



END FUEL POVERTY BEFORE THE WINTER

ENERGY PERFORMANCE OF PRIVATELY RENTED HOMES IN ENGLAND AND WALES CONSULTATION RESPONSE FROM THE END FUEL POVERTY COALITION

23 December 2020

The End Fuel Poverty Coalition is a broad coalition of over 20 anti-poverty, environmental, health and housing campaigners, charities, local authorities, trade unions and consumer organisations. It campaigns to end fuel poverty and thereby improve people's health and quality of life as well as seeking to reduce the cost of living, create jobs and negate carbon emissions in the process.

In our responses to government consultations, we have been clear that there must be urgent delivery of government promises on tackling fuel poverty, such as confirming the extension of Warm Home Discount (ideally to 2026), introduction of the promised Home Upgrade Grants and social housing decarbonisation programme. This also needs to include an extension to the Energy Company Obligation (ECO) from April 2022- March 2026 and maintain its key focus on low income and vulnerable households. Government should further ensure that the Shared Property Fund (SPF) helps end cold homes across the UK and plans are introduced to extend and, as suggested by National Energy Action, strengthen the increase to Universal Credit for low income households.ⁱ

Therefore we welcome the consultation on improving the Energy Performance of Privately Rented Homes in England and Wales

Cold, damp and unsafe homes continue to cause shocking levels of unnecessary hardship and premature mortality. In England Wales where the proposals within this consultation will apply, excess winter deaths have risen by nearly 20% last winterⁱⁱ. The alarming increase in Excess Winter Deaths last year was before the impact of Covid-19 struck. Covid-19 is likely to have left many households more exposed to the risks of living in a cold home than ever beforeⁱⁱⁱ.

Whilst other actions to boost incomes and tackle energy prices are still required, ensuring that privately rented homes meet an adequate level of energy efficiency is particularly important for reaching the fuel poverty target for all fuel poor homes to reach a level of EPC C by the end of 2030 in England^{iv}.

In the private rented sector (PRS) in England^v:

- 33.6% of all fuel poor households are in PRS accommodation
- Housing is also more likely to have the lowest energy efficiency standards than socially rented accommodation



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- Only 34% of PRS homes are rated at EPC C or above, compared to 60% for socially rented homes
- 213,000 homes are still in either band F or G, with energy bills likely to exceed £2,000, and fuel poor homes in the PRS pay on average £325 more than the average household for their energy

The UK Government has committed to publishing a new Fuel Poverty Strategy early next year. In Wales, the Welsh Government has also committed to developing a new Fuel Poverty Plan early next year. The main policy intent within this consultation and that the proposals could help up to 960,000 low-income households within the PRS get up to a reasonable level of energy efficiency by the end of 2028. An improvement on this scale would be significant in achieving the overall fuel poverty target and can ensure private investment by landlords complements other recent policy commitments^{vi}. However, the UK Government to be as ambitious as possible and respond to our key concerns.

Key Recommendations

1. **Energy Performance Certificates (EPCs) help tenants, landlords or homeowners find out how they can save energy and money by installing improvement measures. They should be the key metric for the new policy.**
2. **There should be a fabric first approach embed within the final policy to ensure needless space heating demand is reduced**
3. **Commit to a £15,000 cost cap to help more fuel poor households to reach EPC C, while ensuring the best value policy option is taken forward. This will result in an additional 60,000 households reaching EPC C by 2028 across England and Wales compared to the £10,000 cost cap**
4. **Implement a holistic landlord registration scheme in England, replicating what has already been achieved in Wales, and as the Committee on Fuel Poverty has recommended, to help aid compliance**
5. **Create a faster timescale for HMOs to achieve EPC C than other properties alongside a cost cap of £15,000, as landlords for these properties face fewer barriers to upgrading their properties**
6. **Share the findings of the local authority PRS MEES enforcement pilots as a matter of urgency**
7. **Introduce complementary policy in order to both incentivise landlords to comply with the new standards (while ensuring that residents are adequately protected), and help local authorities to enforce against non-compliance, including:**



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- a. The reintroduction of LESA, with a maximum tax allowance of £10,000 to incentivise landlords to comply
- b. Landlords being able to access energy efficiency grant schemes to upgrade their properties with the condition of no rent increases for three years

Response to this consultation

Question 1: We would welcome views on possible impacts of the policy on the size of the PRS sector, the effect this could have on vulnerable households, and suggestions to mitigate this effect where it does occur, including any evidence.

