

Response ID ANON-CH5P-HCQZ-6

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

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Organisation:

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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):

CSE is an independent national charity, established in 1979 and is twice-winner of the Ashden Awards for Sustainable Energy – most recently in 2014 for our “outstanding contributions to tackling fuel poverty in the UK”. Our vision is a world where sustainability is second nature, carbon emissions have been cut to safe levels and fuel poverty has been replaced with energy justice. Our mission is to share our knowledge and practical experience to empower people to change the way they think and act about energy.

We have 70+ staff working across three teams:

Household Energy Services: supports disadvantaged households with home energy issues and operates a freephone telephone advice service Monday-Friday.

Research and Analysis: delivers research for governments, utilities, cross-sector partners and has a significant policy impact.

Local and Community Empowerment: supports groups and individuals to take action on climate change, and develops local projects, using the planning system and democratic rights. They manage grant programmes, develop engagement tools and run high-profile youth education programmes.

Since launching, CSE has provided advice and support to around 350,000 people, including over 100,000 vulnerable and disadvantaged people. In the last financial year alone (April 2019 to March 2020) we supported 10,093 households with 15,646 separate enquiries, collectively saving them more than £1.875 million (an average of approximately £186 per household). The vast majority of these clients were either in fuel poverty or at risk of fuel poverty and a significant proportion had a listed health condition. Several of CSE’s current advice projects are directly targeting the private rented sector (PRS) to help support the implementation of the Energy Efficiency (Private Rented Property) Regulations (2015, as amended) and ensure tenants get the housing standards they deserve.

CSE’s research team is co-ordinating the PRS enforcement pilot studies on behalf of BEIS. In year one (2019-2020), a first round of 7 BEIS Enforcement Pilots was undertaken. In year two (2020-2021), a second round of 12 enforcement pilots are currently ongoing. CSE produced mid-term and final reports to BEIS for the first year and will also do so for the second-year pilots. CSE has also run workshops with participating councils as part of the delivery of the pilot studies.

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:

Any rental increases in the PRS sector will reduce affordability and make it harder for vulnerable households to access the sector, and as a result increase homelessness placing a greater burden on the Local Housing Authorities (LHA). In rural areas, it could result in shrinkage of the sector, with homes being transferred to the second homes market or the holiday let market, serving to reduce choice for renters in these areas. However, there remain significant regional

variations in rent prices with average rental prices in London, South East, East and South West all exceeding 30% of income. This systemic issue is a far greater problem than any changes that may result from the proposed policy itself.

The tightened PRS regulations may drive 'accidental landlords' out of the market, which could result in a greater proportion of rented properties being owned by professional landlords. This may be beneficial where professional landlords are willing to invest longer term in their property portfolio.

Potential mitigation measures include measures to cap rental increases (where appropriate linked to incentives), increasing the minimum length of assured shorthold tenancies and preventing rental increases occurring every six months.

Question 2 Do you foresee any impacts for protected groups?

Yes

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

Any increase in rent will impact upon the vast majority of low-income households, with potential detrimental impacts for affordability and levels of debt and homelessness.

Potential beneficial impacts for protected groups include health benefits and benefits for disposable income, where the tightened performance standards make it more affordable to keep a home warm, reducing energy bills and/or reducing the risk from underheating. Protected groups who are at higher-than-average risk to harm from living in a cold home include children under five and people over 65; pregnant women; people with mental health issues; and people with existing coronary, respiratory and other chronic health conditions (disability). There is less strong evidence on race/ethnicity as a factor – however, it is notable that rates of some coronary and other chronic health conditions are more prevalent amongst people from some BAME backgrounds. An LSE study looking at racial discrimination in UK housing references the Government's racial disparity audit and findings that BAME households are also far more likely to live in overcrowded, inadequate or fuel poor housing than white households (see <https://blogs.lse.ac.uk/politicsandpolicy/racial-discrimination-in-housing/>). The improvements to the energy performance of housing in the PRS sector should result in reduced rates of fuel poverty among protected groups who are more likely to live in the private rented sector. This includes younger households and households from BAME backgrounds.

The impact assessment for the proposals indicates that PRS households are less likely than all other tenures to have a household member with a long-term illness or disability, based on analysis of the English Housing Survey. However, those households in the sector who do have a household member with a long-term illness or disability are more likely to be at risk of fuel poverty, due to the additional costs associated with their condition and the likelihood that they are lower paid, not working and/or that another member of the household acts as a full-time or part-time carer, with an associated reduced income.

From our own data on support delivered to households through CSE's HEART project in Somerset which focusses on the private rented sector, we have identified that the majority of clients were of working age (76%). Across the people we advised, 53% had a vulnerability (i.e. health issue, disability or registration with the PSR) and 68% were low income. There is considerable overlap between these two factors with 43% of households having both of these (i.e. a health or age-related vulnerability and a low income). Our work on the delivery of advice to those in fuel poverty has demonstrated that households with both of these factors are often struggling the most to pay their bills and need the most support to tackle this. This would suggest that, even if there are fewer people with a disability living in the PRS, they are likely to be at greater risk than others to any increase in their expenditure on rent but are also likely to particularly benefit from energy performance related improvements to the property both financially and in terms of health outcomes.

Where the proposals do result in increased rental costs or shrinkage of the sector, this could increase the risks of income poverty and even homelessness among people with protected characteristics. Mitigation against this should include incentives for energy efficiency improvements that are linked to rent freezes and protections against no fault evictions. Landlords of tenants with protected characteristics who are at greater risk of fuel poverty and/or harmful health impacts from living in a cold home should be able to access grants which support them to make improvements which would not be affordable within the landlord cost cap. Mitigation which enables tenants to access practical support to deal with the disruption of improvements should be designed around the needs particularly of households with a household member with a long-term illness or disability, including people with mental health conditions.

