

The Advisory Working Group on Non-Domestic Private Rented Sector Regulations (Under The Energy Act 2011)

Date:

Monday 11th March 2013, 2.30pm-4.30pm

Location:

British Property Federation, St Albans House, 5th Floor, 57-59 Haymarket, London, SW1Y 4QX.

Attendees:

Chair - Miles Keeping (MK) (Deloitte)
Better Building Partnership - Chris Botten (CBo)
British Property Federation - Tom Younespour (TY) and Patrick Brown (PB)
British Retail Consortium – Andrew Bolitho (AB)
Carbon Trust -Katherine Deas (KD)
Country & Land Business Association – Tom Beeley (TB)
Department of Communities & Local Government - Sheldon Ferguson (SF)
Department of Energy & Climate Change - Marcia Poletti (MP), Chenab Mangat (CM) and Alison Oliver (AO)
Jones Lang LaSalle - Emma Hoskyn (EH)
Legal and General – Debbie Hobbs (DH)
Squire Sanders - Christopher Brigstock (CBr)
Sustainable Investment & Asset Management LLP - Charles Woollam (CW)
Tuffin Ferraby Taylor LLP – Mat Lown (ML)
UK Green Building Council - Richard Griffiths (RG)

Apologies:

See Remainder of Membership List.

Welcome and opening remarks:

- 1.1 The Chair welcomed attendees to the 2nd meeting of the Working Group on Minimum Energy Performance Standards in the Non Domestic Sector.
- 1.2 The chair reminded attendees of the working group's demanding schedule and emphasised that group members are expected to support the secretariat where requested and undertake work between meetings. This will be essential for the group to meet its objectives on what is a very important issue.

Workstream 1 discussion:

- 2.1 The Chair thanked members for their responses to the workstream 1 questions, and highlighted the accompanying summary paper as quick reference to aid discussion. Each of the workstream 1 questions was discussed in turn.

Question 1 – using EPCs for MEPS

2.2 The Chair outlined that there appeared to be broad consensus from those that responded to the call for views that whilst Energy Performance Certificates (EPC) are not without fault, they were considered to be the best tool currently available for the purposes of MEPS.

2.3 DH suggested that it would be worth considering Part L section 2B requirements of the Building Regulations as being a possible alternative basis for MEPS. Some attendees agreed that Building Regulations would be a simpler standard to use, but questions were raised around how it would apply to minor refurbishments and how enforcement would be undertaken.

2.4 AB noted EPCs will be used for many other energy efficiency policies and that such policies would need to be joined up with MEPS. PB said that it is important that the technical and economic feasibility test used for Building Regulations does not conflict with the rules developed for MEPS.

Question 2 – setting MEPS at an 'E' EPC rating

2.5 Attendees agreed that it was important the MEPS threshold is based on sound evidence and reasoned argument.

2.6 There was agreement amongst attendees that efforts would need to be made to ensure that works to properties above the E EPC threshold were encouraged. There was agreement that clarity on a future trajectory for MEPS would be helpful as it would promote forward planning, and early action on properties above an E rating.

Questions 3 & 4 – Exemptions

2.7 KD highlighted that the cost effectiveness of improving the energy efficiency of buildings will depend on the building type, market and region. CW argued that it is important to understand the different market dynamics for different types of property across the country, and particular issues facing the lower value end of the market must not be overlooked. CW said that using the Green Deal test alone may not be sufficient in assessing the commercial viability of required improvements for lower value property.

2.8 There were mixed views regarding whether energy efficiency improvements would impact on a property's capital or rental value in the future. CW and CBo suggested that there was not yet any evidence of improved value for energy efficient buildings.

2.9 Other issues raised included the length of time a building would be empty whilst improvements were installed, how the Green Deal will work in practice in the non domestic sector, what time limits would be imposed for improving buildings, and the difficulties that are likely to be experienced in applying a financial feasibility test given that a building's value will be determined by a multitude of factors.

Questions 5 & 6 - legal responsibilities and division of responsibility and control

- 2.10 Views were mixed on how MEPS responsibilities should be applied. One view was that only landlord controlled elements would need to be covered by the regulations as fit-outs would have to comply with existing minimum standard requirements, however it was recognised that tenants often do not comply with these standards.
- 2.11 A question was raised about whether EPC assessments should be carried out when the building is empty or after it had been fitted out by a tenant. Liability for non compliance of the regulations between tenants and landlords was also questioned.

Question 7 – age of EPCs and the evolution of EPC calculations

- 2.12 The age of an EPC for the purposes of MEPS was discussed with options of 10 years and 3 years (equivalent to updates of building regulations) proposed, however no consensus was reached.
- 2.13 Attendees questioned whether an EPC for a demise of a building could be used in the place of an EPC for the whole building, what the impact would be on an EPC rating where a tenant fit-out occurs and whether clients commissioning EPC assessments should be offered the underlying data file to make the process of re-assessment easier.

MEPS in other countries

- 3.1 PB outlined the results of his research into whether similar approaches to MEPS had been tried in other jurisdictions. He noted not many other member states are looking to implement similar MEPS regulations, however some policies aimed at increasing the energy efficiency of buildings based on certification have been implemented in Denmark. It was noted that Scottish proposals could also be evaluated.

