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**Association of Local Energy Officers response to BEIS consultation to amend
The Energy Efficiency (Private Rented Property) (England and Wales)
Regulations 2015**

Question 1) Do you agree with the policy proposal under consideration here to introduce a landlord contribution element where funding is unavailable to ensure improvements to Band F and G properties can be delivered (unless a valid exemption applies)? This would be subject to a cost cap.

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

ALEO agrees with the proposal to require landlords to pay towards the cost of improving the energy efficiency of their F and G rated properties. This will be a significant improvement on the previous 'no up-front cost' provisions, provided the cost cap is set at the right level.

Question 2a) Do you agree that a cost cap for improving sub-standard domestic private rented property should be set at £2,500?

If you do not agree, what would be the most appropriate level to set the threshold? Please provide reasons and evidence where available to support your views.

ALEO strongly disagrees with the cost cap being set at just £2,500 – it is totally unacceptable that only 30% of F and G rated properties will be improved to an E rating under the Regulations.

One of the consequences of this low cap is that the very worst properties in Band G, that are the most expensive to improve to an E rating, are likely to be left below this rating.

The Government's Committee on Fuel Poverty recommended in its October 2017 report that the cost cap should be set at £5,000. As it stands the Government's preferred cost cap lacks ambition, and appears to be weighted more towards the interests of private landlords instead of the health and wellbeing of tenants.

The Government has said recently in its Clean Growth Strategy that as many privately rented properties as possible should achieve EPC band C by 2030 - allowing 70% of F or G rated properties to stay below an E rating is inconsistent with what the Strategy aims to achieve.

ALEO's view is that the threshold should be set at £5,000 to require more properties to be improved, albeit that this will still only mean that a minority of F and G properties (42%) are required to achieve an E rating.

ALEO is concerned about the application of a single cost cap that won't take account of the size or location of properties in England and Wales. There will be significant variations in the cost of installing measures due to these two factors and as a result tenants living in larger properties, and in rural areas and regions like London where the cost of measures can be higher, are less likely to see their homes raised to an E rating. This would not be such an issue if the cost cap was set at £5,000.

The Government should explore options for caps to be set locally or regionally. An alternative would be to use a variable cost cap based on a multiplier of the annual rent payable.

ALEO is also concerned that the cap will result in the partial completion of some energy efficiency improvements up to the value of the cap. BEIS has suggested for instance that only some elevations of a house could be improved with double glazing, leaving other windows unimproved. Presumably it intended that this same approach could be used for other measures such as wall insulation? This isn't acceptable and could lead to condensation and mould growth problems where 'cold spots' have been created. The likelihood of measures only being partially installed would be reduced if the cost cap was £5,000.

With the cap set so low, local authorities are more likely to prefer to use their existing enforcement powers under the Housing Act 2004 to tackle the F and G properties that won't be improved to an E rating. By applying the Housing Health and Safety Rating System (HHSRS) to tackle excess cold hazards, the amount that landlords will have to pay for the work required will be unrestricted by any cost cap, and there will be a better outcome in terms of their tenants' health and wellbeing.

Question 2b) Do you agree that a cost cap for improving sub-standard domestic private rented property should be set inclusive of VAT?

ALEO does not agree with the cost cap being set inclusive of VAT. With the proposed cap being set so low, this further limits the amount of improvement work that can be funded within the cap.

Question 3) Do you agree that a cost cap should not take account of spending on energy efficiency improvements incurred prior to 1 October 2017?

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

ALEO agrees that the cost cap should not take account of spending on energy efficiency improvements incurred prior to 1 October 2017.

Question 4) Do you agree with the proposal that where a landlord contributes to the improvement, the cost cap threshold should be inclusive of any funding which can be obtained through a ‘no cost’ finance plan (including a Green Deal finance plan), Supplier Obligation Funding (for example, ECO: Help to Heat or a successor scheme), or grant funding from a Local Authority or other third parties?

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

ALEO disagrees with the proposal that the cost cap threshold should be inclusive of third party funding.

There is only limited availability of third party funding across England and Wales, whether it be ECO, local authority grants or Green Deal finance, and it's effectively a lottery as to whether help is available. The proposal will therefore create a situation where those landlords that haven't been lucky enough to access third party funding will need to contribute more than those that have.

Excluding third party funding from the cost cap would therefore be more equitable for landlords as they'd all then be required to pay up to the same maximum towards the improvements.

Question 5) Do you agree that it is not necessary to place a regulatory duty on energy suppliers, or their agents, to provide landlords with cost information relating to the value of energy efficiency improvements made to the landlord's property through a supplier obligation?

If ECO funding is included within the cost cap, then it will be important for landlords to have the cost information. Leaving it to energy suppliers and their agents to voluntarily provide this information isn't likely to be enough. ALEO therefore supports a regulatory duty to provide the information.

Question 6) Where a landlord is intending to register a ‘high cost’ exemption, should the landlord be required to provide three quotes for the cost of purchasing and installing the measures, in line with the non-domestic minimum standards?

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

Yes, a landlord registering a high cost exemption should have to provide three quotes for the purchase and installation of energy efficiency measures. In addition, the risk of fraud will be reduced if these quotes could only be accepted where they are from installers who are suitably accredited, e.g. PAS 2030, a competent person scheme or the Microgeneration Certification Scheme.

