



Department for
Business, Energy
& Industrial Strategy

DOMESTIC RENTED SECTOR MINIMUM LEVEL OF ENERGY EFFICIENCY

Summary of Responses to the consultation to
amend *The Energy Efficiency (Private
Rented Property) (England and Wales)
Regulations 2015*

July 2018



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General information

Purpose of this document

To summarise the formal responses received to the 2017 consultation on proposals to amend the *Energy Efficiency (Private Rented Property)(England and Wales) Regulations 2015*.

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This summary of responses relates to a consultation for England and Wales only.

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Introduction

This document provides a summary of responses to the government's consultation on 'Proposals to amend The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015'¹ (the minimum standard regulations). It describes the engagement process that took place during the consultation period between 19 December 2017 and 13 March 2018, provides statistical breakdowns of the responses, and sets out illustrative quotes from the materials received. This document does not set out the government's response or final policy design decisions, which will be published in due course.

The publication of the proposals followed the commitment in the [Clean Growth Strategy](#)² to consult on steps to make the current domestic minimum standard regulations more effective. The amendments proposed in the consultation document would remove the existing 'no cost to the landlord' principle and introduce a 'landlord funding contribution' component in cases where a landlord is unable to obtain suitable 'no cost' funding to install energy efficiency improvements. To protect landlords from excessive costs, the consultation proposed the introduction of a cost cap: a limit on the amount any landlord would need to invest in an individual property. A cost cap of £2,500 per property was proposed. The consultation summarised the proposed approach, but also set out alternative levels for a cost cap and invited comments on the cap and other aspects of the proposal.

This document does not attempt to repeat the background information set out in the consultation paper and only provides a limited amount of context for the proposals and related questions. Please refer to the [consultation document](#) itself for detailed discussion of the issues.

The Minimum Energy Efficiency Standard

The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 (the minimum standard regulations) took effect as from 1st April 2018. They require private landlords to ensure properties they rent in England and Wales meet a minimum energy efficiency standard of Energy Performance Certificate ('EPC') Band E, or get as close to it as is technically possible, using available third-party funding. There are currently around 280,000 domestic private Rented Sector (PRS) properties in England and Wales with an EPC Band rating of F or G representing less than 6% of the overall domestic rental market in England and Wales.

Under the minimum standard regulations, landlords of these properties must take the necessary steps to improve the energy efficiency of their properties the first time they let or re-let their property after April 2018 (or by 1 April 2020, whichever occurs earlier), provided that improvements can be made at 'no cost to the landlord', namely, with improvements financed through 'Pay As You Save' funding, grant funding, or subsidy³.

¹ www.legislation.gov.uk/ukxi/2015/962/contents/made

² www.gov.uk/government/publications/clean-growth-strategy

³ Published guidance on the domestic minimum standard regulations was published in October 2017 and can be found at: www.gov.uk/government/publications/the-private-rented-property-minimum-standard-landlord-guidance-documents

The regulatory amendments proposed in the consultation are planned to ensure that the benefits of the minimum standard regulations can be achieved irrespective of the third-party funding opportunities that may be available over the coming years. The key amendment proposed is likely to result in a proportion of landlords of EPC Band F and G rated domestic private rented properties having to meet some or all of the cost of improving their property to the E threshold (or as close to E as is technically possible). The consultation therefore proposes the establishment of a 'cost cap' to ensure that the costs to landlords do not exceed a certain level.

Summary of key proposals

- I. Proposal to remove the 'no cost to the landlord' principle within the current domestic minimum standard regulations;
- II. Where a landlord's contribution is made to improve an EPC F or G rated property to EPC E, there would be a 'cap', a limit on the required energy efficiency spend, so that the maximum amount a landlord may have to pay per property would be no more than the value of the cap (a £2,500 cap was proposed);
- III. Where landlords can obtain third party funding for the improvements required, for example, through the Green Deal or local authority grant funding, they will not have to contribute their own funds, unless there was a shortfall. In that event, the landlord's contribution would be such an amount as may be required to bring the property up to an EPC Band E, or as near as technically feasible, up to the value of the cap eg. Our analysis⁴ indicates however that a majority of landlords will need to pay significantly less than the cap to achieve the required minimum standard.

The consultation also proposed a number of additional, consequential amendments to support these key proposals.

Your responses to the consultation proposals

We were pleased to receive responses that covered a wide range of views, with some providing depth of thought to specific questions, while others provided more strategic views on the overarching issues. These responses to the consultation will inform final decisions on the policy, which will be published following this document. A significant proportion of responses also included substantial data and evidence which will be fed into the final stage impact assessment.

This paper provides a summary of respondents' views and draws on a number of direct quotes from responses to the consultation to illustrate the issues raised. Quotes are attributed where they have come from an organisation; views from individuals are not attributed. The views expressed in the following pages highlight support for the broad thrust of the proposals set out in the consultation document, but also highlight some of the conflicting views around some of the detail.

We would like to take this opportunity to thank all respondents who contributed to the consultation exercise, both those who formally responded to the written consultation, and those who attended consultation workshops and other events. We will continue to engage with stakeholders as we move forward on the issues raised throughout the document.

⁴ www.gov.uk/government/consultations/domestic-private-rented-sector-minimum-level-of-energy-efficiency

The consultation process

The consultation opened on 19 December 2017 and closed on 13 March 2018. The full consultation and consultation stage impact assessment were published on the gov.uk consultation hub. A summary of the consultation and the consultation questions were also published on the [Citizen Space](#) digital consultation hosting platform.

Government communicated the publication of the consultation widely, including to landlord and tenant groups, local authorities, and energy efficiency and climate change interest groups. All members of the public who had contacted BEIS concerning the minimum standard regulations over the past 18 months were also alerted by email, including those who had registered for access to the domestic PRS Exemptions Register pilot. We also worked with key stakeholder representative bodies, to further extend the use of digital and non-digital channels to generate engagement with and interest in the consultation.

Responses to the consultation could be returned by post, by email or entered directly into the Citizen Space response form.

Engagement activity throughout the consultation period

The consultation process included an extensive programme of engagement tailored to facilitate meaningful discussion and dialogue with identified stakeholder groups and to encourage all interested groups to put forward their views when responding to the consultation.

Engagement activities included:

- Consultation workshops in London and Cardiff;
- Briefing meetings with key stakeholders including: the Energy Savings Trust, the National Landlords Association, Association for the Conservation of Energy, the Country Land and Business Association, and the British Energy Efficiency Federation;
- Telephone briefings with stakeholders who were unable to attend the workshops – this included energy suppliers and others;
- Presentations at other organisations' events – primarily local authorities.

Details of consultation responses received

In total, **198** formal consultation responses were received from our stakeholders. The consultation was published on the government's shared consultation Citizen Space platform, allowing responses to be completed online – of the 198 formal responses, 95 were received through this online portal.

Table one provides a summary of the number of responses per type of respondent.

Table 1. Breakdown of respondents by type

Respondent category	Number of responses
Architects	3
Assessors/ surveyors	18
Charity / non-profit organisations	12
DNO/GND	1
Environmental Consultant	6
Estate agents	2
Individuals	55
Landlords	13
Letting agents	5
Local authority & government (including Members networks)	41
Manufacturers	2
Members network/charity	3
NGOs/ co-operatives	4
Professional bodies	6
Researchers	3
Solicitors	1
Suppliers	7
Tenant	1
Think Tanks	2
Trade Bodies	13
Total	198

Of the 55 responses received from individuals, 36 were submitted through a Climate Action campaign.

Whilst most written responses we received provided views on the specific questions posed in the consultation document, some chose to provide general comments only. We have considered these responses as part of our policy thinking, but as they did not answer specific questions, do not feature in the breakdowns provided within the summary for each consultation question.

There were a limited number of responses received from individuals who identified as landlords (although it is likely that some individual respondents who did not clarify their status will be landlords), however responses from organisations representing a larger proportion of the sector, such as the National Landlord Association (NLA) and Residential Landlord Association (RLA), were submitted.