Workstream 2:

- 4.1 The Chair noted there are currently four questions to discuss under workstream 2 (on the issue of what should be in scope of MEPS) at the next meeting in April. He acknowledged that there is a lot of work to be undertaken before the next meeting so as to be a position to make recommendations.
- 4.2 It was suggested that a specific exemption for listed buildings may not be required as there are existing regulations protecting such properties. It was also suggested that it would be worth considering the list of property types covered by the EPC regulations to aid deliberation on what should be in and out of scope of MEPS.
- 4.3 The chair said that potential candidates to lead workstream 2 questions would be contacted after the meeting.

AOB:

5.1 DECC outlined that as per existing procedures for legislative working groups it was noted that actions may not be completed as the evidence may be incomplete, expensive or difficult to obtain, but the attempt would still be considered valuable as the Groups needs to map out if information is available or not, and make efforts to map out which areas may need further research, and that best endeavours were what we are being requested by the Chair and Secretariat.

5.2 The chair thanked attendees for their input and highlighted the date for the next meeting of 15 April 2013. The chair said that a list of follow up work including action leads and supporters would be circulated after the meeting, and urged group members to offer their support and input.

Review of the actions from 11 February meeting:

All - To:

- Note that the next meeting will take place on 11th March, but that April's Group will sit on a different date (TBC). **Closed.**
- Send any additional Issues that may need to be considered to the Secretariat (with a deadline of 9am Monday 18th Feb). **Closed.**
- Send any existing International/Domestic Evidence that may be relevant to the Secretariat. **Closed.**

Secretariat - To:

- Update the ToRs. **Closed.**
- Place the final Minutes & additional papers on the website when cleared. **Closed.**
- Collate additional issues and questions with the existing list and organise them into 4-5 work streams. **Closed.**
- Develop templates for evidence to be gathered/reviewed. **Closed.**
- Circulate a guide to the Green Deal. **Closed.**

Relevant websites:

<https://www.gov.uk/government/policy-advisory-groups/133>

(Along with a link to the separate Domestic Group)

<https://www.gov.uk/government/policy-advisory-groups/130>

They have also been linked to the Green Deal householders/landlords page.

<https://www.gov.uk/getting-a-green-deal-information-for-householders-and-landlords>

Annex A - 11th March Meeting: Summary of Actions Outstanding

No	Action	Lead/Owner	Contributors	Report back date	Status
1.	To gather data on the breakdown of existing EPCs by building type, size, age, region and any other factor that may be of use to the group	<u>DECC & DCLG</u>	-	25 th March	Outstanding
2.	To provide views to the secretariat on additional factors that ought to be considered in gathering data on existing EPCs (in support of action 1)	-	All	25 th March	Outstanding
3.	To enquire as to what information on EPCs can be provided by IPD	<u>Patrick Brown</u>	-	1 st April	Outstanding
4.	To find out what types of energy efficiency improvement measures can feasibly be installed whilst tenants are in situ	<u>Patrick Brown</u>	Bill Wright (ECA)	1 st April	Outstanding
5.	To report back on Scottish proposals for MEPS under the Scottish Climate Change Act	<u>Patrick Brown</u>	-	1 st April	Outstanding
6.	To provide examples of Green Deal improvement packages for different property types falling below an E EPC rating	<u>DECC</u>	Debbie Hobbs (Legal & General) Chris Brigstocke (Squire Sanders) DCLG	1 st April	Outstanding
7.	To check whether the PRS regulation timescales would allow existing or planned future legislation to be adjusted to permit MEPS to be based on Building Regulations and whether there are implications for listed/historical buildings relating to MEPS	<u>DECC & DCLG</u>	-	1 st April	Outstanding
8.	To develop a paper exploring (1) the potential use of Building Regulations as the basis for MEPS, and (2) what changes	<u>Debbie Hobbs</u> (Legal & General)	Emma Hoskyn (JLL), Andrew Cooper (Deloitte), Ant Wilson (AECOM)	1 st April	Outstanding

	would need to be made to EPCs, and their underlying methodology, if they were used for MEPS instead		Patrick Brown (BPF)		
9.	To develop a paper detailing the options and implications of applying different economic/commercial feasibility tests (such as a Green Deal assessment and exploring issues around the length of void periods), to properties that fall below the prescribed MEPS threshold	<u>Charles Woollam</u> (SIAM)	Katherine Deas (Carbon Trust/Low Carbon Work Place), Mat Lown (Tuffin Ferraby Taylor), Chris Brigstocke (Squire Sanders)	1 st April	Outstanding
10.	To develop a paper detailing how exemptions might work where: (1) tenants or other third parties refuse consent, or where (2) improvements are likely to impact negatively on property value. The paper should include what level of engagement landlords would be required to undertake and what proof would need to be shown	<u>Andrew Bolitho</u> (BRC),	Chris Botten (BBP), Emma Hoskyn (JLL) Sheldon Ferguson (DCLG) Patrick Brown (BPF) Chris Brigstocke (Squire Sanders) Helen Drury (BCSC)	1 st April	Outstanding