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:

COVID-19 has resulted in 2.8 million people falling behind on their energy bills and higher household energy use as people stay at home in the interests of public health.¹ Analysis has confirmed the cost differential of lockdowns and home working on heating bill costs in homes with poor energy performance.² Households in the private rental sector may therefore seek more efficient properties as a means of reducing their outgoings.

A recessionary period could also increase household debt and levels of unemployment, exacerbating fuel poverty. This could jeopardise governments' legislated fuel poverty targets i.e. by increasing the size of the fuel poverty gap. As such, the role of PRS regulations for meeting these targets is heightened. Long term financial impacts of COVID-19 include increases of rent arrears and fuel debt – both the number of households falling into arrears/fuel debt and the average size of arrears. Existing rent arrears may affect landlords willingness and ability to invest in energy efficient improvements to energy-efficient homes. Against this, the potential annual savings to tenants from reduced fuel bills where investment is made can help to improve tenants' ability to afford rent.

The financial impacts of COVID-19 on local authorities will also reduce the availability of resources to enforce the Regulations proactively. Burden funding to local authorities should be increased to enable them to carry out their enforcement responsibilities under EPB Regulations, PRS Regulations and HHSRS Regulations. All these regulations need to be enforced together as a property in a poor state of repair (with e.g. broken heating system or rotten window frames) will not perform in accordance with its EPC rating.

Improving landlords' access to low-interest loans as well as grants to make improvements will help to encourage investment. This will also help tenants if any offer of support is tied to an agreement to freeze rents for a minimum of 12 months i.e. similar to the existing NEST scheme in Wales. Strengthening tenant's rights will help reduce evictions.

Funding from the Prime Minister's 10-point plan for a green recovery will help build capacity to deliver quality domestic energy efficiency, given the Green Homes Grant Scheme's underpinning with quality standards such as TrustMark and MCS. As such, the long-term impact of the stimulus measures in response to COVID-19 is likely to result in increased capacity to deliver energy efficiency improvements in the timescale of this policy. Furthermore, landlords can apply for vouchers under the Green Homes Grant Scheme, meaning that those who want to proactively improve their energy performance can currently do so with the support of a government subsidy.

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:

The retention of EER as the target improvement for expenditure by the landlord seems appropriate, as the metric is based on running cost and the landlord's duty to enable tenants to live affordably in their home. We therefore support a focus on EER Band C as part of the minimum energy performance standard (MEES).

The limitations of the EER are that energy costs are not static and will be subject to change. For example, the relative costs of gas and electricity mean that, at present, installing a low carbon heating technology, such as a heat pump, can actually reduce the EER score. A sole focus on EER C may therefore frustrate or contradict ambitions for low carbon heat, such as the 600,000/year target for annual heat pump installation by 2028.³ A focus on EER also means that homes could fall in and out of compliance with regulations as the relative costs of gas and electricity change or from the impact of carbon pricing.

A dual metric aligns decarbonisation and fuel poverty goals and can help ensure that government policies are not working against each other. A focus on the EIR also has the advantage of helping to futureproof the property against price changes as high carbon heating solutions are phased out to reach net zero. The EIR improvement corresponds to a wider societal goal of carbon reduction and so landlords should be able to access grants or low-cost loans on a similar basis to owner occupiers to undertake improvements that achieve EIR C.

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 EER is an established metric which incorporates energy efficiency measure costings and annual savings, linked to the fuel poverty calculation. It is more familiar to landlords and tenants. However, there are widespread concerns about the reliability of EPC assessments.

The Government recently published its Action Plan for Energy Performance Certificates. In the associated consultation that preceded it, of 145 responses to the question 'What evidence do you have relating to the reliability of EPC assessments?' only 5 (3%) answered that reliability was good. As Government policy is increasingly dependent on the use of EERs, it is essential that steps are taken to improve quality and drive the independence of ratings provided. Assessors can be removed from the register, but there are currently no further powers to deal with deliberately falsified EPC ratings. Furthermore, there is currently no process for a third party such as an advice agency, Ofgem or a tenant (who was expecting a property to be more or less energy efficient) to raise a complaint about an incorrect or misleading EPC. A system that enables third parties to transparently challenge EPCs is urgently needed.

A limitation with EPCs is that they assume that measures installed, including heating measures, are operational. Where a property falls into disrepair or a measure is broken, then the actual energy performance will not be in line with the EER or EIR, with detrimental effects for fuel poverty, carbon emissions and affordability of energy bills. This is where HHSRS, with its attention to the decent standard of the property along with stronger powers for local authority to inspect, impose fines or take action in default etc, is superior to PRS.

We welcome the decision to avoid using the Primary Energy Rating (PER) metric to underpin PRS standards at present. A building which met the standard by utilising low carbon / low primary energy factor (PEF) fuels could become non-compliant in future, e.g. if the heating system were replaced with direct resistive heating. While we believe that PEF are in principle a good metric, we also have significant concerns regarding the current methods for defining PEF for different fuels (as set out in <https://www.bregroup.com/sap/sap10/>), which seem to be inexplicably treated differently when calculating their PEF values with the risk of introducing a systematic bias against one or another fuel solution.

A practical problem with using alternative metrics is that someone has to produce them. There are already trained EPC assessors in place. It would take time to train them up to use a different metric and to generate new assessments towards driving improvements in the timeframe needed to meet carbon reduction targets never mind trying to belatedly achieve overdue fuel poverty reduction targets.

