their existing tradespeople or builders, rather than a Trustmark registered installer.

These issues would be overcome by developing a single, comprehensive net zero homes protection framework for providers and installers of household energy efficiency measures or low carbon heating solutions. This is more broadly necessary to give all consumers and landlords confidence to install low carbon heating systems or energy efficiency measures required to reach net zero.

Question 14: What role can the private rented sector play in supporting the rollout of smart meters and what are the barriers and possible solutions to achieving this?

Citizens Advice recognises that the smart meter roll-out can bring significant benefits for tenants and landlords in the private rented sector (PRS).

As identified in the impact assessment, as well as cost savings and energy efficiency gains from IHDs prompting changes in behaviour, the capability to manage void periods and provide accurate final bills where a tenant is responsible for paying for energy could remove a source of potential landlord/tenant conflict. An example situation is outlined below from our consumer service:

Leopold says they are calling as they are the landlord for a rental property. There was a three-week gap between tenants in the home. The supplier made them aware that they owe an estimated bill of £150 for the period. Leopold says they have spoken to the supplier since and has been sent a letter stating the balance outstanding is £0. Leopold says they have then received another

letter requesting the original amount, and are unable to get a clear answer from the supplier.

Given the potential benefits, it is a source of concern that the rate of uptake of smart meters in the PRS is low compared to other households. Just over one in five (21%) of homes in the English private rented sector had an electricity smart meter in 2019, compared with nearly a third (32%) of owner-occupied and social-rented homes²³. Both the clear benefits and evidence of lower uptake suggests there is a role for targeted interventions to ensure that the ability of the PRS to support the smart meter roll-out is maximised.

The range of barriers to smart meter uptake in the PRS is varied, we would highlight two in particular from the evidence we've collected:

Contractual

A wide range of energy industry stakeholders attended our recent Future Energy Consumers digital series of workshops to identify issues enabling different groups of consumers to participate in the future retail energy market. A particular barrier in relation to the PRS was identified as the experience of some tenants who have a change of meter clause in their tenancy agreement preventing them from installing a smart meter²⁴.

Physical

Interlinked with the above is the fact that many contracts require the landlord's permission to alter the fabric of the building, or for any works to take place.

If a tenant is keen to have a smart meter installed, but the landlord refuses, this forms a fundamental barrier. More widely, if a smart meter installation is not straight-forward and involves more complex alterations, for instance involving interior or exterior walls, this also acts as a barrier and could reduce the willingness of both tenant and landlord to have a smart meter installed, both from a cost and hassle-factor perspective.

Previous Citizens Advice research earlier in the roll-out showed 18% of smart meter users said they had to have more than one installation visit to have their smart meter installed. 12% of consumers with a smart meter had an appliance

²³ MHCLG (2020) [English Housing Survey Headline Report, 2019-20](#)

²⁴ Citizens Advice (2020) [Future energy consumers: Views from our digital series](#)

condemned during installation because of safety concerns – a further potential complication as the appliance is likely to be owned by the landlord²⁵.

In terms of solutions, a foundational solution to issues engaging with landlords and setting consistent standards would be the adoption of a national landlord registry.²⁶ Citizens Advice has previously set out how this could work in practice and learning can be taken from Rent Smart Wales. Any information remedy to inform tenants and landlords would benefit from a national-level understanding of where PRS properties are and who owns them. This suggested registry included an interactive portal for tenants and other agencies to cross-reference, including whether a property had a gas safety certificate and an EPC. This concept could be extended to whether or not a property has a smart meter, and ultimately could be used to target policy interventions - whether information, incentives or penalties – to increase uptake of smart-meters and maximise benefits to both landlords and tenants.

Additionally, in terms of solutions to enable participation of those in the private rented sector in the transition to a smart future retail energy market, Citizens Advice is undertaking in-depth deliberative qualitative workshops with landlords and tenants to understand barriers and identify proactive solutions. This is expected to report in the first half of 2021 and we would be pleased to share results of this work as soon as practicable.