Questions and consultees' responses

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?

Responses

Yes: 84%

No: 12%

No View: 4%

Summary of responses

1. A majority of respondents agreed with the government's proposal. Amongst those who expressed their support, most acknowledged that as third-party finance options are constrained at present, the EPC E standard is likely to be difficult to deliver within the current regulations. Respondents agreed that introducing a landlord contribution element would address this and would motivate landlords to improve their EPC F and G properties and provide better living conditions to tenants, rather than merely registering exemptions. In giving their support, a majority of respondents argued that landlords should be responsible for maintaining their properties and providing a decent standard of housing and should therefore bear at least some financial duty for maintaining minimum energy efficiency standards.
2. One respondent, an energy surveyor, noted: *"[A]t present no funding is available so all [PRS F and G] properties would be exempt. Landlords will benefit from higher rents and capital values from improved properties so it is fair they contribute to costs".* Another respondent, a property management company, commented: *"Landlords have a vested interest in ensuring their properties are rentable and at best value. It therefore makes sense for them to contribute to protecting ongoing revenue."*
3. A high proportion of those who agreed with the proposal added the qualification that any funding contribution requirement should be subject to a reasonable cap. In general, it was felt that this would balance the burden on landlords and reduce the likelihood that any spend requirement would be passed on to tenants or push landlords out of the rental market.
4. A landlord respondent commented: *"Yes [I agree that landlords should contribute financially], but a sensible cost cap is vital. The cost of insulating the exterior or interior of a single brick cottage to increase the energy efficiency is prohibitive. I have an estimate of £13,000 to insulate two walls of a Victorian detached cottage where the annual rental (which we have kept as low as possible for our tenants) is some £7000".*
5. Another landlord commented: *"[L]andlords should work to upgrade their properties, but rural stone built properties are very difficult to upgrade through wall insulation at any cost. Hence a cap would provide some balance and prevent rural rented properties*

being removed from the rental market. I note that holiday homes are not subject to these regulations so obligations with no cap provide a high incentive to change use of attractive little houses to holiday lets depriving local people of a place to live⁵.”

6. Representing the consumer voice, Citizens Advice suggested:

“Citizens Advice welcomes the move to require landlords to fund energy efficiency improvements where their property does not meet the minimum standard, subject to a maximum cost cap. This will address the fundamental shortcoming of the existing regulation.

“A more effective regulation will bring significant benefits to tenants, as discussed in our response to Question 2, especially [tackling] the issue of cold homes in the private rented sector which this regulation is intended to [address].

“The 2015 minimum standard regulation relies on specific and contingent funding sources, and provides no guarantee that any action would be taken. [It is] because of how these schemes work they would require few landlords to take action... as well as being extremely difficult for local authorities to enforce.

“We [therefore] support the Committee on Fuel Poverty’s⁶ view that a requirement on landlords to pay for measures is the best way to make the regulation effective. There could be an exemption for properties where the costs are particularly high.”

7. Of the 12% of respondents who did not agree with the proposal, most argued that the introduction of a landlord contribution would represent an additional financial pressure on landlords, which should be considered alongside other perceived burdens introduced in recent years (for instance the restrictions in income tax relief). They further argued that, as a result of amended minimum standard regulations, landlords may be forced out of the rental market, which may in turn have an impact on the affordable housing market, social housing as well as negatively impacting tenants living in fuel poverty.

8. One landlord respondent agreed that energy efficiency improvements would have a positive impact on properties arguing:

“The government is loading extra costs onto landlords by forcing them to carry out work which will not benefit their properties. This work may benefit the government’s environmental objectives but it will not benefit landlords. In the long run it will not benefit tenants either, because:

“(a) this measure, when added to all the other anti-landlord measures the government has brought in over recent years, will cause a number of landlords to give up in disgust, and

“(b) those landlords who decided to stick with it will increase their rents to cover this additional cost burden.”

⁵ Holiday lets are out of scope of the Minimum Standard Regulations as they are not legally required to have EPCs, and are not generally let on a qualifying tenancy type (assured, regulated, or domestic agricultural tenancies).

⁶ Information on the Committee on Fuel Poverty can be found at the following address:
www.gov.uk/government/organisations/committee-on-fuel-poverty

9. The RLA, which represents approximately 30,000 UK landlords, wrote:

“Many landlords in the PRS will be simply unable to afford to pay for improvements in their properties without a concurrent increase in the rent. The requirement . . . will present a particular challenge to landlords of older properties in rural areas, where quite substantial rent increases may be required by landlords to provide cashflow required to carry out improvement works. These rent increases are highly likely to be in excess of the savings tenants can expect to make due to the efficiency improvements, meaning that tenants would be generally worse off. In some cases landlords may simply abandon properties, leaving them empty, rather than make improvements which are not economic...

“Landlords surveys conducted by the RLA in November 2016 (See “The Safety and Energy Efficiency Conditions of the Private Rented Sector”, published April 2017) found 52% of landlords who had conducted improvement works within the previous twelve months had funded this out of rental profits. This is not a surprising result since it is not likely that borrowing would be available to fund energy efficiency improvements.”

10. Amongst the 12% of respondents who disagreed with the introduction of a landlord contribution element, many suggested alternate funding approaches, which centred around funding and grants or interest free loans for landlords and/or tenants to alleviate cost pressures.

Question 2a

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

Responses

Yes: 17%

No: 79%

No View: 4%

Summary of responses

11. A majority of respondents disagreed with the proposed cap level of £2,500 per property. Of those that agreed, the majority were landlord representative bodies. Individual landlords expressed decidedly mixed views on the issue.
12. Overall, those respondents who agreed with the proposal did so on the basis that this funding level felt proportionate, or at least practical. One individual landlord respondent wrote:
- “Although this figure is arbitrary and will equate to over 6 months rent for some of our lettings, a figure has to be set.” Another individual landlord noted: “£2,500 is a sensible amount. It will not cover external insulation of a single brick property but should cover some other items.”*

13. Another individual respondent, who did not disclose whether they were a landlord, wrote:
- “The average cost of [bringing] the rating up to a band E with the £2,500 cost cap is currently £865. The cost cap could help to ensure a landlord is not burdened with an excessive cost burden whilst improving the energy efficiency of the property. The £2,500 looks to provide a fair balance between cost to the landlord and achieving the goal of the Minimum Energy Efficiency Standards (MEES).”*
14. Warrington Borough Council wrote:
- “It would be unfair to smaller landlords to expect them to contribute more than this [£2,500] figure as it could take quite a few months to recover this outlay via the rent and there are always other expenses - like repairs - to pay for . . . £2,500 is a fair figure.”*
15. Another respondent agreed, but argued that regions with a cost premium (London in the case of this example) might benefit an uplift:
- “I agree £2,500 is a reasonable figure, however I would encourage this to be incensed [sic] for areas of London where any refurbishment works are much more expensive.”*
16. In their response, the Sustainable Traditional Buildings Alliance stated:
- “Much can be achieved for this sum, low cost measures are the most environmentally effective as they generally have the lowest environmental impact.”*
17. Mirroring some of the responses to question one, several respondents stated that there should be additional funding introduced to support this level of cap, thus enabling the delivery of more expensive improvements. A property surveyor commented:
- “We have physically surveyed over 250,000 homes over a 15 year period. Most houses can be brought up to standard for less than the [proposed £2,500] cap, without additional funding from any other source. Only a problem for off-gas grid, rural, solid wall homes where most solutions are significantly higher and disruptive. Provided additional funding sources align to meet this market then I think the proposal is sound. Hopefully at the right level to not be too high and scare landlords off, but high enough to make them take it seriously.”*
18. Comments were also made around the impact the cost cap may have on landlords depending on the size of their property portfolio and the location of their property/(ies). One respondent suggested:
- “I think the cap should be proportionate to the rent charged rather than a flat rate, as this unduly impacts smaller houses and would be more likely to lead to conversion to holiday lets or taking off the market. Also amount of improvement for a large detached farmhouse for £2500 is negligible when compared to the rent, and the amount of energy being used. I would suggest the higher of 3 months rent and £2500.”*
19. Another small private landlord suggested:
- “If the £2,500 maximum outlay were to relate to expenditure in any one year, this could amount to more than 5 month’s rent from a small dwelling in the area in which my houses are located. In effect, the landlord could be without income from such a property for this period. This might not be crucial if the landlord has, say, five properties, but it could be calamitous for a single house landlord.”*