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.:

CSE supports the backstop date of 2028 for all homes to have reached EPC B and C, consistent with the Committee of Climate Change's advice for the Sixth Carbon Budget.⁴ CSE agrees with setting a phased timeline for 'new' and 'all' tenancies, which is consistent with the approach used for moving up to EER E as well as the benefit of providing sufficient time for landlords to plan and save money for undertaking the work. However, we are also persuaded by ADE's analysis (see separate response by ADE) of existing churn in the sector which would mean that waiting until 2025 could result in as many as 40% of properties in the sector needing to be brought up to compliance in 2028. Whereas their suggestion to bring forward the start to compliance on change of tenancy to 2023 would result in a maximum of 25% of properties needing work to become compliant in 2028. The 2025 start could lead to a significant concentration of compliance related investment in properties around the 2028 deadline, increasing disruption to both tenants and supply chains. The reduced time for landlords to save time by a 2023 start date could be mitigated by use of the Green Homes Grant Scheme funding which is set to run until March 2022, as well as by offering zero or low interest loans to landlords.

The definition of 'new tenancy' should be clarified, specifically on whether this includes when an initial set term e.g. 6-month contract moves to a rolling monthly contract. It should also be clear if an existing monthly rolling contract is to be treated as a new contract each and every month.

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.:

£10K cost cap

The consultation sets out a robust case for why at least a £10,000 cap is affordable for landlords. A £10,000 cap would necessitate an average spend of £4,700 per property but would result in increased property value and rental income from which costs could be recovered. The impact assessment shows that this delivers energy savings of £7.3bn and increased comfort from warmer homes of £2.2bn.

£15k cap EER C / £15k cap dual metric

Policy Options 3 and 4 propose a higher cap of £15,000 for landlords, though the impact assessment shows that it would mean an average additional spend to landlords of £600 above that in the central case of a £10,000 cap. The impact assessment shows that under current costs, the higher cap does not deliver a proportionate increase in energy or comfort savings for the householder. However, as the nation progresses towards its net zero targets this will need to be reviewed and we would therefore advocate for a combined stretch target of EER C & EIR C i.e., to drive installation of low carbon heating and progress towards achieving the carbon budget. The EER is based on SAP which is driven by cost per m², whereas the EIR incorporates carbon and therefore provides a better metric for encouraging low carbon technologies. Government grant funding and/or no or low interest loans available to landlords should remain in place until the cost disparity between low carbon heating and gas central heating and other carbon intensive technologies has been removed.

It is likely that changes in the wider context of carbon costs will change the fuel prices that are experienced by tenants. For example, by 2025, the standing charge on gas bills may bear more of the policy costs associated with action to reduce our carbon emissions, whereas currently policy costs are loaded on to electricity bills, via the standing charge. In properties where gas central heating is replaced by electricity, this would remove altogether the gas standing charge as a cost to the bill payer.

See also our response to question 10, below.

VAT inclusive

Yes, we agree with the justification for the cost cap to be inclusive of VAT. It is worth noting that energy efficiency measures currently have a lower VAT rate which we would suggest that it continues after Brexit when the UK will no longer be subject to EU restrictions on the number of variable VAT rates which can be applied to products.

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

Yes

Please explain your answer:

Yes. We agree with the logic set out in the proposals for why it should be adjusted for inflation. There would otherwise be a financial incentive to delay investment, which would frustrate progress.

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.:

We generally support the fabric first approach to improving housing. Tackling the heat demand first and ensuring there is adequate ventilation will ensure that the future heat source is sized appropriately i.e. delivering optimal carbon savings and affordable warmth. The future PAS 2035 standard is designed to ensure that a retrofit coordinator provides a whole house assessment for a property with medium-term recommendations for a property which are set out in a plan.

We would suggest that as a minimum future grant funding requires a landlord to commission an independent retrofit coordinator to produce a plan for the property. This plan should take a fabric first approach to delivering the necessary EER and EIR targets.

Regarding retrofit coordinator plans, there is a similar issue to the current EPC system, that is the person providing the service is employed by the landlord. The landlord has a vested interest in the existing EPC rating being as high as possible and as such the surveyor cannot be guaranteed to be acting impartially. It is therefore imperative that any future system for the submission of retrofit plans has sufficient oversight to ensure the quality and validity of the recommendations made.

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:

As discussed in question 4 above, the impact assessment suggests marginal gains from the alternatives in comparison to the preferred policy Option 2. However, the Government's net zero target by 2050 will require us to go beyond EIR band C by 2050. Furthermore, many local authorities have set more ambitious targets

to reach net zero by 2030.

We would therefore recommend the adoption of this stretch target with the higher cost cap provided it is linked to enabling landlords to access additional grant funding, tax incentives, loans or a combination of these measures.

One concern raised with the dual metric target is what happens in the scenario where a property can be improved to C in only one of the two metrics; which should be prioritised and what are the consequences?

Fifteen thousand pounds represents a significant amount for a landlord to invest in a single property but represents a level that more realistically enables measures, including low carbon heating, that provide a greater contribution to decarbonisation. Without this higher level, there is a risk that landlords will use exemptions to avoid improving E, F & G properties, where the worst quality housing, including solid wall properties, requires significant investment. This would leave the extremely fuel poor behind, with adverse social, economic and health impacts. In order to avoid this risk, landlords should be able to access grants and/or low interest loans to enable them to make the necessary improvements. By applying a £10,000 cap, there is a risk that some measures will be installed that need to be taken out at a later date in order to achieve further improvements.