The Coalition does not believe the proposals will have an impact on the size of the PRS sector. Indeed, we would urge the government to put the needs of the most vulnerable at the heart of the reforms.

One pensioner, living in a basement flat in very poor repair, told the recent Making Green Come True conference organised by Fuel Poverty Action:

If I had proper insulation in this flat and didn't rely on gas heaters in every room, that would cut down on fossil fuel burning and also it wouldn't be so expensive. I'd have central heating which would be cheaper because you wouldn't have to burn all these fires.

The man who came today to check the electrics told me I should have insulation and my landlord should do it for me, but I don't know . . . my rent might go up and I can't afford it.

I have cling film over all my windows, poor man's insulation, but I can't replace it now, I'm nearly 80 and I can't climb up there.

As a start, landlords should only be able to access energy efficiency grant schemes to upgrade their properties with the condition of no rent increases for three years. There should also be alternative finance for landlords where mortgaged-based products won't be viable. For example, for retrofits above a certain cost or where there are affordability issues, landlords should be able to access alternative long-term loans (e.g. that sit on the property rather than the property owner).

If landlords make use of this facility then they could be subject to additional requirements – such as using PAS2035, not increasing bills for a period and paying part/ all of the loan back if they sell and profit (to disincentive house 'flipping').

In general, if landlords are willing to undertake the work in a responsible manner and invest at least part of the upfront cost, then we believe the government should



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support them to do so. That way, more homes are likely to be improved and the work done properly with tenants seeing the benefits.

But in return for government support for landlords, this needs to be combined with support for tenants and we would urge the government to go further than current plans. The government should consider introducing:

- Rent controls.
- Security of tenure, beginning with an end to no-fault eviction; this is no more than is the norm in Europe.
- Action on empty homes. Action on Empty Homes (AEH) has a comprehensive list of recommendations going beyond increased taxation and including, “re-establishing dedicated funding programmes to support local authorities and housing providers to create affordable housing from long-term empty homes in all parts of England”, and “financial support to owners for sustainability measures and home improvements designed to increase the longevity, affordability and environmental efficiency of existing homes, including insulation measures” as well as many other measures for national and local government.
- Regulation on holiday lets, second homes and on Airbnb (all of which are often largely empty homes) to prevent them taking the place of housing.
- A mass programme of Council Housing -- to zero-carbon standard -- which would both take the pressure off rents and provide an alternative to people forced out of their homes.
- Programmes helping local authorities to buy back from private landlords the ex-council homes that they are now renting out for profit at much higher rents than those in neighbouring council-owned properties.

Question 3: We would welcome views on any possible long-term impacts of COVID-19 that could impact on making the required energy efficiency improvements from April 2025 and suggestions to mitigate this effect where it does occur, including any evidence.

The impact of the pandemic on households has been severe, increasing the number of households that struggle to afford to keep their homes warm, as it has led to both reduced incomes and increased energy usage. This accentuates the need for speedy improvements in the PRS, and there should be no delay in landlords getting their properties to reasonable levels of energy efficiency.

Question 4: Do you agree with the government’s preferred new target of EER C as a minimum energy performance standard in the PRS?

Yes, the Coalition agrees with the preferred target of EER C as a minimum energy performance standard in the PRS.



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Question 5: We would welcome your views on the pros and cons of these alternative metrics, in relation to our overall policy goals around reducing carbon emissions, fuel poverty, and energy bills; please provide evidence with your answer.