Question 15: We would welcome views on whether the PRS Regulations may need to be tightened further for the 2030s? Please provide evidence with your answer.

We do not have specific evidence on this but note that many private rented properties - up to 30% with a £10,000 cost cap - will not reach Band C by 2030. Further measures are likely to be required to bring up standards in these homes, and to install low-carbon heating systems in the sector.

Question 16: What are the other steps government could take to increase awareness and understanding of the PRS Regulations?

²⁵ Citizens Advice (2018) [Early consumer experiences of smart meters](#)

²⁶ Citizens Advice (2019) [Landlord and property register: How it could work in practice](#)

Steps to inform landlords, tenants and relevant third parties about the PRS regulations will be required as part of a wider move to inform people about their role in the transition to net zero homes, to encourage them to make improvements to their home and to explain the support available to help them do so. This will require a national campaign, alongside local, community based support. The government will need to make sure landlords and tenants can access high quality independent advice about what changes they need to make to their homes more efficient or switch to a different heat source, including what they need to do to meet the minimum standard regulations. This should include holistic advice tailored to the energy efficiency and low carbon heat needs of individual homes. Many local areas have developed (or are developing) local area energy plans - improving homes will form a key part of these plans and presents an opportunity for joining up communications activity.

Specific touchpoints the government could use to effectively engage with landlords include:

- National landlord associations and forums
- Local landlord networks and groups
- Local and national government websites and interactions with other government policies, for example the planning system
- Media and social media channels
- Letters to landlords
- Targeting letting agents (as outlined under question 19) and mortgage providers

Some of these routes are only likely to capture landlords who are actively seeking to engage with upcoming regulation, while others will be required to reach a wider range of landlords.

The introduction of a national landlord register ahead of the regulations would help the government and local authorities communicate to landlords about their responsibilities, as well as about support available. In areas where existing licensing schemes are in place, local authorities have the details of local landlords and can more easily disseminate information to them²⁷.

²⁷ RSM UK Consulting, 2019, [Enforcing regulations to enhance energy efficiency in the private rented sector: research report for the Committee on Fuel Poverty](#)

Steps to raise awareness among private tenants specifically could include:

- Local and national government websites, and other interactions with government including the gov.uk tenant guidance booklet.
- Media and social media activity
- Letters to tenants
- Advice organisations including Citizens Advice, Shelter, debt agencies, energy advice agencies

Raising awareness of the regulation amongst tenants will also mean that there is a need to build their understanding from the basics. It should include not just information about the regulation itself, but wider issues around energy use in the home and tenants rights. Specific attention needs to be given to the advice needs of particular groups of tenants, including those in more vulnerable situations, for example those with specific language requirements or mental health issues.

Some energy-specific schemes also provide touchpoints with tenants and landlords that could be used to build awareness and understanding of the regulation, these include:

- The Energy Company Obligation
- The smart meter roll out
- Energy advice programmes funded by the Warm Home Discount
- The Fuel Poor Network Extension scheme

Question 17: Is the introduction of a PRS property compliance and exemptions database necessary to help local authorities to proactively enforce minimum energy efficiency standards? If yes, should we include the per-property registration fee within the cost cap? If not, what alternatives to a PRS property compliance and exemption database would you suggest?

We agree that a national database is essential to enforce the minimum energy efficiency standards. The identification of PRS properties and their landlords will be essential for effective enforcement of the regulations. At the moment, most

local authorities do not have accurate and up to date information about where the rented properties are and who is managing these properties in their areas²⁸.

Research carried out for the Committee on Fuel Poverty found that:

*A nationwide landlord register is the only means by which the landlords of properties without EPCs can be systematically identified and contacted*²⁹

The same report highlighted the need for this to be done at a national level:

A nationally-operated register would be more efficient to run than local-authority led schemes and easier for landlords with multiple properties.

