



A minimum energy efficiency standard for private rented homes

The case for action on cold rented homes

Private rented homes are the worst maintained part of the housing stock and contain large numbers of vulnerable households and those living in fuel poverty. Historically there has been little incentive for landlords to improve their properties because it is tenants, not they, who pay the fuel bills. The private rented sector is growing rapidly and now accounts for over 15% of the housing stock in England or 3.4m homes.

- The private rented sector has the greatest proportion of homes with the lowest levels of energy efficiency. The very worst properties (Energy Efficiency rating Band G) are more than four times as common in the private rented sector as in the social sector.
- According to the Government's own Fuel Poverty Advisory Group, 19% of private tenants live in fuel poverty¹. This rises to 42% in the households living in the worst insulated (F and G rated) properties.
- The health consequences of poorly insulated properties are well established. The cost to the NHS of treating those made ill by living in poorly insulated private rented homes is £145m annually.

The Green Deal will provide landlords with the mechanism for financing the improvement of their properties, but that alone is unlikely to be enough to get them to take it up, as many landlords will not act without greater incentive.

According to DECC, landlords have not taken up heavily subsidised energy saving measures under CERT and Warm Front. The Government's own analysis already predicts that very little will improve in the private rented sector as a result of the Green Deal: *"While the introduction of the Green Deal may go some way to overcoming this problem [of little incentive for landlords to invest in energy efficiency measures]..., it is likely that the take-up of cost-effective abatement measures will remain relatively low in the private rented market."*

The CBI has said: *"The government must therefore not underestimate the challenges associated with driving the uptake of the Green Deal, nor the role it will need to play in this process...A range of policies will therefore be needed to encourage take-up. In the domestic sector these could include regulation to target the private rented sector"*. It recommends that *"as many of these drivers as possible should be in place when the Green Deal is launched."*

F and G rated properties are a health-hazard, cost a fortune to heat and emit huge amounts of CO₂. Letting them out is unacceptable irrespective of the uptake of the Green Deal.

¹ Fuel Poverty Advisory Group (*for England*), Eighth Annual Report, 2009, published July 2010 ²Page 61, Energy Bill: Green Deal Impact Assessment, DECC, 2010

The Energy Bill Impact Assessment states that disadvantaged social groups would benefit from regulation of energy efficiency in the private rented sector: *“In particular the PRS is home to a high proportion of young households, and black or minority ethnic households, so any regulation to improve the standard of housing in this sector could be expected to improve the outcomes for those groups relative to others.”*² And *“regulation of private landlords would have a positive effect on the long term ill/disabled.”*³

Improving the very coldest homes – those that are a health hazard - cannot be left to chance. A clear, legal minimum standard of energy efficiency for private rented properties is essential.

We therefore believe that the Energy Bill should:

- Set a deadline of no later than 2016 after which it will be an offence for a landlord to re-let or market for rent a property which is an EPC band F or G, and a date before 2020 by which it will become an offence to let a property of EPC band E or lower.
- Ensure that local authorities can take action to require improvements to the worst performing properties as soon as possible. Where a landlord fails to act, local authorities should be given the choice of carrying out the works themselves and charging the landlord.
- Require the Energy Performance Certificate (EPC) rating of properties to be displayed in adverts and marketing materials, and to be shown to prospective tenants.
- Give the Secretary of State the power to establish a local or national register of landlords and rented properties for the purpose of promoting energy efficiency in the sector.
- Give tenants security against retaliatory eviction when they make legitimate energy efficiency requests of landlords.

Growing support for a minimum energy efficiency standard

Early Day Motion 653 in support of the campaign has now been signed by 171 MPs from across the political spectrum.

38 organisations⁴ including green groups, local authorities, local tenants’ rights organisations, consumer groups and health charities, are now calling for a clear, legal minimum standard of energy efficiency for private rented properties from 2016 making it an offence for the very worst properties to be re-let or marketed for rent unless they are improved.

The Government’s own **Fuel Poverty Advisory Group**⁵ also strongly supports this approach. Its 2009 Annual Report stated: *“Just as landlords are currently required to hold a valid Gas Landlord Safety Certificate, so landlords could be required to have a comparable certificate indicating that their property meets a certain standard of energy performance.”*

The **Committee on Climate Change**⁶ has called for mandatory energy efficiency standards to be set in the private rented sector.

