



ENFORCING THE ENHANCEMENT OF ENERGY EFFICIENCY REGULATIONS IN THE ENGLISH PRIVATE RENTED SECTOR

Final Report: 27 June 2019

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EXECUTIVE SUMMARY

Energy Performance Certificates rate properties from A (the most efficient) to G (the most inefficient). The Minimum Energy Efficiency Standards (MEES) came into effect in 2018 with the aim of improving private rented housing to at least an E rating wherever possible. One of the aims of the MEES was to improve the homes of the more than 100,000 fuel poor households living in privately rented F and G rated properties. As of 2016, around 7% of privately rented properties had a band F or G rating and while this has decreased considerably in the last decade, the private rented sector still has the highest proportion of non-compliant properties by tenure. This study was commissioned by the Committee on Fuel Poverty in order to explore the question:

To achieve the housing stock improvement and reduction in fuel poverty sought from the new Minimum Energy Efficiency Standards, what alternative enforcement models could be adopted and how might they work? The study comprised interviews with sector experts, analysis of data, and six workshops held throughout England. These aimed to find out about how the MEES are currently enforced and discuss possible alternatives to improve enforcement and identify key principles for possible alternatives.

The effectiveness of existing enforcement of the MEES

It was clear that enforcement action by local authorities in this area is currently limited. Some local authorities are developing systems and looking to enforce the regulations within the next year. Others are yet to undertake any work at all around enforcing the MEES.

The ineffectiveness of the exemption criteria (prior to April 2019) was a key barrier to enforcement, along with a lack of resourcing for this activity within local authorities. Local authorities also have other legislation they can use (the Housing Health and Safety Rating System) in order to improve standards in the PRS, and were more familiar with this.

It was widely felt that it will be easier to enforce the MEES after April 2020 when the standards will apply to existing tenants too (as long as the property has an EPC). However, the practical challenges in identifying non-compliant properties, contacting landlords, and resourcing the activity make it difficult for local authorities to enforce the MEES efficiently.

Ways to improve enforcement

Possible alternative means identified to enforce the MEES include:

- **Landlord registration and licensing** – this offers the most practical means of identifying landlords who currently lack an EPC on a proactive basis, rather than waiting for tenants to raise complaints.
- **Big data** – linking up data from different sources is a task that would need to happen in order to create a landlord register. It would also offer an alternative means of helping identify private rented properties that may lack an EPC, though challenges remain in moving from such a list to having contact details for landlords needed to enforce the MEES. Updating the EPC lodgement database would play a key role in facilitating this kind of approach to enforcement.
- **Empowering tenants** – if tenants could be compensated financially from landlords' failure to comply with the MEES, this could incentivise them to take action; and
- **Building capacity in local authorities** – training and resources within local authorities would increase capacity to enforce the MEES. Improving confidence in the quality of the EPCs would also incentivise enforcement of the MEES.

- Improving data collection of enforcement action could incentivise local authorities to do more, and to enable weaker authorities to identify those who are doing more enforcement, in order to learn from them.

Key principles for future enforcement

Drawing across the data analysis, interviews and workshops, several key principles of enforcement can be identified:

- 1. Enforcement action undertaken by local authorities needs to be resourced and funded, or by some means cost-neutral (eg by charging landlords).**
 - Non-compliance with the MEES is much higher in rural areas, particularly those where a high proportion of properties are without a mains gas supply. The proportion of non-compliant properties in urban areas may be very low (under three percent) and these areas may have bigger challenges facing their PRS. Rural areas with high rates of F and G rated homes may therefore benefit most from resourcing and training to help enforce the MEES.
- 2. Enforcement of the MEES cannot be undertaken in isolation from enforcement of EPC requirements. Trading Standards departments are ideally placed to enforce that EPCs are in place, especially when a new tenancy is issued to an existing tenant. Environmental health and housing departments are more focussed on ensuring standards in the PRS more generally and would be better placed to enforce both EPC compliance and the MEES together.**
- 3. Local authorities need up-to-date data on the EPC ratings and tenure of properties, in a format that is easy to use and updated on a regular basis in order to enforce that properties with an EPC are compliant with the MEES. This can most efficiently be produced by MHCLG from the EPC lodgement data.**
- 4. A nationwide landlord register is the only means by which the landlords of properties without EPCs can be systematically identified and contacted.**
 - Landlords are not uniformly against registration but feel strongly that if implemented, local authorities should put their efforts into taking action against unregistered landlords, and minimise the burden on those who have registered.
 - A nationally-operated register would be more efficient to run than local-authority led schemes and easier for landlords with multiple properties. Local authorities would need access to the details of properties and landlords in their area.
 - Any new scheme should be integrated with existing licencing schemes already in operation (HMO and selective licencing) and not duplicate their role.
- 5. Enforcing the MEES will become a significantly harder challenge once the minimum standard rises to a D and then a C, as a much higher proportion of properties will fail to comply. Forming a long-term plan with details of exemption criteria, dates and support to help landlords reach the higher EPC ratings are essential to ensure that the task of enforcing these rising standards is manageable.**

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INTRODUCTION

Energy Performance Certificates rate properties from A (the most efficient) to G (the most inefficient). The Minimum Energy Efficiency Standards came into effect in 2018 with the aim of improving private rented housing to at least an E rating wherever possible. One of the aims of the MEES was to improve the homes of the more than 100,000 fuel poor households living in privately rented F and G rated properties.

From 1 April 2018, the Minimum Energy Efficiency Standards (MEES) have required private landlords of homes rated at Energy Performance Certificate (EPC) Bands F or G to improve their property to E before issuing a new tenancy on it, unless they obtain an exemption¹. From April 2020 the MEES will be extended to include existing tenancies (as long as the property has an EPC).

Government has made a legally binding commitment to insulate as many fuel poor households as reasonably practicable to Band C by 2030. To help achieve this target, it is essential that private landlords improve the energy efficiency of their properties. As of 2016, 19% of private sector households were in fuel poverty compared to 8% in the owner occupier sector. A third (35%) of all fuel poor lived in privately rented homes². If Government is to achieve its 2030 fuel poverty target, it must ensure compliance with the MEES³.

Previous research identified several challenges with the enforcement of the MEES by local authorities. Local authorities appeared unable to identify landlords in violation of the regulations and could not afford to take enforcement actions. The Committee on Fuel Poverty was concerned this would likely lead to the under-enforcement of these regulations, leaving many vulnerable and fuel-poor households in substandard tenancies.

Previous research⁴ identified several challenges with the enforcement of the MEES by local authorities. Local authorities appeared unable to identify landlords in violation of the regulations and could not afford to take enforcement actions. The Committee on Fuel Poverty was concerned this would likely lead to the under-enforcement of these regulations, leaving many vulnerable and low-income people in substandard tenancies.

The Committee on Fuel Poverty requested BEIS to commission this research to address these challenges by asking the question: **To achieve the housing stock improvement and reduction in fuel poverty sought from the new Minimum Energy Efficiency Standards, what alternative enforcement models could be adopted and how might they work?**

This research is to be used by the Committee on Fuel Poverty to inform its work advising Government on fuel poverty. It will also feed into Private Rented Sector and fuel poverty policy.

¹ Landlords can apply online for exemptions at <https://prsregister.beis.gov.uk/NdsBeisUi/used-service-before>

² www.gov.uk/government/collections/fuel-poverty-statistics

³ www.gov.uk/government/publications/fuel-poverty-england-regulations-2014-and-methodology

⁴ [The Warm Arm of the Law](#), Association for the Conservation of Energy; [The Evolving Private Rented Sector](#) (Rugg, and Rhodes, University of York, 2018)

Aims and objectives of the research

The project aimed to:

- review existing literature regarding the effectiveness of existing monitoring and enforcement of private rented sector (PRS) regulations;
- appraise policy alternatives for enforcement, including considering a mandatory national landlord licensing scheme;
- compare the identified alternatives systematically, considering the expected level of compliance and expected costs of each option; and
- suggest principles for effective future enforcement.

The key research questions are listed below.

1. How does the Government in England identify landlords, verify compliance, enforce PRS regulations, and ensure tenant rights are protected? How well is this working? What are the barriers to enforcement?
2. How do governments/regulatory agencies identify landlords, verify compliance, and enforce regulations in other nations (including Scotland, Wales and Northern Ireland, as well as other countries with similar rental sectors)? How are tenant rights protected in the process?
3. Which new or innovative policy alternatives could improve identification of landlords, verification of compliance, enforcement of PRS regulations, and protection of tenant rights (e.g. putting the burden of compliance on letting agencies; using blockchain as part of a landlord register)?
4. How effective, feasible, and deliverable might the above policy alternatives be? (Consider, for example, the value for money provided by the alternatives identified in question 2 and question 3)
5. What key principles should a new enforcement scheme draw from? What do stakeholders consider to be the most important priorities when deciding between enforcement options?
6. How could preferred options be funded?

Methods

The study comprised several elements.

- Interviews were undertaken with sector experts comprising:
 - National Energy Action;
 - Rent Smart Wales;
 - The Association of Local Energy Officers;
 - The Chartered Institute of Housing;
 - The Energy Saving Trust;
 - The Local Government Association;
 - The National Landlords Association;
 - The Northern Ireland Landlord Register;
 - The Residential Landlords Association;
 - The Scottish Government; and

- The University of York⁵

Shelter and Generation Rent were also asked for interviews but responded by email instead.

- Six workshops were held throughout the country to discuss ways of improving enforcement of the MEES. These were held in Birmingham, Bristol, Liverpool, Leeds, London, and York. A total of 72 people attended these comprising:
 - 51 local authority officers;
 - five landlords and landlord bodies;
 - four tenants' groups; and
 - 12 representatives from other organisations (the Welsh Government, the Centre for Sustainable Energy [two attendees], the Department for Business, Energy & Industrial Strategy, the Committee on Fuel Poverty, the Energy Saving Trust, a letting agent, The Association for Decentralised Energy, the Association of Local Energy Officers, Rent Smart Wales, The National Rental Standard and National Energy Action).
- Analysis was undertaken of the full national EPC dataset, as released by MHCLG in 2016 and covering EPCs for 2008 to 2016⁶. These were filtered to select only the EPCs where the transaction type was 'rental (private)'. Duplicate certificates for the same property were then removed to only include the most recent certificate.
- Following concerns raised in one of the workshops that the 2016 EPC lodgement dataset was largely inaccurate, a random selection of 100 EPCs were selected from the EPC lodgement data and checked against the current online database⁷. The results of this exercise are reported in the chapter on *Barriers to enforcement*.

⁵ Julie Rugg, lead author of [The Evolving Private Rented Sector](#) (Rugg, and Rhodes, University of York, 2018)

⁶ <https://epc.opendatacommunities.org/>

⁷ www.epcregister.com/

CONTEXT

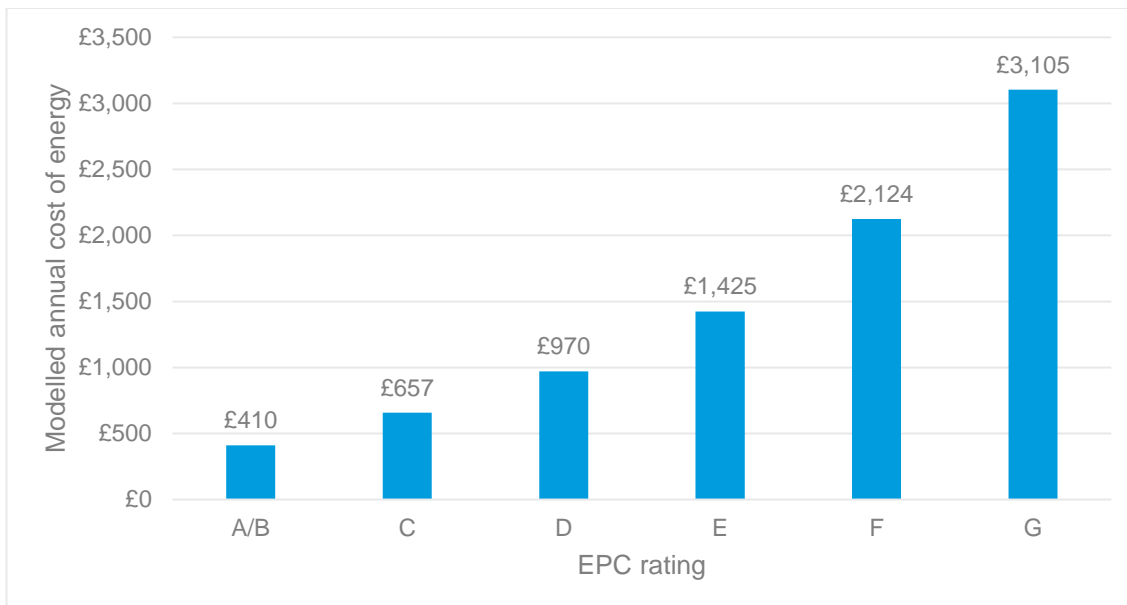
Energy efficiency ratings and problems with inefficient stock

Energy Performance Certificates were introduced in England in 2008. They grade properties from an A to a G rating on the basis of their energy efficiency, where A is the most efficient and G is the least efficient. The domestic EPC lets the people who live in a home know how costly the building will be to heat and light and what its carbon dioxide emissions are likely to be. The EPC also shows what the energy efficiency rating could be if improvements are made and highlights cost-effective ways to achieve a better rating. EPCs are valid for ten years from when issued⁸.

The costlier a property is to heat the more likely a household with a low income is to be in fuel poverty, and unable to maintain a reasonable degree of warmth in their home. Fuel poverty is currently measured using the Low Income High Costs (LIHC) indicator. Under the LIHC indicator, a household is considered fuel poor if: they have required fuel costs that are above average (the national median level) and were they to spend that amount, they would be left with a residual income below the official poverty line. Improving efficiency and reducing costs is therefore an important way of taking a household out of fuel poverty. As well as fuel poverty, living in a home which is not warm can have a detrimental effect on health (both mental and physical). In addition to the impact on health and poverty, energy inefficient housing – whatever the income of the occupant - contributes to carbon emissions.

Energy inefficient properties are costlier to heat, as shown in the figure below:

Figure 1: Average modelled annual cost of energy in homes by energy efficiency rating, 2016



Source: English Housing Survey 2016

The modelled mean annual energy cost of a property in Band F (£2,124) is nearly one and a half times the heating cost of an average property in Band E (£1,425). Larger properties (especially

⁸ www.energysavingtrust.org.uk/home-energy-efficiency/energy-performance-certificates

detached houses) tend to be less efficient and have a lower rating than smaller properties such as terraced homes or flats.

The private rented sector

Tenants are more vulnerable to fuel poverty as they are, on average, less well off than owner-occupiers. They are also less able to make changes to their own homes to improve the energy efficiency. From a landlord's perspective, improving stock to make it more thermally efficient can be costly and this cost can be a barrier to either improving its efficiency or making it available for rent. The savings on fuel bills will, however, be enjoyed by the tenants rather than the landlord, meaning there is little financial incentive to improve homes, unless this will result in increased rents. Rents charged to the lowest income groups are in many cases effectively capped by limits on Local Housing Allowance, meaning landlords may see no financial returns from the work they do to improve the energy efficiency of their stock. There is, however, some evidence that improving the energy efficiency of a property could increase the property price⁹.

The English Housing Survey (2016/17) shows around 7% of the private rented sector (PRS), or 320,000 dwellings, were in the lowest two bands (F and G). This represents a steep fall from just ten years previously when 25% of the PRS was in bands F and G, or 1996 when 39% of the sector fell into these bands. The PRS still performs badly compared to other tenures however, with 5% of owner-occupied housing and just 1% of social rented housing being F or G rated. This means that 28% of all F and G rated homes in England are privately rented (compared to 20% of all homes).

The minimum energy efficiency standard

A dwelling meets the MEES if it has an Energy Efficiency Rating of Band E or above. There is a further aim to improve the stock so that most of the privately rented sector has a rating of Band C or above by 2030.

There is an exemptions register for properties which are legally required to have an EPC, and which are let on a relevant tenancy type, but cannot be improved to meet the standard. It is not possible to access the information from this register, but exemptions available to landlords of domestic properties and the evidence requirements for the exemptions register are summarised below.

Table 1: Exemptions and evidence requirements, MEES exemptions register

Exemption

High cost exemption. At the time of the research (March 2019), an exemption could be obtained if improvements could not be wholly financed at no cost to the landlord. This has recently been updated and from 1 April 2019, it is only available where the cost of reaching an E rating would be more than £3,500.

Existing 'high cost' exemptions remain valid until 21 March 2020.

⁹ Fuerst, F., McCallister, P, Nanda, A., and Wyatt P (2013): Final Project Report: An investigation of the effect of EPC ratings on house prices

All improvements made exemption. This is available if all improvements have been made (or there are none to make), and the property remains sub-standard.

Wall Insulation exemption. This is available for certain wall insulation systems that may not be suitable due to their potential negative impact on the fabric or structure of the property.

Consent exemption. This is available where consent from a third party (such as a freeholder or local planning authority) has been requested and refused (or given but only with conditions that cannot be met).

Devaluation exemption. This is granted where installation of specific energy efficiency measures would devalue the property by more than 5%.

New landlord exemption. This is available for a list of defined situations where people have become landlords suddenly and it would be unreasonable for them to be expected to comply with regulations immediately.

Source: Exemptions register guidance¹⁰

All exemptions except for the last one typically last for five years and then need to either be actioned or renewed. The new landlord exemption is a temporary exemption lasting for up to six months.

Financial penalties for non-compliance are:

- £2,000 for failing to provide information requested through the compliance notice and a publication penalty;
- £2,000 and a publication penalty for when a landlord has let a substandard property for less than three months;
- £4,000 and a publication penalty for when a landlord has let a substandard property for more than three months; and
- Where multiple penalties are imposed for more the same breach at the same property, the total penalty cannot exceed £5,000. If after having been fined up to £5,000 for letting a sub-standard property a landlord proceeds to let the same sub-standard property on a new tenancy, financial penalties of up to £5,000 will be issued in relation to the new tenancy.

These amounts are per property and per breach. The authority can also publish details of the landlord's breaches on a publicly accessible part of the PRS Exemptions Register for at least 12 months.

Guidance for landlords on meeting MEES provides information on funding options available to pay for the work. Taking a 'whole house' approach can involve designers using computer simulations to compare multiple combinations of variables to arrive at the most cost-effective and energy-efficient solution. This may be costly in the short term, but if it can move towards meeting

¹⁰ Exemptions register guidance: www.gov.uk/government/publications/private-rented-sector-minimum-energy-efficiency-standard-exemptions/guidance-on-prs-exemptions-and-exemptions-register-evidence-requirements

not just the current E rating but towards a C rating, it could be a good long-term investment, preparing for changes to the standard in 2030.