Where landlord registration schemes have been introduced they have tended to reveal significantly higher number of both rental properties and individual landlords than previously estimated, highlighting the significant enforcement gap that currently exists³⁰.

As a result the Committee on Fuel Poverty has recommended that a national landlord register is an essential requirement for meeting the fuel poverty target for England. They recommend that the register be run nationally but accessed and enforced by local authorities.

A landlord register should be used to tackle a wider range of issues in the private rented sector, including health and safety issues, rather than just energy efficiency. Our research found that many landlords in the private rented sector don't know or understand their legal obligations, while renters aren't aware of their rights or don't feel able to enforce them. At Citizens Advice we deal with a range of problems that tenants face including repairs and maintenance, tenancy deposit protection and harassment by their landlords. This is leaving hundreds of thousands of renters living in unsafe and life threatening conditions. The government-commissioned Independent Review of Selective Licensing recommended a national register be introduced to improve standards in the sector³¹ A database with broader scope would be more useful to local authorities and more cost-effective because of the range of benefits it would

²⁸The Chartered Institute of Environmental Health (CIEH), 2019, [A National Registration Scheme for the private rented sector](#)

²⁹ RSM UK Consulting, 2019, [Enforcing regulations to enhance energy efficiency in the private rented sector: research report for the Committee on Fuel Poverty](#)

³⁰ The Chartered Institute of Environmental Health (CIEH), 2019, [A National Registration Scheme for the private rented sector](#)

³¹ Citizens Advice, 2019, [A national landlord and property register: how it could work in practice](#)

bring, in comparison to fixed costs of running the database, and because of the duplication of effort it would avoid in identifying landlords. It would allow more local authorities to engage with landlords, to improve knowledge of safe property conditions, good management practices and landlord's obligation.

As in Wales with Rent Smart Wales, signing-up to a landlord registration scheme should be part of the minimum requirements for a landlord to operate, and should not contribute to the cost cap for energy efficiency measures under the minimum standards.

The regulation will be more effective if it is supported by wider measures to tackle disrepair and rogue landlords in the private rented sector. Other measures Citizens Advice recommends include³²:

- Give local authorities the power to ban landlords who repeatedly fail to fix disrepair.
- Require certification of properties against all national minimum standards before they can let out.
- Following other consumer sectors, introduce Alternative Dispute Resolution (ADR) for disputes between landlords and tenants in the private rented sector.
- If their landlord fails to uphold their legal responsibilities allow tenants to leave a fixed-term contract early without a penalty.

Question 18: Do you agree that government should set a maximum total registration fee for landlords with a very large portfolio? If yes, how many properties should qualify as a “very large” portfolio? What should the maximum fee be? If you do not agree to a maximum total registration fee proposal, do you have alternative suggestions?

No.

A set fee registration per property would be fair to all landlords and tenants. It is unclear what the rationale would be for setting a maximum fee for large landlords. However, such a move would result in:

- Subsidising landlords with larger portfolios relative to those with smaller portfolios

³² Citizens Advice, [It's broke let's fix it](#), July 2017

- For an arbitrary reason, reducing the resources collected through registration fees, which could be used to manage the registration system

Rent Smart Wales requires a per landlord fee and a per property fee. This could provide a model for sustainable funding that could be mirrored for this landlord register.

Question 19: Should government seek primary powers to place a requirement on letting agents and online property platforms to only advertise and let properties compliant with the PRS Regulations? If not, please explain why not and provide evidence with your answer.

Yes. Letting agents and other intermediaries can play an important role in delivering a better managed private sector. They should have a responsibility to only offer and let out properties that meet minimum standards. To do fulfill this, they should be required to carry out compliance checks on properties they advertise and let. This should include not just energy efficiency standards but other safety checks, for example, on the presence of smoke detection and carbon monoxide alarms, and gas and electrical safety certificates.

Because they can manage properties from several landlords, placing a duty on intermediaries will make the implementation of the regulation more efficient.

