



A grassroots campaign taking action against mammoth fuel bills and working towards an affordable, sustainable and democratic energy system

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Public consultation

[Improving the energy performance of privately rented homes](#)

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Fuel Poverty Action

Are you happy for your response to be published?

Yes

Would you like to be contacted when the consultation response is published?

Yes

How did you hear about this consultation?

Email from BEIS

Introduction

The rapidly rising death toll from cold, damp and unhealthy homes, the dreadful impact of these conditions on people's prospects and quality of life, and the extremely urgent need to act on carbon emissions from housing, all make it absolutely imperative to improve the energy efficiency of the UK's private rented housing stock. We are therefore glad to see that proposals are being made to achieve this. We are not in a position to comment on all these proposals in detail, but endorse many of the points made by the End Fuel Poverty Coalition, of which we are a member. Other pressing concerns are reflected below, particularly in Questions 1, 7, 13, 22 and 29.

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

Reducing the size of the PRS sector is not a problem in itself. The sector has grown at the expense of social housing, and to say the least the results have not been good for tenants. If some landlords or potential landlords are deterred from buying homes in order to let them, that will, overall, benefit tenants as it will push prices down and increase the housing available for owner occupation or potentially social housing. If private renting as a form of tenure is not able to sustain essential improvements, it is not worth saving.

However, there are some protections that are essential to prevent some people losing their homes, and to prevent a further increase in empty flats and houses which are investments, rather than homes.

Note: we include in our response to this question the risk of rent increases, which can also have the effect of rendering people homeless.

A pensioner, M, who attended our recent conference on “Making Green Come True”, lives in a basement flat in a Victorian house in very poor repair. She told us:

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.

We agree with your proposals to raise the limit on landlords' spending. But this must not lead to people in M's position losing their homes.

We do not believe that this threat would be resolved by putting a condition on receipt of government grants - eg no rent increase for 12 months (as in Wales) or even for three years:

- a) Not all landlords would receive a grant, or even, necessarily, a loan.
- b) Landlords may just go over to Airbnb or convert their properties to second homes or holiday lets. Or leave them empty.
- c) Three years is not very long when you have a home that you were planning to continue living in -- eg when you are old, or have a family . . .

Nor do we think it would be solved by ensuring that costs are covered by taxpayers rather than landlords. It is true that government expenditure could pay for itself, and more, and that a major spending programme, if properly designed, could make real progress on energy efficiency. But once the landlords have benefitted from the largesse, what then? Just because they've not had to spend their own money for improvements, will that stop them putting the rent up? Or will they decide that they can now let M's flat (which happens to be in Kensington) for a great deal more money? Or that, in Cornwall, Wales or the Lake District, the accommodation is now attractive to middle class people for holiday lets, or as a second home without the troublesome and expensive task of doing it up? While tenants are likely to be positively affected if their landlord opts out of the market and sells their home to a social landlord, other kinds of opt-out could be disastrous for the tenants concerned, especially if no good alternative housing is available locally.

Without protections being written into these proposals, we are being asked to choose between on the one hand allowing landlords to continue to rent out hundreds of thousands of properties that are not fit for habitation or for planetary survival, or on the other hand, allowing them to make those properties habitable, possibly with taxpayers subsidies or soft loans, and then carry out evictions or raise the rents, forcing people out onto the streets, or possibly into illegal, Rachmanite dwellings.

FPA cannot endorse the changes proposed without real protections, which tenants organisations and others in the housing sector are calling for:

- Security of tenure, beginning with an end to no-fault eviction; this is no more than is the [norm in Europe](#), in poorer countries as well as rich ones.
- Rent controls. When Sadiq Khan pressed for the right to cap rents; [landlords said](#) that they would leave the sector and that the only way to help tenants was to give them, the landlords, money to entice them to rent out more homes. The argument is predictable, but can be answered by the further measures below:
- Action on empty homes. [Action on Empty Homes](#) (AEH) has a comprehensive list of recommendations going beyond increased taxation and including, *“Re-establish 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.
- The number of long-term empty homes is [huge and rapidly increasing](#), many of them in areas where housing need is greatest: 268,000 homes in England, up 20% (42,000 homes) on a year ago. Meanwhile, 98,300 homeless families, including 129,00 children, are now housed in often unsuitable and over-crowded temporary accommodation at a cost of £1.2 billion a year. This is obscene. But **retrofitting homes is much less expensive and less disruptive when they are empty, and the huge number of empty homes could be seen as an opportunity**: they should be rapidly and thoroughly refurbished to a high standard of energy efficiency, and then let. If they are still left empty, local authorities should have the power and the finance to buy them at a favourable rate. This would make a huge positive difference to the entire rental market and the balance of power between landlords and tenants, effectively removing the dilemma facing tenants like M. In addition, empty homes, once improved, could be used to temporarily decant people who cannot remain in their own homes while they are retrofitted.
- Regulation on holiday lets, second homes and on Airbnb, (all of which are often largely empty homes, and included in AEH strategies) to prevent them taking the place of housing. Again, if they cannot be made energy efficient by their owners, then the ownership should change.
- Where refurbishment of empty homes cannot meet need, building Council Housing -- at a reinstated zero-carbon standard -- 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. They must also have the option of buying homes for rent from private landlords who are unable or unwilling to carry out the required improvements. This means that they must have the funds to purchase and improve a property when the landlord sells. There must be an obligation on the landlord to offer the property to the social housing providers first.