20. The 79% of respondents who disagreed with the proposed level of the cap expressed strongly polarised views. Of these, 48% felt that the cap should be £5,000, while 19% argued that £2,500 was too low, although without specifically suggesting what the cap should be. Three respondents recommended a cap of up to £10,000.
21. Calls for a higher cap level were generally argued on the basis that this would support the installation of measures that have a greater impact on the energy performance of properties, such as first-time central heating systems and solid wall insulation. Other reasons given include that a higher cap would deliver greater tenant health benefits, alongside concerns that a £2,500 cap would make it more challenging to meet the Fuel Poverty milestones; government's ambitions in the Clean Growth Strategy; and the recommendations from the Committee on Climate Change.
22. The Sustainable Energy Association wrote:
"[We] disagree that the cost cap should be set at £2,500. We strongly recommend that the cap should instead be set at a minimum of £5,000 to maximise the number of homes receiving energy efficiency improvements. This will not only help improve the standard of the rental stock, it will also reduce the risk of fuel poverty and make homes more affordable for the thousands of people living in privately rented homes. It is our opinion that the £2,500 cap proposed is too focused on the interests of landlords and not on the needs of the tenants. Minimum standards are essential to ensure that households are not forced to live in substandard conditions and therefore landlords should bear the cost of achieving these standards."
23. Arguing for an uncapped obligation, one respondent wrote:
"I do not agree with the proposal as it stands. Properties should either be improved to a minimum of an E rating whatever [sic] the cost or should be removed from the private rented housing stock (unless a valid exemption applies). People have to live in these properties and have a right to live in a decent comfortable building, not cold properties with high energy bills. It is the most vulnerable that will yet again be made to pay the most to keep warm if this [£2,500] cap is introduced."
24. Newcastle City Council, noted:
"The cost cap in our opinion is too low. The large majority of F and G rated properties will be hard to treat properties which cannot have the low cost cavity and loft insulation improvements. The most likely improvements to make the biggest impact on the energy rating is upgrading the heating systems in these properties. Last year [we] ran a heating improvement scheme in private properties (small 2-3 bedroom flats) with an average installation cost of £2,700 per property."
25. Suggestions for a higher cap were accompanied by advocacy for the Landlord Energy Saving Allowance (LESA)⁷ to be re-introduced, but at a higher level (£3,000 rather than £1,500) in order to offset the costs landlords incur and incentivise them to go beyond the minimum standard. Other similar suggestions put forward included reduced VAT rates for measures installed under the regulations.

⁷ The Landlord's Energy Saving Allowance (LESA) was introduced to encourage landlords to improve the energy efficiency of let residential properties. It was a time limited tax allowance available from 2004 to 2015 that permitted domestic landlords to deduct up to £1,500 per year from taxable profit for the cost of acquiring and installing certain approved energy-saving items in each rental property.

26. Many respondents who considered the proposed cap to be too low highlighted that, according to the consultation stage Impact Assessment, £2,500 would result in only 30% of properties reaching the minimum standard as set out in the Impact Assessment, leaving the remaining 70% of properties seeing some improvement but not achieving EPC band E.
27. 5% of all respondents noted that more expensive measures, together with some level of grant funding, would be required for hard-to-treat properties, including those which are off-gas grid and/or in rural areas. One argued that:
“a cost cap higher than £2,500 could lead to a reduction in rural rented housing as landlords take a view that it is simply unviable to improve them.”
28. Of those respondents who disagreed with the proposed cap, a minority expressed concerns that £2,500 per property was too high and that landlords in some areas may not be able to afford to pay for the improvements. A letting agent said:
“The cap at £2,500 is too high and should be replaced with a lower cost cap and a set payback period. Many of the properties that will be... [affected] will be in the affordable housing markets, generating low rental income. The figure as mentioned could wipe out profit on investments for a significant period of time.”
29. Alternative suggestions were offered on how the cap mechanism should work, the most common of which was that the cap should be based on the property value or rent taking into account the property size. Several respondents also recommended that the cap should be adjustable in order to take account of inflation.
30. Arguing for area based flexibility, one individual landlord wrote:
“It is wickedly unjust to impose the same ‘cap’ on someone owning a rental property in eg. Barrow-in-Furness (where the rent for a 2-bed property might be as low as £500pm, meaning the ‘contribution’ would wipe out 5+ months rental) and one in eg. Kensington and Chelsea, where a contribution of £2,500 would be insignificant – possibly less than one month’s rental.
“The cap should be no more than one month’s rental income on any property and anyone with fewer than 3 rental properties (ie 1 or 2) should be automatically exempt from the legislation in its entirety.”
31. Arguing for a variable cap, another landlord respondent wrote:
“I think the cap should be proportionate to the rent charged rather than a flat rate, as this unduly impacts smaller houses and would be more likely to lead to conversion to holiday lets or taking off the market. Also amount of improvement for a large detached farmhouse for £2,500 is negligible when compared to the rent, and the amount [sic] of energy being used. I would suggest the higher of 3 months rent and £2,500.”
32. Another individual landlord wrote:
“[Any] cost cap should be set according to previous improvements and/or relate to rental income or even final income from property business after costs. I can see that a minimum of £1000 has been proposed but even that is 14% of my gross rental income from one property and that is needed to make/maintain other aspects of the property safety [sic] for tenants.”

33. These comments, alongside several others from respondents who disagreed with the £2,500 level, suggest a misunderstanding of how the cap proposal would work. If introduced, the cost cap would operate as an upper cap on any required landlord spend, not as an absolute spend requirement, nor a minimum spend requirement as some have suggested. So in the case of smaller, cheaper to improve properties, landlords may be able to improve them to EPC Band E for an amount well below the value of the cap, and in these cases landlords would need to do no more. As was made clear in both the consultation and its accompanying Impact Assessment, the estimated average cost of improving an F or G rated property to Band E under a £2,500 cap would be £865 (less than two months rent in the case of the Barrow-in-Furness landlord quoted on page 15), while the average estimated cost for properties that could make some improvements but could not reach Band E would be £1,025 (just over two months rent for the Barrow-in-Furness example). Therefore the actual costs a landlord would incur under this proposal would be directly related to the size and condition of their property, and is naturally flexible.
34. Moreover, the cap proposal inherently takes account of previous energy efficiency improvements made. All things being equal, any previous improvements should have improved the EPC score of the property already, meaning that the remaining costs of getting to EPC Band E would be lower than they would otherwise have been.
35. Responses that touched on this ‘variable cap’ issue did not go on to propose how a landlord might approach calculating or evidencing the kind of variable, property specific cap they were proposing, or take account of how a local enforcement authority might audit such calculations, both of which are important considerations.
36. The suggestion quoted at the bottom of page 15, to exempt all landlords who own fewer than three rental properties, does not understand the make-up of the domestic private rental market in the UK, where over 70% of private domestic landlords own one or two properties only. By excluding these landlords, the regulations would exclude the overwhelming majority of privately rented homes in England and Wales.
37. A number of respondents to question 2a also referred to mechanisms as proposed and used by the Scottish Government⁸ and the mechanism used in the Welsh Nest scheme⁹. One respondent argued:
- “There is a pressing need to reduce carbon emissions, and if serious efforts are not made in domestic properties we will not meet our carbon commitments. There should be no cap. There should be grants (as in Scotland) and no-interest loans (as in Scotland). In that way, what is needed to be done can be done.”*
38. The response from the Welsh Assembly stated:
- “We do not agree with the cost cap of £2,500 as it does not take into account the higher cost of measures in rural, off-gas properties, which are harder to treat. This could have a disproportionate impact in Wales given the nature of much of our housing stock. Under our Warm Homes Programme, we operate spending caps that are relative to the starting EPC rating of a property and whether it is on or off the mains gas network . . . The current average spend per property under the Warm Homes Nest scheme is £4,400, with 80 per cent of properties achieving an energy rating after installation of EPC D or above.”*

