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CONSULTATION RESPONSE MARCH 2018

DOMESTIC PRIVATE RENTED SECTOR MINIMUM LEVEL OF ENERGY EFFICIENCY

E3G RESPONSE TO BEIS CONSULTATION

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Energy efficiency is a high value for money infrastructure investment that brings tangible, immediate and widespread benefits, including to landlords and tenants. The proposals are a great start, but must be strengthened for regulation to play its cornerstone role in unlocking investment to meet the Clean Growth Strategy's ambition for housing emissions and fuel poverty targets.

We strongly welcome BEIS' proposal to introduce a landlord contribution element to ensure properties are improved to a Band E rating. It is at this juncture, as the regulations are poised to take real effect and trigger widespread action from landlords, that it is essential for the regulations to be made as effective as possible and geared towards unlocking private investment in home energy performance. This will lower the barriers to raising the minimum standard in the years ahead and ensure the current regulations have a more meaningful impact on their own terms.

We therefore think it is critical to raise the cost cap threshold to £5,000 – as has been proposed in Scotland by the Scottish Government. We disagree that third party funding, such as from the Energy Company Obligation, should count towards this threshold. This is a reasonable investment level per property in a market driven by capital gains and poised to value better energy performance more strongly in the years ahead.

To ensure compatibility with, and smooth progress towards, the Clean Growth Strategy's aim for all private rental properties to achieve a Band C rating by 2030, it is essential that landlords are rewarded for going further than the minimum standard. This will reduce costs to Government and landlords to 2030, and help build the market for deeper retrofits – as well as supporting the development of the market for such retrofits in the owner-occupied sector. To this end, we strongly recommend the reintroduction of the Landlords Energy Saving Allowance (LESA) at £3,000 for landlords who improve their properties to a Band D level or higher. The LESA should also be made available for landlords already at the minimum standard who improve their properties to a Band C rating, reinforcing the signal effect of the intention to raise the minimum standard in future.

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1. Do you agree with the policy proposal under consideration here to introduce a landlord contribution element where funding is unavailable to ensure improvements to Band F and G properties can be delivered (unless a valid exemption applies)? This would be subject to a cost cap.

If you do not agree, what are your objections, and how do you recommend the energy efficiency minimum standard should be achieved, given the current funding climate? Please provide reasons and evidence where available to support your views.

Yes, we strongly agree and welcome the proposal to introduce a landlord contribution element where funding is either unavailable or insufficient to ensure improvements to Band F and Band G properties are delivered to result in a Band E rating.

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

If you do not agree, what would be the most appropriate level to set the threshold? Please provide reasons and evidence where available to support your views.

No. While all non-exempted properties can be expected to see improvements towards an E rating, 70% of properties are predicted to remain sub-standard. Those 30% that achieve a Band E rating under the consultation's proposal cannot be considered a meaningful proportion. The share of private-rented properties that would remain sub-standard would be still be far higher than in the social-rented sector (in England, 4.5% compared to 0.8%; in Wales, 4.8% compared to 1.3%[1]). The prevalence of sub-standard properties would fall to a level similar to that in the owner-occupied sector, but given the three-times higher incidence of fuel poverty in the private-rented sector, the predicted result of the £2,500 cost cap proposal would be highly inadequate. This is particularly apparent in England given its 2020 milestone for all fuel poor homes to achieve a Band E rating – and that fact that nearly half of private tenant households in F and G-rated properties are in fuel poverty.

In addition, given the Government's Clean Growth Strategy aim for all private rental properties to achieve a Band C rating by 2030, and the intention to consult on plans to achieve this, seeing only 30% of sub-standard properties achieve an E-rating by 2020 sets an unnecessarily weak precedent for the likely cornerstone role future regulation is to play in meeting the Clean Growth Strategy's ambitions, as well as the 2030 fuel poverty target in England. It is at this juncture, as the regulations are poised to take real effect and trigger widespread action from landlords, that rewards need to be urgently introduced for landlords who go further than the minimum standard

[1] Frontier Economics (2017) ***Affordable Warmth, Clean Growth: Action Plan for a comprehensive Buildings Energy Infrastructure Programme***

requires. This will lower the barriers to raising the minimum standard in the years ahead.

We believe the threshold needs to be set at £5,000. This is the same level of cost cap as has been proposed by the Scottish Government in its consultation last year (a decision is expected later in 2018)[2].

Repair and maintenance work in social housing across the UK was worth £7.4bn in 2017 – an average of £1,500 per social-rented property. We estimate that in 2017 owner-occupiers invested on average £1,100 in their homes, and private landlords invested £420[3]. It is worth remembering that, based on England data[4], social housing already has the lowest prevalence of non-decent housing and the highest average energy performance, while private-rented housing performs worst on these two measures. In addition, private-rented housing has the highest prevalence of damp-related problems amongst all tenures. It would appear that the gap in housing quality between social and private-rented housing is widening. By these measures, £5,000 investment in sub-standard private rental properties – which are widely acknowledged to represent a risk of excess cold – is a reasonable amount for responsible landlords to comply with a minimum standard of energy performance that is unlikely to be raised for five years.