Security of tenure is in line with the aims of the very widely supported [Renters Reform Coalition](#), and the Conservative Party manifesto includes ending no fault eviction; the government’s Renters’ Reform Bill is expected to [repeal s.21](#). In fact, s.13 of the Housing Act 1988 already enables tenants to challenge rent increases, but this legal right is now only

used by assured *non*-shorthold tenants, (successors to council tenant parents), who have market rents but enjoy security of tenure. The promised abolition of s.21 would make this right to challenge a reality for many more people.

Such changes in tenants' rights would also be critical to your proposal (under Q 29) that "*tenants should be able to request redress from the landlord*".

We are aware that you have had to bear in mind the impact of proposals on small landlords who may not be making much money on their lettings. We wonder if you have considered making a distinction between on the one hand landlords with large portfolios (in some cases, of empty homes), who will simply add up the columns of costs and benefits and write fines into their business plans, while stowing the profits offshore, and, on the other hand, the retired teacher who has inherited a property and decided to let it out? Your tables 1 and 2 show that between 2010 and 2018 there was progressive consolidation of property in the hands of people making a substantial income as landlords, who should not be confused with those who make only a little. (Unfortunately, the Green Homes Grant has been designed in a way that makes it too complex and too rushed for small, marginal landlords struggling to make improvements, while the bigger and better organised get subsidies they may not need.) We wonder if this distinction could help deal with some of the dilemmas being considered.

To bring UK housing stock out of the dark ages is unpostponable, but it will cost lives if it is not combined with renters' rights. Growing recession and instability has shaken up political imperatives. Many people are aware of the number of landlords in Parliament and in the Cabinet, and wonder if they would ever consider rent controls, for example. But in a wave of destitution and homelessness, [vested interests](#) may appear less important than social cohesion.

Question 2: Do you foresee any impacts for protected groups? Please provide evidence to support your answer

People badly affected by cold and damp, or at risk from overheating due to climate change and inadequate building standards and poverty, or from high bills, will be more impacted than others by the improvements proposed. These include people with long term health problems or disabilities, and people who are elderly. However, these are also the groups most at risk from increased rents or the threat of eviction, and in some cases from harassment by landlords.

Some tenants, including those with young children, will be unable to remain in their homes while major works are carried out. Where necessary, temporary housing should be provided, eg by requisitioning second homes, holiday lets, hotels and Airbnb properties, particularly during the winter;

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

The lasting impacts on health and on the NHS, and increased economic insecurity, make the improvements all the more urgent, especially as cold and damp conditions exacerbate

respiratory infections and chronic respiratory problems like those experienced by people with long-Covid.

Covid-19 has also made many people very vulnerable to eviction (see Q1) due to mounting debts and having no way of paying their bills.

Questions 4 - 6

We agree it is urgent to bring in higher standards, and we would be glad to see a still tighter timetable: recent months have shown that changes can be made much more quickly than anyone anticipated, when the need is recognised. However, as our work is based on tenants' experience rather than policy analysis, we do not feel able to comment reliably on the different metrics and timings, etc, proposed.

We are however aware that EPC methodology and impartiality are badly in need of improvement.

And on timing, we support the call for HMOs to be fast-tracked for the requirements, as there are fewer obstacles here.

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, we believe that if there is to be a cap, it should be higher. There is no time left, for the climate, and people are dying in cold homes. A £10,000 cap would in some cases leave much work to be done at a later time -- both disruptive and expensive. £15,000 would be better.

A cap would apply to landlords who can well afford to cover the full cost, if necessary with the help of a loan. From your Table 1, 26% of landlords let out five or more properties; the proportion of properties let by such landlords will be a much higher figure, and similarly the proportion of tenants whose landlords collect over £25,000 a year will be much higher than the 30% of landlords who do so in your table 2.

It is also important to note that the landlords who would now be required to spend the most are the ones who have been profiting from letting out seriously substandard properties, often for many years, including F and G rated properties that, legally, should already have been upgraded. Local authorities should be funded, and required, to implement their duties under the Housing, Health and Safety Rating Scheme.