⁸ <https://consult.gov.scot/better-homes-division/energy-efficiency-programme/>

⁹ Information on the Warm Homes Nest scheme is available at www.nestwales.org.uk/publications

Question 2b

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

Responses

Yes: 36%

No: 33%

No View: 31%

Summary of responses

39. A majority of respondents agreed with the proposal. They suggested that if the cap excluded VAT, the burden on the landlords would be increased, especially for smaller landlords who are not registered for VAT and thus unable to claim back VAT incurred when purchasing and installing energy-saving materials. In particular, landlords and landlord groups were almost unanimously supportive of the government's proposal. The RLA suggested that:
- "[M]any landlords in the PRS are consumers for the purposes of the Consumer Rights Act 2015; this requires suppliers to the sector to provide prices and quotes inclusive of VAT. It would introduce unnecessary complexity if landlords were required to calculate VAT exclusive costings for the purposes of establishing whether they had met a VAT exclusive cost cap".*
40. One individual respondent, although in agreement with the proposal, was nevertheless concerned that the inclusion of VAT would likely push some higher cost measures, such as solid wall insulation and solar PV, beyond the cap threshold. While it is possible that VAT will push out some measures that are at the margins of the cap (at whichever level it is set), measures such as solid wall insulation and solar PV are only likely to be within scope if the cap is set at the higher end of the scale. As shown in the published Impact Assessment, the consultation stage preferred cap of £2,500 would not allow for these higher cost measures in most cases, whether inclusive or exclusive of VAT.
41. Respondents who disagreed with the proposal were primarily local authorities and government bodies, assessors and non-landlord individuals. They argued that the proposed £2,500 cap was already too constrained, and including VAT would further reduce the scope for performance improvements. They were in support of excluding VAT to maximise the amount spent on energy efficiency improvements.
42. A small number of respondents argued that if the government proceeds with a cost cap below £5,000 then the cap should be exclusive of VAT. One respondent suggested that if a cap is set inclusive of VAT, then the cap amount should be increased to £6,000.
43. Some respondents noted that VAT rates vary, and VAT registered landlords may be able to recoup the VAT element of their costs, so they should not be included in the cap. One responded suggested as the VAT rate was variable from 0%, 5% to 20% some landlords may use this variance to undertake the least amount of work to their property asset(s).

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?

Responses

Yes: 58%

No: 17%

No View: 25%

44. 58% of respondents agreed with the proposal not to take account of spending on energy efficiency improvements incurred prior to 1 October 2017.
45. 17% disagreed with the proposal, and of these, approximately 40% suggested alternative cut-off dates, or alternative approaches. Alternative dates included 1 April 2017 in line with the minimum standard regulations intent and start of the 2017/8 tax year; 1 April 2016 when the regulations came into force; and 26 March 2015 when the regulations were originally laid. Other approaches suggested included that 'any works that improve the energy efficiency of the property within 18 months of the inception of the regulations to be considered valid'; and to 'take account of spending on energy efficiency improvements in the last three years prior to the date the cap is applied (to exclude boiler replacement and new roofs as these are repair and maintenance issues)'.
 46. Views from landlords on this proposal were mixed, split equally between agreeing and disagreeing. Landlords were also the group of respondents with the largest number of alternative suggestions for a cut-off date.
 47. The RLA Wrote:
"We disagree with the proposal to not take account of spending on energy efficiency improvements incurred prior to 1 October 2017. This date appears to derive from the date that the PRS Exemptions Register was opened. The selection of 1 October 2017 is entirely arbitrary and unfair on proactive landlords who have sought to make improvements earlier. Research conducted on behalf of the RLA published in April 2017 ("The Safety and Energy Efficiency Conditions of the Private Rented Sector") found that 83% of surveyed landlords were aware the new rules prohibiting renting out a property below an E rating from 2018. When the survey was conducted in November 2016 24% of respondents reported that they had made improvements to their properties to comply with the legal changes to the minimum EPC requirements. Many more landlords will have carried out energy efficiency improvement works between then and 1 October 2017."
 48. The Country Land and Business Association argued:
"If part of the logic for capping investment is to protect landlords against excessive costs it makes sense to extend the period during which investment contributes towards the cap. We do not want to see properties leaving the rental market due to landlords having to comply with the cap twice over a short period of time. Given the intention of the regulations is to require landlords to achieve compliance when their initial exemption expires we believe the cap should be pushed to 1 October 2016."

49. One private landlord stated:

“Any previous improvement should be included as this shows that a landlord has made attempts to improve the property and would have an impact on the rating on the property going forward if a new certificate was issued. In trying to improve standards going forward all activities undertaken should be considered and included to do anything else would make a lie of the MEES legislations goals.”

50. Several respondents argued that it would be unreasonable to penalise those landlords who had proactively invested in energy efficiency prior to October 2017, suggesting that significant sums had already been invested into Band F and G properties. Their understanding was that the early announcement of the inception of the minimum standard regulations was to encourage action before the regulations came into force and suggested that this factor should be taken into account.

51. On the other hand, some respondents, including some landlords, acknowledged that any significant prior spend would, in all likelihood have increased the EPC score anyway, possibly even to an E. One expanded on this point noting that, in their experience, an EPC band E is easily achievable for the vast majority of properties, and therefore prior spend will nearly always have raised a property to the E standard, leaving little or no need for further investment.

52. Of those who agreed with the proposed cut-off date, many recognised efforts made by landlords to improve properties, however they suggested that if the property remained substandard then any investment before the cut-off date should not be included, and additional investment should be required to meet the minimum standard. The Sustainable Energy Association said:

“The cost cap should not take into account spending on energy efficiency improvements before October 2017. We support landlords improving the properties without the regulation being enforced, however if the property does not meet the minimum standard additional investment will be needed and the home should be raised to above EPC F and G.”

53. Respondents also argued that permitting spend incurred prior to the proposed October 2017 date to be counted could introduce an additional level of complexity when it came to enforcement. Other respondents commented that October 2017 would represent a fair date giving sufficient notice for landlords to improve their properties while taking account of recent spend. A professional body commented:

“Agree that there should be a cut-off date for previous spending on energy efficiency improvements. 1st October 2017 would allow a 12 month period should the cost cap come into force on 1st October 2018, this would seem to be a fair time period, allowing landlords a period of time over which to arrange and budget for the works. Many landlords are likely have made the improvements to their properties during this time in preparation for MEES.”

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 energy efficiency grant funding from a local authority or other third parties?

Responses

Yes: 21%

No: 55 %

No View: 24%

Summary of responses

54. A majority of respondents disagreed with this proposal. The 21% of respondents who agreed comprised primarily of landlords, and associated bodies such as lettings agents. Lettings agents body ARLA Propertymark argued:
- "[W]e 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, Supplier Obligation Funding, or energy efficiency grant funding from a local authority or other third parties."*
55. Also agreeing with the proposal, the NLA urged the government to:
- "[I]ncrease the amount of financial aid available to landlords".*
56. The Central Association of Agricultural Valuers suggested:
- "We agree with this proposal which may assist those landlords who will struggle to fund the improvements on their own, especially where they have properties let on protected tenancies with Fair Rents."*
57. On the other hand, the Private Rented Sector Professionals (PRSP) membership organisation argued:
- "We suggest the [cap] amount chosen should be exclusive of other funding as this is not in the landlord's control. For example if the tenant refuses a Green Deal this would disadvantage the landlord. It would be more fair if all the landlords had to contribute the same amount and did not suffer more or less depending on availability of funding in their area or the tenant's wishes."*
58. We must clarify that even under a cost cap scenario, where the cap is exclusive of third party funding, not all landlords of F and G rated properties would be required to 'contribute the same amount'. Landlords of these properties would only be required to contribute as much as was necessary in their individual cases to improve a property to EPC Band E, and only up to the value of the cap, with the average projected cost to landlords sitting at £865.