With a cost cap of £5,000, even though still 58% of properties would remain sub-standard, the depth of progress in improving properties would be far greater (with over 90% of properties insulated), positioning the impact of the current regulations to be strengthened in line with future regulations to meet the 2030 ambition. In addition, the analysis presented shows that the average annual bill saving for tenants and the health benefits would be twice as high. Tenants will then be able to enjoy levels of efficiency closer to those of the majority renting in the private sector, with the attractiveness of landlords' properties improved.

To ensure compatibility with, and smooth progress towards, the aim for all private rental properties to achieve a Band C rating by 2030, it is critical that landlords are rewarded for going further than the minimum standard. This will reduce costs to Government and landlords to 2030, and help build the market for deep, and staged deep, retrofits – supporting the development of the energy efficiency market more widely in the owner-occupied sector. Our proposal is to reintroduce the Landlords Energy Saving Allowance (LESA) at £3,000 for landlords who improve their properties to a Band D level or higher. The LESA should also be made available for landlords already at the minimum standard who improve their properties to a Band C rating.

[2] Scottish Government (2017) ***Energy efficiency and condition standards in private rented housing: A Scotland's Energy Efficiency Programme Consultation***

[3] ONS (February 2018) ***Output in the construction industry***, deriving split between owner-occupied and private rented sectors as 90%/10%, based on Construction Products Association data referred to in BEIS (2017) ***Call for evidence: building a market for energy efficiency***

[4] MHCLG (2018) ***English Housing Survey Headline Report, 2016-17***

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2b. Do you agree that a cost cap for improving sub-standard domestic private rented property should be set inclusive of VAT?

We agree.

3. Do you agree that a cost cap should not take account of spending on energy efficiency improvements incurred prior to 1 October 2017?

If you do not agree, what would be the most appropriate way of taking account of previous spending on measures which have failed to raise a property above EPC F or G? Please provide reasons and evidence where available to support your views.

We agree.

4. Do you agree with the proposal that where a landlord contributes to the improvement, the cost cap threshold should be inclusive of any funding which can be obtained through a 'no cost' finance plan (including a Green Deal finance plan), Supplier Obligation Funding (for example, ECO: Help to Heat or a successor scheme), or energy efficiency grant funding from a Local Authority or other third parties?

If you do not agree, please provide reasons and evidence where available to support your views.

No, we do not agree. The cost cap threshold's purpose is to ensure sub-standard properties are improved to a Band E rating. Under no circumstances should landlords be absolved of their duty to improve sub-standard properties to the minimum standard because a cost cap was already reached through third-party funding. Third party funding should be treated as supporting landlords to meet their obligations, not as a substitute thereof.

Given that the higher, and our preferred, cost cap option of £5,000 still sees 58% of properties failing to achieve this standard, costs borne by other parties (e.g. individual tenants in case of on-bill financing, or the wider tax/bill-paying population in the case of grants or ECO funding) should not count towards fulfilling landlords' spending requirements if properties do not meet the standard once the cost-cap has been reached. Moreover, it is landlords with low income tenants exposed to poor housing energy performance – who are most likely to secure ECO investment in their properties – who already stand to invest the least to meet the standard from their own funds. Making the threshold inclusive of any other funding exacerbates this already perverse outcome.

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Taken together with our recommendation to reintroduce LESA, far more meaningful progress towards the aim for all private rental properties to achieve a Band C rating by 2030 can be achieved (with deeper retrofits, or retrofits involving more expensive measures). An illustrative landlord journey under these conditions is presented in the box to the right.

It would be highly valuable, in arriving at its post-consultation decisions, for BEIS to test the final regulatory design by using the National Housing Model to assess how many more properties, in which households, would achieve a Band E rating under the condition that non-landlord funding does not count towards the cost cap.

Illustrative landlord journey

Assuming a £5,000 cost cap, with third-party funding not counting towards threshold, and LESA for going further than the minimum standard:

> Landlord has a G-rated property with an ECO HHCRO-eligible tenant
> The best use of £5,000 only gets it to a high F-rating
> However, ECO support of £3,500 is available. The landlord £3,000 to investment in a package of measures that gets the property to an E-rating for £6,500 total. The property now complies with regulations
> LESA is on offer if the property achieves a D-rating or better:
    > The landlord knows more stringent regulation is coming in future
    > He invests an extra £2,000, bringing the total to £8,500 (£5,000 from the landlord and £3,500 from ECO), which means solid wall insulation can be made part of a package that brings property up to a good D-rating
    > LESA is available on £3,000 of investment. The landlord has invested £5,000 and reduces his tax bill by £1,200
> The property's D-rating means the landlord won't be concerned about future regulations until 2030
> Prospective buyers of the property know this and value this, so will pay more for the property than if it was valued E or F
> This suits the landlord as he is primarily motivated by capital gains
> [Energy supplier claims proportionate share of savings towards obligation.]

