

Response ID ANON-CH5P-H7WW-W

Submitted to **Improving the energy performance of privately rented homes**

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About you

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Organisation:

Association of Local Energy Officers

Are you happy for your response to be published?

Yes

Would you like to be contacted when the consultation response is published?

Yes

How did you hear about this consultation?

Where did you hear of this consultation?:

Email from BEIS

Other (please specify):

The consultation

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.

Please provide your views below:

Increased regulation in relation to energy efficiency or other aspects of standards and conditions in the PRS may result in some landlords leaving the market, especially at the lower end of the sector where the cost of meeting higher standards will be greatest. However, there is minimal evidence that increased regulation will lead to an overall decrease in the number and proportion of private rented sector homes available to rent.

Nevertheless, any increase in standards, especially where there are potentially significant cost implications for landlords, does have the potential to impact on vulnerable groups living in the poorest quality accommodation, where landlords may choose to sell rather than make the necessary investment. Though some properties will be sold to other PRS investors, within the current framework of renters' rights tenants living in these properties are at an increased risk of homelessness. For this reason, it is vital that the Government make good on their promise to reform security of tenure by abolishing Section 21 'no fault' possession.

Another potential outcome is that landlords may raise rents to cover the costs of necessary investments. However, again, there is no evidence to suggest that regulation results in increased rents overall, or even within the lower quartile of the rental market. Indeed, decades of deregulation in the UK PRS have not hindered the significant growth of rental prices, in which overall supply and demand plays a far more significant role.

If Government do have concerns that improvements in regulation could result in increased rents, then the Government could consider the introduction of rent controls. This would be a sensible solution to prevent any unintended consequences of reform.

Question 2 Do you foresee any impacts for protected groups?

Yes

Please explain your answer below and provide evidence to support your answer:

BAME and migrant renters are overrepresented in both non-decent and overcrowded PRS homes (Source: English Housing Survey 2015/16 to 2017/18). Properties occupied by people in these groups are likely to be those in need of the most significant investment to meet the proposed new standards. Therefore, any negative impacts of raising standards, such as a decreased availability of accommodation, or increased rents will be likely to impact on these groups. In addition, BAME and older renters, as well as migrants, have been some of the hardest hit by the COVID-19 crisis, both in health terms and the ensuing economic

impacts. These groups are therefore vulnerable to any further disruption, both in terms of loss of accommodation and financial shocks. ALEO calls on the Government to do more to support renters and protect them from such negative impacts, including broadening access to the welfare system.

Having said this though, as set out in our response to Question 1, we do not expect there to be either significant contractions in supply or rent increases overall due to improved regulation. Moreover, the groups outlined above are also the most likely to be living in fuel poverty and in hard-to-heat homes and will therefore stand to benefit the most from increased energy efficiency in properties.

Well-insulated homes are also more resilient to climate change, dealing better with extreme heat. This will have healthcare benefits, and will be of particular benefit to elderly people who are more vulnerable to spikes in temperature (Committee on Climate Change, UK housing: fit for the future?, February 2019).

ALEO's view is that all private tenants, regardless of income, ethnicity or any other factor, should not have to choose between an affordable home and one that meets required health and safety standards.

There needs to be protection/support for vulnerable households where properties need to be void while energy efficiency improvement works are undertaken. Again, under the UK's current low-security tenancy regime, renters in this situation would be vulnerable to 'no fault' eviction. ALEO would strongly argue for Government to implement its proposals to ban Section 21 evictions as soon as possible to facilitate the introduction of higher minimum energy efficiency standards and reduce negative impacts on renters.

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.

Please provide your views below:

Polling conducted by YouGov on behalf of the NRLA in September 2020 found that almost a quarter (22 per cent) of private landlords with properties in England surveyed have lost rental income as a result of COVID-19. However, the private landlord sector in the UK is very financially resilient. Research by the LSE and others suggest that almost 50 per cent of landlords have no mortgage debt at all (Source: Kath Scanlon and Christine Whitehead, The profile of UK private landlords, LSE London December 2016).

Those landlords with mortgages have been able to benefit from the Government's mortgage holiday scheme, which has just been extended for a further six months.

However, the impacts of COVID-19 are likely to have placed some landlords in a more precarious financial position. It is important to recognise that the private landlord sector is not uniform, and a multitude of different business models proliferate, including those who are heavily geared and may have taken a significant hit as a result of Covid-19 despite Government protections. Implementation of the proposed energy efficiency improvements is likely to be greatly improved if Government are to provide targeted grant funding and a Landlord Energy Saving Allowance, as has been the case in the past. Timely grant funding could also help to prevent bottlenecks at whatever point the new regulations become enforceable, when there is likely to be a sudden rush to make the necessary improvements – as has been seen with the implementation of the new five-yearly Electrical Installation Condition Reports.