59. Disagreeing that any third-party funding should count towards any capped investment requirement, the Chartered Institute of Environmental Health argued:
- “Landlords, whatever the size of their portfolio, are a type of business. They therefore need to meet minimum standards in order to operate in the private rented sector. In cases where the landlord is fortunate enough to obtain external funding . . . this funding should be used on top of the cost cap to improve the property further above a Band E. We believe that landlords should still be motivated to make improvements on their properties using grant funding, if the government clearly sets out its ambition to bring all dwellings up to Band C by 2030.”*
60. Tenants’ rights organisation Generation Rent wrote:
- “[W]e do not agree that, where a landlord is fortunate enough to be able to obtain funding from external sources, he should be relieved of his duty to spend up to £2,500 of his own money if that is what it takes to bring his property up to Band E.”*
61. Many respondents who disagreed with the inclusion of third party finance within a cap expressed strong opposition to allowing landlords to use ECO funding. This was typically argued on the grounds that ECO is funded through energy bill payers and should not be used to fund works which private businesses are required to carry out. These respondents argued that as in a rental context, ECO eligibility is based on the tenant’s circumstances rather than those of the landlord, the use of ECO funding would amount to tenants subsidising their landlords. Concerns were also expressed that permitting the use of ECO would create inequality between landlords, as many tenants will not be eligible for ECO resulting in a lack of fairness for those landlords who do not happen to be letting to ECO eligible tenants at any given time.
62. Turning to Green Deal finance, many respondents argued that Green Deal should be removed from the regulations as a permitted funding mechanism. Several described a hypothetical scenario of a low-income tenant, who is already under-heating their home due to high costs, withholding consent to energy efficiency improvements due to concerns over a Green Deal finance charge on their bill. It should be noted that the proposed amendment described at consultation question 8 would address such concerns, as (if that amendment were to be made) a sitting tenant would be able to withhold consent to a Green Deal finance plan, but the landlord would then need to make the relevant improvements, either via self-funding or through grant funding, and would not be eligible for an automatic exemption.
63. Several respondents argued that this was not a black and white issue, and that a case by case approach may be necessary. Scottish Power noted:
- “In our view, the decision on whether a landlord’s contribution should be inclusive of other sources of funding depends on whether the landlord’s contribution would result in energy efficiency measures that are cost-effective. For example, it is possible that there are no additional opportunities for cost effective energy efficiency measures remaining at a particular property once external funding has been used, in which case it would be preferable for the landlord’s contribution to be inclusive of external funding. On the other hand, if cost-effective energy effective opportunities remain at a particular property, even after external funding has been used to undertake measures, then the landlord’s contribution would not need to be inclusive of external funding.”*

64. Of those respondents who supported the inclusion of third party finance, most argued that excluding available third-party funding would amount to recasting the capped contribution proposal as a penalty or tax on landlords. Several suggested that including third-party finance may also help those landlords who might struggle to fund improvements on their own, especially those who let property on regulated tenancies.
65. Other respondents viewed the proposal to include 'no cost' finance within a cap as acceptable given that the end result would be the improved energy efficiency of the property. The Solar Trade Association (STA) suggested:
"The STA agrees that funding obtained from 'no cost' finance plans should be counted towards meeting the cost cap threshold if it increases the property's energy efficiency. Such funding sources exist to assist homeowners and should be incentivised."
66. A number of respondents argued that if a capped contribution is introduced and set at £5,000, it would then be reasonable to make it inclusive of 'no cost' finance as this higher end cap would cover the cost of significant measures such as gas-fired central heating systems.
67. Readers should note that, following the March 2018 consultation on the future design of the Energy Company Obligation (ECO 3 from 2018 to 2022), the government has decided to restrict ECO measures allowed in the private rented sector. From October 2018 EPC Band F and G rated PRS properties will only be eligible for ECO support for high cost measures (e.g. solid wall insulation and renewables measures) so that landlords may not rely on ECO funding to meet basic energy efficiency standards. Any available support for the higher value measures will also be subject to the tenant being in receipt of the correct qualifying benefits and/or tax credits, and subject to general availability of funding.
68. Under the ECO 3 scheme PRS properties rated EPC Band E or above will be able to benefit from any ECO measures, including First Time Central Heating, again subject to the status of the tenant and the general availability of funding. The full government response to the ECO 3 consultation was published on 19 July 2028 and can be found [here](#)¹⁰.

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?

Responses

Yes: 43%

No: 26%

No View: 31%

¹⁰ www.gov.uk/government/consultations/energy-company-obligation-eco3-2018-to-2022

Summary of responses

69. The majority of respondents agreed with the government's proposal that there was no need to place a regulatory duty on ECO obligated energy suppliers. However, of those who agreed, a number did so on the basis that they felt that a cost cap should not be inclusive of ECO funding in the first place. Citizens Advice wrote:
- "[We do] not agree that receiving supplier contributions should reduce the landlord contribution cap, for the reasons set out in our response to question 4. This removes the need for ECO providers to provide cost information to landlords. While we think there are benefits to transparency on the costs of ECO delivery, this regulation is not a suitable way to achieve this. If ECO funding was to count as part of the landlord's contribution to the cost cap, suppliers would need to provide landlords with cost information."*
70. Other respondents who agreed felt that landlords could already access this information with minimal difficulty. Some argued that the value of the improvements will vary across suppliers and managing agents, and that a requirement to share costs may add further complexity and cost to the ECO scheme. Arguments were also put forward that installers (rather than energy suppliers) should be responsible for providing information to landlords about the cost of the measures they propose to install in the property.
71. Concerns were raised that suppliers' costs are often commercially sensitive and therefore suppliers would be reluctant to share this information with landlords, although it was felt that installers should be able to share information. British Gas stated:
- "We agree that additional regulation should not be placed on energy suppliers or their agents to disclose potentially commercially sensitive information."*
72. Respondents who disagreed and thought that a regulatory duty should be placed on ECO obligated energy suppliers argued that suppliers may not be forthcoming with this information without one. The RLA argued:
- "Since it is proposed that these sums shall be included in spending towards the cap, it is vital that landlords have access to accurate information about the value of energy efficiency improvements made through a supplier obligation. We are very concerned that in the absence of a regulatory duty on energy suppliers, landlords will not be able to obtain this information, since there will be no incentive for the suppliers to provide this to landlords at all, let alone in a time and accessible manner."*
73. Several respondents wrote that enforcement complications could arise in the absence of a regulatory duty: notwithstanding that information is not forthcoming from energy suppliers, lack of evidentiary information could nevertheless result in landlords unfairly facing enforcement measures. Per Leeds City Council:
- "Local authorities responsible for administering and enforcing the regulations will be concerned if voluntary arrangements such as this have to be relied upon. The consequence of the voluntary approach is that local authorities will need to spend additional time following up missing or inadequate details and validating them when a landlord claims to have had work partially funded by ECO up to the value of the cost cap."*

74. As noted at the end of the summary of responses to question 4 (page 22), following the March 2018 consultation on the future design of the Energy Company Obligation, the government has decided to restrict ECO measures allowed in the private rented sector. This means that from October 2018 landlords of F or G rated properties will be unable to access ECO funding for lower cost measures. Consequently the issues discussed at question 5 of the PRS consultation are no longer expected to be relevant, as it is likely that landlords of F & G rated PRS properties are only likely to be able to access ECO funding (subject to tenant eligibility) for higher cost measures exceeding the value of any PRS cost cap which may be set. This would negate the need for the landlord to make a financial contribution in order to comply with amended minimum standard regulations.

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?