Improving energy efficiency for tenants can lead to reducing their fuel bills, which means they are better able and more likely to meet rents. It may also make a property more attractive for a growing market of long-term tenants, reducing costly void periods.

Data on the current energy efficiency of the private rented stock in England

Energy Performance Certificate (EPC) lodgement data gives an indication of the scale and location of stock which is below the minimum standard. Data has been collected since 2008 and is published by the Ministry for Housing Communities and Local Government¹¹. Not all properties have an EPC, and data by location and tenure is not published, although data is available for download and analysis of the detailed data is covered below. It was estimated in 2013 that only around a quarter of dwellings in the private rented sector had an EPC, but the proportion is likely to have grown considerably since then, as an EPC has been required to let a property to new tenants since October 2008, and most PRS tenants have been in their current home for less than ten years.

The graphs and tables below provide data based on analysis on EPCs for privately rented properties lodged between 2008 and 2016, for England as a whole. An annex includes local authority level data for the number of EPC lodgements between 2008 and 2016 by which band, an estimate of the proportion of rented properties that have an EPC, and the number and percentage of F and G rated 'improvable' stock, i.e. stock that is currently F or G rated but has a potential rating of E or greater.

Caveats to the EPC data

The EPC data is taken from a download released by MHCLG and includes EPCs issued up until 1 October 2016. No more recent data is available¹². This means that properties that have improved their rating after October 2016 (for instance, in anticipation of the MEES) will be incorrectly listed.

In addition, there is reason to believe that not all PRS properties have an EPC that should do. The 2011 Census shows 3.7M privately rented properties in England in 2011. Between 2008 and 2016, there were 2,181,785 EPCs lodged for privately rented domestic properties, equivalent to around 47% of all privately rented properties in 2016. Some PRS properties are not required to have an EPC – HMOs with separate tenancies, and properties where no new tenancy has been issued since 2008. However, these exemptions seem insufficient to explain the extent of the discrepancy. Another reason for the much smaller number of EPCs registered to privately rented properties than known size of the PRS is that the tenure data of the EPC database can be inaccurate. EPCs are also required for properties sold since 2008, and this may mean that those sold to buy-to-let landlords are recorded as owner-occupied. EPCs are valid for 10 years and a landlord purchasing a property that already has an EPC is not required to obtain a new one in

¹¹ <https://epc.opendatacommunities.org/>

¹² MHCLG reported, after this report was drafted, that there are plans for updated data to be published in summer 2019.

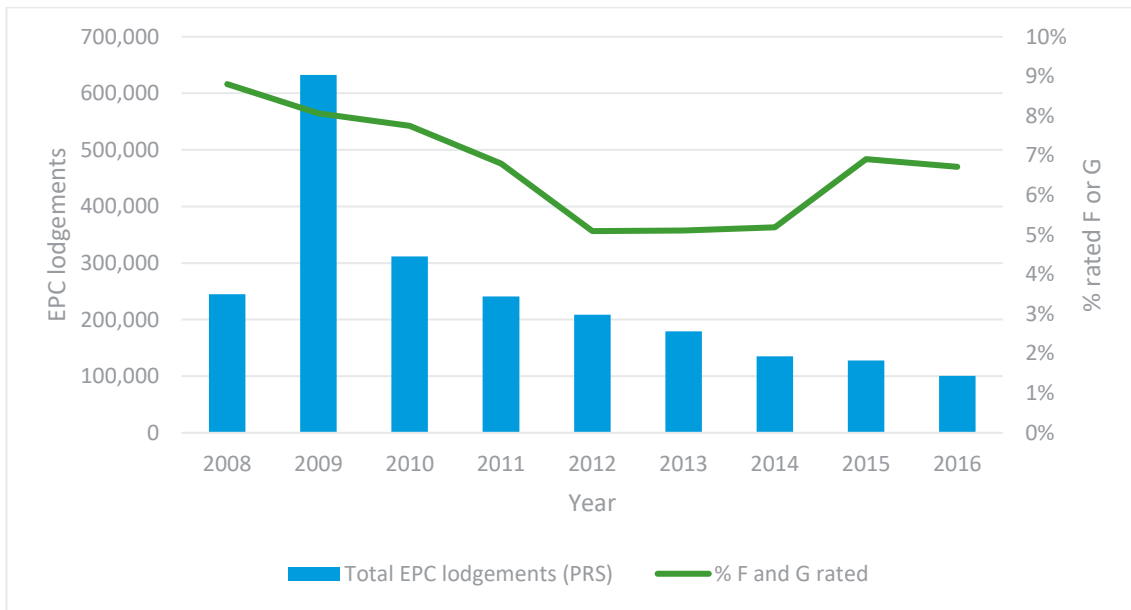
order to let the property, nor to log the change of tenure on the EPC. There has been significant growth in the PRS in the 2008-16 period, mostly via landlords buying existing properties, so this issue is likely to cause a significant under-reporting of properties that are privately rented in the EPC data.

The analysis below however is still of value in identifying areas with potentially non-compliant stock and giving an indication of the characteristics of the type of stock that may be at risk of failing to meet the MEES.

EPCs issued 2008-16

The graph below shows the number of EPCs for privately rented properties lodged over time and the percentage of those with an F or G rating.

Figure 2: Energy performance certificates for privately rented properties lodged per year, England, 2008 to 2016



Source: Energy Performance Certificate Lodgement Data, MHCLG 2016

A large number of certificates were lodged in 2009 (the requirement for new tenancies to have an EPC was introduced in 2008), and the number of certificates per year decreased sharply between 2009 and 2010. The number of new lodgements per year has continued to decrease steadily.

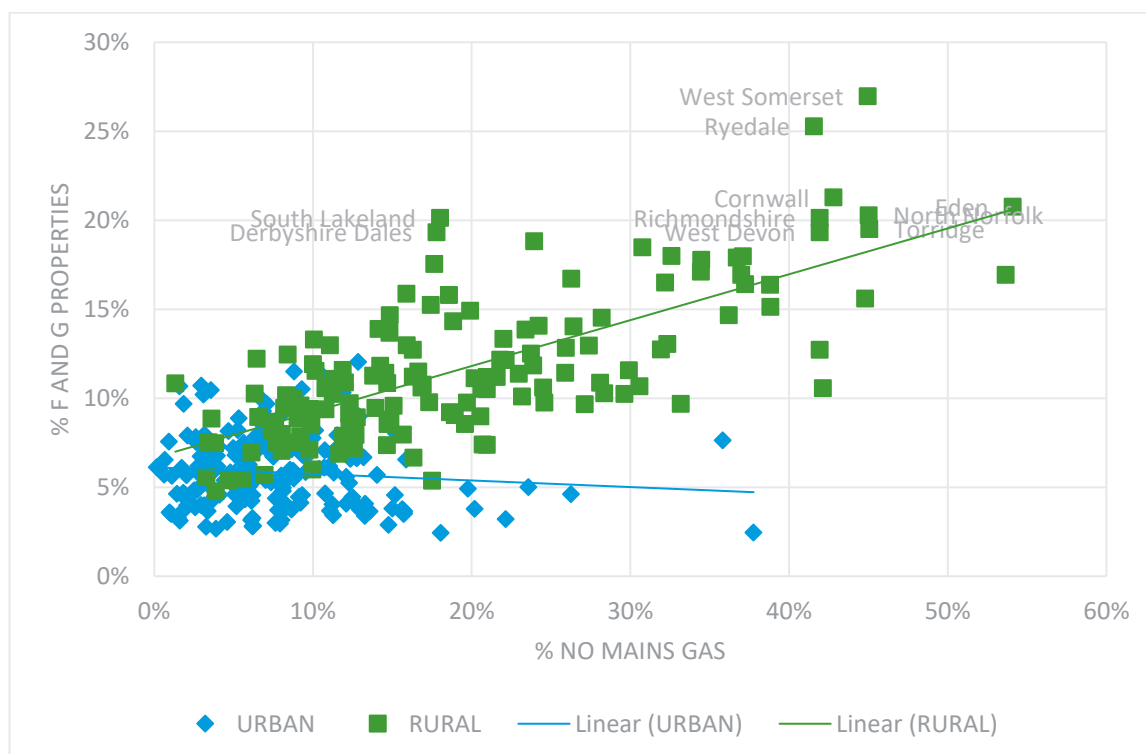
The percentage of privately rented properties with an F or G rating decreased between 2008 and 2012, from 8% to 5%. Between 2014 and 2015, it increased from around 5% to nearly 7%. There

were changes to the methodology for assessing EPCs in 2012, which may account for the change in ending of the downward trajectory of the percentage F and G rated homes¹³.

Overall, 7% of privately rented properties in 2016 had an Energy Efficiency Rating of F or G and would therefore not have complied with the MEES, unless they were improved or obtained an exemption by April 2018 (or the date after that at which a new tenancy was issued). The tables in Annex 1 show the top 10 local authorities with the highest and lowest proportion of privately rented properties with an F or G rating (highlighted in green).

The ten areas with the highest proportion of F and G rated properties are largely rural areas. Comparison with data on fuel source shows that they are all areas with considerable proportions of dwellings without a mains gas supply (ranging from 54% in Eden to 18% in South Lakeland and Derbyshire Dales, against an average for England of 12%¹⁴). The ten areas with the lowest proportion of F and G properties are highlighted in blue in Annex 1. These are mostly urban areas.

Figure 3: Percentage of F and G properties by percentage of properties with no mains gas by whether rural or urban



¹³ [The Government's Standard Assessment Procedure for Energy Rating of Dwellings 2012 edition](#)

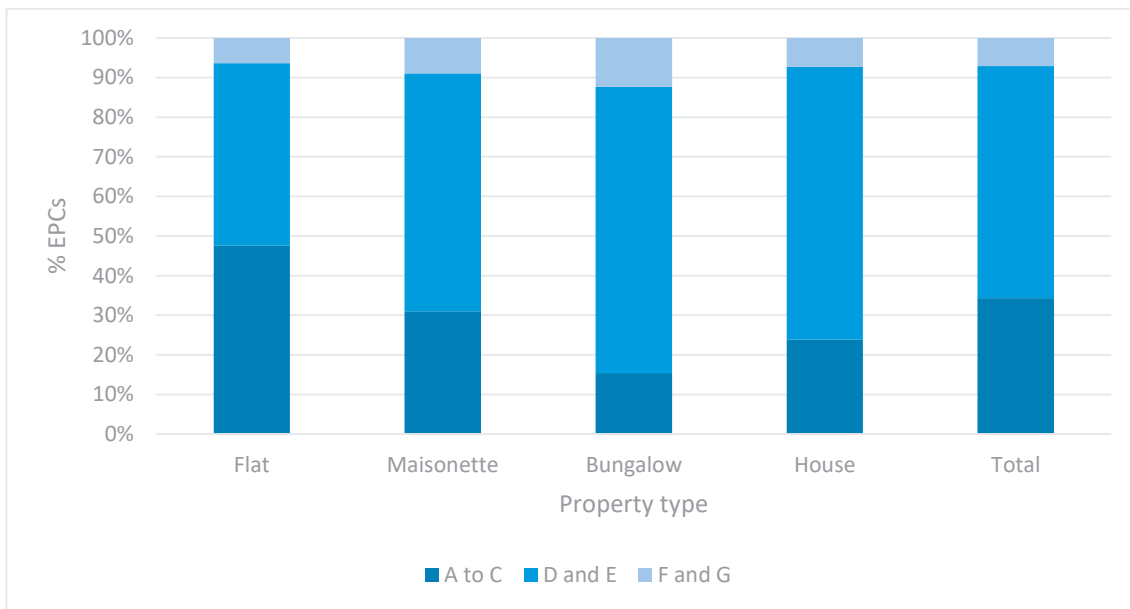
¹⁴ BEIS statistics accessed at www.gov.uk/government/statistics/msoa-estimates-of-households-not-connected-to-the-gas-network

Source: RSM, drawing on data from the EPC Lodgement Data, (MHCLG 2016), BEIS fuel source statistics (2017) and ONS Rural Urban Classification 2011

EPC data by type of home

The figure below shows EPC data for privately rented properties by dwelling type.

Figure 4: Energy performance certificates for privately rented properties by property type, England, 2008 to 2016



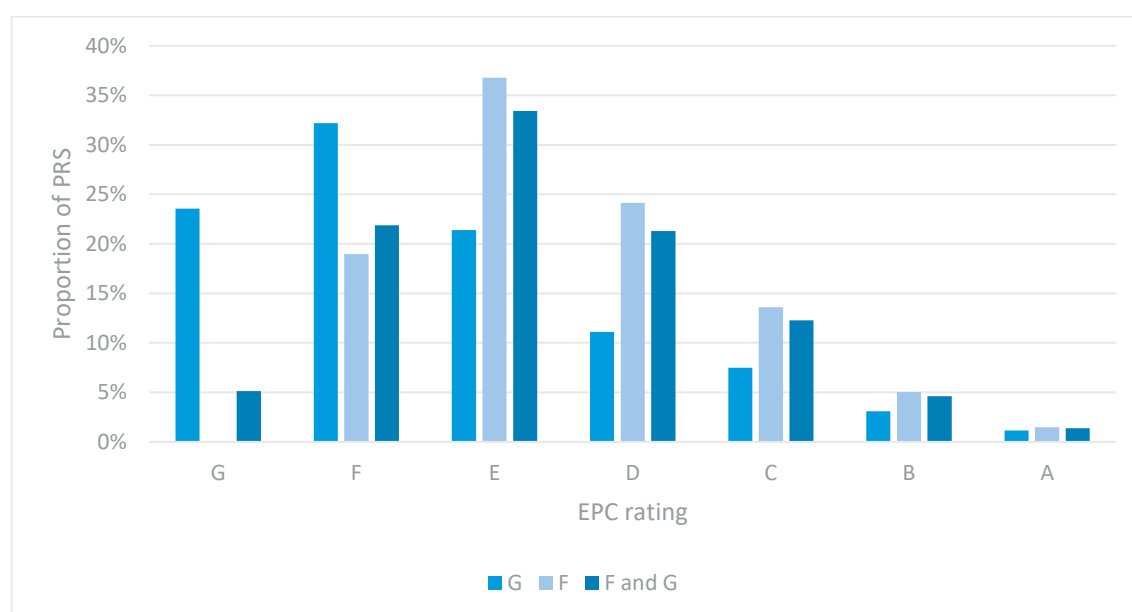
Source: Energy Performance Certificate Lodgement Data, MHCLG 2016

Bungalows and maisonettes are more likely to have an F or G rated property than houses and flats. Overall, 7% of PRS properties were F or G rated by 2016, with a further 19% being E rated and 40% being C rated.

The potential to improve properties with an F or G rating

Figure 5 focuses on the private rented stock with a current EPC rating below the MEES by current EPC rating, and the 'potential rating' recorded in the EPC.

Figure 5: Privately rented properties with a current energy rating of F or G by potential rating, England, 2008 to 2016



Source: Energy Performance Certificate Lodgement Data, MHCLG 2016

Overall 73% of the stock that is currently F or G rated could be improved to an E or better, and around 18% are 'improvable' to a standard of C or better (ie their potential rating is C or higher)

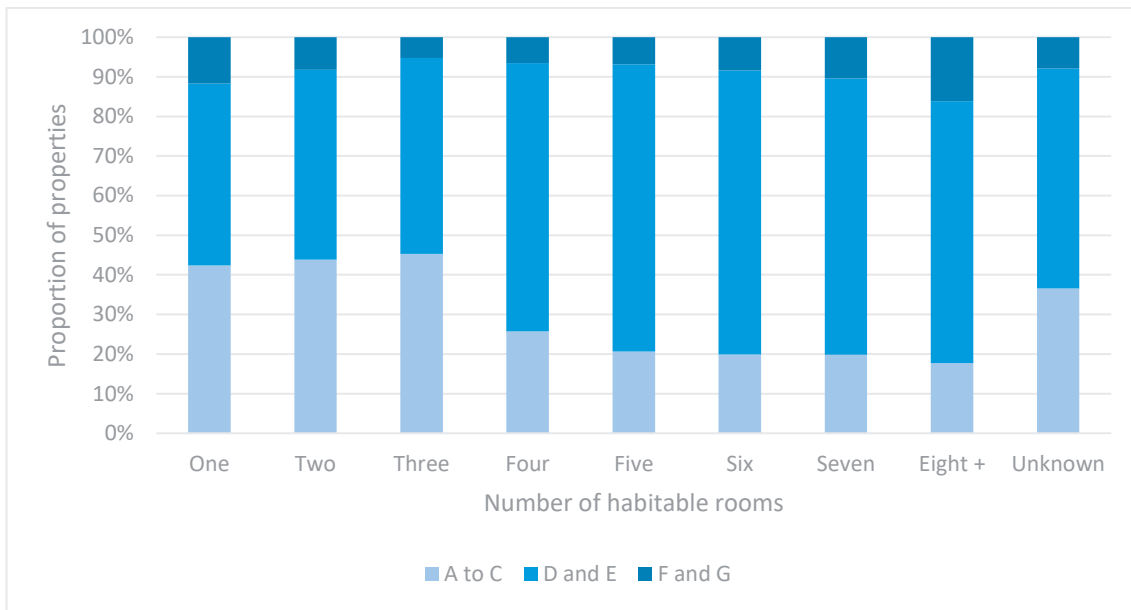
Table 2: F and G properties by type and whether or not they are improvable England 2008 to 2016

Property Type	Improvable	Not improvable	All F and G properties	% improvable
Flat	44,732	16,355	61,087	73%
Maisonette	5,784	2,626	8,410	69%
Bungalow	8,123	2,403	10,523	77%
House	54,838	20,610	75,448	73%
Park Home	6	4	10	60%
Total	113,483	41,998	155,481	73%

Source: Energy Performance Certificate Lodgement Data, MHCLG 2016

By property type, privately rented F and G rated bungalows and houses are more likely to be improvable to meet the MEES; park homes and maisonettes are less likely to have a potential rating of E or better.

Figure 6: Energy performance certificates for privately rented properties by number of habitable rooms, England, 2008 to 2016



Source: Energy Performance Certificate Lodgement Data, MHCLG 2016

Figure 6 shows the EPC ratings of privately rented stock by number of habitable rooms. One room properties and homes with more than seven rooms are more likely to have an F or G rating.

The table below shows the size of private rented properties with an F or G rating and whether or not they are 'improvable' to an E rating.