Grant funding should be targeted in such a way as to encourage landlords to go beyond the prescribed minimum standards, in order to ensure value for money. Such grant funding should be maintained annually at a similar level to the current Green Homes Grant voucher scheme, although the value could decrease over time to encourage early adopters. This would also help to give the supply chain certainty over several years.

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

Yes

Please explain your answer below:

This is the right target however we have concerns about deliverability within the timescale considering the current economic climate. There should be a clear plan from government for investment in domestic energy efficiency beyond the lifetime of the current Green Homes Grant, and the reintroduction of the Landlord Energy Saving Allowance (LESA). The reintroduction of LESA is supported by the government's own Committee on Fuel Poverty. Government should also provide other means of financing landlord improvements, like the interest-free Home Energy Scotland loans for private landlords or a similar but low interest revolving loan scheme.

An example of the need for clear and well-communicated timescales is the requirement for landlords to have had an Electrical Installation Condition Report (EICR) carried out for new or renewed tenancies by April this year, and for pre-existing tenancies by April 2021. It is currently very difficult for landlords to have an EICR carried out due to capacity in the sector and the fact that many landlords haven't prepared in advance. Since electricians are more established than the energy efficiency sector there is even more need for communication and funding certainty. Recent experience of the Green Homes Grant has shown the limitations of the supply chain and its preference for clear, deliverable timescales being in place.

As always, enforcement will be critical in achieving such an ambitious target, not just in terms of making it clear who is responsible for enforcement, but ensuring those structures are properly resourced.

The new target is also broadly consistent with the English fuel poverty target, although that uses a somewhat different methodology.

This approach should be complemented using building renovation passports. The interim EPC targets are designed to signpost the intention to put a building on a trajectory to zero carbon, however the current approach doesn't necessarily deliver the most cost-effective or technically appropriate approach in the long-term. Building renovation passports would provide a way to address this disconnect between the overall policy objective and interim EPC levels.

Government should also pursue greater alignment between these regulations and the Housing Health and Safety Rating System (HHSRS) to aid local authority enforcement.

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 your views below and provide evidence with your answer.:

The Energy Efficiency Rating is acceptable as it strikes the best balance between carbon, energy bills and fuel poverty. The other measures would require significant changes to the Energy Performance Certificate, create potential confusion for private landlords, and would not align well with the fuel poverty strategy.

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 tenancies' to reach EER C by 1 April 2028? If not, do you have alternative suggestions?

Yes

Please provide evidence with your answer.:

A phased lead-in approach like this is broadly best, however see our answers to Question 4 on deliverability and timescales.

Question 7 Do you agree with increasing the cost cap to £10,000 inclusive of VAT as our preferred policy proposal?

Yes

If not, please explain why not and provide evidence with your answer.:

The cost cap should be increased to £10,000 as it is appropriate that landlords contribute to the costs of these works. We know that this is a sector with significant financial reserves on average. We would refer back to our answers to Questions 3 and 4 regarding the need for grant funding and tax allowances though.

VAT should not be included in the cost cap however if VAT was set at 5% (or even 0%) for all energy saving measures then we would accept this. At the very least there should be more communication with installers about the guidance on Energy-saving materials and heating equipment (VAT Notice 708/6), as we are aware that some are charging customers 20% VAT across the board.

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

Yes

Please explain your answer:

Since rents will be adjusted for inflation then it makes sense that the cost cap should be too. This would maintain the real value of the cap.

Question 9 Should a requirement for landlords to install fabric insulation measures first be introduced?

Yes

If yes, when, and how should such a requirement be implemented? Please provide evidence to support your answer.:

Yes. Following a PAS2035 approach would ensure that fabric insulation measures were prioritised. PAS 2035 states clearly that designers and coordinators should look to prioritise improvements to the building fabric before investing in other energy efficiency measures.

If no, what are the alternative installation methods that maximise energy efficiency outcomes? Please provide evidence to support your answer.:

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.