Responses

Yes: 56%

No: 16%

No View: 28%

Summary of responses

75. The main stakeholder groups that agreed with this 'three quotes' proposal were local authorities, surveyors and assessors, charities and NGOs. Those who disagreed largely comprised landlords, individual respondents and some local authorities.
76. Respondents who agreed with the proposal typically argued that a three quotes requirement is reasonable as this would provide a suitable level of assurance on the cost of the recommended measures and was in line with standard advice to obtain three quotes before proceeding with building work. Moreover these respondents also agreed that requiring three quotes would help manage the risk of fraud, although several argued it would represent an additional burden on local authorities when auditing these exemptions.
77. One respondent wrote:
"This [is] just regarded as good practice. Also helps avoid the possibility of unscrupulous landlords obtaining quotes from favoured suppliers."
78. The Association of Local Energy Officers NorthWest suggested:
"[T]his is in line with a local authority's standard procedure of obtaining 3 quotes for building works for funding sources such as grants or affordable loans. Guidance on what should be included in the quote, eg level of redecoration, new gas connection etc should be provided to minimise any malpractice or variations in interpretation."

79. A small number of respondents agreed with the principle of requiring quotes to support a 'high cost' exemption, but disagreed with the proposal to mandate three. A few alternative suggestions for the number of quotes were offered, including one, two and five.
80. Several respondents, a combination of those who agreed and disagreed with the proposal, recommended that any quotes should be provided by suitably certified installers and assessors. Standards and schemes mentioned included PAS2030, the Microgeneration Certification Scheme (MCS) and competent persons scheme.
81. Of those respondents who disagreed with the proposal, the majority expressed concerns that the process may be too complicated and onerous for landlords. Some suggested this would be particularly difficult in areas where there are limited specialist contractors, such as in rural areas where properties may require more novel measures. Further, roughly half of the respondents who disagreed with the proposal, expressed concerns that this proposal could result in a burden for installers, in particular for small businesses, as it may lead to them being invited to providing quotes for works which, ultimately, they would not be undertaking. One respondent, an assessor, wrote:
- "There should be a table of "reasonable cost band" values for the main energy efficiency measures. If the landlord is intending to register a "high cost" exemption and provides a quote within this band that should be sufficient. If there are reasons why the quote is higher than what is normally accepted as "reasonable cost" then three quotes should be required. The reason for us taking this view is that we feel it is totally unreasonable to expect small businesses to spend their time producing quotes for landlords for work the landlords have no intention of carrying out.*
- "We would anticipate that organisations such as the Federation for Small Businesses would be extremely troubled by legislation that created unpaid work for their members, producing quotes for measures that will not be undertaken and which are actually for the sole purpose of providing the landlord with a way to not undertake them. Small businesses cannot afford to take on that burden, nor should they be expected to."*
82. It was also argued that the introduction of such a requirement would not reduce the risk of fraud and would result in inflated quotes for the works.
83. Finally, some respondents agreed the domestic and non-domestic regulations should be aligned, while one disagreed. This respondent argued that the two property sectors have significant differences, and therefore there was no need for the requirements under the regulations to be the same.
84. The key rationale behind the three quotes proposal is that obtaining this number of quotes is typically recommended as good practice of ensuring value for money, and is therefore something which landlords could reasonably be expected to do anyway when contemplating works (by way of clarifying what can be done, rather than 'what can't'). Consumer organisations, including [Citizens Advice](#), recommend that property owners, before getting work done, should get written quotes from at least three different contractors before they decide on one, as comparing quotes will help them decide if they are getting a fair price. In this context, landlords would ideally be getting three quotes to help manage their costs, and installers will be used to providing quotes on this basis.

85. Under any amended regulations, landlords of Band F and G rated properties would be required to install energy efficiency measures necessary to improve these properties to Band E, or measures up to the value of a cap (whichever is lowest). A 'high cost' exemption would only be available in situations where no measures could be installed below the value of the cap. The analysis in the consultation stage Impact Assessment indicated that virtually all F and G rated properties can benefit from at least one improvement valued at £2,500 or less even if the property cannot reach E. Landlords in this situation would then be expected to register an exemption on the basis that "all the 'relevant energy efficiency improvements' for the property have been made and the property remains sub-standard¹¹". Therefore we would anticipate that only a very small number of landlords, if any, would actually need to register a 'high cost' exemption under any amended regulations, and provide the 'three quotes' evidence.

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?

Responses

Yes: 56%

No: 17%

No View: 27%

Summary of responses

86. A majority of respondents agreed with the proposal to limit the validity of any 'no cost to the landlord' exemptions registered between October 2017 and the point at which a capped landlord contribution amendment comes into force (currently assumed to be 1 April 2019). Responses to this question were generally brief and concise. Few individual landlords responded to the question, although the landlord representative bodies all disagreed with the government's proposal.
87. The other respondents who disagreed were comprised mainly of lettings agents, some local authorities and a number of private individuals who did not identify their interest. These respondents typically argued that honouring any existing 'no cost' exemptions for the full five years was fair, and would give landlords time to bring their property up to EPC band E.
88. Others, while agreeing that these exemptions should be curtailed, suggested alternative expiry dates, most frequently 31 March 2020, thus allowing the domestic regulations to apply to all existing and new tenancies from 1 April 2020. The NLA wrote: "the validity of any "no-cost" exemption should remain in force until April 2020. April 2020 is already a known "implementation" date for MEES regulations and will minimise confusion and non-compliance amongst otherwise compliant landlords."

¹¹ This is regulation 25 of the existing regulations

89. A significant proportion of these respondents commented that government should stop moving the goal posts to make it easier for landlords to plan and make changes to their properties.
90. Of those who agreed with the government's proposal, the broad rationale given was that it would accelerate the rates of improvement, but should also give landlords sufficient time to reassess their existing exemptions and plan their next steps (this was on the assumption that amendments are made roughly according to government's assumed timetable). Respondents felt that resetting the landlord requirement from 1 April 2019 would create a level playing field between those landlords who have already had a tenancy change since April 2018 and had registered an exemption, and those who have not.
91. The most frequent concern raised by those who agreed with curtailing the validity of the 'no cost exemption' was that landlords would appeal the expiry of their exemptions to the First Tier Tribunal. Local authorities felt the need for reassurance that they would be able to revoke the exemptions otherwise potential appeals could have resource implications for them. One local authority wrote:
"We have concerns also in respect of appeals and will need BEIS to ensure that this is resolved so local authorities do not have an unnecessary burden with tribunals over exemptions."
92. BEIS can indeed provide reassurance that, if this proposal is enacted, the curtailment of existing 'no cost' exemptions would be managed centrally via the PRS Exemptions Register, and local enforcement authorities would not be required to take any action to end them.

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 applicable to support your views.

Responses

Yes: 38%

No: 13%

No View: 49%

Summary of responses

93. Of those who responded to this question, the majority agreed with the proposal. Few individual landlords responded on this question, with landlord representative bodies being the main respondents disagreeing with the proposal to remove the exemption.
94. One of the few individual landlords who responded noted:
"I was actually horrified at the suggestion that if the tenant refuses the additions to their energy bill (even though the measures would presumably reduce these for them), then you would push on and make the landlord pay anyway." Landlord organisations also argued for a retention of the Green Deal finance consent exemption. A key argument put forward was that it would protect tenants from

being coerced into accepting a Green Deal charge by disreputable landlords, or evicted and replaced by a tenant who would accept.”

95. The NLA wrote:

“[We] strongly believe that this exemption should be retained, and we see no valid reason for it not to be. The tenant should of course remain within their right to refuse consent to a Green Deal charge being attached to the energy bill. However, if the refusal of consent then leads to the landlord facing a charge of up to £2,500 for improvements then this could have unintended consequences. The landlord may conclude it is more cost-effective to regain possession of the property and find a tenant who will consent to a Green Deal plan. In addition, tenants may feel less able to actually use their right to refuse if they feel that doing so could result in the landlord seeking possession of the property.”