For example, it could provide an efficient way of making landlords aware of their obligations when they let a property, reducing the risk of the landlord not being ready for the introduction of the legislation.

Question 20: Should government remove the seven to twenty-one day exemption period on landlords making all reasonable efforts to provide a valid EPC prior to a property being marketed or let? If not, please explain why not and provide evidence with your answer.

Yes, we agree with the proposal to remove the exemption period.

A valid EPC should be required at all times, including when the property is advertised. Given the level of supply and demand for housing, properties are often let very quickly after being advertised. The 21-day exemption period means many properties would be sold without a valid EPC. This would mean:

- tenants are not provided with the required information on energy performance and expected running costs at the point of purchase.

- Local authorities would be unable to effectively monitor compliance with the minimum standard regulations.

Question 21: Should government increase the level of the fixed civil penalty fine for offences under the EPB Regulations (currently set at £200)? If yes, how high should the fine be?

Yes.

A valid EPC is required for compliance with and enforcement of the minimum standards. By not having an EPC at all, or having an EPC that is inaccurate, a landlord could avoid the costs of complying with the regulation. As outlined elsewhere, the introduction of the regulations could potentially create an incentive for inaccurate EPC assessments to be carried out. A fine of £200 is little incentive to comply with the EPB regulations for a landlord who wants to avoid several thousand pounds worth of investment in energy efficiency improvements. It is logical for the maximum level of fine to be £30,000, to align it with the proposed maximum of fine for non-compliance with the minimum standards themselves.

It may be helpful to differentiate between different types of offences under the EPB Regulations. For cases where the offence allows a landlord to avoid complying with the minimum standards, the maximum should align with the fine for the minimum standards themselves. In other cases, the fine could be lower. There should also be clear guidance on how many times a local authority can apply the fine and the course of action to require a landlord in breach to get a valid EPC in place.

Question 22: Should government enable LAs to inspect properties for PRS compliance? If not, please explain why not and provide evidence with your answer.

Powers to enter and inspect properties is important to enable the effective enforcement of the minimum standard. This would be in line with existing powers to enforce standards under the Housing Act 2004. It will be essential to help ensure that landlords are providing correct information about:

- Which properties are being rented (for the landlord register) and

- The energy efficiency of the property

The latter could be particularly needed in cases where the EPC is potentially in error, falsified, or out of date, which could be identified through monitoring EPC Open Data or other data. This can only be established by an in-person inspection. As outlined under question 5, there is currently a significant problem with unreliable EPCs and the introduction of this legislation could create incentives for falsification of EPCs.

Under the existing PRS regulations, local authorities have less power to inspect properties compared to their powers under other regimes, such as the Housing Health and Safety Rating System (HHSRS). There is significant overlap between the existing minimum EPC Band E regulations and HHSRS, meaning local authorities could combine enforcement of the minimum standards with inspections under HHSRS. This will not be the case as the minimum standard is raised from EPC E to EPC C.

We expect the findings of the enforcement pilots, funded by BEIS in local authorities across the country, will provide useful evidence for this and the other questions on enforcement. We regret that these findings were not published in time for stakeholders to consider them when responding to the consultation. We hope BEIS will share the findings as soon as possible, ensures they are taken into account in its response to the consultation and gives stakeholders a chance to respond to them during the policy development process.

Question 23: Should government permit local authorities to use EPC Open Data for some phases of PRS enforcement? Please provide evidence with your answer.

Yes. Using EPC Open Data is likely to allow local authorities to more efficiently and effectively monitor compliance with the regulation and carry out enforcement action. It will help

- Identify specific properties with low EPCs or potentially falsified EPCs for monitoring and potential enforcement action
- identify specific local areas which could be targeted for promotion of the regulation and provision of support to landlords and tenants

Question 24: Should there be a requirement for post-improvement EPCs (and for the cost to be included within the cost cap)?

Yes, we agree with the requirement for post-improvement EPCs. However, we do not think the cost of this should be included within the cost cap.