A wider issue requiring policy-maker attention is the extent to which landlord action and investment to install insulation and low carbon heating measures in accordance with the PRS regulations fits with and contributes towards achieving any local heat decarbonisation plans put in place by a local authority. In areas or in blocks of flats where a heat network is identified in a local authority plan as the overall best value approach to decarbonise domestic heat supply, this will require particular attention to avoid wasteful installation of measures.

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.:

No. We would not support any exemption that led to the tenant experiencing a delay in the installation of energy efficiency measures or low carbon technologies. If landlords are able to demonstrate that they meet the qualifying criteria for an affordability exemption, then we would suggest the provision of low-cost finance whereby the interest rate were fully or part subsidised by Government to reduce any barrier to participation.

Landlords are likely to use such exemptions to evade the PRS Regulations, leaving the burden on local authorities to enforce the regulations. Local authorities involved in the enforcement pilot trials have found that landlords abuse the cost criteria to claim exemptions. The impact on the PRS market would be that many properties would continue to be unimproved, with tenants suffering even whilst the landlord claims a rental yield. This would undermine the purpose of the regulations and would mean another policy programme will be needed to tackle the issue and upgrade these properties to achieve the required carbon reductions.

Instead of an exemption, the government should make zero or low interest loans available for landlords to enable them to undertake the necessary improvements.

It is important that the effects of this on vulnerable households and on the private rented sector in areas with lower value properties are considered, but the focus must be on tackling fuel poverty by improving energy performance of homes and reducing energy costs.

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 above.

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

Yes

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

Yes in principle. However, the use of PAS 2030 as a membership requirement for TrustMark for all energy efficiency measures needs to be reviewed urgently. There are fundamental issues with the PAS 2030 requirement for measures like solid wall insulation (internal and external) which is effectively building work.

The PAS framework was primarily introduced to drive up quality in the Energy Company Obligation supply chain. The installers delivering this work are large enough to employ someone to manage their quality compliance obligations.

Local building companies are often sole traders or micro business and do not have the capacity to carry this overhead. They have the skills needed to install internal or solid wall insulation alongside other measures, but implementing PAS 2030 requires time and money. Once they have gained the accreditation, they will also need to employ someone to submit the paperwork on an ongoing basis. It costs £1,500-£2,000 to become registered for one measure under PAS 2030 and then another £500 for each additional measure. So, it could cost a small business £4,000 to become registered for all the insulation measures associated improving a home.

Government needs to explore other options for accrediting smaller builders. For example, the Federation of Master Builders could introduce an enhanced membership programme which is accompanied by training. Alternatively, a retrofit coordinator could sign their work off in accordance with PAS 2035.

Many landlords have trusted trades people and builders who they rely on to undertake works, sometimes at short notice. However, in requiring Trustmark, a distinction should be made between improvements made via a grant and those that are entirely self-financed by a landlord or by a previous owner-occupier. Non-recognition of Trustmark installations could result in a situation where a successfully installed efficient and appropriate measure would need to be removed

and redone to be recognised as compliant. This would not only be an additional financial burden on the landlord but would also be a waste of resources and have its own associated carbon cost. This is likely to apply particularly to DIY installed loft insulation, replacement of double-glazing undertaken as part of previous essential maintenance works. For double glazing, a system of alternative paperwork as proof of work done by a FENSA registered business should be acceptable for such situations. This would also be relevant for properties which move between the owner-occupier and the private rented sectors, where improvements were made by owner occupiers.

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:

A strong drive to encourage landlords to use the void period between tenancies to install a smart meter in their property should be promoted, emphasising the benefits of accurate billing for both landlords and tenants, as well as the benefits of debt management and greater visibility and so control over expenditure respectively for landlords and tenants.

The private rented sector continues to have relatively high numbers of old style 'dumb' prepayment meters which are inconvenient, were more costly for consumers requiring a temporary price cap to be imposed and make it difficult for tenants to switch to a cheaper tariff. Smart meters can be switched between credit and pre-payment modes remotely, as well as allowing for remote emergency top-ups and friendly credit. Smart meters can also be useful in avoiding or resolving disputes between landlords and tenants, including at change of tenancy, since they provide accurate daily readings. A particular priority should be to replace old-style pre-payment meters, which would bring benefits for landlords themselves in managing their property and for tenants to access the most competitive tariffs.

Remaining technical issues preventing installation of smart meters in some properties, such as those with Economy 7, will need to be resolved to support rates of installation in the sector. Suppliers must be required to provide a top-up prepayment card to tenants in private rented properties on request so that vulnerable consumers who are not able or willing to use online top-up can do so using a card. This request should be at any time and not a choice between a top-up card and something else, such as a phone app. This is to protect the interest of low-income clients so that they can easily access free vouchers made available via charitable organisations.

Requiring that the presence of a smart meter is recorded on an EPC would enable monitoring of smart meter installation in the private rented sector.

Given that the timeline for properties to achieve EPC C is by 2025, it should be realistic to consider making it a requirement that a SMETS 2 smart meter is installed towards achieving the public benefits enabled by smart metering. In rural areas the mobile signal would need to be checked to ensure the smart meter can operate fully, where the meter would not work properly then the home would be exempt from any new requirement to install a smart meter.

There still remains a trust issue around installation of smart meters. In the private sector, there are legitimate concerns amongst landlords and tenants that SMETS 1 smart meters will not work if you change supplier. Campaigns aimed at the sector need to promote the benefits of SMETS 2 meters and engage with the concerns and potential benefits for both landlords and tenants.

