

# Domestic Private Rented Sector Minimum Level of Energy Efficiency Consultation

## Energy UK response

13<sup>th</sup> March 2018

### Introduction

Energy UK is the trade association for the GB energy industry with a membership of over 100 suppliers, generators, and stakeholders with a business interest in the production and supply of electricity and gas for domestic and business consumers. Our membership encompasses the truly diverse nature of the UK's energy industry – from established FTSE 100 companies right through to new, growing suppliers and generators, which now make up over half of our membership.

Our members turn renewable energy sources as well as nuclear, gas and coal into electricity for over 27 million homes and every business in Britain. Over 730,000 people in every corner of the country rely on the sector for their jobs, with many of our members providing long-term employment as well as quality apprenticeships and training for those starting their careers. The energy industry invests £12bn annually, delivers £88bn in economic activity through its supply chain and interaction with other sectors, and pays £6bn in tax to HMT.

Energy UK strongly believes in promoting competitive energy markets that produce good outcomes for consumers. In this context, we are committed to working with Government, regulators, consumer groups and our members to develop reforms which enhance consumer trust and effective engagement. At the same time, Energy UK believes in a stable and predictable regulatory regime that fosters innovation, market entry and growth, bringing benefits to consumers and helping provide the certainty that is needed to encourage investment and enhance the competitiveness of the UK economy.

These high-level principles underpin Energy UK's response to BEIS's consultation on the Domestic Private Rented Sector Minimum Level of Energy Efficiency. This is a high-level industry view; Energy UK's members may hold different views on particular issues. We would be happy to discuss any of the points made in further detail with BEIS or any other interested party if this is considered to be beneficial.

### Executive Summary

Energy UK is grateful for the opportunity to respond to the consultation on the Domestic Private Rented Sector Minimum Level of Energy Efficiency and we broadly welcome the Government's commitment to amending and strengthening the existing regulations.

We consider the ambitions outlined in the Clean Growth Strategy to be a positive step forward and particularly welcome its key focus on energy efficiency and ambition for as many homes as possible to achieve EPC band C by 2035. The target will require significant work to achieve. This includes a strong and consistent focus from Government on the long-term regulatory framework. We consider that the Private Rented Sector (PRS) has an important role to play in helping to achieve this ambition.

We welcome that Government is proposing to abandon the "no cost to the landlord" principle in the current regulations and is looking to curb some of the exemptions available to landlords. In principle, Energy UK considers that landlords have a duty to ensure that the properties they rent out are of a good standard and are affordable to heat. This is not likely to be the case with F and G rated properties which will be of significant disadvantage to tenants. Energy UK does not, however, believe that the proposals go far enough. Energy UK appreciates that the proposals for changes to the regulations have to strike the balance between the needs of tenants and those of landlords. However, the proposed cost cap of £2,500 is in our view inadequate as it, according to BEIS's own impact assessment, will still leave 70% of F and G rated properties not reaching band E. For this reason, Energy UK supports a £5,000 cost

cap so long as it enables the cost-effective delivery of measures. Furthermore, we consider that the cap should not include any part funding obtained through ECO, Green Deal or third-party funding.

Energy UK would also stress the importance of Government looking to ensure that the required enforcement provisions for the regulations are in place. Different local authorities will have different levels of resource to enforce the regulations. We hope that the fact that local authorities are now able to keep the funds obtained through enforcement action will ensure such actions are more consistently taken.

Lastly, Energy UK would urge Government to set out a long-term trajectory for how Government intends to meet the Clean Growth Strategy's ambitious targets for both the PRS and as many households as possible to reach band C by 2030 and 2035 respectively.

### **Detailed responses to questions:**

#### **Capped landlord contribution proposal:**

Q1) 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.

Energy UK broadly agrees with the proposal to introduce a landlord contribution element to ensure improvements to band F and G properties can be delivered. We consider this to be an important step in helping to tackle fuel poverty for consumers living in the PRS.

As acknowledged by Government in the consultation document, when the regulations were first introduced in 2015, it was hoped that landlords would be able to obtain significant funding through Green Deal finance, ECO and third-party funding. With Government's decision to rescind funding for the Green Deal Finance Company, it is important to accept that the funding available to landlords through such schemes is limited. Therefore, in order to have the greatest impact, Energy UK considers that it is important that landlords take responsibility for making improvements to their properties and ensure that their tenants do not have to live in cold homes that are difficult and expensive to heat.

#### **Setting a cost cap for the domestic minimum standard:**

Q2a) 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.

While Energy UK recognises the need to balance the needs of both landlords and tenants when looking to achieve improvements to band F and G rated properties, Energy UK does not agree with Government's proposals to set the cap at £2,500. Energy UK considers that the proposed cap is set too low and as outlined in BEIS's own impact assessment will mean that 70% of F and G rated properties will not reach band E. We consider that a £2,500 cost cap will also result in landlords installing partial measures meaning further improvements will likely have to be made at a later date causing further disruption to tenants. If Government is serious about ensuring that action is taken to improve the quality of homes in the PRS, Energy UK considers that £5,000 would be a more appropriate cost cap.

In addition, according to Government's own impact assessment, a £5,000 cost cap would mean close to double the amount of homes insulated by April 2020 as what would be the case with a £2,500 cost cap. Furthermore, around 18% more fuel poor households will receive at least one measure by increasing the cap. As with other schemes, it is, however, important that the proposals allow for the cost-effective delivery measures.

#### **Treatment of Value Added Tax (VAT) under a cost cap:**

Q2b) Do you agree that a cost cap for improving sub-standard domestic private rented property should be set inclusive of VAT?

We recognise that including VAT in the overall cost cap might be sensible from a simplicity perspective. We would, however, note that should Government decide to make the cost cap inclusive of VAT that this will lower the actual amount of money that will be able to be spent on measures to improve a property.