A post-improvement EPC is needed to show whether a property has met the minimum standard. This will provide key evidence for local authorities in checking compliance and pursuing enforcement action. While there could be other ways of demonstrating compliance, these would be more complex and undermine the efficiency of enforcement action and ultimately the effectiveness of the regulation in achieving its aims. A requirement for an updated EPC also brings a number of other benefits:

- Providing current and future tenants with up-to-date information about the property
- Helping landlords plan for future investment
- Improving data on the housing stock

We do not think the cost for this should count towards the cost-cap. The cost-cap should be reserved for works to improve the property. This will maximise the benefits of the regulation in terms of climate reduction and fuel poverty. A £10,000 cap already leaves 30% of PRS properties below EPC Band C, including the cost of the EPC within the cost cap would further reduce this. In addition to this, including the cost of the EPC in the cost cap could create complexity in monitoring compliance with the cost cap.

Question 25: Should a valid EPC be in place at all times while a property is let?

Yes. A valid EPC is a legal requirement to bring PRS properties into scope of the minimum standard regulations. Because of this it is essential that all PRS properties are required to have a valid EPC at all times:

- so the regulations can achieve their aims and are not undermined for arbitrary reasons
- so compliance can be efficiently and effectively monitored

- so tenants can understand the living costs of their property and can pursue redress routes if their property is not compliant with the regulation

A property should be required to have a new EPC at the point an old EPC lapses³³, not just when it is subsequently sold or let. Otherwise, this creates a loophole for properties with a tenant who has been living in the property for over 10 years to fall out of scope of the regulation.

Question 26: How can the most consistent set of recommendations in the EPC be assured? Does using only the most recent SAP methodology allow this?

No answer

Question 27: Should listed buildings and those in a conservation area be legally required to have an EPC?

Yes. However, they should still be required to have an EPC. However, additional protections will be needed to make sure landlords of these properties are not compelled to make inappropriate energy efficiency improvements.

Older properties can be among the most expensive for heating, hot water and cooking, particularly where they are off the gas network.

The current guidance states that:

Buildings protected as part of a designated environment or because of their special architectural or historical merit are exempt from the requirements to have an energy performance certificate insofar as compliance with minimum energy performance requirements would unacceptably alter their character or appearance.

This approach is flawed as it ignores the information role that the EPCs have. EPCs provide key information on the cost of heating a property for prospective buyers and tenants. It also does not encourage those energy efficiency improvements that could be made without undermining the property's conservation status. For example, an efficient boiler or loft insulation. A blanket

³³ This is currently 10 years but we recommend this be brought forward to 5 years, as part of the EPC action plan. Citizens Advice, 2018, [Energy Performance Certificates in Buildings](#)

exemption for these properties means that opportunities to save energy, reduce carbon emissions and keep residents safe and warm are not taken.

We recommend that all properties are required to have an EPC, except where the property type means the EPC itself is unsuitable. This would mean that properties with a conservation status are no longer exempt from meeting minimum standards as a result of being exempt from EPC requirements. Additional protections would therefore be required to exempt them from meeting the minimum standards where measures would unacceptably alter their character or appearance. Strict rules, guidance and advice are needed on work undertaken to listed buildings so the property is not harmed, work is done sympathetically to the building, and for the benefit of occupants. This is likely to require advice to landlords regarding the likelihood of obtaining planning permission or listed building consent for energy efficiency improvements and guidance to local authorities on checking the validity of exemptions.

Question 28: Should government seek primary powers to increase the maximum fine level to £30,000 per property for each breach of the PRS Regulations? If yes, should it be adjusted for inflation? If not, what would be an alternative, appropriate maximum fine level? Please provide evidence with your answer.

Yes.

The level of the fine should be raised to provide a strong incentive for landlords to comply with the measures.