Question 7) Do you agree with the proposal to limit the validity of any ‘no cost to the landlord’ exemptions (under Regulation 25(1)(b)) registered between October 2017 and the point at which a capped landlord contribution amendment comes into force?

If you do not agree, what are your objections, and how do you recommend that the minimum standard regulations be amended to ensure the energy efficiency improvements are delivered to such properties which might otherwise be left unimproved once the amended regulations came into force? Please provide reasons and evidence where available to support your views.

ALEO agrees with the proposal to limit the validity of 'no cost to the landlord' exemptions registered since October 2017, so that they expire at the time that the capped landlord contribution amendment comes into force.

Question 8) Do you have views on whether the consent exemption under Regulation 31(1)(a)(ii) should be removed from the minimum standard regulations or retained?

Please provide reasons and evidence where available to support your views.

ALEO believes that this exemption should be removed. National Audit Office analysis showed that the appetite for Green Deal finance was extremely limited and there are valid reasons why private tenants would choose not to take on the finance package in its current form. Tenants should not be deprived of energy efficiency improvements to their home because they have exercised this choice.

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

It's disappointing that the Government hasn't been prepared to legislate to change the existing EPC regulations so that all HMOs are brought within the scope of the PRS MEES Regulations. Given the particularly poor quality of accommodation provided in this sector of the market, this is unacceptable.

ALEO is very aware that without adequate resources, local authorities will not be able to adequately carry out PRS MEES enforcement work where landlords have not complied with the regulations or have submitted an invalid exemption. Without adequate resources, local authorities will at best only be able to administer and enforce the regulations on a reactive basis, rather than proactively. The PRS MEES Regulations are a significant additional burden and Government should therefore provide adequate funding to enable proactive administration and enforcement. Further comments are provided on this in the response to question 10a below – the key assumptions made in the impact assessment about local authority resources are a concern.

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

ALEO has concerns about references made in the impact assessment to the administration and enforcement of the PRS MEES Regulations by local authorities.

Annex C is wrong in suggesting that the costs to local authorities will be small because they will already be monitoring and enforcing the EPC requirements. Many local authority Trading Standards Departments now treat the enforcement of the EPC requirements as a low priority in response to reductions in their resources.

Furthermore, many of the local authority housing enforcement teams that will be responsible for administering and enforcing the PRS MEES Regulations have restricted capacity now due to the effects of the Government's austerity measures. For these authorities, the additional cost of administering and enforcing the PRS MEES Regulations will be disproportionately large when considered against their existing resources.

The previous DECC Final Stage Impact Assessment regarding the PRS MEES Regulations, published in January 2015, highlighted just how significant these additional costs would be. Paragraphs 275 – 282 of the 2015 assessment referred to one-off set up costs for an individual local authority of £7,500, and to a local authority's average additional annual cost of around £53,000 based on a 0.5 FTE Housing Officer, 1.0 FTE Technical Officer, and 0.1 FTE Senior Officer.

ALEO is concerned that the latest impact assessment underestimates the difficulties that will be faced by local authorities in administering and enforcing the new MEES Regulations. Without significant additional Government funding for this new function, it's likely to be pushed to the margins in situations where housing enforcement teams are already struggling to carry out existing responsibilities.

If the new Regulations are to come into force in 2019, the Government also needs to rapidly make other changes that will enable local authority housing enforcement teams to operate more effectively:

- 1) Provision needs to be made to allow Civil Penalties monies received by local authorities from MEES enforcement to be ring-fenced to the teams carrying out the enforcement. The Housing and Planning Act 2016 guidance on Rent Repayment Orders, and the Rent Repayment Orders, and Financial Penalties (Amounts Recovered) (England) Regulations 2017, provide a model for this.
- 2) MEES enforcement needs to be added to the list of functions that local authorities can use Tenancy Deposit information for. This can be done by making regulations under Section 212A(7) Housing Act 2004 (inserted by Section 128(3) Housing and Planning Act 2016). Without this, local authorities will be unable to use the Tenancy Deposit information to match landlord details with available EPC data to target F and G rated properties.
- 3) The bulk EPC data that is available to local authorities needs to be kept up to date. Currently the most recent data available dates back to December 2016.
- 4) The HHSRS Operating Guidance and its underpinning evidence base needs to be updated. Enforcement using the HHSRS is an alternative course of action for local authorities to tackle the health impacts of cold homes. The HHSRS has been in use now since April 2006 and the data used to underpin the system and inform judgements was collected in the late 1990s and early 2000s. No updates have been provided to reflect changes relating to excess cold, and this will increasingly limit local authorities where they wish to pursue HHSRS enforcement action rather than rely on the PRS MEES Regulations. A recent study carried out by the Chartered Institute of Environmental Health found that 89% of Environmental Health Practitioners supported an update of the Operating Guidance. Further details can be found at: <https://www.cieh.org/Templates2016/3colsmartform.aspx?id=63180>

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

There is no evidence that the cost of energy efficiency improvements is passed on to tenants in the form of higher rents. Rent increases are driven largely by the wider imbalance between supply and demand.

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

ALEO has no evidence to provide on this.