Please provide your views below:

We welcome the proposal to have a dual metric target to reach both an EER and EIR Band of C and the increased cost cap. Such a metric would deliver around the same energy bill savings to tenants but also contribute significantly to reducing carbon emissions. The need to move to a fabric first plus low carbon heating will require significant investment therefore a higher cost cap would be needed. There is a case for tax relief and targeted grant funding, and there should be a clear plan from government for investment in domestic energy efficiency beyond the lifetime of the current Green Homes Grant, and the reintroduction of the Landlord Energy Saving Allowance. VAT should not be included in the cost cap however if VAT was set at 5% (or even 0%) for all energy saving measures then we would accept this. At the very least there should be more communication with installers on applying VAT accurately.

There should also be clear signals from the government to private landlords about a move away from fossil fuel heating so that landlords and their tenants are not locked into unsustainable technologies.

The rural environment offers a greater challenge in improving energy efficiency ratings. If hydrogen technology becomes available the gas network can supply properties with fuel but in rural areas there is no network and the other alternative heating options currently in the mix operate poorly in old and leaky properties.

Question 11 Should government introduce an affordability exemption?

No

If yes, we would welcome views on how such an exemption should be designed and evidenced, and any potential impacts on the PRS market.:

It is unacceptable for a substandard property to be let out past a certain point therefore if a property requires more than £15,000 to be spent on it to satisfy the dual metric whilst reducing energy bills for tenants then that is the cap which should be set. A higher cost cap (with tax relief, targeted grant funding and/or zero-interest loans in place) will deliver a higher number of low carbon heating systems and such measures are vital for the domestic sector to contribute to the UK's carbon reduction strategy. For the reasons outlined in our response to Question 1, we do not believe that tighter regulation will have a significant impact on the private rental market. The number of exemptions available to private landlords should be reduced in order to simplify and therefore maximise compliance.

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 your views below and provide evidence to support your answer:

See our answer to Q11.

Question 13 Should we incorporate TrustMark into energy performance improvement works?

Yes

If not, please explain why not and provide evidence with your answer.:

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?

Please provide your views below:

The rollout of smart meters in the private rented sector is important if all groups in society are to gain the benefits smart meters offer. Private tenants must have easy options to get a smart meter installed, and to have explained to them the benefits if the landlord has one installed. Smart meters are paid for by energy bills so presenting them as a 'free at the point of request' that has benefits should help landlords and tenants to buy-in. We have concerns at the level of consumer engagement and energy efficiency advice provided to households, the inadequate attention to the needs of vulnerable people as part of the smart meter rollout, the technical solutions for installing smart meters in all flats still not in place, and with heavy delays and costs escalating the benefits to consumers are not being maximised. Energy suppliers must have the flexibility to respond to private sector issues/barriers including rights to install, timing and convenience of installations and tailored energy efficiency advice from suppliers that meets the needs of the private rented sector. Government policy and regulation is essential if the roll-out is to happen for this sector, recognising the ongoing roll-out issues, challenges and significant delay.

Question 15 We would welcome views on whether the PRS Regulations may need to be tightened further for the 2030s?

Please provide your views below and provide evidence to support your answer:

A minimum standard of EER B should be required after 2030, by 2035 at the latest. All remaining exemptions should also be reviewed before this point and adequate financial support or incentives available.

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

Please provide your views below and provide evidence to support your answer:

The inherent risk of such changes in regulations is that many landlords will be unaware of them or will leave improvements to the last minute. Government should fund a widespread awareness campaign aimed at both private landlords and private tenants. This should fund both a national campaign and local campaigns delivered through local authorities. Alongside this there should also be clear signals from the government to private landlords about a move away from fossil fuel heating so that landlords and their tenants are not locked into unsustainable technologies.

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?

Yes

If yes, should we include the per-property registration fee within the cost cap?:

Registration for such a scheme should be separate from the cost cap, but the fee should be set at an affordable level to encourage compliance.

If not, what alternatives to a PRS property compliance and exemption database would you suggest?:

Such a database would be useful, but the ALEO would want government to go much further by implementing a national landlord register.

Question 18 Do you agree that government should set a maximum total registration fee for landlords with a very large portfolio?

Don't know

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?:

We have no strong views on this but, returning to the national landlord registration service, the example of the Scottish Landlord Register is a helpful one, where there is a principal fee and then a small cost per property rented out.

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?

Yes

If not, please explain why not and provide evidence with your answer.:

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?

Yes

If not, please explain why not and provide evidence with your answer.:

Question 21 Should government increase the level of the fixed civil penalty fine for offences under the EPB Regulations (currently set at £200)?

Yes

If yes, how high should the fine be?:

It should be raised to the standard maximum civil penalty of £30,000.

Question 22 Should government enable LAs to inspect properties for PRS compliance?