Table 3: F and G rated PRS properties by number of habitable rooms and whether or not they are improvable

Number of rooms	Improvable	Not improvable	All F and G properties	% improvable
One	7,814	2,392	10,206	77%
Two	23,155	9,226	32,381	72%
Three	25,015	10,543	35,558	70%
Four	21,177	8,323	29,500	72%
Five	18,230	5,658	23,888	76%
Six	7,827	2,307	10,134	77%
Seven	4,636	1,300	5,936	78%
Eight +	5,393	2,102	7,495	72%
Unknown	236	147	383	62%
Total	113,483	41,998	155,481	73%

Source: Energy Performance Certificate Lodgement Data, MHCLG 2016

One room homes and homes with five to seven rooms are more likely to be improvable than homes with two to four rooms, or homes with eight or more rooms.

Existing literature on enforcement of the MEES

There are several barriers to enforcement of regulations for local authorities, comprising:

- a lack of data about the private rented sector;
- local authorities' resources and political will for enforcement;
- tenant awareness and willingness to report non-compliance; and
- issues around engaging with landlords.

These are outlined in more detail below.

Data about private rented properties

Existing literature suggests that it may be hard to identify landlords and properties that are not complying with regulations. There is no database of PRS properties in England and most local authority licensing schemes cover only a small proportion of the stock (such as HMOs) or specific areas within a local authority¹⁵. Some stakeholders interviewed for the 'Warm Arm of the Law' report are concerned that licensing schemes do not capture all landlords, and rogue landlords are unlikely to engage with this type of scheme¹⁶ (a public 'rogue landlord' checker showing details of

¹⁵ CIH and CIEH (2019) 'A licence to rent'

¹⁶ Association for the Conservation of Energy (2018) '[The Warm Arm of the Law](#)',

enforcement action and offence has now been made available for London¹⁷, but there is no public equivalent for the rest of the country).

The English Housing Survey (EHS)¹⁸ data provides estimates for the number of properties not complying with MEES but cannot be used to identify specific properties or to give an accurate estimate of numbers below regional level. More detailed data about individual EPCs can be obtained from the EPC register¹⁹, and cross referenced against land registry data to work out the landlord, but this only identifies properties with an EPC, not those without. The Ministry of Housing, Communities and Local Government published data on EPCs lodged between 2008 and 1 October 2016, which has been drawn on in this report. However, this data has not been updated in the last three years, so data on new or updated EPCs lodged since 2016 are only available by searching individual property details in the Energy Performance of Buildings registers. The MEES requirement (introduced in 2018) may have already prompted some landlords to undertake work to bring F and G properties up to standard and obtain a new EPC in order to comply with the MEES. However, there is no way to check this in bulk, although individual properties can be checked against the EPC register.

The Ministry of Housing Communities and Local Government report that they are currently unable to provide a bespoke data service and are currently reviewing the position in respect of the EPC open data release and will not publish further data until the privacy risks to individuals have been fully assessed and considered. They also point out that any future publications will only ever be a snapshot of the EPC data so will always be at least slightly out of date (as compared with the EPC register itself).

Using data from Tenancy Deposit Schemes may offer an alternative potential means to identify properties and landlords. There are three different deposit schemes²⁰ available in England, but the data is not routinely made available to local authorities. This data would also fail to capture data on landlords who do not take deposits, or those who do so but fail to comply with the requirements to use one of the deposit schemes.

Local authorities' resources and political will for enforcement

There is a lack of resource at local authority level²¹. Due to budget cuts since 2010, trading standards and environmental health have reduced funding and staff to enforce MEES regulations. For example, Birmingham has five environmental health officers for a city of 1.1 million people²². The Housing and Planning Act 2016, allows local authorities to keep money received through civil penalties and reuse it for housing enforcement purposes. However, the Local Government Association (LGA) has argued that, for relatively small fines of around £2,000

¹⁷ www.london.gov.uk/rogue-landlord-checker

¹⁸ English Housing Survey 2016/17 www.gov.uk/government/statistics/english-housing-survey-2016-to-2017-headline-report

¹⁹ www.epcregister.com/

²⁰ www.gov.uk/tenancy-deposit-protection

²¹ Association for the Conservation of Energy (2018) [‘The Warm Arm of the Law’](#)

²² House of Commons, Housing, Communities and Local Government Committee, *Private rented sector - Fourth Report of Session 2017–19*

(as would be imposed for breach of the MEES), this 'will not cover the cost of any proactive work or enforcement activity that results in compliance before a fine is issued'²³.

Local authorities are responsible for enforcing the MEES, either through environmental health or trading standards officers²⁴. This can be challenging in some two-tier authorities where environmental health teams work at the district level with trading standards operating at the county level.

The MHCLG Committee on the private rented sector also noted a lack of political will²⁵. While resources have been cut, there is a large variety in what is being done locally, which demonstrates the importance of leadership and steer in enforcing different regulations.

There is evidence that enforcement of legislation governing the condition of private sector housing in general can be patchy: The Residential Landlords Association (RLA) reported to the MHCLG Committee that 'among the 296 councils in England who responded to their survey there were just 467 prosecutions of landlords despite receiving 105,359 complaints' in 2016/17²⁶. Freedom of Information figures show around half of the landlords prosecuted were prosecuted by the London Borough of Newham, a borough that is unusual in having a borough-wide landlord licensing scheme.

Because of the costs of prosecution, it was found that local authority officers may use other 'soft' approaches (such as networking through landlord forums or providing advice) to promote compliance with regulation²⁷. It is harder to monitor how successful these approaches are, as such engagements and their impacts are hard to capture in the official statistics²⁸. It is also only possible to engage with the landlords who are open to such engagement, so this may not be useful in tackling the 'bad actors' in the sector.

Tenants' awareness and willingness to report non-compliance

Stakeholders interviewed in the 'Warm Arm of the Law' report said that tenants 'do not understand their rights with regards to energy efficiency (and wider property standards)'.²⁹ The Deregulation Act 2015 introduced a requirement that landlords and letting agents provide an up-to-date copy of the government publication 'How to Rent' to tenants, but a Survey by Shelter showed only 12% of respondents were aware of having received this³⁰. The guidance includes

²³ LGA (2018) *LGA response to BEIS consultation on amending the Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 in relation to domestic properties to remove the 'no cost to landlord' principle*

²⁴ BEIS (2018) *The Domestic Private Rented Property Minimum Standard: Guidance for landlords and local authorities on the minimum level of energy efficiency required to let domestic property under the Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015*

²⁵ House of Commons, Housing, Communities and Local Government Committee, *Private rented sector - Fourth Report of Session 2017–19*

²⁶ House of Commons, Housing, Communities and Local Government Committee, *Private rented sector - Fourth Report of Session 2017–19*

²⁷ www.gov.uk/tenancy-deposit-protection

²⁸ www.epcregister.com/

²⁹ Association for the Conservation of Energy (2018) '[The Warm Arm of the Law](#)'

³⁰ Association for the Conservation of Energy (2018) '[The Warm Arm of the Law](#)'

information about the requirement of landlords to provide an EPC and the MEES requirement³¹. Also ‘relying on the tenant to come forward with complaints is a flawed system as they may fear being evicted, or having their rent put up for doing so.’³² Enforcement is largely reliant on tenants reporting issues with their landlords. Some tenants in more legally tenuous situations may be vulnerable to a lack of official support if they are unwilling or unable to engage with enforcement officers. The PRS in general offers relatively little security to tenants, who can be fearful of reporting their landlords for breach of standards³³, as they fear losing their home via a S21 eviction notice, which requires no wrongdoing on the tenants’ part. 4% of renters ‘said that one reason they left their last rented tenancy was because the landlord or agent was unhappy because the tenant had requested repairs.’³⁴

Landlord engagement

Unlike homeowners, landlords do not benefit directly from lower energy bills arising from investment in energy efficiency. Research commissioned by Citizens Advice shows estimated energy cost savings to tenants for three archetype properties³⁵ (shown below). The report concluded that the cost of improving properties to an E rating (capped at £3,5000) was unlikely to cause many landlords to exit the market but that the costs could be passed on to tenants through higher rents.

Table 4: Examples of estimated annual cash benefit to tenants from energy efficiency improvements

Archetype	Improvement Level	Estimated annual net ‘cash’ benefit
Detached house in the South West	F to E	£682 to £774
	G to E	£895 to £1,241
Terraced house in the North East	F to E	£404 to £496
	G to E	£598 to £944
Flat in London	F to E	£317 to £409
	G to E	£501 to £847

Source: Frontier Economics

As well as costs to landlords, there is some evidence of low engagement between landlords and the energy efficiency sector. Improving information and standards about specialist contractors in this area may improve trust and willingness to engage in these works. There is some concern

³¹ www.gov.uk/government/publications/how-to-rent/how-to-rent-the-checklist-for-renting-in-england

³² Association for the Conservation of Energy (2018) ‘[The Warm Arm of the Law](#)’

³³ DCLG (2014) Review of Property Conditions in the Private Rented Sector accessed at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/283979/Review_of_Property_Conditions_in_the_Private_Rented_Sector_2.pdf

³⁴ Rugg, J & Rhodes D (2018) [The Evolving Private Rented Sector](#), University of York

³⁵ Frontier Economics (2017) [The Impact of Minimum Energy Efficiency Standards in the Private Rented Sector](#)

that ‘rather than seeking guidance on what measures can be installed to upgrade the property, guidance is being sought on how to apply for an exemption’³⁶.

In conclusion, existing literature on the enforcement of the MEES highlights several barriers to enforcement. There is a lack of data about privately rented stock and private landlords. Not knowing who landlords are is a barrier to engaging with them effectively. Improving energy efficiency of homes benefits tenants through lower energy bills, but tenants may be unaware of requirements to provide an EPC or comply with the MEES. They may also be unwilling to report landlords for failing to comply because of fears of retaliatory evictions, though most inspections occur as a result of tenant complaints. Some local authorities lack the resources to enforce the MEES and prioritise compliance with other legislation such as the HHSRS.

Current approaches to enforcement in England

This chapter examines a selection of local authority policies in this area and reviews existing literature on the effectiveness of existing monitoring and enforcement of PRS regulations.

The clear view from sector experts was that very little enforcement of the MEES is currently taking place. Local authority officers attending the workshops offered more mixed views. The majority were not currently taking any enforcement action (for reasons discussed in the next chapter). There were, however, a few examples of local authorities who had been starting to take enforcement action. Several had begun the process of identifying landlords of F and G rated properties, drawing on the 2016 EPC lodgement data that MHCLG released and manually checking each property to ascertain whether the EPC had since been updated. One authority was reported to have moved on from this stage to issuing compliance notices to all of those who appeared in breach of the legislation. However, most enforcement action was happening (if at all) in a reactive manner when a property was brought to a local authority’s attention for other reasons (such as a licensing application or a complaint from a tenant). Some would inspect a property to ensure compliance under the HHSRS and then also check the EPC at the same time, and begin enforcement action under the EPC or MEES legislation if there was no EPC, or if the property was in breach of the MEES.

Local authority strategies for enforcing compliance in the PRS

A review was undertaken of 20 local authority strategy documents for enforcing housing conditions in the PRS, including enforcement of the MEES, where mentioned. This is presented in detail in Annex 2.

Several of the Local Authorities with a high level of enforcement activity had mandatory or selective licencing schemes for the private rented sector. The MEES were mostly not specifically mentioned in their enforcement policies, apart from in the Wirral and Croydon. However, the requirement for landlords to have an EPC was frequently listed as part of their selective licencing schemes and failure to comply mentioned as a reason why enforcement action may be taken. Some authorities stated that compliance visits took place as part of their enforcement action for all licensable properties.

³⁶ Association for the Conservation of Energy (2018) [‘The Warm Arm of the Law’](#)

Local Authorities with a high number of F and G properties generally did not make specific mention of the MEES in their policies governing enforcement of conditions in the private rented sector. A few did not have enforcement policies directly relating to the private rented sector. Where the MEES was mentioned in enforcement policies, improving the energy efficiency rating of privately rented accommodation was listed as an objective, with the fine of up to £5,000 for non-compliance also mentioned. County Durham also highlighted that a penalty of £2,000 may be issued if there is failure to respond to an information request³⁷. Enforcement action is generally split up into three categories: informal action, formal action issued by the local authority, and formal action progressed by courts or tribunals.

³⁷ www.durham.gov.uk/article/18303/Landlords-warned-of-upcoming-energy-regulations

BARRIERS TO ENFORCEMENT IN ENGLAND

A range of barriers to enforcement of the MEES were identified by sector experts interviewed for this research. These were discussed with attendees at the six workshops, where further barriers were also raised and discussed.

Lack of confidence in EPC quality

A commonly raised issue was that local authorities lacked confidence in the quality of EPCs undertaken. Some officers felt that those undertaking EPCs often lacked sufficient understanding of wider energy efficiency issues or that the criteria for assessing properties were too simplistic (ticking off whether or not specific items were present, without checking carefully whether they were present throughout the property, whether they were in good condition, or whether they were working at all). It was felt that market forces had driven down prices for EPCs to the point where successful companies undertaking them would need to cut corners. Examples were given of EPCs that had confirmed a property had loft insulation when it was in fact a flat, or houses with solid walls listed as having cavity wall insulation. Letting agents using an in-house EPC assessor was thought to present a potential conflict of interest since the MEES came into effect and gave rise to concerns over quality. Some authorities reported a large percentage of properties scraping in at a low E for reasons they could not otherwise explain.

A landlord unhappy with their EPC rating can ask for another one, but local authorities had little basis on which to challenge them and felt that there was a lack of sanctions against contractors whose EPCs were inaccurate or even falsified.

In contrast, some of those attending workshops were qualified EPC assessors and did feel that there was quality control in place, via their professional accreditation, which could be lost if they were found to have undertaken poor quality work or falsified certificates. It was also felt by many that the quality of EPCs had improved since they first came into effect (potentially causing problems in the future for landlords whose properties are currently compliant with the MEES but who become non-compliant when a new EPC is undertaken). Nevertheless, the lack of confidence in the EPC system clearly had an impact on many local authorities' willingness to use the MEES regulations as an effective means by which to drive up standards in the PRS.

The research did not uncover sufficient evidence to independently assess the quality of EPCs. Further research may be required to investigate this issue.

Difficulties identifying properties and landlords

Two types of properties are in breach of the MEES:

- those lacking an EPC (and where an EPC is legally required); and
- those with an F or G rating EPC (and where a tenancy has commenced after April 2018 and no exemption has been granted).

Identifying private rented properties with an F or G rated EPC

Local authority officers attending workshops were mostly aware of the 2016 EPC lodgement data that was released, which could potentially be used to identify F or G rated properties. The majority had not, however, made any use of this data to date. A small number had done so and reported that they had found a high degree of inaccuracy with the 2016 EPC lodgement data.

To check the significance of this issue, a comparison of the 2016 EPC data in the database and current EPC certificates (available on 20 March 2019) was undertaken to check the extent to which the data was accurate and up-to-date. A random sample of 100 F and G rated PRS homes from the 2008 to 2016 EPC lodgement data was selected. This revealed:

- 43 EPCs had been updated since the version recorded in the 2016 data³⁸. Of these:
 - 38 now had a rating of E or higher; and
 - five still had F or G ratings (one went up from a G to an F; two went down from an F to a G, and two remained as F rated).
- 12 EPCs had expired and not been updated; and
- 45 EPCs were still current.

This suggests that significant numbers of F and G rated PRS homes obtained higher ratings during the period 2016-2019, possibly in anticipation or response to the MEES coming into effect from April 2018. There is no means of knowing whether the 62% of properties where the EPC was expired or still at an F or G rating were still being let or had had new tenancies issued since April 2018.

Local authorities were concerned that the 2016 data was increasingly out-of-date, especially as the MEES was introduced in 2018, so they would expect to see a change from the situation in 2016. All felt strongly that access to up to date and good quality EPC lodgement data (in particular around the tenure recorded) was an essential requirement for enforcement activity.

The only other way to find F or G rated properties was to undertake manual checks. Local authority officers attending workshops reported that they may do this on an individual basis, if a tenant made a complaint, or the property was otherwise brought to their attention, but lacked resources to undertake manual checks on their entire housing stock.

Where local authorities had tried to manually identify non-compliant properties using the 2016 EPC lodgement data, they also reported that properties had often changed tenure (or that the tenure data recorded had always been incorrect). In addition, at present they need to prove that a tenancy has been issued since April 2018 in order to prove non-compliance with the MEES, which is a further hurdle and largely impossible without the tenant's co-operation.

Identifying properties without an EPC

As discussed above, the data analysis suggests that not all privately rented properties which should have an EPC do so. Local authorities attending workshops who had analysed their own data or undertaken checks concurred with this view, for instance reporting that only around half of those they had investigated had had EPCs.

It is the responsibility of Trading Standards to enforce that an EPC is in place at the point when a property is first advertised. One method of policing this is to analyse adverts placed online or in letting agency shop windows to check that the EPC rating is displayed. The NLA reported that they had undertaken a Freedom of Information request to local authorities to ask them how many

³⁸ Six of these updated had occurred in 2015 or 2016 prior to 1 October 2016 (the date on which the 2016 EPC lodgement database was produced). The other 37 had occurred since 1 October 2016.

letting agents had been prosecuted for not displaying EPCs, but thus far had identified no prosecutions and more research is needed to identify the scale of this issue.

An EPC is also required when a new tenancy is signed with an existing tenant. No evidence was found of any efforts to police this aspect of EPC legislation by Trading Standards.

Some local authority officers attending workshops operated selective licensing, which required a landlord to have an EPC in order to register, though others noted that the rationale behind selective licensing was more around tackling anti-social behaviour, so the link to the need for an EPC was not entirely clear. Nevertheless, some of those with licensing schemes did use these to identify landlords and enforced the presence of an EPC as part of their wider activities to target unregistered landlords. Local authorities were less optimistic about the potential of using their HMO licensing or additional licensing regimes to enforce EPC compliance, because they were aware that some HMOs were exempt from requiring an EPC (and hence exempt from the MEES). Some reported that they asked for an EPC routinely as part of their HMO licensing, but others did not.

Difficulties identifying and contacting landlords

Outside of (mostly small scale) licensing schemes, local authorities lacked any routine means of contacting landlords to communicate around their responsibilities to meet the MEES, or to take action for non-compliance. Some had tried to obtain landlord contact details via the Land Registry but reported that this was too expensive to undertake on a large scale for all properties, and that they often found the landlord registered to the rental property address rather than their home address, so were still unable to contact them. Similarly, contacting the landlords via the tenants was often undertaken on an individual basis (for instance, if the tenant had made a complaint) but not deemed realistic on a routine basis.

The fact that there was no longer any mainstream funding available to landlords to help them improve the energy efficiency of their properties was highlighted as a factor that deterred landlords from being proactive in making contact with the local authority.

Difficulties in relying on tenants to report breaches

Some of the sector experts interviewed felt that relying on tenants to report breaches of the MEES was unlikely to be effective because tenants were generally unaware of the MEES legislation, typically more concerned about other issues (such as a boiler breaking down and not being fixed), and also reluctant to report their landlord for fear of retaliatory eviction.