The level of fines needs to be significantly higher than the cost of making the required improvements, otherwise landlords will have an economic incentive to accept fines rather than meeting the minimum standards. The extra cost should be significant enough to make the risk of the fine a deterrent for landlords, even where enforcement against non-compliance is not 100%. £30,000 would be a suitable level to deliver this.

Fines should be added to the existing civil penalties regime. The civil penalties regime allows fines to be kept by local authorities and reinvested into future enforcement work. This would help the sustainability of funding for enforcement action.

Provisions should be made to increase the maximum fine level after a certain time passes and level of inflation occurs. In the short- to medium-term, the maximum fine level should be kept consistent to help provide a clear message to landlords.

Question 29: Should government introduce powers for tenants to request that energy performance improvements are carried out where a property is in breach? If yes, how could a redress mechanism be devised?

Yes.

Where their landlord is in breach of the regulation, tenants should be able to demand action and get appropriate redress.

Where a landlord is in breach of the regulation for a period of time, tenants will miss out on the lower energy bills and more comfortable home that the regulation sets out to ensure. In such cases, they should be able to receive compensation.

Looking at consumer redress in other areas, we have found 4 main barriers that consumers face when claiming compensation³⁴:

- Awareness of the initial problem, and their rights to compensation
- Confidence in securing worthwhile compensation
- Access to information on how to complain
- Complexity of the customer journey when making a claim

In the private rented sector, there are additional barriers and this mechanism is only likely to be effective if there are wider steps to improve tenants rights. This includes better protection from eviction through ending no-fault evictions under Section 21. In a panel of tenants set up by Citizens Advice last year, 46% of those who made a formal complaint about their rental home said they ended up with a Section 21 eviction notice within 6 months of doing so³⁵. In 2017, 40% of renters we surveyed avoided asking for repairs because they worried about how their landlord would react³⁶.

³⁴ Citizens Advice, 2018, [Automation for the Nation](#)

³⁵ Citizens Advice, 2021, [New Years, same arrears: How the pandemic is leaving private renters with unmanageable debt](#)

³⁶ Citizens Advice, 2017, [A state of disrepair: Why renters deserve a better deal](#)

To address the other barriers, the mechanism also needs designed in a way that is simple for tenants to use, including a simple online platform, a clear customer journey, and minimal and simple evidence requirements, It also needs to be accompanied by provision of advice and support for tenants through the process.

A compensation mechanism could be based on rent repayment orders, which are already used where local authorities have taken enforcement action on housing safety issues.

Question 30: Should government introduce some form of local authority disclosure or benchmarking where a property is in breach of PRS Regulations?

Yes.

We think the government should introduce local authority disclosure and benchmarking. This will provide tenants and other third-parties a way to hold local authorities to account for their performance in driving compliance with the regulation and improving standards in rental homes. Ultimately, this will help drive in more effective implementation of the results.

However, local authorities also need enough funding to undertake compliance and enforcement work. The COVID-19 crisis may have adversely affected the budgets of many local authorities and, as a result, their ability to monitor and enforce the regulations. The government needs to ensure there are specific and sustainable funding streams for local authorities to enforce the regulation. The government should also support local authorities with effective guidance and sharing of best practice to develop effective compliance and enforcement processes.

Disclosure and benchmarking should cover not just how effectively local authorities address tenant complaints but performance in ensuring compliance with the regulation more generally.

Finally, as we progress towards net zero, local authorities will have an increasingly important role in improving the energy performance of buildings to tackle fuel poverty and net zero. The private rented standards will be one element of benchmarking their performance on improving the energy efficiency of homes in general.

Question 31: Do you agree that the updated exemption regime should come into force on 1 April 2025? If yes, do you agree that the property compliance and exemptions database should be opened six months prior to commencement of exemptions? If not, please explain why.

Yes. This would align with the phased trajectory set out in Chapter 1.

Question 32: Should the 'new landlord' temporary exemption be simplified so that it applies to any person who has become a landlord within the last six months? Please provide evidence with your answer.

No answer

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