The Coalition believes that EPC ratings continue to be the best option for target setting, and measurement of energy efficiency progress in the PRS. It is however important to recognise how EPCs can evolve and respond to some of the well-known issues within the current Standard Assessment Procedure (SAP) methodology that underpins the scoring and address a variance in the quality of EPC assessments. NEA welcomes the new EPC Action Plan^{vii}, which should help to give confidence in EPCs going forward. However, BEIS must give further attention to several anomalies.

Two identical households could be judged as having two different EPC scores just because the assessing of EPCs can be unreliable. This is especially true of deemed EPCs and NEA has heard frequent concerns with the quality and accuracy of 'bulk EPC' data which looks to predict EPCs for similar properties. This could be addressed by ensuring fuel poor households are required to meet at least a median SAP level or greater within EPC band C before it can be considered to have researched the required standard^{viii}. The UK Green Building Council has also identified two areas^{ix} that need to be addressed in order to increase the reliability of EPCs:

- The various accreditation and certification bodies are all competing for customers, which does not necessarily encourage rigour in the auditing process; and
- Audits of EPCs are predominantly desk-based, which means that there is little risk to an assessor in delivering inaccurate assessments of items which are difficult to desk-audit or are not necessarily revealed by the photographs required as part of the EPC assessment.

There is also a specific concern about the coverage of EPCs within Houses in Multiple Occupation (HMOs). We strongly advocate the introduction of a requirement for an EPC for the whole building to be produced when a single unit in the building is marketed for rent. A private member's bill introduced by Dr Alan Whitehead MP in the 2014/15 Parliamentary session showed how this could be done.^x In addition, single-bed HMO tenancies should be required to have an EPC within mandatory licencing conditions and therefore would be captured by PRS regulations.

Question 6: Do you agree with the government's preferred policy scenario of requiring 'new tenancies' to reach EER C from 1 April 2025 and 'all tenancies' to reach EER C by 1 April 2028? If not, do you have alternative suggestions; please provide evidence with your answer.

Yes, the Coalition agrees with this policy scenario. This shows a good level of ambition and will help many households achieve the fuel poverty target 2 years before the end date of 2030.



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Question 7: Do you agree with increasing the cost cap to £10,000 inclusive of VAT as our preferred policy proposal? If not, please explain why not and provide evidence with your answer.

No. The Coalition believes that while the central scenario of the £10,000 cost cap would lead to a significant number of households being upgraded, that a £15k cost cap would be more effective in reaching both fuel poverty and net zero targets. According to the impact assessment that accompanies this consultation, the average cost to landlords, if the cost cap were to be increased to £15k, would remain significantly below £10k at £5,300.^{xi} This presents excellent value for money for a total increase in 3 percentage points of properties reaching EPC C. The same impact assessment also attributes the highest net present value of the options presented to the £15k cost cap. While a £10,000 price cap leads to only ~10% of EPC F&G PRS properties reaching EPC C by 2028, a £15,000 cost cap would result in almost 30% of these properties reaching EPC C. These households are where the most acute fuel poverty is felt, with energy bills topping £2,000. A failure to upgrade them to the statutory standard of EPC C would be a significant dereliction of duty.

Question 8: Should the £10,000 cost cap be adjusted for inflation?

Yes.

Question 9: Should a requirement for landlords to install fabric insulation measures first be introduced? If yes, when, and how should such a requirement be implemented? If no, what are the alternative installation methods that maximise energy efficiency outcomes? Please provide evidence to support your answer.

Yes, there should be a fabric first approach.

Question 13: Should we incorporate TrustMark into energy performance improvement works? If not, please explain why not and provide evidence with your answer.

Yes, The Coalition agrees with the incorporation of TrustMark into the regulations.

Question 15: We would welcome views on whether the PRS Regulations may need to be tightened further for the 2030s? Please provide evidence with your answer.

Yes. In order to meet the fuel poverty target of all fuel poor households reaching EPC C by 2030, then some additional regulation and incentives will be required. The impact assessment of this consultation suggests that even the £15,000 cost cap would lead to 490,000 fuel poor households failing to reach the required standard by 2030. New policies will therefore be needed, or the statutory requirement will not have been met.



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Question 16: What are the other steps government could take to increase awareness and understanding of the PRS Regulations?