96. The RLA argued:

“The proposal to introduce a landlord cost element has been characterised as the introduction of an alternative financial arrangement to fund improvements. Where Green Deal funding is available, no such alternative funding arrangement is required. Removing the consent exemption under Regulation 31(1)(a)(ii) would create an unintended incentive for tenants to refuse consent to any new green deal arrangements, since this would expose them to liability for a cost which otherwise would fall on the landlord (up to the cap) if they refuse consent. It is not the government’s intention to create a financial incentive for tenants to refuse consent to new Green Deal arrangements but that would be the effect of removing this exemption.”

97. The Country Land and Business Association said:

“Tenants should retain their ability to refuse a Green Deal Plan. Ultimately it is the tenant who will be paying it off, so it seems unjust to compel them to accept. We would be concerned that if a landlord was committed to using this funding route it may lead to a landlord seeking to regain possession of the property and letting it to someone who would agree to a plan.”

98. Responses of this flavour appear to reflect a misunderstanding of the proposal under discussion. The proposal is not to remove a tenant’s right to withhold their consent either to a Green Deal finance plan or to energy efficiency improvements more generally. Rather, the proposal is that where a landlord wishes to fund improvements using Green Deal and a sitting tenant refuses consent to a Green Deal charge being attached to the electricity meter, (but is otherwise content that improvements be made), the landlord will not be able to claim a ‘consent exemption’: they must look at other funding options – including self-funding. If a tenant is opposed to the energy efficiency improvements being made per se and withholds their consent (for instance where they feel the improvements to be made would be too disruptive), the landlord would, in such circumstances, still be able to register a ‘consent exemption’ on that basis¹².

99. Elsewhere, the majority of non-landlord respondents agreed with the government’s proposal. Reasons given included removing a loophole; incentivising landlords to comply with the regulations and explore alternative funding options. Some respondents

¹² As per the current minimum standard regulations any tenant consent exemption would cease when the tenant vacates the property at the end of the tenancy. The landlord would then need to make any relevant improvements before entering into a new tenancy.

also argued that removing this exemption would eliminate the potential for landlords to coerce tenants into giving or refusing consent to a Green Deal plan.

100. Many respondents also expressed a general view that Green Deal was inappropriate for the rental sector as tenants should not be paying the bill for the landlord when they have no security of tenure. The Chartered Institute for Environmental Health noted:

“Green Deal finance is ‘no cost’ to the landlord because the tenant agrees to pay for the energy efficiency improvements on the landlord’s behalf. Given that tenants generally have very little protection from evictions or rent increases, this is not an attractive or fair deal for tenants, who will get no financial benefit and may therefore refuse to sign up. Where a tenant refuses to give consent to a Green Deal charge, the landlord should be obliged to fund improvements himself.

“Although, there will be cases where a tenant may refuse consent for major works funded by the landlord, this is relatively rare and through negotiation this can usually be resolved. Therefore, this is also not a good reason to provide another exemption to the regulations.”

101. Respondents who did not express a view on whether the exemptions should be retained or removed, stated that there needs to be a balance between landlords taking advantage of tenants and tenants’ rights.

Question 9

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

Responses

Yes: 74%

No:

No View:

Summary of responses

102. Of the 198 respondents to the consultation, 146 provided a response to this question. Responses covered a range of issues and themes, some relating to the previous questions in the consultation (and in many cases reiterating previous points). Other responses provided observations and feedback on issues related to energy efficiency and the private rental sector more broadly.
103. A number of respondents raised concerns over a perceived general lack of awareness of the minimum standard regulations amongst landlords (and others involved in the sector) and a lack of access to information and advice about energy efficiency to help landlords make good decisions about energy efficiency improvements. Several respondents noted that this consultation, coming so close to the April 2018 launch of the minimum standard, created further confusion and uncertainty around the regulatory requirements.

104. Several responses touched on the properties within the scope of the minimum standard, highlighting in particular that Houses in Multiple Occupation (HMOs)¹³ will often fall outside of the scope of the regulations as they are not typically required to have an EPC.
105. The Association of Local Energy Officers noted:
“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.”
106. A significant proportion of responses (from landlords, local authorities and others) argued that the minimum standard regulations could be given greater momentum if the costs of making improvements could be offset against tax or treated as an enhanced capital allowance. Many such comments referred to the Landlords Energy Savings Allowance (LESA), outlined within footnote 6, suggesting that a reintroduced LESA, or similar, would encourage energy efficiency improvements and may also discourage landlords from passing on cost in the form of rent increases for tenants. Several respondents suggested that if energy efficiency improvement costs in the domestic rental sector could be treated as an enhanced capital allowance, there would be no need to place a cap on the investment landlords were asked to make.
107. A small number of respondents, in favour of financial incentives to encourage energy performance improvements, proposed a number of alternative approaches. including: making energy efficiency improvements ‘zero rate VAT’ and treating energy efficiency as ‘maintenance and renewal’ for tax offsetting purposes.
108. A number of respondents commented on the use of the EPC as the tool for setting and measuring a minimum standard. Several believe EPCs to be unreliable or inconsistent as a tool and the recommendations they make ‘generic’. Others, while content with EPCs as a tool, argued that the minimum standard should be set according to the EPC carbon metric rather than the EPC cost metric as is currently the case.
109. One landlord respondent noted:
“I am very concerned that these measures rely on agreeing that the basic assessment of the property and the EPC is correct. There is no Ombudsman for the scheme and this appears a big omission given that renting out properties assessed at G or F will become illegal. The quality of the assessors is very mixed and the training and accreditation should be strengthened.”
110. EPC Certification body STROMA noted their concern that the minimum standard regulations could lead to pressures on energy assessors to falsify EPCs to show a Band E or above. STROMA therefore called for:
“a scheme which would allow stakeholders to work together to alert or ‘whistle blow’ any party involved in the production of fraudulent EPCs or exemptions, or where a stakeholder has put pressure on another to commit fraud.”

¹³ Houses in Multiple Occupation are properties where both of the following conditions apply: 1) at least 3 tenants live there, forming more than 1 household, and 2) the tenants share toilet, bathroom or kitchen facilities with other tenants. Individual rooms within HMOs are not required to have their own EPC, so a property which is rented on an HMO basis will only have an EPC if one is required for the property as a whole. Typically, this will be if the property has been build, sold or rented as a single unit at any time in the past 10 years.

111. In the alternative, the South West Association for Energy Assessors, Green Deal Advisors & Residential Property Surveyors argued:
- “In the domestic sector, the minimum energy efficiency standard is based upon the use of domestic EPCs. These are produced in a consistent manner by a number of domestic energy assessors (DEAs) roughly appropriate to meet the demand. The successful implementation of the PRS regulations in the domestic sector is based upon an established product in a stable marketplace. Whilst nobody is going to claim perfection, it is not broken so it does not need to be fixed.”*
112. A number of comments related to enforcement of the existing (or future amended) regulations. Several commented that central government must ensure that local enforcement authorities are funded to enable them to exercise their duties. The Local Government Association wrote:
- “The effectiveness of the regulations depends on private landlords complying with the legal obligation to have an EPC certificate. This is enforced by trading standards departments. The reality is that trading standards services will only be able to actively enforce issues that are key local priorities, meaning that the service’s response to the introduction of minimum standards will vary depending on the priority and available resources locally. This applies equally to proposed new areas of enforcement in the private rented sector, including the ban on letting agent fees to tenants.”*
113. Comments were also made by a proportion of respondents on the need for a national Landlord database. The Committee on Fuel Poverty wrote:
- “There should be a mandatory national database of properties in the private rented sector. This could be self-financing from fees levied on Landlords and feed into a national database. While we accept that at local authority level there are resource issues, the fact that local authorities can now keep funds arising from [minimum standard] enforcement action should help to alleviate some of these. This approach would also complement the existing Health and Safety Rating System (HHSRS) which already requires landlords to improve properties that are found to pose a risk to their occupants.”*
114. On the theme of enforcement, several respondents, including the West of England Local Authorities, noted that while the domestic minimum standard regulations are enforced by local authorities, compliance with EPC regulations are enforced by Local Weights and Measures Authorities. These responses argued that enforcement of both domestic minimum standards and domestic EPC compliance should sit with local authorities and that this may aid enforcement of both sets of requirements.
115. Comments were also made by a range of respondents on the perceived benefits of aligning the Housing Health and Safety Rating System (HHSRS) with the minimum standard regulations, with the HHSRS cold hazard class applying automatically to any property with an EPC score below E.
116. 10:10 Climate Action commented:
- “It is possible that a property could be improved from EPC rating F or G to band E and still present hazards under HHSRS. The government should provide clarity to relevant local authority officers and landlords that meeting obligations under MEES has no legal bearing on whether a property presents a hazard under*

HHSRS. Likewise, where a landlord has been granted a 'high cost' exemption from undertaking work required under MEES, government should provide clarity that this has no legal bearing on whether a property presents a hazard under HHSRS."