Local authority officers attending the workshops, however, often reported that tenants did often complain about the quality of their housing. Some complaints may not be directly about a breach of the MEES, but may nevertheless be about something related (such as damp arising from a cold and poorly insulated property). Resource constraints within local authorities meant that some local authorities reported they were fully occupied in dealing reactively to complaints raised by tenants.

Difficulties working with letting agents

A major challenge for local authorities in enforcing standards in the PRS is the very large number of private landlords operating in each area. Letting agents are fewer in number and often work

with the small-scale landlords who are themselves less engaged. Letting agents themselves are obliged to display the EPC ratings of properties advertised. There were mixed views as to how well this was happening, though it was acknowledged that this ought to be an easy area to enforce legislation, as adverts could be easily found online or in shop windows. The study found little evidence of local authorities working with letting agents to enforce the MEES.

Lack of resources and will to enforce within local authorities

Lack of resources

A lack of local authority resources to enforce the MEES was highlighted repeatedly by sector experts and local authorities themselves attending the workshops. Local authority officers felt that they had been handed this new piece of legislation which did not appear clear to them, given no training and no additional funding, but expected to enforce it.

We haven't got the resources. If we could have one person full-time to look at this it would help.

Less than 50% of PRS properties in [our local authority] have EPCs. And 950 of these are F and G rated properties. It is a lot of work to contact all of them.

[Local authorities are]...paralysed by the weight of the task or seeing how to go about it.

If the government are so interested in fuel poverty, why aren't local government given the tools for verification?

(Workshop attendees)

Lack of political will

It was also felt by many (including some local authority officers themselves) that the MEES was simply not a top priority for local authorities currently, especially urban local authorities. Their key focus was on tackling really poor landlords in the sector, with issues such as severe overcrowding of migrants, brothels and anti-social behaviour highlighted as more pressing issues. Some sector experts and local authority officers felt that the lack of reporting requirements on actions taken under the EPC and MEES requirements gave local authorities a signal from Government that this was not something they should necessarily be prioritising as yet.

The collective views of local authority officers attending workshops was noticeably more negative about the prospect of enforcing the MEES at workshops where none of the attendees were currently taking any enforcement action. Where one or more attendees talked about ways in which they had started to look at enforcing the MEES, other local authority officers were keen to learn and more positive about whether they might too be able to do so. Local authority officers in rural areas with higher numbers of F and G rated properties that were also off mains gas were more generally aware of the problems of energy efficiency in their local area.

A reluctance to upset landlords

Local authorities generally reported wanting to work with landlords in a collaborative manner. They felt that there were some very poor landlords in their local areas, but that most were well-

intentioned. Local authorities were therefore nervous of moving directly to enforcement activity for landlords who may be unknowingly in breach of the MEES. Some sector experts also felt that local authorities often needed to work closely with local landlords in order to meet their responsibilities to homeless households and would not therefore want to take enforcement action against them if this could be avoided.

Sector experts and workshop attendees also felt that the MEES legislation was still very new and had not been well-advertised to landlords. Local authorities were therefore cautious and taking time to allow landlords to become aware and compliant before moving to enforcement action.

The ineffectiveness of the current criteria for obtaining an exemption certificate

The ineffectiveness of the current high cost exemption criteria was a major reason for not putting in much effort to enforce the MEES to date. The high cost exemption rules were widely felt to be dysfunctional under the 2018 rules. At the time of the fieldwork (March 2019), most local authority officers were aware of the proposals to amend the high cost exemption criteria, but many were unaware of the details (the £3,500 cap) or the timeline (to take effect from April 2019). Most were also unaware of the date when any existing high cost exemption certificates will expire (31 March 2020).

Local authority officers were generally enthusiastic about the forthcoming change (though some felt the cap to be still too low), but their lack of knowledge about when it was to come into effect had limited the extent to which they were preparing to enforce under the new rules to date.

Alternative legislation for taking action against poor properties within the PRS

A wide range of legislation covers standards in the private rented sector. The main means by which local authorities enforce standards are:

- the Housing Health and Safety Rating System (HHSRS); and
- licensing for larger HMOs (which is mandatory), smaller HMOs ('additional licensing', which is optional) and selective licensing (mostly used at a local level and also optional for local authorities).

Local authority officers felt that the MEES legislation did not fit well with existing legislation and that this created challenges in enforcement. One of the criteria for being in breach of the HHSRS is when a property has 'excess cold'. Local authority officers reported that such properties were often also in breach of the MEES, but that the criteria were not exactly the same and some properties breached the HHSRS but not the MEES, and vice versa.

Local authorities are well-acquainted with the HHSRS, which was introduced in the 2004 Housing Act. Local authority officers reported that they liked working within the HHSRS because it afforded them considerable powers and discretion not offered by the MEES. For instance, they could enforce an entry to a property to inspect it, and there was no cap on the expenditure they could require from landlords.

People try to use EPC ratings as evidence that they don't have excess cold.

The HHSRS overlaps, and we think the two policies could work in tandem, but not happening well at the moment.

We would always prefer to rely on HHSRS.

(Local authority officers)

Some local authorities felt that the MEES legislation was very black and white, in contrast to the HHSRS, which gave them more discretion. For instance, they felt that under the MEES they could be asking a landlord to spend up to £3,500 on something that may save the tenant very little money but were prevented from requiring spending on something that would save a lot more money and bring the property up to a much higher EPC rating.

Some also reported landlords challenging rulings under the HHSRS requiring them to improve the energy efficiency of their home (for instance, because it had been found to have excess cold), when they were in fact at an E rating (or above), which is compliant with the MEES. They felt the 'pass' standard of the existing MEES being set at an E created a situation where landlords could be receiving an unclear message as to whether or not their property was adequate. In contrast, it was pointed out that once the MEES rises to a C rating, there will be many more properties that are non-compliant even though they would not be in breach of the HHSRS. This is likely to mean that the MEES becomes the more significant legislation in the future.

Some local authority officers also reported that they found the MEES legislation difficult to follow, felt it was unclear around the circumstances in which penalties should be issued, and were struggling with the lack of training or resources given to them to implement the new legislation.

Challenges in bringing properties to the required standard

The ultimate aim of the MEES is to increase the energy efficiency of housing. A range of issues in bringing a property to standard were reported. Local authorities were reluctant to enforce the MEES by issuing compliance notices, if landlords were struggling to meet the standard.

It was highlighted that a considerable proportion of F and G rated properties may not be improvable up to an E rating within the new £3,500 expenditure cap.

Another issue raised was the inability of landlords to gain access to properties, as they require permission from freeholders or need to meet building regulations for alterations. It was also reported that tenants can sometimes be uncooperative with the process of both obtaining an EPC and undertaking the works required to bring a property to standard. Some tenants were reported to be concerned that their rent may increase, or were vulnerable with mental health difficulties. Councils were reluctant to push landlords in such situations. There was concern that these difficulties may become more common after April 2020 when existing the MEES comes into effect for existing tenants – making it more likely that a landlord would need to gain access during a tenancy rather than in between when a property may be vacant.

It was noted that in other cases landlords themselves were reluctant to carry out works on a property, because they either do not have a lot of money or did not plan to let the property out long-term. It was widely thought that many landlords were unaware of the MEES.

Some of these difficulties would entitle a property to an exemption certificate. Workshop attendees were unsure as to whether they could (or would want to) take enforcement action against a landlord whose property was probably entitled to an exemption. Some felt that this would be unreasonable, and they would instead warn the landlord and give them time to comply. Others felt a more formal approach was justified, moving direct to issuing compliance notices, with 28 days to comply or action would be taken.

HOW ARE EFFICIENCY STANDARDS ENFORCED IN OTHER PARTS OF THE UNITED KINGDOM?

This chapter explores how governments and regulatory agencies identify landlords, verify compliance, and enforce regulations in the devolved administrations (Scotland, Wales and Northern Ireland). Representatives from the devolved administrations were consulted, and documents and literature relating to the operation and enforcement of the MEES were reviewed.

Wales

The MEES regulations and timetable are the same in Wales as in England. Enforcement is the responsibility of local authorities, just as in England.

One difference, however, is the existence of a Wales-wide register of landlords and letting agents. Rent Smart Wales (RSW) has been in place since 2015 and now has an estimated 97.5% of private rented properties registered³⁹. Private rented properties must be registered (costing £33.50 if done online) and whoever manages the property (the letting agent and/or a landlord) must also be licensed. A landlord license costs £144 and lasts five years. The register is a national register, held and managed centrally by RSW. This means that landlords only need to register and apply for one licence, though this also means that using the register to contact landlords cannot be done by local authorities themselves – the register itself with property details is available to them, but landlord contact details are held by RSW. RSW has, however, been working closely with one local authority (Denbighshire) in order to draw on the information held on the landlord register to identify landlords with E, F and G rated homes to target them for information about how to improve their home and grants that were available to help them with this. The intention is to start with education and move to enforcement action at a later stage once landlords have had a chance to respond to the education, and the number of non-compliant properties has been reduced to a more manageable number.

RSW are looking into the potential to match the EPC database to their own landlord register across the whole of Wales so that local authorities could draw on it to enforce the MEES as well as the requirement to have an EPC.

The main challenges of using the RSW landlord register for this purpose were reported to be identifying properties that had changed tenure since the EPC data was logged and difficulties in proving that a property is rented.

RSW also work closely with agents (who they can contact via the register) to educate landlords about their responsibilities with respect to EPCs and the MEES.

Scotland

EPCs are required to let properties in Scotland, just as in England. The MEES are initially being implemented on a slightly later timetable than in England. The Scottish Government has, however, planned with a bit more detail around how to drive up the minimum standards from an E to a D rating and higher, with the publication of the Route Map⁴⁰. This sets out plans for energy efficiency improvements in all tenures of housing. For private rented housing the plans are:

- for new tenancies to have at least an E rating, to be implemented from April 2020;
- for all tenancies to have at least an E rating by 31 March 2022;

³⁹ Interview with Rent Smart Wales representative.

⁴⁰ www.gov.scot/publications/energy-efficient-scotland-route-map/

- for new tenancies to have at least a D rating from 1 April 2022;
- for all tenancies to have at least a D rating by 2025;
- for all tenancies to have at least a C rating by 2030, where technically feasible and cost-effective; and
- for all homes with households in fuel poverty to reach a B rating by 2040.

A consultation was undertaken on the details of the timetable⁴¹. This consultation ended on 17 June 2019 and responses were then to be analysed.

The approach of the Scottish Government is therefore to position the current MEES in the longer-term framework intended to drive energy efficiency over the next 20+ years, with the hope that landlords will undertake large scale work on their properties to bring them up to a higher standard than the current minimum in order to ensure they comply in the future too.

In terms of implementation of the current MEES, local authorities in Scotland are somewhat behind those in England, as the standards are not yet in effect. The consultation that is currently underway is considering the rules around exemptions and at what level it would be appropriate to set a cost cap. There is also a working group led by the Scottish Government looking into the issue of enforcement.

There is a landlord register in Scotland⁴². This charges landlords £65 per local authority and £15 per property (although discounts apply for HMOs, applications made by charities and some other exceptions). Registration lasts for three years. These fees have been in place for some years now and the Scottish Government is currently consulting on proposals to review them.

The register was set up without enforcement of the MEES in mind, and there are therefore challenges in using it for this purpose. One issue is that landlords register and update their list of properties only every three years. There is already a minimum property standard that they have to meet in order to register, but this is not currently tied in with the MEES, or with the requirement to have an EPC. The Scottish Government interviewee reported that it was not currently possible to match up the landlord register with the EPC register, due to IT issues⁴³. Manual checks would be possible by local authorities wishing to establish the contact details of landlords of properties listed as having F and G ratings. Unlike in Wales, local authorities in Scotland do have access to landlord contact details, as the landlord register is held separately by each local authority in Scotland. Registration therefore provides a useful mechanism by which local authorities can communicate with landlords, although the Scottish Government reported that some local authorities are wary of using this method of communication under the General Data Protection Regulations.

The Scottish Government consulted in 2018 on proposals to review the information they require from landlords in order to register⁴⁴. The changes proposed include requiring landlords to confirm that they have an EPC for each of their let properties at point of registration. It is anticipated that local authorities will validate this information by sample checking or as part of any wider enforcement action on individual landlords.

⁴¹ <https://consult.gov.scot/better-homes-division/energy-efficiency-programme/>

⁴² www.landlordregistrationscotland.gov.uk/

⁴³ The Scottish Government report that they have not however ruled out doing so in the future, as they believe there may be technical solutions available that make this a suitable option.

⁴⁴ <https://consult.gov.scot/landlord-registration/registration-fee/>

One other issue that may affect enforcement of the MEES in Scotland concerns tenants' potential willingness to report non-compliant properties. In 2017, the Scottish government introduced a new type of tenancy which improves the security and predictability for tenants, and provides appropriate safeguards for landlords, lenders and investors. This provides protection for tenants by specifying a defined list of legitimate grounds for repossession, intended to protect tenants from eviction in retaliation for making complaints. There may therefore be more potential in Scotland to enforce the MEES in response to complaints from tenants, though it is too soon to know whether this is effective in practice, as the MEES is not yet being implemented.

There is also a strong focus on education around the MEES in Scotland, intended to complement enforcement action and reduce the numbers of sub-standard homes in future years (when the MEES is raised from an E to a D and then a C rating) by driving standards up now to higher than is required. Home Energy Scotland offers a one stop shop for advice and information to homeowners and landlords alike and can provide a home energy check. There is also work with landlord forums and through the EST.

Northern Ireland

EPCs are required in Northern Ireland in the same circumstances they are in England. The Northern Ireland Executive consulted on MEES legislation in 2017, but the law has not moved on because of the lack of a functioning government currently. The legislation covering HMO licensing in Northern Ireland does, however, require an EPC to be in place.

The Northern Ireland Landlord Registration Scheme operates in Northern Ireland. As with the other schemes it provides central information about landlords and their properties, provides education and support to landlords, promotes good practice and ensures the right advice, and help is available. The Department for Communities, who run the landlord register, reported that the register was intended to be light touch and was not currently used to enforce either the requirement to have an EPC or the MEES (if it comes into effect in the future). There are currently no plans to use the landlord register for this purpose, though a review of the private rented sector is currently underway in Northern Ireland, and this may be something that the Department for Communities look at in the future, possibly once the Stormont government is functioning again.

The Northern Ireland Government also supports landlords to meet their responsibilities via a free landlord helpline⁴⁵. This is available to both landlords and letting agents and can offer advice on a range of issues including EPCs and the MEES.

⁴⁵ www.nidirect.gov.uk/landlord-helpline

HOW COULD ENFORCEMENT OF THE MEES IN ENGLAND BE IMPROVED?

This chapter explores the findings from the sector expert interviews and workshops which discussed ideas for how the MEES could be better enforced.

Landlord registration and licensing

Being able to identify which properties are in the PRS would be a useful starting point for local authorities seeking to enforce the MEES. Local authorities attending workshops were strongly in support of mandatory licensing, if arranged centrally. They pointed to the success of the DVLA registration for car owners and felt that something similar would be hugely valuable to their work.

England is currently the only part of the UK to not have some form of landlord registration or licensing the entire of the PRS. Locally there are selective licensing schemes, but these mostly target low demand housing or housing in local areas experiencing anti-social behaviour, or shared housing/HMOs. The devolved authorities all have existing registers of landlords.

Using existing licensing schemes

All local authorities operate licensing for larger HMOs. Many also license smaller HMOs ('additional licensing'). The potential to use these schemes to enforce the MEES is somewhat curtailed by the current rules that exempt a property let as separate tenancies (eg bedsits) from the requirement to have an EPC. Some workshop attendees therefore dismissed the MEES as 'not applying to HMOs'. Most were aware that HMOs that are let on a joint tenancy to a group of tenants (as is common in the student market) do require an EPC the same as any other rented housing, but were unclear on the situation for HMOs that already had an EPC (for instance that was in place when the property was sold, or previously let under one tenancy), in terms of the requirements to meet the MEES. Some workshop attendees felt that local authorities were too quick to dismiss the entire of the HMO sector as 'exempt' when in fact there was more potential to use existing licensing regimes to enforce the MEES. The experience of Northern Ireland where an EPC (with at least an E rating) is required to obtain an HMO licence would suggest that more could be done here to bring the HMO sector into line with the rest of the PRS in terms of energy efficiency requirements.

Some local authorities also run selective licensing schemes. These generally tackle small local areas, though a few areas (such as Newham in London and Liverpool) operate large scale selective licensing covering the large majority of their private rented housing stock. Many of the workshop attendees reported that they required an EPC as part of their registration process and felt that this was relatively straightforward.

Challenges in setting up a licensing scheme

Sector experts and workshop attendees raised a variety of challenges to setting up a landlord register. Some felt that the Government had given clear signals that there was no appetite for this currently, and that it was therefore off the agenda. Local authority officers were keen on the potential value of a register for their work, but less certain that they could resource such an endeavour across their whole area themselves. They were aware that licence fees can in theory pay for the administration costs, but also that there could be substantial upfront costs. Most felt that there was a strong benefit in having a nationally run scheme, with central government taking the lead in promoting and running the landlord register, along similar lines to as has been done in Wales. However, some suggested that it would be better to integrate a national scheme with

existing licensing schemes (HMOs, or selective licensing), or else to replace this element of licensing with a nationwide scheme.

Some local authorities operating in areas with lots of challenges felt that property registration and licensing might have limited value for their work, which was focussed at the very bottom end of the market where criminal landlords operated, who would be unlikely to register, and could already be prosecuted for numerous offences if identified. It was identification of these landlords that was the problem.

I think a landlord register is a great idea, getting every PRS property listed so we know where they are.

We would love a landlord register.... It is a way of contacting landlords and disseminating information.

It would be a lot easier for us to enforce a lot of the new legislation that they keep bringing in. You could see how many properties a landlord has.

(Local authority officers)

Landlord representatives at workshops had mixed views on the benefits of licensing. They felt that a national scheme would be easier for them as landlords to work with, rather than separate local schemes. Their main concern was that local authorities could target landlords already on the register for increasing enforcement activities, whilst putting insufficient efforts in to identifying and taking action against landlords not on the register.

You would end up just chasing those on the register. The bad ones aren't on it.

A landlord register can mean that the good landlords pay for the bad landlords.

A landlord register would work if it was implemented properly.

Decent landlords have nothing to hide.

(Landlord representatives)

Using existing data to identify non-compliant properties

Some sector experts and workshop participants thought that it may be possible to make better use of existing data in order to identify properties in breach of the MEES and to contact landlords in order to take action against them. Drawing on data in this way would also be needed in order to enforce any form of compulsory landlord licensing (and are already drawn on in areas where compulsory landlord licensing exists) but could also be used in the absence of a landlord register to help identify privately rented properties that may lack an EPC or be in breach of the MEES.