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:

Our own analysis of the measures needed to ensure that Bristol reaches net-zero by 2030 has shown that considerable additional activity is needed beyond that already projected to meet 2050 targets i.e. rapid deployment of heat networks and heat pumps over the next ten years. It is therefore likely that the UK housing sector will need to accelerate decarbonisation in the 2030s which will in turn require far more rapid decarbonisation of heat. The use of the EIR is therefore likely to become increasingly important as a policy tool. The Zero Carbon Heat Strategy needs to consider each tenure of housing carefully with the PRS not being excused from any improvement at the same rate as other housing tenures. We would recommend as early a policy signal as possible to ensure appropriate measures are installed between 2020 and 2030.

The Housing Act 2004 and the HHSRS guidance is also due to be reviewed, which should be revised to reflect the changes in energy efficiency targets when taking enforcement action for excess cold for example. Currently if taking enforcement action for category 1 hazard remedial works are to remove the Cat 1 hazard but this may need changing to reflect the higher EER requirement. HHSRS includes attention to the state of repair of a property. Even homes rated E or higher can be costly to heat if they are in a poor state of maintenance, have a broken heating system or other issues impacting the effectiveness of installed measures.

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:

Engagement with existing landlord forums, networks, associations and agents are all good ways to reach landlords who are active in seeking to keep abreast of relevant regulations. However, use of a range of communication channels, including a wider national campaign, are likely to be necessary to reach the majority of landlords and tenants. Local authorities in the enforcement pilot studies used their webpages for private rented sector landlords and tenants, newsletters, social media channels and door-to-door letters to raise awareness of the PRS regulations.

Communication campaigns with tenants needs to start with the basics, including to explain what an EPC is and how it can be useful. Enforcement pilots found it necessary to undertake on-the-ground outreach with particular groups of tenants: in one pilot, the local authority partnered with local energy advice and housing advice charities, who were able to provide advice and support to more vulnerable tenants, including refugees, those from BAME backgrounds and people with mental health issues. Working in partnership with a third-party organisation also enabled a separation between the compliance and enforcement activities undertaken by the local authority and the advice given by a third party, without fear of immediate enforcement action by the local authority.

Information should be included in the gov.uk landlord and tenant guidance booklets that have to be issued for each tenancy.

Simplifications and removals of loopholes will make it easier to communicate the PRS Regulations and their relationships with the EPB Regulations.

Communicating how the PRS Regulations contribute towards valued goals of tackling climate change, addressing fuel poverty and achieving public health benefits can help build understanding and acceptance of the PRS Regulations.

Landlord bodies, letting agencies and advice organisations such as Citizens Advice, Shelter, debt agencies and energy advice agencies are all routes for reaching landlords and tenants.

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?:

Yes, it is necessary and fundamental to success to have a well-designed and well-managed database that is user-friendly for both landlords and local authorities to use. Given the varying capacity of local authorities to set up and maintain their own database, it would be preferable to have a nationally run and managed tool.

The database should have mandatory fields requiring the contact details for the landlord (full name, address and telephone / email) UPRN, upload or link to current valid EPC, smart meter and (in future) retrofit assessor and coordinator reports as required by PAS 2035. The database should provide prompts to require upload of supporting evidence for any exemptions and include at least a first level of checking that the appropriate documents have been uploaded. The database should be designed so that local authorities receive regular automated alerts of new additions and changes to the database for their area. In revising the Regulations and designing the database, consideration should be given to which officers (and how many in each local authority) can access the database. Local authorities have taken different approaches to which team enforces PRS regulations and accordingly, there should be flexibility as to which team(s) are able to access the database.

In our final report to BEIS on Year One of the Enforcement Pilot Study, CSE concluded that "The identification of PRS properties and their landlords will be crucial to effective enforcement of the MEES regulations, and has been a formidable challenge for each local authority as there is currently no single source of information for either domestic or non-domestic properties within this sector which can confidently identify such properties". A considerable proportion of the enforcement pilot's efforts was spent identifying potentially liable properties – a burden that would not be realistic for local authorities to undertake as business as usual without additional funding. The enforcement pilots developed a range of methods involving a suite of datasets including multiple types of in-house data, the PRS exemptions register, the EPC register, EPC open data bulk download, the 2011 Census and land registry as well as commercially available data, cross-referencing these in order to build up a list of properties most likely to be private rented sector properties liable to the regulations. Some of the techniques developed were sophisticated and/or used proprietary software but even these approaches still required a significant level of manual cleansing or filtering of data prior to the data-matching process. Local authority officers undertook additional measures, such as door-to-door checks or mailouts to verify the results generated from desk-based analysis. The range of datasets available to and used by pilots varied considerably. Furthermore, data quality was a significant problem - beset by incomplete or inaccurate content. A particular challenge noted was the difficulty of address-matching across different datasets accurately in the absence of a consistent key used in all datasets, such as a UPRN. GDPR considerations were also an issue. The second year of the enforcement pilot study is just reaching its mid-term point and indications so far are that this second group of local authorities are encountering the same challenges. Whilst lessons learned from the first-year pilots has helped them move more quickly to identifying a suitable approach, this does not remove the time-consuming manual work involved in coming up with a reliable up-to-date database of liable properties. In some cases, enforcement pilot local authorities were able to assign this task to clerical staff but in other cases, the work was performed by skilled housing, environmental health or trading standards officers, taking them away from their day job of on-the-ground compliance and enforcement activity. A PRS property compliance and exemption database would enable local authority officers to focus their efforts on the actual job of enforcing these and other regulations.

The existing Exemptions Register was reported by several of the first-round pilots to be "difficult to access and navigate, with one suggesting that the self-declaration process is unworkable at present". It will be important for a new PRS property compliance and exemptions database to be user-friendly for local authorities so that it serves as a useful tool in supporting their compliance and enforcement work. Pilot authorities which reviewed existing exemptions found that many had insufficient evidence to support the exemption.