5. Do you agree that it is not necessary to place a regulatory duty on energy suppliers, or their agents, to provide landlords with cost information relating to the value of energy efficiency improvements made to the landlord's property through a supplier obligation?

We agree it is not necessary to place such a regulatory duty on energy suppliers on their agents. At the same time however, as stated in response to Question 4, we do not agree that landlords' required contributions up to a cost cap to meet the minimum standard should be reduced when they secure third party funding.

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6. Where a landlord is intending to register a 'high cost' exemption, should the landlord be required to provide three quotes for the cost of purchasing and installing the measures, in line with the non-domestic minimum standards?

If you do not agree, please provide reasons and evidence where available to support your views.

Yes. To reduce the risk of fraud, the three quotes provided should be obtained from contractors who are relevantly certified, e.g. under PAS 2030, a competent person scheme or the Microgeneration Certification Scheme.

7. Do you agree with the proposal to limit the validity of any 'no cost to the landlord' exemptions (under Regulation 25(1)(b)) registered between October 2017 and the point at which a capped landlord contribution amendment comes into force?

If you do not agree, what are your objections, and how do you recommend that the minimum standard regulations be amended to ensure the energy efficiency improvements are delivered to such properties which might otherwise be left unimproved once the amended regulations came into force? Please provide reasons and evidence where available to support your views.

We agree.

8. Do you have views on whether the consent exemption under Regulation 31(1)(a)(ii) should be removed from the minimum standard regulations or retained?

Please provide reasons and evidence where available to support your views.

This exemption should be removed. A tenant not consenting to a Green Deal charge should not absolve a landlord from their obligation to improve a sub-standard property. The risks of fraud and/or undue pressure on tenants posed by keeping this exemption are too high.

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

No, although we would like to draw attention to the Minimum Standards Assessment (MSA) to aid compliance with the PRS regulations being proposed in Scotland[5]. It is intended to deliver a bespoke set of recommendations to undertake on an (assessed through an ordinary EPC as) F or G-rated property that when undertaken within 6

[5] Scottish Government (2017) ***Energy efficiency and condition standards in private rented housing: A Scotland's Energy Efficiency Programme Consultation***

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months, mean the landlord complies with the regulation. It's also proposed that the MSA sets out what to do to get to a D rating.

10a. Do you have any evidence or comments regarding the consultation impact assessment (including views on any of the assumptions we have made to support our analysis), which could inform the final stage impact assessment?

It would be highly valuable to test the final regulatory design by using the National Housing Model to assess how many more properties, in which households, would achieve a Band E rating under the condition that non-landlord funding – with a focus on ECO – does not count towards the cost cap options set out, in particular option 4 (£5,000). In addition, the final stage impact assessment needs to take account of additional benefits to, and costs avoided by, landlords in the form of reduced void periods, reduced rent arrears and increased property values.

10b. Do you have any evidence or information on the potential for these proposals to impact on the PRS market, including any potential for landlords who are required to act by the minimum standard regulations to pass through costs to tenants after making improvements to their properties?

We don't have evidence, but refer to the fact that landlords have the freedom to increase rents to cover the costs, as is the case with any improvements they make to their properties. Unlike other improvements, energy performance upgrades permanently reduce the running costs of the property for tenants. Conversely, sub-standard properties do not imply lower rents, and may often entail higher overall living costs as a result of bills and frequently pose health risks to tenants.

As the Impact Assessment states, capital gains are expected to remain the key driver of investment with the sector – this is likely to mean that a) the effect on rents is likely to be negligible and b) if – as is made more likely by the regulations themselves – higher energy performance represents leads to higher property values[6], then landlords will recognise energy efficiency improvements as valuable to their business. In addition, more efficient properties are likely to experience shorter void periods and fewer rent arrears[7] – this needs to be taken account of in the final stage impact assessment.

10c. Can you provide any evidence on the likely costs associated with the compilation of evidence in advance of registering an exemption on the PRS Exemptions Register?

We recommend BEIS compares notes with Scotland's similar consultation.

[6] DECC research has identified a **statistically significant link between higher EPC ratings and higher property prices**.

[7] Research for the social-rented sector bears this out, with Band B properties void for a 31% shorter period of time than Band E and F properties, and rent arrears in Band F properties half a month higher than in higher Bands. See Sustainable Homes (2016) ***Touching the Voids: The impact of energy efficiency on social landlord income and business plans***

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About E3G

E3G is an independent climate change think tank operating to accelerate the global transition to a low carbon economy. E3G builds cross-sectoral coalitions to achieve carefully defined outcomes, chosen for their capacity to leverage change. E3G works closely with like-minded partners in government, politics, business, civil society, science, the media, public interest foundations and elsewhere. In 2017, E3G was ranked the number one environmental think tank in the UK.

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