Local authority officers attending workshops reported a range of systems they had used, or considered using, in order to identify private rented properties. To date, these systems had been used for wider purposes than simply enforcing EPC or MEES compliance, for instance in setting up selective licensing schemes. Some of the main potential data sources are listed in the table below, with some of the challenges in using them identified.

Data source	Potential and issues
Council tax records	Can be used to identify properties with high turnover rates (which would more commonly be rented) and properties with nobody eligible to pay council tax (often an indicator of student tenant households).
HMO and selective licensing schemes	Can identify private rented properties and provide landlord contact details.
The 2016 EPC lodgement data	This data records the EPC and tenure of properties where an EPC was issued between 2008 and 1 October 2016.
The Land Registry	The Land Registry holds the details of property owners. Local authorities must pay a per-property charge to obtain this data and reported that they often found landlords listed at the address of the property they rented out, so failed to contact them in this manner.
Data collected from tenants who contact local authorities to complain about their property	This could be drawn on to help create a list of private rented properties in a local authority. Some workshop attendees reported several thousand complaints in a year.

In addition, the following data sources were suggested as having potential to help identify properties, though the research did not identify any local authorities who reported having used these successfully, often due to restrictions on accessing data for the purpose for which they needed it.

Potential data source	Potential and issues
Data from Housing Benefit departments or the DWP	Can identify where tenants in receipt of housing benefit or the housing element of universal credit live. It was suggested that this may also be able to identify tenants whose landlords could be eligible for support under the Affordable Warmth programme. Some attendees expressed concern that using this data to take enforcement action could discourage landlords from letting to vulnerable tenants who already struggle to access the market.
HMO and selective licensing schemes	Can identify private rented properties and provide landlord contact details.
Inland revenue	Could be used to identify people paying tax on income from residential properties.
Data held by mortgage lenders on buy to let landlords	Data held by mortgage lenders on buy to let landlords. However, there were no reports of any local authorities having successfully worked with lenders to identify landlords. Lenders protect their client's details and tend to work nationally.

Data held by the tenancy deposit schemes	Data held by the tenancy deposit schemes (not currently available to local authorities for the purpose of enforcing the MEES).
Letting agencies	A trawl of letting agency websites was suggested as a means of identifying properties being advertised without an EPC or in breach of the MEES.

There were significant challenges to using much of this data, especially if it could potentially provide landlord contact details, due to data protection requirements and the need for the correct data sharing agreements between agencies. Some authorities and government bodies who had tried to link data from different sources also reported technical challenges in doing so, and in keeping the data updated in real time.

The Energy Saving Trust reported that they use a system called Home Analytics, which could model not the tenure of properties, but the likelihood of them having an F or G rating. There could be potential to link this system in with data that models the likelihood of a property being privately rented.

There were two big drawbacks that local authorities identified with these kind of approaches. Firstly, that they would require resources they did not have,

Even if the data was available, I don't know what I would do with it – our staff are too stretched.

(Local authority officer)

Secondly, local authorities cautioned that knowing which properties are probably private rented did not create a list of current landlord contact details.

Local authority officers felt strongly that central government could do more to provide them with data they could use to identify and contact landlords.

Contacting landlords via the tenancy deposit schemes

Landlords who take a deposit must lodge it with an approved scheme. This could potentially provide a means of identifying properties and landlords and contacting landlords. The landlord contact details are not currently available to local authorities for this purpose. Were they to be made available, this could offer a possible route to identifying properties which were non-compliant. Some local authorities attending workshops, however, noted that landlords in their area often didn't take deposits so would not be covered by such activities. Some expressed concern that focussing enforcement on those using the deposit schemes could target the better landlords, and fail to capture the poorer ones, or even to deter them from using the schemes.

Property MOTs

Property 'MOTs' are an idea suggested in the recent review of the private rented sector undertaken by York University⁴⁶. This review concluded that 'the current regulations create confusion and uncertainty, and rest rather too heavily on tenants coming forward to complain and on local authorities to inspect and enforce'. It therefore recommended that a property 'MOT' certificate could be introduced to indicate that the property had passed independent inspection.

⁴⁶ [The Evolving Private Rented Sector](#) (Rugg, and Rhodes, University of York, 2018)

The certificate would confirm compliance with all relevant legislation covering the PRS, such as gas and electrical safety certificates, and compliance with any relevant licensing requirements. Although not specifically mentioned in the review, it would seem possible that this kind of approach could also verify that a property had a current EPC compliant with the MEES. The advantage of such an approach would be to make it easier for tenants and others involved in the sector (such as letting agents, local authorities or landlords themselves) know quickly that a property was compliant with all relevant legislation.

Ensuring that all properties have an MOT would require some form of property registration, though it might be possible to envisage it working as a voluntary scheme to help give good landlords confidence that they were meeting their responsibilities⁴⁷.

Workshop attendees had mixed views on the value of property MOTs. Some raised the issue of quality control if private companies were to undertake inspections and issue MOTs. Others were unclear whether the issuing of an MOT was a purely desk-based exercise, ensuring that the necessary certificates were all in place, or whether an actual property inspection would be required. Landlord bodies felt that the costs would likely fall on landlords and they would therefore want something of value back from their involvement – such as this being a replacement for selective licensing. Some questioned whether MOTs were simply ‘licensing by another name’, though were not unsupportive of the idea in principle.

Building capacity to enforce within local authorities

Improving confidence in the quality of the EPCs

As discussed earlier, local authorities felt that the poor and unreliable quality of EPCs meant that the MEES was of limited use as a tool to improve the energy efficiency of the PRS.

Suggestions for how to improve the quality and consistency of EPC ratings included:

- having a minimum price to avoid a ‘race to the bottom’ with EPC assessors undercutting one another and therefore having to cut corners to undertake EPCs in very little time;
- improving the independent auditing of EPCs;
- strengthening the sanctions that can be taken against EPC assessors whose EPCs are found to be inaccurate;
- improving the guidance issued to EPC assessors so that the rating more fully reflects the costs and difficulties in heating a property. Heating systems should be functional, and windows well fitted to obtain the appropriate rating;
- amending guidance to prevent letting agents from using in-house EPC assessors, as this was felt to create a conflict of interest since the MEES came into effect; and
- improving training for frontline housing officers so that they can challenge EPCs that appear to be incorrect.

⁴⁷ For instance, the [National Rental Standard](#) is an independent effort to provide quality assurance to landlords who pay for this service voluntarily.

The guidance on EPCs has been updated twice since their introduction (in 2012 and again in 2016). Some workshop attendees did note that the worst quality EPCs were generally the older ones.

Support and training for local authorities

As discussed earlier, local authority officers reported that they felt overwhelmed and undertrained to enforce the MEES legislation. They also reported a lack of financial resources to pay for the enforcement activity they knew was needed.

They were aware of the potential income from fines, but felt that this was very uncertain, would come a long while in the future, and could fail to pay for the enforcement activity. They considered it likely that most landlords, on receiving an enforcement notice, would either bring their property up to standard or apply for an exemption certificate. Neither of these actions would result in any income from fines to pay for future enforcement activities. One workshop attendee was aware of a neighbouring local authority who were moving direct to issuing compliance notices in the hope of generating some income from fines to pay for future enforcement activity, but most felt that this may be a heavy-handed approach and they would prefer to educate landlords first.

There was a widespread view that if central government expects local authorities to enforce new legislation then they need some additional ringfenced financial resource to pay for this activity. Local authority officers also felt they could benefit from training and clearer guidance around the process for obtaining an exemption from the MEES, such as a flowchart and standardised forms.

Integrating the MEES requirement within the existing Housing Health and Safety Rating System

Several local authority officers felt that enforcing the MEES would be easier if the legislation was integrated within the existing HHSRS legislation. Enforcement action under the MEES is generally already undertaken by the same teams as the HHSRS, with local authority officers sometimes considering both to be tools at their disposal. Others had drawn on the EPC data to identify F and G rated properties in order to help target enforcement action under the HHSRS.

It was suggested that if a breach of the MEES was included as one of the ways in which HHSRS could be breached, this would create a ready-made format for enforcement that would fit together with other enforcement actions tackling sub-standard housing.

Raising expectations on local authorities

Landlord bodies felt that enforcement would be improved if the expectations on local authorities to enforce were made clearer. Local authority officers attending the workshops, however, were generally opposed to this idea, saying that they did not value competition or friction with other authorities, and felt they should instead be working co-operatively.

It was reported that the central reporting mechanisms for local authorities were removed after 2010. Previously, local authorities had to report on housing enforcement, but this was thought to no longer be occurring (or at least the data is not being published). There was some support for reinstating reporting requirements and publishing data in order to monitor the extent to which

local authorities are enforcing the MEES. Local authority officers attending the workshops were more positive about the prospects of enforcing the MEES when they were able to speak to others who had begun to take enforcement action, suggesting there is potential to learn from good practice.

Working with letting agents and other bodies involved in the PRS

Workshop attendees were asked whether there was potential to work with letting agents to improve enforcement of the MEES. A common view was that whilst some letting agents could be useful organisations to work with, especially in terms of educating landlords about their responsibilities, many letting agents were themselves lacking in professionalism and could not always be relied on to ensure landlords complied with the MEES. Rent Smart Wales reported that their research had found that most landlords had become aware of the Welsh landlord licensing and property registration scheme via their letting agent, highlighting the value of letting agents as a mechanism for spreading information to landlords who may not be members of the main landlord bodies.

There was generally felt to be little potential for working with other organisations with involvement in the PRS, though some workshop attendees were aware of mortgage lenders who offered 'green mortgages' to landlords with properties meeting higher energy efficiency standards.

Strengthening/clarifying the requirement to have an EPC to use Section 21

Section 21 of the 1988 Housing Act allows landlords to give notice to tenants without having to give any reason. Tenants can be evicted at the end of a fixed term tenancy or with two months' notice at any time during a period tenancy. Landlords generally value Section 21 as a simple way to end a tenancy that is not contestable by the tenant, providing the correct procedures have been followed. (In contrast, a tenant could dispute that there had been a breach of tenancy, or pay off their rent arrears to avert evictions under either of these grounds). However, the correct procedures that must be followed in order to use Section 21 to end a tenancy include issuing an EPC. The legislation is generally regarded as being unclear as to whether the EPC must have been issued at the start of the tenancy, or whether a landlord could issue one at the point of issuing the Section 21 notice. For instance, Shelter note on their website that:

It is unclear whether a failure to provide a copy of an EPC or gas safety certificate before the start of the tenancy (which are requirements of the respective regulations governing EPCs and gas safety) will invalidate a section 21 notice. However, it has been found in two (non-binding) county court cases that failing to provide a copy of a gas safety certificate at the outset of the tenancy did invalidate a section 21 notice, even where the gas safety certificate was provided later.

Citizens Advice advise tenants that the EPC does have to have been issued at the start of the tenancy⁴⁸. In contrast, the government website states:

⁴⁸ www.citizensadvice.org.uk/housing/renting-privately/during-your-tenancy/if-you-get-a-section-21-notice/, accessed February 2019

You also cannot use a Section 21 notice if you have not given the tenants copies of:

- the property's Energy Performance Certificate;
- a current gas safety certificate for the property; and
- the government's 'How to rent' guide.

You must give tenants a copy of the current gas safety certificate before they move in⁴⁹.

This is unclear, but the omission of the EPC in the last sentence could have been behind the belief by some of the workshop attendees that there may be different rules governing gas safety certificates and EPCs.

Attendees at the workshops were often confused on this point. Some believed that a landlord who had failed to issue an EPC at the start of a tenancy would be subsequently unable to evict the tenant under S21. This was felt to be a strong policy lever:

The biggest lever they have already got right is the fact that you can't serve a S21 notice without having had an EPC at the start of the tenancy (or the viewing if it's a new tenancy).

(National Landlords Association)

The NLA and RLA both believed that the large majority of their members were aware of this and already issuing EPCs as standard. Experiences of local authority officers (often working with the less professional landlords who had come to their attention for breaching other legislation) was that a significant number had not issued an EPC. Promoting the requirement to have an EPC in order to end a tenancy using S21 could therefore allow this policy lever to operate more effectively.

Some workshop attendees believed that landlords could issue an EPC at a later date, if it should happen that they wished to evict the tenant. Those who believed it to be necessary upfront felt that this was an effective deterrent to landlords not to issue tenancies without EPCs in place, as they would be putting themselves at risk of being unable to end a tenancy so easily in the future. In contrast, if an EPC could be issued later on, this creates little incentive to ensure they are always in place at the start of a tenancy. Clarifying the legislation so as to make it more difficult to end a tenancy in situations where an EPC had not been issued at the start would clearly create a stronger incentive to ensure that this is always done correctly.

Increasing incentives on landlords to comply

Increased fines for breaches of the MEES

Some sector experts and local authority officers felt that the maximum fine under the MEES legislation was not sufficiently high. The maximum fine is currently £5,000, which is not a lot higher than the maximum expected expenditure on undertaking the work to bring a property to an

⁴⁹ www.gov.uk/evicting-tenants/section-21-and-section-8-notices, accessed 17 June 2019

E rating. Some sector experts felt that landlords might therefore plan to pay fines (if caught) as part of their business model rather than comply with the MEES.

It was widely felt that fines should be higher for second or subsequent offences.

Subsidies to landlords to improve their properties

Currently the exemption criteria allows landlords to avoid spending any of their own money upfront on improving their homes. Local authorities were concerned that when the criteria are increased to require up to £3,500 to be spent per property, it may be hard to ensure compliance with landlords who say they do not have the necessary funding available. The NEA reported that they are calling for the re-introduction of the Landlords' Energy Saving Allowance. Subsidies were felt to be particularly important for landlords letting to lower income households, where rents could not be increased as a result of improvements to energy efficiency.

Some local authority officers felt that offering government subsidies to landlords to improve their homes could help landlords of F and G rated homes to engage with local authorities and improve their homes without the need for enforcement action. Local authorities would be more willing to take enforcement action if they felt that landlords had been given every opportunity to improve their home and were still failing to do so.

Naming and shaming bad landlords

There was some support from tenant groups for 'naming and shaming' bad landlords, though concerns from local authority officers that this may pose a challenge in terms of GDPR compliance.

Educating and empowering tenants

Educating tenants

There has been little concerted effort to educate tenants about the MEES to date. Shelter reported that it was not something they have done a lot of work on to date. There is information on Shelter's legal website (aimed at professionals), but not on the parts of the website targeting tenants. Generation Rent reported similarly that they had done very little regarding energy efficiency. At the local level, four of the nine tenant groups we invited attended workshops, and those that did reported that tenants had little awareness of the MEES. Given that most enforcement activity is currently undertaken in response to tenants raising complaints about their properties, educating tenants would seem a route by which enforcement activity could increase.

Empower tenants to take landlords to court

Some workshop attendees felt that enforcement could be improved if tenants were empowered to take their landlords to court in a similar manner as is possible if landlords fail to protect deposits in approved schemes. If a landlord fails to protect a deposit, a tenant can claim up to three times the value of the deposit in compensation. It was suggested that similar legislation for the MEES would incentivise tenants to bring a case against landlords who did not comply with the MEES. Financial payments could be justified as compensation for the increased fuel bills the tenant would likely be incurring by living in an F or G rated property. Private companies encourage

tenants to bring a claim against their landlord and (for a cut in the proceeds) support them in doing so.

Working towards longer term compliance

Sector experts and many workshop participants were aware that the long-term plan is to raise the MEES to a C rating. Enforcing compliance with this rising standard will be very much more challenging as only 7% of PRS properties were F or G rated by 2016, but a further 19% were E rated and 40% were C rated.

The government has currently stated that they plan to do increase the MEES to a C rating by 2030 but local authority officers were generally unclear on the proposed timetable for how this would happen. In contrast the Scottish Government has set out more detailed plans for raising the level to first a D and then a C rating. It was thought that a lack of confidence over what they would need to spend both now and, in the future, could deter some landlords from investing above and beyond the minimum needed now, in order to be compliant with future raising of the MEES. In particular, landlords may avoid spending money now if this expenditure may not count against minimum spending required to obtain exemption certificates from any future increase in the MEES.

COSTS OF ENFORCEMENT OPTIONS

Sector experts and workshop participants were asked about the potential costs of the different options for enforcement. This chapter below draws on the views and findings from participants, as well as from figures provided by the devolved administrations to give broad indicative figures for the costs of each possible enforcement measure, as well as who this cost would (initially at least) fall on:

Who would pay for each option?

The table below sets out who might potentially pay for each enforcement option, based on how it could operate and who would need to undertake the work involved. It should be noted that some costs to landlords could potentially be passed on to tenants, if the market would support higher rents (for instance because tenants were prepared to pay more for more efficient or better regulated housing).

Table 5: Who would bear the costs?

	Who would this fall on?
Landlord registration and licensing	Landlords
	Local authorities or central government
Making better use of data to identify properties in breach of the MEES	Local authorities
	Central government
Updating the EPC lodgement data regularly	Central Government
Property MOTs	Landlords
Empowering tenants	Courts
Building capacity in local authorities	Central Government and local authorities
Improving the quality of EPCs	Landlords
Improving data on enforcement	Local authorities
	Central government
Increased fines for breach of the MEES	Landlords
Clarifying that an EPC is required at the start of tenancy to use S21	Central Government and landlord bodies
Subsidies to landlords to improve their properties	Central government
Working towards longer term compliance	Central government and local authorities

Costs of the different options

Landlord registration and licensing

The costs of a landlord register can be estimated from costs charged by Rent Smart Wales (which is a newer scheme than that operated in Scotland). In Wales the charges are £144 per landlord, renewed every five years (so costing £28.80 per year), plus £33.50 per property registered. If we estimate that a property registration lasts on average ten years, this would give a cost per property of £3.35 per year.

The size of the PRS in England can be estimated at **4.5m** from the 2017-18 English Housing Survey (EHS).

The number of landlords can be estimated from the English Private Landlords Survey. The sample here is taken from the tenancy deposit protection (TDP) schemes. There are 3.4m properties registered with the TDP schemes associated with 1.5m landlords, which is equivalent to 2.27 properties per landlord. The EHS estimates between 51% and 72% of the private rented sector is covered by TDP. Applying this estimate to the figure for the size of the PRS above suggests around **2.04m** landlords.

If we assume that costs for licensing in England would be similar to those in Wales, this would give a total cost of **£74m** (£33.50 times 2.4m landlords, plus £3.35 times 4.5m properties). This may not all be additional costs, as some properties are already licensed (and the aim would be not to replicate existing licensing schemes but to integrate with them). It is also possible that costs in England may differ in some ways from those in Wales. The overall estimate of costs is therefore in the region of **£40-£80m**.