Local authority efforts are still likely to be required to identify those landlords that evade both the EPB and PRS regulations by not having a valid EPC in place or by not updating an expired EPC. An issue of concern for pilot local authorities was how to track down 'under the radar' landlords and lettings. It is likely that local authorities will continue to need to undertake on the ground work to identify landlords that avoid registration. A number of pilot local authorities worked closely with their fraud teams and other teams active in identifying potential criminal activity by landlords.

The register will need to have some inter-relationship with HMO licensing. At present not all HMOs are subject to the Regulations. In our view, it would be highly desirable to bring all HMOs under the MEES regulations as some of the worst energy performing properties, from the experience of CSE's advice team as well as from the experience of local authorities involved in the PRS, are in the HMO sector.

In the phase one pilot, several of the pilot local authorities used their selective licensing schemes database as a way to identify rental properties. However, whilst some local authorities had blanket schemes covering the entire area (e.g. Liverpool), schemes in other local authorities only covered selected parts of their area (e.g. Peterborough). Not all local authorities have selective licensing schemes in place and these are time-limited schemes. A national database would enable consistent data to be collected for private rented sector properties and landlords across England.

In Wales since November 2015, all landlords letting private rented properties in the domestic sector are legally required to register with Rent Smart Wales. An online registration fee of £45 for new registrations is valid for five years. Rent Smart Wales advises landlords of their obligations and signposts them to support and training. Monmouthshire County Council, a phase two pilot, has found the landlord data from Rent Smart Wales extremely helpful to speed up identification of private rental sector properties for MEES enforcement. The data still requires cross-checking with the EPC register and exemptions register, but the process is far less time-consuming. Monmouthshire County Council have also been able to effectively promote their approach to MEES enforcement to landlords via Rent Smart Wales and to share information about energy efficiency grants. However, some properties, such as those linked with an agricultural agreement, holiday lets

and static caravans are exempt from registration.

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

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

No

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 property fee as low as £30 is reasonable.

Such a low registration fee suggests that it is intended to cover the administration costs of the register itself. In relation to both registration costs and fines levelled for offences under the regulations, a major consideration needs to be how local authorities cover the cost of activities they undertake to push for compliance in their area, to identify landlords that evade the EPB and PRS regulations and to undertake enforcement steps where landlords come into compliance before any penalty is imposed. The experience of PRS pilot local authorities has been that the majority of landlords identified as having an F or G property take steps to achieve an EPC E following informal engagement or following issue of a compliance letter. The cost of the work of identification, verification and engagement work undertaken by local authorities for these cases needs to be funded in some way. Only a handful of cases amongst the pilot local authorities reached the point of issuing a penalty notice and the penalty receipts to date do not cover the costs even of pursuing the individual case. Phase one pilots concluded that PRS MEES enforcement under the current regulations could not achieve financial self-sustainability. A few of the pilot authorities decided to introduce local licensing schemes with the intention of using licensing fees to help fund compliance and enforcement activities.

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.:

Yes. Several enforcement pilots involved in the first-year pilot study engaged with letting agents, online property platforms and social media platforms, including Facebook and Gumtree, to identify private lets being advertised which may be subject to the PRS Regulations but for which an EPC may not be available, making it harder to identify them as liable to the PRS regulations. Audit checks with letting agents served to make sure they were abreast of landlord obligations and to check that lets advertised through them were compliant with the EPB regulations and to identify properties potentially liable to the Regulations. This also proved an efficient way to make landlords aware of their obligations at the point of re-letting a property.

Experimental searches of online property platforms and social media platforms enabled local authority officers to gain a picture of the extent to which properties which potentially were being let without an EPC and so avoiding the need to achieve compliance with the PRS Regulations. These experimental methods generated evidence to support suspicions that a minority of landlords may seek to avoid the EPB and the PRS regulations by using social media platforms. It also served to show that in some cases properties are being advertised and let via letting agents and online property platforms ahead of a valid EPC certificate being shown to tenants.

The legislation should be futureproofed so that it does not apply solely to letting agents and specialist online property platforms, but also applies to any promotion, marketing or advertising of a let – so that it includes lets via Facebook, Gumtree – as well as other forms of online promotion that hasn't yet been invented.

The wording 'any reasonable efforts' should be strengthened to 'you must' to close down abuse of this potential loophole to providing a valid EPC – and hence to the practical enforcement of the PRS regulations.

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.:

Yes. In the context of a market where demand significantly exceeds supply, properties are very quickly let after marketing, even poor-quality properties. It should be a requirement that a valid EPC is available when the property is first marketed. Without an EPC in place, it is very difficult for a local authority to identify liable properties. This change should be put into place as soon as possible so that local authorities can check for compliance with PRS regulations against all liable properties, based on a valid EPC being available. This is a significant loophole at present which can make it hard for local authorities to enforce the PRS regulations, particularly in those areas with the highest levels of rental demand.

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?:

The fixed civil penalty fine should be a maximum of £30,000.

In the enforcement pilot study, it was highlighted that enforcement of the PRS Regulations is extremely difficult or even impossible where a valid EPC is not in place. By not having a valid EPC, a landlord can effectively avoid the costs associated with compliance with PRS regulations, including paying for improvements required to achieve the required minimum EER (which are often low compared to the benefit to the tenant and the long-term increase in property value). A £200

fine is then a very low business cost for a landlord compared to spending up to £10,000 on improvements to a property. The current regulations also are unclear on how many times a local authority can apply the fine and do not have in place a 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?