² Page 61, Energy Bill: Green Deal Impact Assessment, DECC, 2010

³ Page 85, Energy Bill: Green Deal Impact Assessment, DECC, 2010

⁴ All-Party Parliamentary Fuel Poverty & Energy Efficiency Group, Age UK, Association for the Conservation of Energy, Blackpool Residents Federation, Brent Private Tenants' Rights Group, Brent Council, Bristol City Council, Camden Council, Camden Federation of Private Tenants, Centre for Sustainable Energy, Child Poverty Action group, Citizens Advice, Consumer Focus, Crisis, Disability Alliance, End Fuel Poverty Coalition, Federation of Private Residents Associations, Friends of the Earth, Housing Law Practitioners Association, Islington Council, Macmillan Cancer Support, Manchester City Council, National Childbirth Trust, National Energy Action, National Home Improvement Council, National Pensioners Convention, North West Tenants & Residents Assembly, People & Planet, Scarborough Private Tenants Rights Group, St Helens Community Empowerment Network, Stop Climate Chaos, Town and Country Planning Association, UK Business Council for Sustainable Energy, UK Public Health Association, UNISON, WWF-UK, 38 Degrees

⁵ Fuel Poverty Advisory Group (*for England*), Eighth Annual Report, 2009, published July 2010

⁶ Meeting Carbon Budgets – ensuring a low-carbon recovery, 2nd Progress Report to Parliament, Committee on Climate Change, June 2010

London Mayor **Boris Johnson** recently stated: *"I agree that requiring landlords to meet energy efficiency standards when properties are re-let could be an important tool in improving the energy efficiency of the private rented sector in London. How these standards are communicated and enforced would be key to their success."*⁷

How would the minimum energy efficiency standard work?

The minimum standard should be applied using the well understood Energy Performance Certificate (EPC) ratings. EPCs are required by law whenever a property is made available for rent. From 2016 it should be an offence to re-let or market for rent a property with an F or G rating until it is improved to at least an E rating.

As the standard would only apply when the property is next re-let after 2016 there would be no reason for sitting tenants to be displaced, and landlords can carry out any disruptive work between tenancies.

A landlord re-letting or marketing to let an F or G property after 2016 would be committing a civil offence and could be fined up to £5,000.

In order to finance the energy efficiency improvements the landlords can choose to access any of the Government sponsored schemes, such as the Green Deal, the Energy Company Obligation or Landlords Energy Saving Allowance, but does not have to. Given the low cost of improving a substantial proportion of cold rented homes (see below), the landlord may choose to pay for the improvements from their own funds in many cases

To continue to drive standards higher the minimum standard would increase before 2020.

Alongside the legislation, it is also essential that landlords have the financial help, greater incentives and information they need to improve their properties. Substantially raising the current level of Landlords Energy Saving Allowance would provide an additional incentive for landlords to act to improve properties of all standards.

What will it achieve?

Research by the EST⁸ showed that **tenants in the worst performing homes (those rated F or G) would save on average £488 off their fuel bill** if the property were improved to a minimum standard. Improving all private rented F and G homes would also save an estimated 1.87 MtCO₂ annually.

Other recent research for Friends of the Earth, by Consumer Focus⁹, concludes that **a minimum energy efficiency standard of Band E for private rented homes would take 150,000 private rented households out of fuel poverty**. This is 25 per cent of all those private rented households currently living in fuel poverty. If the minimum standard were raised to Band D, it would take 300,000 households out of fuel poverty.

⁷ Written answer to question number 3606/2010 "Insulation for private tenants" provided on 23 November 2010

⁸ Which Way Up – Advance Headline Findings, Energy Saving Trust, Feb 2011

⁹ Consumer Focus report. A private Green Deal: The case for minimum energy efficiency standards, 20 Dec 2010

The Government's Energy Bill proposals

The Energy Bill contains provisions which could, if taken up, give the Government powers to improve private rented homes. However, these measures do not go far enough and are unlikely ever to come into force due to the conditions placed on their use. We outline below (a) the Energy Bill proposals and (b) our response to them.

a) The proposals

The Energy Bill gives the Secretary of State a duty to conduct a review of energy efficiency in the private rented sector after the first year of operation of the Green Deal, and to publish a report before 1 April 2014. Dependent upon the outcome of the review, the Secretary of State will have powers to make further regulations in two key areas, if he or she considers that this will not materially decrease the number of properties available for rent.

- i. Powers to give local authorities a duty (from 1 April 2015 at the earliest) to issue a notice requiring landlords of properties falling below certain levels of energy efficiency to make "relevant energy efficiency improvements".
- ii. Powers to allow tenants (again from 1 April 2015 at the earliest) to request their landlords to make "relevant energy efficiency improvements" to their homes.