Making better use of data to identify properties in breach of the MEES

Drawing on available data sources in order to identify properties without an EPC, and to contact landlords of these properties and of those known to have an F or G rated property would require resources either from each local authority, or centrally (or possibly a mixture).

Local authorities attending the workshops who were trying to use data to establish which properties were thought to be private rented and unlicensed or lacking an EPC generally reported that this took around one full time person per local authority. Costs of this have been estimated at £40,000 per local authority⁵⁰ for the 326 lower tier/unitary authorities in England, totalling around **£10-£15m**.

These costs could potentially be lower if one or more people were employed centrally to provide up-to-date data to local authorities from sources that are available nationally (such as data from the Land Registry, EPC Lodgement data, census data and survey data). This could allow the work to be undertaken more efficiently and reduce overall costs.

⁵⁰ Average salary of environmental health officer = £31,491 (source: www.payscale.com/research/UK/Job=Environmental_Health_Officer/Salary). £40,000 figure used to include on-costs and management.

Updating the EPC lodgement data regularly

The Ministry of Housing Communities and Local Government were asked whether they could supply an estimate of the costs of updating the EPC lodgement data but were unable to do so and reported that the reasons for the lack of an updated database are not related to costs.

Property MOTs

The costs of property MOTs would depend on whether they involved a full property inspection, or just a desk-based exercise confirming that all appropriate paperwork was in place. Costs could therefore be in the region of £20-£150 per property. If undertaken annually, this would give a total cost across all 4.5m private rented properties in England of around **£40-£700m** per year.

Empowering tenants

There would be one-off costs associated with empowering tenants to take action against landlords. Thereafter the costs would fall initially on courts, though may be recoverable from landlords who breach legislation and are taken to court. Tenants would have to contribute time but would stand to gain financially if their landlords were found to be liable in court. Costs are difficult to estimate because they depend upon the number of landlords taken to court.

Building capacity in local authorities

Building capacity in local authorities entails a range of activities from training, providing sample documents and providing financial resources to increase the number of local authority officers working on enforcing the MEES. As estimated above, the total cost of employing one full-time enforcement officer across every local authority in England would cost around **£10-£15m**. This would represent a significant increase in the capacity of local authorities compared to current levels of staffing focussed on enforcing the MEES.

Improving the quality of EPCs

This study was not able to provide independent evidence on whether there is a real issue with the quality of EPCs. If this were found to be the case, and standards driven up this would likely result in an increase to the cost of EPCs from around £50 reported. A doubling of this cost to £100 per EPC would cost a total of £230m per 10 years, or **£23m** per year.

Improving data on enforcement

The costs of improving data on enforcement would be relatively low, as it would be likely that considerably less than one full-time person per local authority would be needed to compile the data. Costs estimated at one week of effort per local authority, plus one full-time person working centrally on the data would give an estimate of around **£300,000** per year in total.

Increased fines for breach of the MEES

This could potentially result in savings to local authorities rather than costs, but figures are hard to estimate because they depend on the number of landlords who are fined and there is as yet no data available on this.

Clarifying that an EPC is required at the start of tenancy to use S21

The costs of this are potentially low, as no ongoing costs are involved once the legislation is clear and well-publicised. Landlord bodies would be likely to help with publicity at no cost to Government.

Subsidies to landlords to improve their properties

The costs of subsidies to help landlords improve their properties are varied and potentially quite large, but could help to bring properties to a higher EPC rating than could otherwise be achieved.

Working towards longer-term compliance

The costs of working towards longer-term compliance are mainly related to a clear timetable being published and publicised. Training local authority officers to understand who will be affected when would help. It is hard to put precise figures on this element.

These are very broad figures only intended to give a broad indication of the potential scale of costs. Much of this would depend on the detail of how measures were implemented. The costs of enforcement modelled here are relatively small compared to the savings to tenants, or the costs of undertaking work in order to comply with the MEES, as modelled by Government⁵¹.

⁵¹[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/760313/IA - Energy Efficiency Private Rented Property England.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/760313/IA_-_Energy_Efficiency_Private_Rented_Property_England.pdf)

CONCLUSIONS

The effectiveness of existing enforcement

A key aim of this study was to review the evidence on the effectiveness of existing monitoring and enforcement of the MEES regulations. It is clear that enforcement action by local authorities in this area is currently limited. Some authorities are yet to undertake any work at all around enforcing the MEES. Others are developing systems and looking to enforce the regulations within the next year. All feel that it will be easier to enforce after April 2020 when the MEES applies to all private rented properties where an EPC is held (ie those where a tenancy has been issued after 2008).

The main barriers to enforcing the MEES relate to:

- the ineffectiveness of the exemptions criteria in place at the time of the research (March 2019);
- a lack of local authority training and resources to enforce the MEES; and
- difficulties in areas without large-scale landlord licensing in being able to identify properties in breach of the MEES (particularly those without EPCs) or contact landlords.

Policy alternatives for improving enforcement

The table below sets out the main policy alternatives identified for improving enforcement, and the feasibility and challenges for each option. It should be noted that these are not mutually exclusive options. It may be sensible to implement more than one of them to maximise the success of enforcement.

Table 6: Enforcement alternatives, feasibility and challenges

	Feasibility and challenges in enforcement
National Landlord registration and licensing	The experience of those operating large-scale landlord licensing schemes suggests that there are real challenges in getting all properties and landlords registered, and that this takes time and resources. Local authority officers felt strongly that this was something they would support being undertaken on a national basis, as this would allow people to spot national issues or landlords operating across multiple authority areas, rather than at the local level. There are however, many possible gains from property registration and licensing that could help with improving the quality of the PRS in many areas, as well as the MEES, hence a strong appetite from local authorities and tenant groups to implement it.
Big data	Work done in this area to date is largely local authority-driven. Many local authorities lack the resources to undertake further work in this area, though would be very supportive of it being undertaken for them with lists provided to them of properties believed to be in breach of the MEES. Updating the 2016 EPC lodgement data and keeping it updated on a regular basis (at least every six months) would seem a sensible start in this area. Identifying PRS properties without an EPC at all is more challenging, though there is much more that could be done in this area, drawing on a range of data sources and using modelling techniques to identify properties likely to be privately rented and without an EPC. Challenges would remain in moving from a list of properties that are probably private rented to having contact details for landlords needed to enforce the MEES.

Property MOTs	These could work as part of a landlord licensing scheme, though there is also potential for a voluntary scheme to help landlords ensure they have all the necessary paperwork in place. Once in place, a property 'MOT' would make enforcement action under the MEES simpler to undertake.
Empowering tenants	Tenants are the main people who suffer if a property is energy inefficient and hard to heat. If legislation similar to that used under the tenancy deposit rules existed, that allowed tenants to claim against landlords in a straightforward manner, this could empower tenants to take landlords to court over non-compliance with either the EPC or MEES requirements. This would need to be combined with efforts to educate tenants about the legislation, and also with integration with protections from retaliatory evictions, or actions backed up by local authorities where necessary.
Building capacity in local authorities	<p>Training and resourcing within local authorities would increase the capacity to enforce the MEES legislation. This could include flow charts and sample letters designed centrally to avoid such activities having to be undertaken separately in each local authority.</p> <p>It would be necessary to investigate further the extent to which concerns over the quality of EPCs are well-founded. Solutions could include working through existing accreditation bodies, improving guidelines, and increasing sanctions for poor EPCs. Improving the quality of EPCs may help incentivise local authorities to enforce the MEES, but is unlikely to in itself tackle all the barriers.</p>
Improving data on enforcement	Improving data collection on enforcement action would not in itself increase enforcement action, but it could act to incentivise local authorities to do more, and to enable weaker authorities to identify those who are doing more enforcement to learn from them.
Subsidies to landlords to improve stock	Offering financial subsidies to undertake energy-saving work could help encourage landlords to work constructively with their local authority and reduce the need for enforcement action against sub-standard properties.
Working towards longer term compliance	The proportion of F and G rated properties was already very low (less than seven percent) when the MEES was introduced. The proportion of D and E rated PRS homes is a lot higher (66% ¹⁸). Systems for tackling non-compliance that rely on detailed work with individual landlords may therefore prove ineffective when much larger numbers of properties begin to fail to meet the MEES. Publicising a clear plan for the MEES to rise to a D and then a C, with a timetable for when this will apply to different types of properties could help landlords to make good investment decisions now, reducing the number of D and E rated properties that will require enforcement action in the future. There is also a need to clarify how the high cost exemption criteria will work once the MEES moves up to a D and a C, especially in terms of the time period in which a landlord must spend up to the cap set to qualify.

Key principles for future enforcement

Drawing across the data analysis, interviews and workshops several key principles of enforcement can be identified:

1. Enforcement action undertaken by local authorities needs to be resourced and funded, or by some means cost-neutral (eg by charging landlords).

- Non-compliance with the MEES is much higher in rural areas, particularly those where a high proportion of properties are without a mains gas supply. The proportion of non-compliant properties in urban areas may be very low (under

three percent) and these areas may have bigger challenges facing their PRS. Rural areas with high rates of F and G rated homes may therefore benefit most from resourcing and training to help enforce the MEES.

- 2. Enforcement of the MEES cannot be undertaken in isolation from enforcement of EPC requirements. Trading Standards departments are ideally placed to enforce that EPCs are in place, especially when a new tenancy is issued to an existing tenant. Environmental health and housing departments are more focussed on ensuring standards in the PRS more generally and would be better placed to enforce both EPC compliance and the MEES together.**
- 3. Local authorities need up-to-date data on the EPC ratings and tenure of properties, in a format that is easy to use and updated on a regular basis in order to enforce that properties with an EPC are compliant with the MEES. This can most efficiently be produced by MHCLG from the EPC lodgement data.**
- 4. A nationwide landlord register is the only means by which the landlords of properties without EPCs can be systematically identified and contacted.**
 - Landlords are not uniformly against registration but feel strongly that if implemented, local authorities should put their efforts into taking action against unregistered landlords and try to minimise the burden on those who have registered.
 - A nationally-operated register would be more efficient to run than local authority-led schemes and easier for landlords with multiple properties. Data sharing agreements would need to be in place to allow local authorities to communicate with landlords in their area.
 - A nationwide landlord register should be integrated with existing licencing schemes already in operation (HMO and selective licensing) and not duplicate their role.
- 5. Enforcing the MEES will become a significantly harder challenge once the minimum standard rises to a D and then a C, as a much higher proportion of properties will fail to comply. Forming a long-term plan with details of exemption criteria, dates and support to help landlords reach the higher EPC ratings is essential to ensure that the task of enforcing these rising standards is manageable.**

This report identifies significant weaknesses in the current enforcement of the MEES. However, it also identifies opportunities to improve landlord compliance, tackling fuel poverty in the process. If enforcement is not addressed, the forthcoming raising of standards may never have their desired impact. However, if the policy alternatives and principles identified are implemented now, they could lift households out of fuel poverty and improve the energy efficiency of increasing numbers of homes.

ANNEX 1 – LOCAL AUTHORITY EPC DATA

The tables below show the EPC ratings of private rented properties in England, as of 2016. The authorities shaded in green are the ten with the highest proportion of F and G rated homes, whilst those shaded in blue are the ten with the lowest proportions. The table also shows the number of EPCs recorded as being issued to private rented properties between 2008 and 2016, and – for comparison – the size of the private rented sector as recorded in the 2011 census. The righthand column shows the percentage of F and G rated homes that are ‘improvable’ to an E rating – meaning that their potential EPC rating (as recorded on their EPC) is an E or higher.

1.1 North west

Local Authority	Privately rented properties 2011	A to C	D and E	F and G	Total EPCs	EPCs/1,000 PRS properties	Number of improvable F and G properties	Percentage of improvable F and G properties
Allerdale	4,142	19%	66%	15%	2,119	512	208	67%
Barrow-in-Furness	4,442	24%	65%	11%	1,431	322	106	68%
Blackburn with Darwen	8,993	29%	66%	5%	3,674	409	131	78%
Blackpool	16,770	28%	62%	10%	8,295	495	709	84%
Bolton	15,930	40%	56%	4%	8,270	519	300	81%
Burnley	7,267	21%	73%	6%	3,871	533	158	71%
Bury	10,774	31%	64%	5%	5,128	476	228	86%
Carlisle	6,914	30%	61%	8%	3,620	524	217	71%
Cheshire East	19,938	32%	60%	8%	12,209	612	769	74%
Cheshire West and Chester	17,734	34%	59%	7%	11,117	627	636	76%
Corley	4,587	36%	59%	5%	2,590	565	103	83%
Copeland	2,665	23%	64%	12%	1,180	443	93	63%
Eden	3,685	22%	57%	21%	1,810	491	242	64%
Fylde	6,066	28%	61%	11%	2,723	449	256	83%
Halton	5,212	43%	54%	3%	2,684	515	63	75%
Hyndburn	6,235	21%	73%	7%	3,009	483	153	78%
Knowsley	5,980	44%	52%	4%	3,129	523	77	65%
Lancaster	10,929	32%	60%	8%	5,186	475	315	76%
Liverpool	48,290	34%	59%	7%	24,987	517	1,249	73%

Local Authority	Privately rented properties 2011	A to C	D and E	F and G	Total EPCs	EPCs/1,000 PRS properties	Number of improvable F and G properties	Percentage of improvable F and G properties
Manchester	58,170	44%	52%	4%	34,605	595	985	78%
Oldham	10,944	29%	67%	4%	4,466	408	155	81%
Pendle	6,760	19%	73%	8%	2,885	427	158	69%
Preston	10,365	37%	58%	5%	4,736	457	189	79%
Ribble Valley	3,278	24%	62%	14%	1,689	515	172	74%
Rochdale	11,556	35%	61%	5%	4,840	419	181	79%
Rossendale	4,106	28%	67%	6%	2,000	487	86	76%
Salford	19,420	49%	48%	3%	12,353	636	293	82%
Sefton	15,804	31%	62%	7%	6,796	430	384	77%
South Lakeland	6,633	20%	60%	20%	3,822	576	464	60%
South Ribble	4,308	36%	60%	4%	2,246	521	67	77%
St. Helens	7,736	35%	61%	4%	4,429	573	124	78%
Stockport	13,852	27%	67%	6%	7,592	548	358	83%
Tameside	12,573	36%	60%	4%	5,175	412	161	78%
Trafford	12,001	35%	59%	5%	6,718	560	280	77%
Warrington	9,549	44%	53%	3%	5,635	590	124	79%
West Lancashire	4,744	31%	61%	7%	1,787	377	101	80%
Wigan	15,875	34%	62%	4%	9,098	573	288	79%
Wirral	22,275	27%	66%	6%	11,152	501	537	74%
Wyre	6,397	26%	65%	9%	3,073	480	226	82%

1.2 North East

	Privately rented properties 2011	A to C	D and E	F and G	Total EPCs	EPCs/1,000 PRS properties	Number of improvable F and G	Percentage of improvable F and G
County Durham	28,142	35%	59%	5%	13,812	491	565	76%
Darlington	8,513	32%	62%	6%	4,297	505	192	72%
Gateshead	11,125	36%	61%	3%	6,407	576	165	85%
Hartlepool	5,971	29%	66%	5%	2,263	379	85	80%
Middlesbrough	9,509	28%	67%	5%	3,555	374	133	81%
Newcastle upon Tyne	22,318	33%	62%	5%	15,170	680	584	84%
North Tyneside	11,300	39%	57%	4%	6,690	592	193	79%
Northumberland	18,417	28%	57%	15%	9,649	524	1,010	69%
Redcar and Cleveland	7,434	26%	66%	8%	2,603	350	138	70%
South Tyneside	6,758	32%	65%	4%	3,276	485	97	84%
Stockton-on-Tees	10,387	40%	55%	5%	4,861	468	175	74%
Sunderland	14,552	34%	61%	5%	6,628	455	266	81%

1.3 Yorkshire and the Humber

	Privately rented properties 2011	A to C	D and E	F and G	Total EPCs	EPCs/1,000 PRS properties	Number of improvable F and G properties	Percentage of improvable F and G properties
Barnsley	12,856	34%	61%	6%	5,815	452	273	83%
Bradford	36,070	32%	62%	7%	15,324	425	713	69%
Calderdale	14,545	33%	60%	7%	6,573	452	309	71%
City of Kingston upon Hull	22,984	28%	66%	6%	14,541	633	600	70%
Craven	3,782	20%	64%	16%	1,929	510	205	67%
Doncaster	18,774	27%	66%	6%	8,269	440	420	82%
East Riding of Yorkshire	19,648	29%	60%	11%	10,751	547	811	69%
Hambleton	5,770	22%	60%	18%	2,463	427	297	67%
Harrogate	11,771	26%	64%	10%	6,869	584	444	66%
Kirklees	26,941	29%	64%	7%	12,190	452	615	73%
Leeds	57,456	37%	58%	5%	38,473	670	1,443	71%
North East Lincolnshire	12,627	21%	73%	6%	5,558	440	242	73%
North Lincolnshire	9,477	30%	63%	8%	4,035	426	231	76%
Richmondshire	4,519	20%	60%	20%	1,892	419	232	61%
Rotherham	12,262	29%	65%	6%	6,179	504	308	82%
Ryedale	3,773	15%	60%	25%	2,025	537	331	65%
Scarborough	9,640	29%	59%	12%	5,097	529	378	64%
Selby	3,796	29%	60%	11%	2,435	641	184	72%
Sheffield	35,760	34%	59%	7%	18,812	526	1,063	84%
Wakefield	16,017	33%	60%	6%	7,870	491	369	76%
York	14,980	37%	59%	4%	9,864	658	315	72%

1.4 East Midlands

	Privately rented properties 2011	A to C	D and E	F and G	Total EPCs	EPCs/1,000 PRS properties	Number of improvable F and G properties	Percentage of improvable F and G properties
Amber Valley	6,200	24%	66%	10%	3,450	3,450	265	73%
Ashfield	6,504	29%	61%	10%	3,261	3,261	251	79%
Bassetlaw	5,975	27%	60%	13%	3,142	3,142	296	73%
Blaby	3,876	31%	63%	6%	2,314	2,314	105	75%
Bolsover	4,276	26%	65%	9%	2,199	2,199	153	78%
Boston	4,291	32%	57%	11%	2,589	2,589	194	67%
Broxtowe	6,594	21%	68%	11%	4,102	4,102	320	73%
Charnwood	9,396	31%	61%	8%	5,836	5,836	353	77%
Chesterfield	5,813	38%	58%	4%	3,040	3,040	112	84%
Corby	3,839	44%	52%	3%	2,130	2,130	52	74%
Daventry	3,832	32%	54%	14%	2,402	2,402	214	63%
Derby	17,193	28%	64%	8%	11,271	11,271	697	78%
Derbyshire Dales	3,860	21%	59%	19%	2,167	2,167	280	67%
East Lindsey	10,554	22%	61%	17%	5,094	5,094	646	75%
East Northamptonshire	4,471	32%	59%	9%	2,779	2,779	180	71%
Erewash	6,265	23%	66%	11%	3,516	3,516	282	75%
Gedling	6,488	31%	61%	8%	3,460	3,460	219	77%
Harborough	3,922	30%	59%	11%	2,485	2,485	183	65%
High Peak	5,231	35%	60%	5%	2,436	2,436	89	67%
Hinckley and Bosworth	5,156	32%	60%	8%	2,907	2,907	171	72%
Kettering	6,048	33%	60%	7%	3,797	3,797	201	75%
Leicester	27,999	26%	65%	9%	13,950	13,950	1,001	78%
Lincoln	8,345	31%	63%	6%	5,213	5,213	230	73%
Mansfield	6,115	31%	61%	8%	3,199	3,199	207	86%
Melton	3,054	21%	62%	18%	1,834	1,834	196	61%