Yes

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

Local authorities involved in the first-round pilot identified the lack of power to inspect properties as a key weakness of the PRS Regulations relative to their powers under other Regulations, such as HHSRS. In some cases, local authorities undertook inspections as part of inspections based on HHSRS, relating to properties with a current EPC rating of E, F or G. However, as the PRS trajectory increases to minimum EER C, officers will not be able to combine enforcement with HHSRS inspections.

In addition to powers of inspection, some pilot local authorities argued the need for powers of entry and powers to undertake works in default, highlighting that without powers of entry, proving a property is let can be difficult if a landlord gives false information. Additionally, the absence of powers of entry to undertake inspections and powers to undertake works in default were identified as barriers to a local authority being able to respond to a regulations breach.

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:

EPC Open Data enables Local Authorities to pro-actively identify properties within their area with poor performing EPC's and inform Enforcement Officers of the addresses they need to be seeking landlord details for. It also enables the identification of areas / postcodes that would benefit from greater promotion of the Regulations or to be assisted with making improvements.

The EPC Open Data proved an important tool used by enforcement pilots seeking to identify liable properties. The ability to bulk download EPCs supports the ability of local authorities to undertake this work efficiently. Timely and regular update of the site is an essential for efficient enforcement.

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:

This is essential evidence for the local authority to consider in checking compliance or pursuing enforcement. Likewise, a landlord will need this to demonstrate improvements made and to plan for future investments to the property.

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:

In the first year of the enforcement pilot study, local authorities found it both complex and time consuming to establish whether a property was subject to the PRS Regulations or exempt, and checking whether a valid EPC was in place to enable them to proceed with enforcement. For efficient enforcement of the PRS Regulations, all rented properties should be required to have a valid EPC in place at all times. Otherwise, there is a risk that longer-occupancy properties will remain unimproved over many years, falling behind the trajectory for improving properties to EPC C or higher, particularly where an exemption has been used to avoid improvement to EPC E or higher up until April 2020.

All tenants should be able to request to see a current valid EPC to know the living costs associated with living in a property. Having a valid EPC will be essential as a form of evidence to underpin any tenant redress mechanism.

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

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

Whilst accuracy and consistency are two different things, they are linked in this context. A replicable and robust methodology for estimating dwelling performance and generating recommendations is essential if the PRS MEES Regulations are to be enforced successfully. Given the current tools available, it is preferable that the most recent SAP methodology is used to calculate a rating, and therefore the period for which an EPC is considered to be valid perhaps requires review.

A recent study by researchers at UCL looked to quantify measurement error on EPC ratings, and considered changes to the algorithms used to calculate the ratings (according to the version of SAP used) and assessor variation in particular. It states that "the level of imprecision found challenges their [EPCs] use in supporting minimum standards for rental properties and energy efficiency retrofit measures, and in indicating the performance of dwellings to potential tenants and buyers", and found that "the predicted error (one standard deviation) was found to generally decrease with EPC rating, from 8 EPC points at the upper end of the F band to 2.4 in the B band. This error leads to a significant probability of mis-classification of dwelling band and its associated policy consequences, for example, a 13% probability of an E dwelling being rated as F or lower, and therefore, being unable to be rented out". The paper suggests that revision to existing energy performance assessment methods may be needed, and that this might involve either improving the current assessment and modelling approach, or developing a new method based on actual energy data.

A number of other studies have found discrepancies between predictions of energy performance made on EPCs compared to operational energy consumption (although predicting operational energy consumption is not actually the stated aim of EPCs or their underlying models).

As an example, a comparison of energy consumption figures from the most recent domestic EPCs to BEIS MSOA level metered domestic gas and electricity records within the City of Bristol indicate that estimated per property consumption figures are significantly higher than actual consumption figures. When total domestic metered fuel use is divided by the number of domestic electricity meters (as a proxy for the number of dwellings), EPCs report 1.52 times the average from small area statistics (alternatively, if total domestic metered fuel usage is divided by the number of residential OS AddressBase records in the area, then EPCs report 1.48 times the average from small area statistics). As EPCs only cover regulated consumption, these numbers underestimate the scale of the difference between the estimated and measured figures. This raises significant concerns regarding the use of EPCs as a basis for the calculation of estimated energy savings from the installation of measures, and could mean that the return on investment (ROI) is overstated.

In addition to this, recent initial analysis of the EPC data for different local authorities by CSE shows a significant rise in the number of incompatible situations in EPC certificates lodged since 2016, compared to those lodged before this time. In particular, we have seen a significant increase in the occurrence of incompatible heating systems and heating controls in the private rented sector in the years since MEES regulations have come into force. For instance, we have observed a high number of unusual combinations of efficient heating controls coupled with older, inefficient and incompatible heating systems, which appear to give an unrealistic boost to the overall energy performance rating – a number of these dwellings are recorded as being in EPC bands E or higher where we believe they are more likely to register in EPC bands F or G with the correct combinations of heating systems and controls. Furthermore, these irregularities appear to be particularly common in urban areas and other local authorities with high proportions of dwellings in the private rented sector. This is one example where we would suggest problems with the existing accuracy and reliability of the EPC system. It points towards a need for bodies overseeing EPC submissions to make sure their auditing procedures pick up on this issue and/or increase the vigilance of their auditing procedures. Assessors may be doing this routinely or on rare occasions: we have not been able to view data that would allow us to check this.

The above issue has been supported by our advice work. On projects like Warmer Homes Advice and Money (WHAM) in Bristol we have needed to seek new independent EPCs to address what appears to be over reporting of efficiency. Whilst this may serve a landlord's interests to escape the regulations, it often precludes the tenant from local funding via ECO flex where local authorities have set restrictions for the PRS which require a property to be F or G rated.