The Coalition believes that several steps can raise awareness of the PRS regulation for both landlord and tenants. These are:

- When a tenant receives energy advice through either the Warm Home Discount scheme or other schemes with Ofgem oversight such as the upcoming use it or lose it allowance for Gas Distribution Networks (GDNs).
- Energy efficiency schemes, such as ECO and the Green Homes Grant, where tenants could be given information on the PRS MEES when they:
 - a. Apply for such schemes; or
 - b. Are approached by suppliers, local authorities or contractors to take part in such schemes.
- The smart meter programme. Where if a meter installer identifies that the home that receives the upgrade is privately rented, the energy efficiency advice that they give under the Smart Meter Installer Code of Practice should include tailored advice on the Private Rented Sector.
- The Fuel Poore Network Extension Scheme. Where a GDN or their contractor identifies that a recipient household is a PRS household, then they should give advice on PRS MEES.

Question 17: Is the introduction of a PRS property compliance and exemptions database necessary to help local authorities to proactively enforce minimum energy efficiency standards? If yes, should we include the per-property registration fee within the cost cap? If not, what alternatives to a PRS property compliance and exemption database would you suggest?

Yes, the Coalition agrees with the creation of a database to help local authorities proactively enforce against non-compliance. An independent report^{xii} commissioned by the Committee on Fuel Poverty, said that landlord registration and licensing is “the most practical means of identifying landlords who currently lack an EPC on a proactive basis, rather than waiting for tenants to raise complaints”, and that while setting up such a scheme would require time and resource, 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. The Coalition therefore recommends a more complete landlord registration scheme in England to help aid compliance.

This should cover a range of health and safety considerations and checks rather than only being focussed on energy efficiency. A broader database would be more useful to local authorities, simpler for landlords to use and also more cost-effective to run, whilst bringing benefits of better-quality homes and better information for tenants. A national register was also recommended by the Committee on Fuel Poverty^{xiii} and has broad support from many organisations and regulators alike.



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A register is useful for enforcement if:

- There is some kind of penalty for compliant properties not being registered. The usefulness of the register depends on whether it can help local authorities identify which properties are in the PRS and which are not.
- The data in the compliance and exemptions register should be open to local authorities to be used for other housing enforcement work. This would ensure that the register helps local authorities to maximise their limited resources and the register becomes a useful tool to be used regularly. This would help enforcement of both energy efficiency and other housing standards, some of which may be inter-related such as excess cold, damp and mould.

Question 19: Should government seek primary powers to place a requirement on letting agents and online property platforms to only advertise and let properties compliant with the PRS Regulations? If not, please explain why not and provide evidence with your answer.

Yes, the Coalition agrees with this proposal.

Question 20: Should government remove the seven to twenty-one day exemption period on landlords making all reasonable efforts to provide a valid EPC prior to a property being marketed or let? If not, please explain why not and provide evidence with your answer.

Yes.

Question 21: Should government increase the level of the fixed civil penalty fine for offences under the EPB Regulations (currently set at £200)? If yes, how high should the fine be?

Yes.

Question 22: Should government enable LAs to inspect properties for PRS compliance? If not, please explain why not and provide evidence with your answer.

Yes.

Question 23: Should government permit local authorities to use EPC Open Data for some phases of PRS enforcement? Please provide evidence with your answer.

Yes, the Coalition agrees with this proposal however continuous improvements should be made to drive up the accuracy of this data.



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Question 24: Should there be a requirement for post-improvement EPCs (and for the cost to be included within the cost cap)?

Yes, the Coalition agrees with the creation of a database to help local authorities proactively enforce against non-compliance, but the cost of this to landlords should not come out of the cost cap, which already would leave hundreds of thousands of fuel poor households living in homes that do not reach EPC C.

Question 25: Should a valid EPC be in place at all times while a property is let?

Yes.

Question 27: Should listed buildings and those in a conservation area be legally required to have an EPC?

Yes.

Question 28: Should government seek primary powers to increase the maximum fine level to £30,000 per property for each breach of the PRS Regulations? If yes, should it be adjusted for inflation? If not, what would be an alternative, appropriate maximum fine level? Please provide evidence with your answer.