	Privately rented properties 2011	A to C	D and E	F and G	Total EPCs	EPCs/1,000 PRS properties	Number of improvable F and G properties	Percentage of improvable F and G properties
Newark and Sherwood	6,278	30%	62%	9%	3,759	3,759	239	71%
North East Derbyshire	3,183	31%	62%	7%	1,684	1,684	90	76%
North Kesteven	6,184	37%	53%	10%	3,257	3,257	229	70%
North West Leicestershire	4,411	24%	64%	12%	2,408	2,408	196	68%
Northampton	15,817	37%	58%	5%	8,284	8,284	283	70%
Nottingham	29,098	36%	56%	8%	19,338	19,338	1,224	82%
Oadby and Wigston	2,117	21%	73%	6%	1,403	1,403	72	84%
Rushcliffe	6,082	27%	61%	12%	3,899	3,899	339	71%
Rutland	2,333	26%	58%	16%	1,329	1,329	131	62%
South Derbyshire	5,087	36%	55%	9%	2,636	2,636	168	72%
South Holland	4,714	34%	55%	11%	2,465	2,465	208	74%
South Kesteven	8,389	31%	58%	11%	5,265	5,265	390	66%
South Northamptonshire	3,840	29%	56%	15%	2,387	2,387	237	67%
Wellingborough	4,360	35%	59%	6%	2,765	2,765	111	72%
West Lindsey	5,253	28%	60%	11%	2,811	2,811	222	69%

1.5 West Midlands

	Privately rented properties 2011	A to C	D and E	F and G	Total EPCs	EPCs/1,000 PRS properties	Number of improvable F and G	Percentage of improvable F and G
Birmingham	73,405	30%	63%	7%	39,173	534	2,145	77%
Bromsgrove	3,370	32%	59%	8%	2,101	623	148	84%
Cannock Chase	4,938	34%	58%	7%	2,649	536	139	70%
County of Herefordshire	12,147	24%	58%	18%	6,035	497	723	67%
Coventry	26,503	27%	67%	6%	12,662	478	525	70%
Dudley	12,004	28%	65%	8%	6,595	549	398	80%
East Staffordshire	7,152	31%	59%	10%	3,593	502	258	70%
Lichfield	3,932	37%	54%	9%	2,442	621	155	73%
Malvern Hills	3,720	22%	61%	17%	2,214	595	267	70%
Newcastle-under-Lyme	5,511	21%	71%	8%	3,006	545	173	76%
North Warwickshire	2,913	22%	65%	13%	1,555	534	131	63%
Nuneaton and Bedworth	6,683	31%	64%	5%	1,336	200	54	75%
Redditch	4,059	41%	54%	5%	1,937	477	75	80%
Rugby	5,903	36%	57%	7%	3,778	640	164	63%
Sandwell	15,674	29%	64%	7%	9,162	585	473	77%
Shropshire	19,421	25%	59%	17%	10,733	553	1,202	68%
Solihull	8,502	36%	57%	7%	5,259	619	307	82%
South Staffordshire	3,772	25%	62%	13%	2,034	539	164	62%
Stafford	7,206	32%	59%	9%	4,291	595	298	73%
Staffordshire Moorlands	4,103	25%	62%	13%	1,845	450	168	71%
Stoke-on-Trent	15,440	25%	70%	6%	8,357	541	388	82%
Stratford-on-Avon	6,596	29%	56%	15%	4,245	644	393	64%
Tamworth	3,476	33%	60%	7%	1,500	432	83	78%
Telford and Wrekin	9,979	41%	55%	4%	5,785	580	155	67%
Walsall	12,569	33%	59%	8%	5,988	476	376	77%

	Privately rented properties 2011	A to C	D and E	F and G	Total EPCs	EPCs/1,000 PRS properties	Number of improvable F and G	Percentage of improvable F and G
Warwick	10,513	34%	58%	8%	6,503	619	397	77%
Wolverhampton	13,455	25%	66%	9%	7,797	579	575	80%
Worcester	7,645	32%	59%	9%	3,996	523	246	70%
Wychavon	5,419	28%	59%	12%	3,153	582	252	66%
Wyre Forest	5,660	29%	60%	11%	2,959	523	224	68%

1.6 East of England

	Privately rented properties 2011	A to C	D and E	F and G	Total EPCs	EPCs/1,000 PRS properties	Number of improvable F and G	Percentage of improvable F and G
Babergh	4,714	26%	59%	15%	2,548	2,548	239	64%
Basildon	7,448	38%	59%	3%	4,330	4,330	111	81%
Bedford	10,110	31%	61%	8%	5,770	5,770	344	75%
Braintree	8,083	38%	52%	10%	4,312	4,312	267	63%
Breckland	8,294	30%	59%	11%	4,653	4,653	349	71%
Brentwood	3,452	34%	59%	7%	2,485	2,485	127	73%
Broadland	5,519	29%	62%	9%	3,205	3,205	214	74%
Broxbourne	4,199	41%	53%	6%	3,140	3,140	151	82%
Cambridge	12,258	35%	60%	5%	7,617	7,617	280	80%
Castle Point	3,968	25%	69%	6%	2,042	2,042	107	84%
Central Bedfordshire	12,612	38%	55%	7%	7,496	7,496	411	77%
Chelmsford	8,349	37%	56%	7%	5,167	5,167	258	76%
Colchester	13,390	43%	52%	5%	8,124	8,124	329	75%
Dacorum	7,107	40%	54%	6%	4,184	4,184	204	81%
East Cambridgeshire	4,576	32%	57%	11%	2,857	2,857	236	77%
East Hertfordshire	7,446	37%	54%	9%	5,201	5,201	324	68%
Epping Forest	5,742	34%	59%	7%	4,543	4,543	237	76%
Fenland	6,341	37%	55%	9%	2,756	2,756	167	71%
Forest Heath	6,195	27%	63%	10%	4,566	4,566	316	71%
Great Yarmouth	6,926	28%	60%	13%	3,421	3,421	328	77%
Harlow	3,756	42%	55%	3%	3,322	3,322	62	70%
Hertsmere	4,981	37%	57%	6%	3,269	3,269	136	74%
Huntingdonshire	9,770	33%	58%	9%	5,049	5,049	302	70%
Ipswich	11,421	38%	55%	7%	7,116	7,116	293	62%
King's Lynn and West Norfolk	9,278	26%	58%	16%	4,603	4,603	467	65%

	Privately rented properties 2011	A to C	D and E	F and G	Total EPCs	EPCs/1,000 PRS properties	Number of improvable F and G	Percentage of improvable F and G
Luton	16,816	27%	66%	7%	9,406	9,406	502	80%
Maldon	2,493	23%	61%	16%	1,236	1,236	137	67%
Mid Suffolk	4,515	24%	59%	17%	2,562	2,562	279	64%
North Hertfordshire	6,993	40%	53%	7%	4,565	4,565	251	75%
North Norfolk	6,664	19%	61%	20%	3,717	3,717	469	62%
Norwich	13,089	37%	58%	4%	9,621	9,621	323	77%
Peterborough	14,168	38%	58%	4%	8,284	8,284	296	82%
Rochford	2,844	28%	62%	10%	1,788	1,788	128	73%
South Cambridgeshire	7,174	33%	58%	10%	4,107	4,107	283	71%
South Norfolk	5,916	30%	57%	13%	3,543	3,543	314	70%
Southend-on-Sea	16,439	20%	73%	8%	9,578	9,578	586	78%
St Albans	7,624	36%	59%	6%	5,265	5,265	226	78%
St Edmundsbury	6,798	34%	56%	11%	4,242	4,242	324	70%
Stevenage	3,980	40%	58%	3%	2,301	2,301	58	85%
Suffolk Coastal	7,267	27%	60%	13%	4,897	4,897	414	65%
Tendring	10,064	27%	62%	12%	5,157	5,157	455	75%
Three Rivers	3,708	44%	50%	6%	2,346	2,346	106	80%
Thurrock	8,772	43%	53%	4%	5,436	5,436	170	77%
Uttlesford	4,108	25%	59%	17%	2,684	2,684	304	68%
Watford	7,371	41%	55%	4%	4,113	4,113	111	74%
Waveney	7,578	27%	62%	11%	5,134	5,134	358	66%
Welwyn Hatfield	5,911	44%	53%	4%	4,177	4,177	109	69%

1.7 London

	Privately rented properties 2011	A to C	D and E	F and G	Total EPCs	EPCs/1,000 PRS properties	Number of improvable F and G properties	Percentage of improvable F and G properties
Barking and Dagenham	12,328	32%	64%	3%	8,081	655	205	75%
Barnet	34,854	37%	58%	4%	23,300	669	840	81%
Bexley	10,556	32%	63%	5%	6,275	594	248	79%
Brent	33,181	33%	64%	4%	18,905	570	557	80%
Bromley	17,393	36%	59%	5%	11,130	640	429	76%
Camden	31,434	43%	53%	5%	23,269	740	748	70%
City of London	1,573	47%	45%	8%	1,572	999	60	50%
Croydon	30,472	32%	62%	6%	18,147	596	818	75%
Ealing	34,182	35%	61%	4%	21,474	628	609	76%
Enfield	26,591	29%	66%	5%	19,291	725	719	82%
Greenwich	20,004	44%	53%	4%	12,241	612	325	75%
Hackney	29,449	48%	48%	4%	16,382	556	466	75%
Hammersmith and Fulham	25,555	37%	60%	4%	16,939	663	471	74%
Haringey	32,095	29%	66%	5%	20,673	644	753	78%
Harrow	18,324	33%	63%	4%	11,440	624	368	82%
Havering	10,337	32%	62%	6%	6,918	669	312	76%
Hillingdon	18,141	34%	61%	4%	11,387	628	376	80%
Hounslow	22,206	40%	56%	4%	13,666	615	385	75%
Islington	25,217	47%	49%	3%	19,056	756	523	79%
Kensington and Chelsea	28,108	38%	56%	6%	23,160	824	944	68%
Kingston upon Thames	14,312	35%	58%	7%	10,296	719	511	73%
Lambeth	38,133	38%	59%	4%	24,306	637	666	73%
Lewisham	28,216	34%	62%	4%	17,552	622	556	78%
Merton	19,503	34%	62%	4%	12,637	648	413	77%

	Privately rented properties 2011	A to C	D and E	F and G	Total EPCs	EPCs/1,000 PRS properties	Number of improvable F and G properties	Percentage of improvable F and G properties
Newham	34,570	35%	62%	2%	20,871	604	408	80%
Redbridge	22,657	33%	63%	4%	14,050	620	458	80%
Richmond upon Thames	17,440	31%	62%	6%	12,414	712	549	71%
Southwark	28,493	48%	49%	3%	20,628	724	519	78%
Sutton	12,429	38%	56%	6%	7,347	591	327	80%
Tower Hamlets	32,964	63%	34%	2%	24,271	736	441	74%
Waltham Forest	25,102	27%	69%	4%	17,339	691	585	84%
Wandsworth	41,317	37%	59%	4%	28,606	692	803	72%
Westminster	41,949	45%	50%	5%	33,069	788	1,099	66%

1.8 South East

	Privately rented properties 2011	A to C	D and E	F and G	Total EPCs	EPCs/1,000 PRS properties	Number of improvable F and G properties	Percentage of improvable F and G properties
Adur	3,079	32%	59%	8%	1,767	574	107	74%
Arun	10,211	31%	58%	11%	5,683	557	451	75%
Ashford	6,849	44%	49%	7%	3,743	547	192	69%
Aylesbury Vale	9,234	35%	55%	11%	4,864	527	339	66%
Basingstoke and Deane	8,172	46%	48%	7%	5,384	659	250	70%
Bracknell Forest	5,734	45%	52%	3%	3,811	665	97	74%
Brighton and Hove	35,959	29%	63%	9%	22,556	627	1,353	70%
Canterbury	11,876	32%	60%	7%	7,035	592	367	74%
Cherwell	9,206	41%	52%	7%	5,743	624	290	68%
Chichester	7,423	31%	55%	14%	4,306	580	420	69%
Chiltern	3,314	23%	66%	10%	2,311	697	165	70%
Crawley	6,214	42%	55%	3%	3,657	589	85	82%
Dartford	6,385	45%	52%	3%	3,420	536	84	88%
Dover	8,254	32%	60%	8%	4,421	536	201	58%
East Hampshire	5,517	32%	59%	9%	3,227	585	206	73%
Eastbourne	10,494	36%	55%	9%	6,141	585	393	75%
Eastleigh	6,438	46%	51%	3%	3,848	598	101	80%
Elmbridge	8,006	33%	59%	7%	5,849	731	356	81%
Epsom and Ewell	3,962	36%	58%	5%	2,531	639	111	81%
Fareham	4,645	39%	56%	5%	2,691	579	92	75%
Gosport	5,777	43%	51%	6%	2,901	502	119	72%
Gravesham	6,524	31%	62%	7%	3,531	541	189	75%
Guildford	8,522	32%	60%	9%	6,341	744	422	78%
Hart	4,286	42%	52%	6%	2,596	606	113	76%
Hastings	11,863	30%	60%	10%	6,437	543	430	65%

	Privately rented properties 2011	A to C	D and E	F and G	Total EPCs	EPCs/1,000 PRS properties	Number of improvable F and G properties	Percentage of improvable F and G properties
Havant	5,087	33%	60%	7%	2,675	526	141	77%
Horsham	6,480	35%	56%	10%	4,170	644	288	71%
Isle of Wight	10,639	36%	52%	12%	5,976	562	545	79%
Lewes	6,108	30%	59%	11%	3,250	532	239	68%
Maidstone	9,256	37%	56%	7%	5,205	562	259	69%
Medway	18,153	30%	65%	6%	10,145	559	396	68%
Mid Sussex	7,322	38%	53%	9%	4,693	641	309	73%
Milton Keynes	17,066	47%	50%	3%	9,215	540	215	74%
Mole Valley	4,270	32%	58%	11%	2,615	612	193	69%
New Forest	9,293	30%	60%	10%	5,381	579	421	80%
Oxford	15,634	37%	57%	5%	11,876	760	440	67%
Portsmouth	21,098	33%	62%	6%	12,469	591	564	78%
Reading	16,394	35%	58%	7%	11,399	695	531	71%
Reigate and Banstead	7,169	43%	51%	6%	5,098	711	243	78%
Rother	5,742	26%	61%	13%	3,015	525	273	68%
Runnymede	4,974	34%	60%	7%	3,554	715	187	79%
Rushmoor	6,379	43%	52%	5%	2,997	470	110	76%
Sevenoaks	5,057	23%	65%	11%	3,245	642	239	66%
Shepway	10,520	31%	61%	8%	4,960	471	284	72%
Slough	12,348	44%	52%	4%	5,745	465	174	79%
South Bucks	3,011	28%	62%	10%	2,008	667	153	74%
South Oxfordshire	7,211	29%	59%	12%	4,494	623	350	68%
Southampton	24,449	42%	54%	5%	15,069	616	606	82%
Spelthorne	5,004	38%	57%	5%	3,562	712	157	84%
Surrey Heath	4,073	38%	56%	6%	2,709	665	127	80%
Swale	8,446	29%	61%	10%	4,264	505	333	78%

	Privately rented properties 2011	A to C	D and E	F and G	Total EPCs	EPCs/1,000 PRS properties	Number of improvable F and G properties	Percentage of improvable F and G properties
Tandridge	3,666	36%	54%	9%	2,308	630	148	68%
Test Valley	6,128	36%	53%	11%	3,499	571	260	70%
Thanet	14,151	30%	60%	10%	8,107	573	548	70%
Tonbridge and Malling	4,869	35%	56%	9%	2,906	597	189	69%
Tunbridge Wells	7,995	29%	59%	12%	5,075	635	400	65%
Vale of White Horse	6,733	35%	55%	10%	4,259	633	248	61%
Waverley	5,577	28%	62%	10%	3,762	675	261	72%
Wealden	6,973	25%	62%	13%	3,482	499	327	73%
West Berkshire	8,555	33%	56%	10%	5,565	650	405	71%
West Oxfordshire	6,423	36%	52%	12%	3,687	574	292	67%
Winchester	6,604	35%	56%	9%	4,197	636	273	72%
Windsor and Maidenhead	9,432	30%	62%	8%	6,703	711	425	77%
Woking	6,186	41%	52%	7%	4,132	668	266	89%
Wokingham	6,755	36%	59%	5%	5,171	766	187	78%
Worthing	9,102	25%	63%	12%	5,106	561	433	70%
Wycombe	10,316	34%	59%	7%	5,687	551	303	74%

1.9 South West

	Privately rented properties 2011	A to C	D and E	F and G	Total EPCs	EPCs/1,000 PRS properties	Number of improvable F and G properties	Percentage of improvable F and G properties
Bath and North East Somerset	12,447	28%	64%	8%	8,576	689	468	72%
Bournemouth	24,685	40%	52%	8%	14,802	600	1,010	85%
Bristol, City of	43,028	36%	58%	6%	27,695	644	1,327	77%
Cheltenham	10,925	36%	57%	7%	7,727	707	382	69%
Christchurch	2,321	33%	61%	6%	1,537	662	76	84%
Cornwall (inc. Isles of Scilly)	38,899	26%	52%	21%	23,443	603	3,400	68%
Cotswold	5,518	23%	59%	18%	3,440	623	386	62%
East Devon	8,041	24%	62%	14%	4,829	601	456	68%
East Dorset	3,471	29%	60%	11%	2,127	613	180	78%
Exeter	10,336	37%	57%	6%	6,510	630	302	76%
Forest of Dean	3,835	27%	58%	15%	1,791	467	182	67%
Gloucester	8,755	41%	53%	6%	5,109	584	219	73%
Mendip	7,136	35%	54%	11%	3,841	538	264	61%
Mid Devon	5,091	29%	55%	16%	2,528	497	284	69%
North Devon	7,341	26%	55%	19%	4,069	554	525	69%
North Dorset	4,094	36%	51%	13%	2,156	527	175	64%
North Somerset	14,270	39%	53%	8%	8,029	563	468	74%
Plymouth	22,026	39%	56%	5%	13,626	619	456	73%
Poole	10,275	45%	51%	5%	5,872	571	221	82%
Purbeck	3,005	25%	61%	14%	1,324	441	131	71%
Sedgemoor	7,113	40%	50%	10%	3,813	536	271	69%
South Gloucestershire	14,600	43%	52%	5%	9,086	622	361	76%
South Hams	5,259	22%	60%	18%	3,313	630	373	63%

	Privately rented properties 2011	A to C	D and E	F and G	Total EPCs	EPCs/1,000 PRS properties	Number of improvable F and G properties	Percentage of improvable F and G properties
South Somerset	9,272	32%	55%	13%	4,993	539	432	66%
Stroud	5,791	30%	58%	11%	3,577	618	283	69%
Swindon	14,169	52%	45%	3%	7,794	550	178	76%
Taunton Deane	7,227	33%	57%	11%	4,255	589	313	69%
Teignbridge	8,358	27%	59%	14%	4,842	579	488	70%
Tewkesbury	4,351	38%	52%	9%	2,643	607	180	73%
Torbay	13,696	31%	57%	12%	6,889	503	603	76%
Torrige	4,746	26%	55%	20%	2,266	477	291	66%
West Devon	3,409	29%	52%	19%	2,131	625	272	66%
West Dorset	6,093	27%	55%	18%	3,750	615	428	62%
West Somerset	2,510	17%	56%	27%	1,487	592	266	66%
Weymouth and Portland	5,073	37%	54%	9%	2,771	546	171	70%
Wiltshire	29,968	32%	56%	12%	15,038	502	1,209	69%

ANNEX 2: LOCAL AUTHORITY ENFORCEMENT STRATEGIES

Information from a sample of 20 local authorities about enforcing MEES regulations is summarised in Annex 2. We have focused on areas with a large number of F and G rated properties, and areas that are proactive about compliance of landlords.