In both cases landlords in breach of these regulations can be taken to a tribunal and face a fine of up to £5,000.

b) Our response

Making regulation conditional on a review increases the likelihood that landlords will not act voluntarily before 2015. The uncertainty created by the condition of the review will minimise voluntary compliance, and maximise the chance of disruption to the housing market and the need for enforcement later.

Without a clear signal now to landlords that it will be an offence to let F and G rated properties from 2016, landlords will simply wait for a request from their tenant or council before acting. In other words, voluntary action will be discouraged, rather than encouraged. The principles of good regulation are much better served by setting a legal minimum standard now, which will take effect from the start of 2016. This will give clarity from the outset, as well as allowing supply chains and new business models to be developed to serve the private rented sector.

Requests by tenants for 'relevant energy efficiency improvements' are likely to have a negligible effect, and could even lead to evictions.

This power is unlikely to be used by anything other than a small minority of tenants. Tenants do not know what their existing rights are, so we find it extremely unlikely that they will learn about this new one. Many tenants without security of tenure will be highly unlikely to make requests of their landlords as they will be fearful of retaliatory eviction (under Section 21 of the Housing Act 1988).

It is essential that this part of the Bill be amended to give greater security to tenants making a request for improvements from their landlord.

Local authority improvement notices are time-consuming and uncertain

They fail to give landlords long-term certainty in advance about what their legal duty is or when they will be required to act. They will have no prior warning of when, or if, the local authority is likely to make a request of them or what that request might be. Landlords are effectively being encouraged to wait and see, rather than to act voluntarily.

There is no guarantee that as the Bill is written properties will be brought out of Band F or G by the local authority's request, nor is there any timetable for requests to be issued. It will be perfectly legal for landlords to let an F & G rated property until the local authority gets round to issuing them with a request.

The Energy Bill is legislating for a minimum standard approach for commercial rented properties. The Government has not explained why it is appropriate for the commercial sector and not for the domestic sector.

The cost of improvements and the possible impact on supply

To avoid regulation, some landlords' organisations have (wrongly) suggested that the necessary energy efficiency measures would be too costly, and that some landlords may choose to take their properties off the market. The cost of meeting the minimum standard is less than might be expected and well within the levels of finance being associated with the Green Deal, ECO or even directly by landlords from their own resources without any impact on rents or supply.

Recent research by the Energy Saving Trust for Friends of the Earth shows that 37 per cent of these homes could be improved to our proposed minimum standard for less than £900 through cheap measures like loft and cavity wall insulation and draught proofing. The overwhelming majority (74%) would cost less than £3500 and just five per cent would cost more than £7,500 to bring up to a basic standard of energy efficiency.

The government and landlords expect the private rented sector to expand over the next few years, with demand outstripping supply. The number of households renting privately in England has risen by 1.0 million since 2005, from 2.4 million to 3.4 million in 2010¹⁰. Landlords will not want to remove properties from such a favourable market.

Landlords owning Band F and G properties are highly unlikely to remove them from the market in any significant numbers if they are given several years' notice of the minimum standard, if they can obtain help via the Green Deal, ECO and Landlords Energy Saving Allowance with finance, and considering the low cost of improving the overwhelming majority of properties to meet the minimum standard.

We do not believe this is unnecessarily burdensome for the sector, initially touching only those properties with the very worst energy performance rating of F or G (approximately 680,000 out of 3.5m in the sector) and giving 5 years' advance notice of the changes.

The Energy Bill should address rented housing supply properly rather than blocking action on sub-standard homes.

Our proposed minimum standard legislation includes a **safety clause** which gives the Secretary of State reserve powers to suspend the minimum standard for one year in a specified local authority area if there is

¹⁰ English Housing Survey, Headline Report 2009-10.

evidence that the supply of rented properties is being negatively affected by the regulation. The regulations could continue to operate in other areas where there was no negative impact.

Conclusion

Friends of the Earth and ACE believe that for the very worst insulated and heated private rented properties, legislation is essential to ensure that they are brought up to a basic standard of energy efficiency to protect households from high energy bills, ill health and fuel poverty.

For all the reasons outlined above, we firmly believe that the Energy Bill should set a clear minimum energy efficiency standard that will prevent F and G rated properties from being re-let or marketed for rent from 2016.

We ask Members of Parliament to support these measures during the Energy Bill's passage through the House of Commons.

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