#### **Pre-October 2017 Energy Efficiency Improvements:**

Q3) 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.

Energy UK agrees with this proposal and would argue that this is sensible given that any improvements made prior to 1 October 2017 will clearly not have been sufficient in improving the property to EPC band E. If that was the case, no further spending would be required under the current proposals.

#### **Third Party Finance - reducing costs to landlords under a cost cap:**

Q4) 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.

Energy UK does not agree with this proposal. In principle, we consider that landlords have a responsibility and duty to invest to ensure that the properties that they are renting out are of a high enough standard that those living in the property are not struggling to afford their energy bills as a result of the quality of the building fabric. As outlined in our response to question 2a, Energy UK does not consider that the proposed cap level will lead to the right outcome. Furthermore, by proposing that any cost cap should include funding obtained through a "no cost" finance plan, Government would effectively be removing the responsibility from landlords of having to ensure they are renting out properties which are of a good standard. By making the cost cap exclusive of any "no cost" funding, the outcomes you would be able to achieve in terms of improvements to properties and the number of measures landlords would be able to install would, all things being equal, be greater.

In the event that the cost of installing a measure exceeds the cost cap and no funding is available, landlords would still under Government's current proposals be able to apply for a "high cost" exemption. We further note that even in those cases where the cost of the measure would exceed the cost cap and no funding is available, landlords should be expected to install partial measures that would see some improvements made to the property. In addition, Energy UK considers that instead of leaving the exemption as is, Government should consider a different approach. In situations where a measure would cost more than the cap (regardless of the level it is set at), Energy UK would suggest ECO funds could be offered to "top up" the landlord contributions. We envision that this would happen in the following way:

- Landlords would be able to apply for an exemption if they have three quotes from installers indicating that measures will exceed the cap;
- These exemptions would be published for a six-month probationary period;
- The ECO supply chain would be able review the exemptions applications over the six-month probation period and offer ECO funding to top up the landlord contribution;
- If the measures offered bring the property up to band E the landlord should have no choice but to accept; and
- If there is no interest from the supply chain after six months, the exemption is accepted and the property removed from the public register.

This proposal would have the benefit of increasing the likelihood of measures with a tangible impact being installed and would increase the amount of measures that would be eligible for ECO funding

(subject to ECO eligibility). It would also have the added benefit of creating a register that could help the creation of a new market, with installers bidding for viable work, offering differing landlord contributions.

#### **Identifying supplier obligation spend:**

Q5) 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?

Energy UK strongly agrees that no regulatory duty should be placed on energy suppliers to provide landlords with cost information relating to the value of energy efficiency improvements. As noted in the response to question 4, Energy UK does not believe that any funding that can be obtained through a "no cost" finance plan should be included within the cap and for this reason does not consider that landlords would need this information from suppliers. In addition, we are unsure why Government would look for this information from suppliers in the first place as they, in delivering their ECO obligations, will not be purchasing measures per se but rather, will be purchasing carbon bill savings. Should landlords require information on the cost of measures, they would be better served by engaging with installers. Lastly, Energy UK notes that individual suppliers' costs are often commercially sensitive.

#### **Demonstrating an exemption where a sub-standard property cannot be improved to E within the cap:**

Q6) 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.

Energy UK does not in principle have any problems with this proposal. We would, however, note that three quotes would not necessarily be a guarantee that no measures can be installed within the cost cap. Should Government decide to proceed with this proposal, it will be important that it clearly sets out the guidance for who will be able to provide the quotes and what information will need to be included.

#### **Curtailed of existing 'no cost' exemptions:**

Q7) 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.

Energy UK agrees with this proposal. Given the proposals to amend the regulations and the proposed curtailment of the "no cost to the landlord" principle, we consider that landlords, at the very least, should have to demonstrate that they still qualify for a "no cost" exemption following changes to the regulations.

#### **Exemption where a tenant had refused consent to a Green Deal Plan:**

Q8) 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.

Energy UK would support a removal of the consent exemption under the regulations and believe this would be an important signal to landlords that they need to make the relevant improvements to the property to bring it up to the required standard and that they have a responsibility to do so. Energy UK does not consider it appropriate for landlords to pass on the costs of energy efficiency improvements through a Green Deal plan onto their customers. Furthermore, we would argue that retaining the

exemption would be counter to the policy intention of signaling to landlords that they have a duty to ensure that their properties are of a good standard and are fit to be rented out.

**Miscellaneous questions:**

Q9) Do you have any comments on the policy proposals not raised under any of the above questions?

While Energy UK welcomes that Government are looking to amend and strengthen the current regulations, we are concerned that Government has not set out a trajectory and timetable for further improvements to be made to PRS properties. In its Clean Growth Strategy, Government set out its ambition for PRS properties to be upgraded to band C by 2030. This will likely require significant investment in the PRS to not only upgrade F & G rated properties but also for those that already are or will be rated band E or D. We would urge the Government to set out a trajectory that provides long-term policy certainty that will allow landlords to plan and implement the required improvements.

Energy UK would also highlight the need for Government to set out how the enforcement framework around the tightened regulations will work. We are aware that local authorities will now receive the funds obtained through enforcement action. We hope this will lead to local authorities being more active in enforcing the regulations.

Q10a) 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?

Energy UK considers that others are better placed to respond to this question.

Q10b) 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?

Energy UK considers that others are better placed to respond to this question.

Q10c) 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?

Energy UK considers that others are better placed to respond to this question.

**For further information or to discuss our response in more detail please contact Cecilie Ingversen on 020 7747 2969 or at [cecilie.ingversen@energy-uk.org.uk](mailto:cecilie.ingversen@energy-uk.org.uk).**