As discussed in Q5 and above here, there are significant issues with the quality and validity of EPCs. The existing EPC does not provide a detailed evaluation of the suitability of the measures i.e. covering the existing state of the building's fabric, the interaction between any measures that may be installed together and an assessment of the energy use associated with the building's occupancy. If PAS 2035 were used as a framework, then a Retrofit Assessor would provide a report for the property as part of a Retrofit Coordination plan covering these aspects.

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

Yes

Please explain your answer :

In some parts of the country, such as Cornwall and the Lake District, a relatively high proportion of private rented homes lie within conservation areas. Without an EPC in place for a significant proportion of the domestic sector, this makes enforcement of MEES extremely challenging for the local authority. In such areas where there is a high proportion of solid wall properties with no access to mains gas, making them hard to treat will require significant funding. Without improvements to the energy performance to solid wall properties, high rates of fuel poverty in rural areas will persist. Similarly, in historic university cities, many larger, older houses within conservation areas have been converted into flats occupied by students or young professionals. These require external or internal wall insulation. Without requirement for an EPC, significant amounts of such stock will remain unimproved. However, the cost of such works is likely to exceed the proposed £10k cost cap and so landlords will need to be able to access grants (and / or) no or low-cost loans in order to proceed with works – otherwise this will result in a continuation of the trend for such properties, where they do have an EPC, to claim an exemption under MEES on cost grounds.

The enforcement pilot study findings showed that there is current confusion in the sector regarding the requirements for an EPC for listed buildings under the EPB and PRS regulations, with some landlords wrongly believing that there is a blanket exemption for listed buildings and those in a conservation area. In certain parts of the country, listed buildings and conservation areas comprise a significant proportion of the PRS housing stock. Conservation areas can also include a proportion of modern properties which can be relatively straightforward to improve within the cost caps proposed for landlord contributions. Local authorities with significant amounts of listed buildings and conservation areas will be better able to support compliance and carry out their enforcement duties for PRS Regulations if all listed buildings and those in a conservation area are legally required to have an EPC.

The enforcement pilot study included work by several enforcement pilots to develop good practice around improvements to listed buildings or buildings in conservation areas. This includes development of a service to provide advice to landlords regarding the likelihood of obtaining planning permission or listed building consent for each of the suggested energy efficiency improvements and in-house guidance on checking the validity of exemptions on different grounds, including consent.

Listed properties can be amongst the costliest for occupants to heat affordably and for hot water and cooking, particularly those properties which are off the gas network. Having an EPC in place can help prospective and existing tenants to understand the potential costs of living there.

The current guidance points landlords to consult their local Trading Standards Service which could lead to inconsistent enforcement, where PRS Regulations are enforced by the housing team.

It remains important that landlords access high quality advice and skilled craftsmanship for works undertaken to listed buildings to avoid harm to the property, so that work is done sympathetically to the building and for the benefit of occupants.

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.:

It is important that landlords should not financially gain from failure to meet minimum standards. The level of the fine should reflect the expected landlord contribution, so that it is more costly NOT to do the work than to do it. The level of fine should also recognise the income generated during the period that the property did not meet minimum standards.

Provision should be made in the legislation to make it possible for future adjustments for inflation in the context of a significant rise in inflation. In the current context of low inflation, this is less important than a clear statement about the maximum fine level.

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?:

Yes. In introducing such powers, government should draw on expertise from Citizens Advice, other consumer organisations and local authorities about how to make sure the mechanism is simple to use, workable on the ground and that tenants who use it are protected against risk of retaliatory harassment, evictions or rent hikes. It should also consider how to make sure that lower income and more vulnerable tenants know about the redress mechanism and how they can be supported to make use of it. Otherwise, there is a risk that only better off tenants will make use of the mechanism whilst lower income, financially insecure and more vulnerable tenants, who are more likely to live in the worst performing properties, do not make use of the redress mechanisms. The Government also needs to ensure that protection mechanisms for tenants kick in early enough in the process to protect them from harmful impacts, including eviction. Those in the worst performing properties may be fearful of making complaints as they will not have realistic alternative options and so may be at risk of homelessness. Government should learn from the experiences of existing redress arrangements for housing that does not meet decent standards so that the proposed mechanism is deliverable on the ground and so achieves intended outcomes without resulting in unintended harm to the most vulnerable tenants.

For such powers to be useful, there would need to be concerted promotion to build much broader awareness amongst tenants about the PRS regulations.

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 :

Such disclosure or benchmarking should encourage local authorities to take action to enforce regulations in their area and will provide tenants and third parties a way to hold the local authority to account for its actions in driving compliance. However, local authorities will require suitable funding to enable them to exercise their powers as well as guidance and best practice to support them in developing in-house compliance and enforcement systems and procedures.

The enforcement pilot studies have shown that where local authorities demonstrably take action to enforce the EPB and PRS regulations together, through informal activity and formal compliance and enforcement action where needed, this has resulted in a reduction in the number of PRS properties with F or G EPCs, with landlords submitting updated EPCs of E or higher, indicating they have undertaken measures to bring the property into compliance. However, the situation across the country suggests that too many local authorities are not currently active in enforcing the regulations. As the trajectory to achieve C or above becomes more challenging for landlords, it will be all the more important that local authorities are active in enforcing as a contribution towards reducing fuel poverty and carbon reduction.

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?:

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:

This will be more straightforward to enforce and for new landlords to follow. However, in the wording, safeguards should be built in to avoid use of this as a loophole where poorly performing properties are sold between family members or associated companies to make use of the exemption and avoid improvements to the property.

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

File upload:

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