Yes. The fine should be set at a level that does not allow landlords to game the system with an economically logical business model that accepts that fines will be given for noncompliance. We believe that a fine level of £30,000 would satisfy this requirement. The fine proceeds should also be ring-fenced for taking enforcement action with local authorities or supporting initiatives that can drive up energy efficiency levels in fuel poor neighbourhoods.

Question 29: Should government introduce powers for tenants to request that energy performance improvements are carried out where a property is in breach? If yes, how could a redress mechanism be devised?

Yes. We have no suggestions as yet on a redress mechanism, but it should be developed working with tenants organisations.

Question 30: Should government introduce some form of local authority disclosure or benchmarking where a property is in breach of PRS Regulations?

Yes.



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ii EWDs in the winter of 2019/20 were 19.6% higher than 2018-19 but lower than the 49,410 recorded in the winter of 2017-18. For more information visit:

<https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/deaths/bulletins/excesswintermortalityinenglandandwales/2019to2020provisionaland2018to2019final>.

iii The health implications of cold temperatures on respiratory conditions and on frail and elderly households are well known. These impacts are also intergenerational, with children twice as likely to suffer from asthma or bronchitis if they inhabit cold and damp housing. These issues have been badly exacerbated the Covid-19 crisis. During the colder months many people will continue to stay at home for longer periods. Alongside the psychological stress and social isolation caused by the virus, too many will have to choose between heating their home adequately and falling into debt or rationing their energy use and living in cold damp homes that are dangerous to their health and can shorten their lives. This can lead to a vicious cycle of hospital admission, discharge and readmission. Poor housing leads to sharp rises in energy use. A recent independent analysis suggests that, if a second lockdown was re-imposed during winter months, families in cold, leaky homes would face heating bills elevated on average to £124 per month, compared with £76 per month for those in well-insulated homes – a difference of £49 (£48.7) per month.

iv The energy efficiency based Fuel Poverty (England) Regulations 2014 are a legal requirement the UK Government is still bound by. As a result, the UK must ensure all fuel poor homes in England achieve a minimum energy efficiency rating of Band C by 31 December 2030.

v Statistics from the Fuel Poverty Statistics 2020 dataset

<https://www.gov.uk/government/statistics/fuel-poverty-detailed-tables-2020>

vi The Conservative Party Manifesto pledged £2.5bn for a Home Upgrade Grant scheme to help fuel poor households improve the energy efficiency of their homes, and a £3.5bn Social Housing Decarbonisation fund to improve homes in the social rented sector. <https://www.conservatives.com/news/our-manifesto-gets-brexit-done-and-unleashes-the-potential-of-the-whole-country>

The first Queen's speech of the Government elected in 2019 reaffirmed these commitments. <https://www.gov.uk/government/speeches/queens-speech-december-2019>

vii BEIS released an action plan to improve Energy Performance Certificates for Buildings in September 2020. For more information see

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/922660/EPC_Action_Plan.pdf

viii Band C properties have a SAP score from 69-80.

ix From the UKGBC response to the BEIS Call for Evidence – Energy Performance Certificates for Buildings. For more information please see

<https://www.ukgbc.org/news/ukgbc-responds-to-call-for-evidence-energy-performance-certificates-for-buildings/>



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^x Houses in Multiple Occupation (Energy Performance Certificates and Minimum Energy Efficiency Standards) Bill,

<https://publications.parliament.uk/pa/bills/cbill/2014-2015/0082/15082.pdf>

^{xi} Based on figures from the Impact Assessment of this consultation, table 17. For the Impact Assessment see:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/932403/prs-epc-c-consultation-stage-ia.pdf

^{xii} Enforcing the Enhancement of Energy Efficiency Regulations in the English Private Rented Sector - RSM

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/825485/enforcing-enhancement-energy-efficiency-regulations-English-private-rented-sector.pdf

^{xiii} [A national registration scheme for the PRS](#), CIEH parliamentary briefing, July 2019