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

Yes.

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

Rigorous control of works is essential to any good outcome. We have serious concerns about Trustmark, however.

- a) While it is "not for profit" it is still a business, seeking to maximise its revenue, and the costs to builders can be prohibitive. This not only adds to overall costs but tends to rule out small local contractors in favour of huge corporations. While obviously

people need protection from cowboys, cowboys come in all shapes and sizes, as the Grenfell Inquiry has proved. Many people, for good reason, prefer a local provider, who can be checked out by local reputation, even by word of mouth, to an anonymous mega-firm that knows how to work the ropes, and can pay to do so.

- b) Avenues should be opened to allow non-profit organisations, including those based in the communities being retrofitted, to do this work. Eg they could be offered certification free.
- c) We learn from CIVALLI, the organisation for victims of failed or inappropriate cavity wall insulation, that the Cavity Wall Insulation Guarantee Agency CIGA is a scheme provider for Trustmark, and is hugely important in certifying this kind of insulation. CIGA, in turn, is dominated by cavity wall contractors who have caused untold damage to many people's homes, and walked away from it, refusing to accept responsibility even when cause and effect are clearly demonstrated. This saga has been repeatedly reported in the House of Commons, most recently in March 2020, but continues. We do not know whether the same is true for other kinds of insulation, or other kinds of retrofit, but it is not unlikely, given that the people who work in a field are naturally the experts. Any scheme that truly protects tenants -- and landlords' investment -- must be truly independent. Work must be checked after completion, and again, some years after that, according to a schedule, and promptly on receipt of any complaint.
- d) Giving weight to tenants' complaints, and making it easy and safe for tenants to make complaints, is essential to any monitoring system. A return to on-site local authority surveyors supervising works would also prevent many faults arising in the first place.

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.

The regulations proposed will not reach the standard needed for either the climate or people's health and economic security, even with a £15,000 cost cap. However, the key first step is effective implementation and enforcement of the new regulations now.

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

We endorse the steps proposed by the End Fuel Poverty Coalition, and a large-scale publicity campaign.

Tenants and renters organisations should be directly contacted, informed, and supported to spread the information.

We endorse the submission of Advice 4 Renters that non-compliance should be added to the grounds for a Rent Repayment Order. The tribunal service is a cheaper and easier than court action and is a logical way of compensating a tenant for living in a cold home and or/paying excessive fuel bills.

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?

There should be a national register of landlords and privately rented properties, their (better-founded) EPC rating, and compliance record. This is crucial to consistent enforcement and will ease the burden on local authorities. The registration fee should not be included in the cost cap. It will not only help towards bringing properties to EPC C level, but will help ensure that all properties are free of category 1 hazards, as defined in the Housing Health and Safety Rating scheme (HHSRS) and are fit to live in. This includes ensuring that minor repairs (eg to broken windows, leaking roofs) are undertaken.

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.

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, and “enable” must include providing the necessary resources, as local authorities do not have enough to meet even their existing obligations. Visits are essential, and the knowledge that they can be made, if only on a frequent “spot-check” basis at the start, will help prevent regulations becoming meaningless. There should be substantial penalties for misrepresenting standards attained.

Cold and damp are serious hazards, and people die from them. The provisions for a “golden thread” of responsibility for safety, as recommended by the Hackitt report following Grenfell, should be applied here too. At each stage, responsibility should be held by a named individual.

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. Continuous improvements should be made to drive up the accuracy of this data.

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

Yes, this would 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 includes fines for noncompliance. The fine proceeds should be ring-fenced for local authorities taking enforcement action or for supporting initiatives that can drive up energy efficiency levels in fuel poor neighbourhoods.

However, landlords who are illegally letting in breach of regulations should also be subject to Management Orders and ultimately Compulsory Purchase Orders, as already required where the health, safety or welfare of residents is at risk. Health and welfare *are* at risk in a cold - or overheated - home.

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. A redress mechanism should be developed working with tenants' organisations. If working properly, this could be a powerful incentive to landlords to comply with requirements, and an incentive to tenants to complain when they do not.

We support the call for an independent enforcement body, accountable to residents, that would be equivalent to the Health and Safety Executive. The HSE protects health and safety in workplaces but not homes. Yet the home is also a workplace -- for increasing numbers of waged workers ("working from home") and for people working at home caring for children, for older members of their family, or people who are ill or have disabilities, including self-care. A national body, including an inspectorate, could be fully independent and avoid many conflicts of interest. Tenants must be able to appeal to such a body.

Protection from retribution is crucial, with some proposals laid out in Question 1. Any such mechanism is fatally undermined without security of tenure.

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

Yes.

8 January 2021