Areas with the highest overall number of F and G properties were identified from the live tables on EPCs⁵². West Somerset and Ryedale were selected based on analysis of the privately rented EPCs from 2008 to 2016, as these were two mostly rural councils with a high overall proportion of privately rented properties with an F or G rating, and most of the other areas selected were urban authorities.

There is limited data available about enforcement actions by local authorities against private landlords, especially for authorities outside London¹⁷. The areas with a high level of enforcement (Newham; Brent; Waltham Forest; Doncaster; Barking and Dagenham; and Wirral) were identified from an article based on freedom of information requests⁵³. An inquiry response to the MHCLG committee into combatting rogue landlords also highlighted Liverpool and Croydon as good practice areas, so these were also selected in this sample.

To source the documents, we used the search term 'private rented enforcement policy' and the relevant local authority name. If this did not bring up any useful results we searched for 'private rented housing strategy' to find information about how local authorities were enforcing the MEES and the requirement of landlords to provide an EPC to tenants.

Local authorities with a high number of F and G properties

Cornwall⁵⁴

There was no information found online about the current enforcement policy for standards in privately rented properties or private rented housing strategy explaining how the MEES is enforced.

There was some general information on the local authority Responsible Landlord Scheme website that shows MEES is enforced by Trading Standards in Cornwall. The Responsible Landlords Scheme site had published guidance on EPCs⁵⁵ and energy efficiency of rented properties⁵⁶. This also provided a link to the BEIS exemptions register, and information about sources of funding for work to bring properties into compliance (Warm and Well Cornwall, Community Energy Plus, Green Deal and Energy Savings Trust).

⁵² www.gov.uk/government/statistical-data-sets/live-tables-on-energy-performance-of-buildings-certificates

⁵³ www.theguardian.com/society/2017/oct/28/rogue-landlords-enjoy-an-easy-ride-as-councils-fail-to-prosecute

⁵⁴ www.cornwall.gov.uk/housing/private-sector-housing/cornwall-responsible-landlord-scheme/members-resource-area/property-portfolio/energy-performance-rating-new-rules/

⁵⁵ www.cornwall.gov.uk/business/trading-standards/business-advice/useful-information-for-businesses/

⁵⁶ www.cornwall.gov.uk/business/trading-standards/business-advice/useful-information-for-businesses/

Birmingham⁵⁷

The most recent available enforcement policy for privately rented properties in Birmingham is from 2014 and does not make explicit reference to MEES. There is no Trading Standards information published about how the EPC is enforced in the city.

Leeds⁵⁸

Making sure 'privately rented accommodation meets minimum energy efficiency ratings' is stated as one of the main enforcement objectives of the Leeds Enforcement Policy for Private Sector Housing.

The policy states that proactive inspections are carried out for:

- HMOs;
- caravan sites licensed by the council;
- homes in targeted improvement areas;
- properties owned or managed by a landlord or agent with a poor history of compliance; and
- specific property types, including homes with a low energy efficiency rating as stated in an EPC.

Enforcement action takes places in three stages.

- *Providing assistance, information, education and informal action.* This includes information and leaflets, inspection report, loans and grants, and referrals to other services and agencies or regulators.
- *Formal enforcement action issued by the local authority, including:*
 - formal notices, orders or licenses;
 - notices to recover costs and expenses incurred by the authority taking enforcement action;
 - power of entry notices;
 - notices requiring information or documents;
 - emergency prohibition order;
 - emergency remedial action;
 - revocation or variation of improvement notices;
 - revocation, variation or refusal to licence premises;
 - works in default;
 - civil or monetary penalties;
 - simple cautions;
 - compulsory purchase orders or enforced sales; and
 - management orders and empty dwelling management orders.
- *Formal enforcement action progressed by courts or tribunals, including:*
 - prosecution in criminal courts (Magistrates or Crown Court);
 - warrants to enter premises;
 - rent repayment orders;

⁵⁷ Enforcement policy for Private Rented Sector (2014)

www.birmingham.gov.uk/downloads/file/1623/enforcement_policy_for_private_rented_sector

⁵⁸ Leeds Enforcement Policy for Private Sector Housing

- proceeds of crime actions; and
- injunctions; and criminal order behaviours.

Sheffield⁵⁹

The Sheffield Intervention and Enforcement policy makes no specific mention of MEES. The biggest work area for the Private Housing Standards team is ensuring the private rented sector is 'safe and well managed.' The policy states that the council recognise that most people want to comply with the law, so the usual preference is to allow opportunities for co-operation, unless circumstances merit immediate enforcement.

Intervention is usually prompted by a request from a tenant or care worker and the first stage advice to tenants or landlords. Early stage intervention is usually informal, providing advice and guidance to landlords and tenants, and where possible the Private Housing Standards team 'try to resolve issues without making a visit or resorting to more formal action.' Visits are likely to lead to more formal enforcement actions, including serving enforcement notices or orders; management orders; fit and proper persons and satisfactory management arrangements; rent repayment orders; prosecutions; issuing civil penalties; cautions; and carry out works and charging those responsible. There is no mention of the MEES specifically in this context.

Bradford⁶⁰

No specific mention of the MEES is included in the Private Sector Housing Enforcement Policy.

The policy states that enforcement action for the PRS will be related to risk, and the policy implemented through visits and inspections and enforcement decisions based on risk to health, safety and welfare.

Actions include:

- informal action;
- statutory notices/orders;
- civil penalty notice;
- rent repayment orders;
- simple cautions;
- prosecution;
- carrying out works by default; and
- emergency measures

The policy provides information about the charging schedule for civil penalties when used, based on level of culpability and level of harm:

⁵⁹ Sheffield (2018) Private Housing Standards Intervention and Enforcement Policy

⁶⁰ Bradford (2017) Private Sector Housing Enforcement Policy

<https://www.bradford.gov.uk/media/4475/psh-enforcement-policy-with-appendices-november-17-v10.pdf>

Table 7: Determination of civil penalty level

Level of culpability	Level of harm			Minimum fine level (when considering mitigating factors)
	High	Medium	Low	
High	£25,000	£15,000	£7,500	£6,000
Medium	£15,000	£10,000	£5,000	£4,000
Low	£7,500	£5,000	£2,500	£2,000

Bradford Private Sector Housing Enforcement Policy

Bristol⁶¹

Improving the energy efficiency of private rented sector accommodation is included as one of the aims of the enforcement policy. One of the objectives is to ensure that 'where required privately rented accommodation meets minimum energy efficiency ratings and that Energy Performance Certificates are provided.' Properties with a low energy efficiency rating are given as an example of how action will be targeted.

Under civil penalty charges, the policy states charges of up to £200 for failing to have an up-to-date EPC, and up to £5,000 for failing to comply with the MEES regulation.

Cheshire East⁶²

Enforcement of the MEES regulation is covered in Appendix F of the current housing enforcement policy. If the council believes a landlord is in breach of the MEES, they will serve a compliance notice requesting information to establish if a breach has occurred.

East Riding of Yorkshire⁶³

There is no information available on enforcement policies for private rented sector housing. The council does have a landlord liaison group and a meeting in April 2017 discussed the MEES.

The slides of the meeting are published online. The slides show that between 2011 and 2012, the council undertook an extensive awareness raising exercise about the need for landlords to provide EPCs to tenants, as a result of which 27 caution letters and five penalty charge notices (PCNs) were issued.

The slides from this meeting also state that 'only appropriate, permissible and cost-effective improvements are required under the regulations' but cautioned that 'the effective ending of the

⁶¹ Bristol City Council (2016) Private Housing Enforcement Policy www.bristol.gov.uk/documents/20182/34852/Private+Housing+Enforcement+Policy+2016/d0e5d52b-5bd0-4fd8-b44a-06d8703f38e2

⁶² Cheshire East (2018) Service Specific Housing Enforcement Policy www.cheshireeast.gov.uk/pdf/business/enforcement-policy/cec-housing-enforcement-policy-2018.pdf

⁶³ www.eastriding.gov.uk/housing/private-housing-landlords/landlordliaison/

Green Deal means that changes may need to be made to the regulations imposing minimum energy efficiency standards in the PRS.

County Durham⁶⁴

No information was found to be available about the enforcement approach for private rented housing in County Durham. A press release from March 2018 explained the MEES meant that 'from 1 April, all properties which are required to have Energy Performance Certificates (EPC) must have an energy rating of E or above, if a new tenancy agreement is signed. The same regulation applies for tenancy agreements which will be renewed after 1 April.' It also warned 'where landlords fail to comply with their legal obligations, and let property below an E rating, or lodge false information on the exemptions register, they may face a financial penalty for each let property of up to £5,000. Failing to respond to an information request by ourselves may also result in a penalty notice of up to £2,000.'

Manchester

Manchester's private sector enforcement policy deals with HMOs specifically, and no mention is made of MEES.

West Somerset⁶⁵

West Somerset's current housing enforcement policy does not make mention of MEES.

Ryedale⁶⁶

Ryedale's enforcement Specialist Services (People) Private Sector Housing Enforcement Policy does not make specific mention of the MEES. However, it states all private rented accommodation meeting minimum energy efficiency ratings as one of its enforcement objectives.

Ryedale's enforcement actioned is separated into three stages:

- Informal Enforcement Action (Providing Assistance, Information, Education and Informal Action)
- Formal Enforcement Action Issued by the local authority (e.g. A formal notice or compliance notice)
- Formal Enforcement Action Progressed by Courts or Tribunals (e.g. Prosecution in criminal courts)

Areas with a high level of enforcement activity

Newham

Newham set up a mandatory licensing scheme for the large majority of privately rented properties in the Borough. In the first year of the scheme (2013), there were over 32,000 applications from 19,700 landlords, covering 90% of the private rented sector⁶⁷. In 2016 Newham prosecuted 331 landlords, which was the highest number of prosecutions for all local authorities in England (the

⁶⁴ www.durham.gov.uk/article/18303/Landlords-warned-of-upcoming-energy-regulations

⁶⁵ file:///C:/Users/oia1/Downloads/Housing_Enforcement_Policy.pdf

⁶⁶ www.ryedale.gov.uk/images/Housing/Ryedale_Council_Private_Sector_Housing_Enforcement_Policy.pdf

⁶⁷ www.cih.org/resources/PDF/CIH%20London%20-%20PRS%203%20-John%20East%20Presentation.pdf

second highest was Brent with 65)⁶⁸. The authority report that the licensing scheme has allowed them to ‘crack down on the worst landlords but have a light touch for those who are running a professional operation⁶⁹.’

For the renewal of the scheme (from 2018) the charges were £450 for five years for applicants applying for single household homes before the start of the scheme, increasing to £750 for people who applied after the start of the scheme, and £850 for HMOs, increasing to £1,250 for late application.

The council reported there to be a 61% reduction in the number of anti-social behaviour notices served on licensed properties between 2013/14 and 2015/16⁷⁰. Other reported benefits to the scheme included tackling council tax fraud and other types of fraud; rent repayment orders; and useful intelligence for HMRC tax collection⁷¹.

There is no specific mention on enforcement of MEES specifically but their licensing application notes that licensing ‘has proved invaluable in driving housing standards up in the growing private rented sector and helps both tenants and landlords manage rented properties to a higher standard⁷²’.

Doncaster⁷³

Doncaster’s current housing enforcement policy does not make mention of MEES.

Barking and Dagenham⁷⁴

There is no information available on enforcement policies for private rented sector housing. While no mention is made specifically to MEES, compliance visits are made to all licensed properties and each licence holder must provide or display an EPC for all properties for which an EPC is applicable at the end of the current tenancy, when the licence was dated and issued.

There are various sanctions for those operating without a licence. If a landlord has rented a property without applying or paying for a licence, they may only be eligible to apply for a one-year licence and also face the risk of prosecution.

⁶⁸ www.theguardian.com/society/2017/oct/28/rogue-landlords-enjoy-an-easy-ride-as-councils-fail-to-prosecute

⁶⁹ Newham Borough Council Rented Property Licensing Proposal Consultation (2016) www.newham.gov.uk/Documents/Housing/RentedPropertyLicensingProposalConsultation.pdf

⁷⁰ www.cih.org/resources/PDF/CIH%20London%20-%20PRS%203%20-John%20East%20Presentation.pdf

⁷¹ www.cih.org/resources/PDF/CIH%20London%20-%20PRS%203%20-John%20East%20Presentation.pdf

⁷² www.cih.org/resources/PDF/CIH%20London%20-%20PRS%203%20-John%20East%20Presentation.pdf

⁷³ <https://dmbcpublicwebsite.blob.core.windows.net/media/Default/Environmental/Documents/Housing%20Enforcement%20Policy%20April%202018.pdf>

⁷⁴ www.lbbd.gov.uk/regulatory-services-policies

Wirral⁷⁵

Wirral currently runs a selective licencing scheme for all landlords. Landlords are required to meet certain conditions of the selective licencing scheme. Included in Wirral's policy document on the conditions that must be met is the requirement for the licence holder to provide tenants with an EPC, as well as a notice that after April 2018, new tenancies cannot be entered into where the property has an EPC rating of F, G, or lower⁷⁶.

Croydon⁷⁷

Croydon Council designated the borough a private rented property licence area, coming into effect from 1 October 2015. Through their application process, the council determines that a landlord is a 'fit and proper' person to manage their properties.

Landlords who rent a property without obtaining a licence can be subject to unlimited fines if prosecuted through the courts, or up to £30,000 through the Council. Those that fail to meet the conditions for a property licence can be subject to the same penalties.

In the conditions for the property licence it is listed that 'the licence holder shall display an Energy Performance Certificate (EPC) for all accommodation for which EPCs are applicable at the end of the existing tenancy at the time the licence was dated and issued'.

Croydon Council's Safety Division Enforcement Policy also highlights MEES and the penalty of £5000 for non-compliance⁷⁸. The Council's enforcement options are to:

- take no action;
- take informal action;
- take statutory action, e.g. service of statutory notices;
- carry out works in default (including emergency remedial works);
- seize equipment, vehicles or goods;
- prohibit a work activity;
- close down a business/part of a business or process;
- suspend or revoke an approval of a food business;
- issue licences with conditions;
- revoke licences or vary licence conditions;
- issue a penalty charge notice or penalty notice for disorder;
- issue a financial penalty charge for other offences;
- referral to partner groups such as mediation, community safety, tenancy managers etc.;
- anti-social behaviour and post-conviction anti-social behaviour orders;
- issue a caution;
- prosecute;

⁷⁵ www.wirral.gov.uk/housing/housing-information-and-advice/private-landlords-and-managing-agents/selective-licensing

⁷⁶ www.wirral.gov.uk/sites/default/files/all/Housing/information%20and%20advice/Selective%20licensing/Licence%20conditions%20amended%20January%202019.pdf

⁷⁷ www.croydon.gov.uk/housing/privatehousing/croydon-private-rented-property-licence/croydon-private-rented-property-licence

⁷⁸ www.croydon.gov.uk/sites/default/files/articles/downloads/Safety%20division%20enforcement%20policy%20April%202018.pdf

- seek an injunction; and/or
- restraint, confiscation and forfeiture of assets under the Proceeds of Crime Act 2002

A charge of £150 per notice is also issued where breaches are made.

Brent⁷⁹

The private housing services enforcement policy is concerned with reducing category 1 hazards and high category 2 hazards for licensable properties. No mention is made of energy efficiency, EPCs or the MEES.

Waltham Forest⁸⁰

The housing and licensing team enforcement policy for Waltham Forest lists one of the main duties as ‘undertaking inspections/audits and providing guidance to ensure that residential accommodation meets minimum legal standards, taking formal action as necessary to secure compliance with statutory requirements.’ The MEES is not mentioned specifically.

Liverpool⁸¹

The Liverpool enforcement policy makes no specific mention of MEES. It does list the provision of an EPC as a required document under its city-wide selective licensing scheme.

The Liverpool City Region has a major challenge to upgrade social, private and private-rented homes up to Energy Performance Certificate (EPC) Band C by 2035. Currently 60 per cent of housing stock is at Band D or below. The Liverpool City Region Combined Authority is in the process of developing a Housing Strategy to identify priority actions to improve energy efficiency⁸².

⁷⁹ <http://democracy.brent.gov.uk/documents/s57856/Appendix%20%20-%20Enforcement%20Policy%20Jul%2017.pdf>

⁸⁰ www.walthamforest.gov.uk/sites/default/files/Private%20Sector%20Housing%20%20Enforcement%20policy%202017%20final.pdf

⁸¹ <https://liverpool.gov.uk/media/1356666/liverpool-city-council-private-sector-housing-enforcement-policy-amendment-aug-18-lh.pdf>

⁸² www.liverpoolcityregion-ca.gov.uk/wp-content/uploads/LCRCA_SFGAP_LOWCARBON.pdf

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