117. The above sentiment was also expressed by a number of other respondents. We should point out that the published domestic minimum standard guidance states that an exemption under the minimum standard regulations will not mean that a landlord is exempt from meeting their HHSRS obligations.
118. Several respondents wrote that the minimum standard policy should allow for the landlord to undertake the work themselves and for this to be acceptable if it generates the desired improvement regardless of cost. The overriding requirement of the current regulations and of any amending regulations, is to improve a property to a minimum of EPC E (or as close to this as is technically feasible). Nothing in the proposal would prevent a landlord from carrying out the improvement work themselves, and if they can do this for low cost (or no cost) then they will have met their obligation.
119. A number of responses stated that the minimum standard and any amended regulations, needed to be tied in with the standards work being developed and delivered as part of the Each Home Counts review. A range of different respondents noted the Clean Growth Strategy commitment to consult on setting a minimum standard trajectory for the private rental sector, with the aim of improving as many properties as possible to EPC band C by 2030. These respondents were generally in favour of the 2030 ambition and used this consultation to urge government to consult on policy design options for a trajectory as soon as possible.
120. Energy UK wrote:
"While Energy UK welcomes that government are looking to amend and strengthen the current regulations, we are concerned that government has not set out a trajectory and timetable for further improvements to be made to PRS properties. In its Clean Growth Strategy, government set out its ambition for PRS properties to be upgraded to band C by 2030. This will likely require significant investment in the PRS to not only upgrade F & G rated properties but also for those that already are or will be rated band E or D."
121. Building materials company Kingspan noted:
"Government should set out a definite trajectory for increasing the minimum standard with set timescales, so as to encourage Landlords to target higher levels from the outset to save costs in the longer term."

Impact assessment and evidence questions

Questions 10a, 10b ,10c

- 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?
- 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?
- 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?

Summary of responses

122. Respondents from all groups felt that the Impact Assessment did not reflect benefits to landlords, in particular the increase in property value as a result of the energy efficiency measures, but also benefits such as reduced property maintenance costs and reduced void periods. Many respondents felt that the health benefits of improved energy efficiency should be reflected in the calculation of the Net Present Value. The enforcement costs to local authorities were also expected to be higher and the compliance costs for landlords lower (with exceptions), and respondents wanted to understand more of the detail behind these calculations.
123. Most respondents did not feel landlords would be able to pass costs onto tenants as landlords for F and G rated properties would be unlikely to have market setting power. While there were likely to be exceptions where local market conditions would allow landlords to pass costs on, it was generally felt that any rental increase would be more than offset by bill savings. Some respondents also argued that it would be appropriate for more efficient properties to command higher rents as this would show that tenants valued energy efficiency, and that landlords and tenants were taking energy efficiency into account in their decision making.

Next steps

The responses summarised in this publication will inform government's final decisions on amendments to the domestic minimum standard policy and the preparation of any draft amending regulations. Government's response to the issues raised in the responses, and its decisions on the next steps for the policy, will be published in due course.

As discussed in the consultation document, it is government's intention that any amending regulations will be made during autumn 2018, coming into force for 1 April 2019. This timeline ambition will provide clarity to domestic sector landlords about the future direction of the minimum standard policy, so that they can make informed judgements about investing in their property portfolio.

This timing will be subject to final policy decisions and Parliamentary time and will therefore be kept under review.

Annex A – List of respondents

10:10 Climate Action
Association of Local Energy Officers
Association of Local Energy Officers (ALEO) London
Association of Local Energy Officers NorthWest
Aston Rose (West End) Ltd
Avon Energy Surveyors Ltd
Bere architects
Brent Private Tenants' Rights Group (t/a Advice4Renters)
British Gas
British Property Federation
Broadland District Council
Byrne Properties
Calderdale Council
Calor Gas
Cambridge City Council
Cavity Insulation Guarantee Agency (CIGA)
Central Association of Agricultural Valuers
Centre for Sustainable Energy
Chartered Institute for Environmental Health (CIEH)
Chartered Institution of Building Services Engineers (CIBSE)
Chelmsford City Council
Cherwell and South Northants Council
Chiltern District Council
Citizens Advice Bureau
Committee on Fuel Poverty
Cornwall Home Energy Surveys
Country Land and Business Association (CLA)
Cullinan Studio
Dacorum Borough Council
DEA
DEATorbay
Dover District Council

E3G

East Riding Council

East Suffolk (Suffolk Coastal and Waveney Councils) Partnership

Eastleigh Borough Council

Ecomorph Ltd

Elmhurst energy

Energy and Utilities Alliance (EUA)

Energy Saving Trust

Energy UK

Environmental Change Institute, University of Oxford

EON

Erewash Borough Council

Farnsfield Consulting Ltd.

Forestfolk (Holiday and Long lets)

Friends of the Earth

Fuel Poverty Action

Gedling Borough Council

Generation Rent

Greater London Authority

H. J. Holt Ltd

Hamptons International / Countrywide Plc.

Hartlepool Borough Council

Herefordshire Council

HomeRent Property Ltd

Horsham District Council

Housing Law Practitioners Association

Individuals

Inkling Partnership LLP

Irt Surveys Ltd

Islington Council

Kingspan

Leeds City Council

Local Government Association

London Borough of Lambeth

LSL Property Services Plc (LSL) Group

M J Energy Services
Maldon District Council
Mendip District Council
Meyrick Estate Management Ltd
Mineral Wool Insulation Manufacturers' Association (MIMA)
National Energy Action
National Energy Foundation
National Insulation Association
National Landlords Association (NLA)
National Pensioners Convention
National Union of Students
Newcastle City Council
Norfolk EPC's
Nottinghamshire and Derbyshire Local Authorities' Energy Partnership (LAEP)
Npower
Ovo Energy
Oxford City Council
Oxford University
Portsmouth City Council
Prewett Bizley Ltd
Private Housing Officers' Group
Private Rented Sector Professionals (PRSP)
Property Mark
Proport Eco-Services
PRTproperty
Residential Landlord Association (RLA)
Rhug Estate
SCEAL td t/a Mercian Property Inspectors
Scottish Natural Gas
Scottish Power
Shelter
Solar Trade Association (STA)
SSE
Stourhead Western Estate
Stroma Certification

Sustainable Energy Association

Sustainable Traditional Buildings Alliance

Swindon Borough Council

The Ebico Trust for Sustainable Development

The Royal Borough of Kensington and Chelsea

The South West Association for Energy Assessors, Green Deal Advisors & Residential Property Surveyors

Thornley and Lumb

Tonbridge & Malling Borough Council

Tudor Edward

Twinn Sustainability Innovation

UK ACE

UK GBC

UK LPG

University College London

University of Leicester Students' Union

Warm Front Ltd

Warmer Worcestershire Network

Warrington Borough Council

Weco Ltd

Welsh Government

West Midlands Association of Local Energy Officers

West of England Local Authorities

West Somerset Council

West Yorkshire Combined Authority

Wirral Council

Worcester City Council

WWF

This publication is available from: www.gov.uk/government/consultations/domestic-private-rented-sector-minimum-level-of-energy-efficiency

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