Yes

If not, please explain why not and provide evidence with your answer.:

The natural home for this work sits with local authorities, who already have a range of powers to inspect properties and enforce standards. However, many if not all local authorities are struggling to enforce their existing regulatory obligations. This is due both to a shortage of qualified personnel in the sector, meaning councils are all fishing from the same pool of staff, and a lack of long-term sustainable funding for this area of work, which would allow councils to build teams commensurate to the level of work involved in enforcing standards in all private rented sector properties. Energy efficiency requirements could be included in all licensing schemes.

The use of civil penalties as an enforcement tool with the penalty being reinvested in local authority private sector housing services is a useful model to fund ongoing work and could be extended.

Government should also make further funding available to training for local authority enforcement officers, including specific qualifications and should aim to broaden the pool of qualified staff in the sector.

If the burden of compliance monitoring is placed with local authorities, Government needs to ensure that we are sufficiently resourced to be able to carry out this responsibility.

Question 23 Should government permit local authorities to use EPC Open Data for some phases of PRS enforcement?

Yes

Please explain your answer below and provide evidence to support your answer:

Local authorities should have maximum access to data which would allow them to carry out their enforcement duties efficiently. In addition, EPC holders should not be permitted to remove their EPC from EPC Open Data as this may impact on the ability of local authorities to take enforcement action on the worst properties.

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

Yes

Please explain your answer below and provide evidence to support your answer:

A post-improvement EPC should be required. The low cost of EPCs and the expectation on the landlord that they should commission an up to date EPC however means that this cost should not be included in the cost cap.

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

Yes

Please explain your answer below and provide evidence to support your answer:

A valid EPC should always be in place and should not be dependent on the property being re-let. A new EPC should also be required after any improvements (or reductions) to the energy efficiency of the property have been made. Tenants should always have current and accurate information on their home.

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?

Yes

Please explain your answer below and provide evidence to support your answer:

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

Yes

Please explain your answer :

All privately rented dwellings should be legally required to have an EPC, in order that all private tenants are fully informed. This would provide consistency and clarity for private landlords, tenants, and enforcement authorities. All properties below C can be improved, albeit that listed buildings or those in conservation areas may be more expensive to improve. It is worth noting that HHSRS does not make exemptions for such buildings.

If any such properties are to be exempt than the landlord should have to show evidence from their local authority to such an effect.

We are concerned that Houses in Multiple Occupation (HMOs) will only rarely be covered by these regulations, since HMOs only require an EPC if they are sold or rented out as a whole unit. The high costs of accommodation in some parts of England and Wales mean that a disproportionate number live in HMOs and these should be fully covered by Energy Efficiency Ratings and therefore these regulations.

28 Should government seek primary powers to increase the maximum fine level to £30,000 per property for each breach of the PRS Regulations?

Yes

If yes, should it be adjusted for inflation? Please provide evidence with your answer.:

The maximum fine level should be increased to £30,000 per property for each breach of the regulations as it brings it into line with other civil penalties for breaches of PRS legislation e.g. failure to licence, breaches of HMO regulations.

There have been instances where fines have not been adjusted for inflation, resulting in significantly out-of-date amounts which therefore no longer act as a deterrent; therefore, Government should adjust such fines for inflation.

If not, what would be an alternative, appropriate maximum fine level? Please provide evidence with your answer.:

29 Should government introduce powers for tenants to request that energy performance improvements are carried out where a property is in breach?

Yes

If yes, how could a redress mechanism be devised?:

In principle we would support this but anything that relies on tenants having to do anything is doomed to fail, given the power imbalance between tenants and landlords, but such powers should be introduced as a failsafe. Redress could be in the form of Rent Repayment Orders for the duration of the time the property was in breach. However, any mechanism which encourages a tenant to put forward a request that their landlord would be legally obliged to comply with carries the risk of retaliatory eviction. As set out above numerous times, for any new regulatory regime to function well, renters must be protected from this by Government acting swiftly to ban Section 21 evictions, as promised.

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

Yes

Please explain your response below :

It is a fair proposal that local authorities are required to disclose how effectively they are dealing with breaches of PRS regulations.

31 Do you agree that the updated exemption regime should come into force on 1 April 2025?

Yes

If yes, do you agree that the property compliance and exemptions database should be opened six months prior to commencement of exemptions?:

Yes

If not, please explain why.:

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?

Yes

Please explain your answer and provide evidence to support your answer:

All exemptions should be removed or at least simplified. However, it is unclear how local authorities will know when someone becomes a landlord. A national landlord register with stiff penalties for non-compliance would aid in this.

If you would like to upload any supporting evidence, please do so here.

File upload:

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