

Briefing

Minimum energy efficiency standard for private rented homes

June 2011

The Government has announced changes to the Energy Bill to include a new law introducing a legal minimum energy efficiency standard for homes rented from a landlord from 2018. They have also announced the Introduction of measures, from 2016, to allow councils and tenants to demand energy efficiency measures from landlords.

Friends of the Earth, Citizens Advice and the Association for the Conservation of Energy warmly welcome the announcement of the inclusion of legislation in the Energy Bill to create a legal minimum energy efficiency standard for private rented homes. However there are a few important ways in which the current proposal falls short and some vital issues which need to be resolved in the detail of the legislation if it is to be effective and protect vulnerable tenants

“From 2016, any tenant or their representatives asking for their landlord’s consent to make reasonable energy efficiency improvements cannot be refused. From 2018, the rental of the very worst performing properties—those rated F and G—will be banned through a minimum energy efficiency standard.”

Rt Hon Chris Huhne MP, 10 May 2011

Friends of the Earth, ACE and Citizens Advice warmly welcome the Government’s acknowledgment that renting out dangerously cold and draughty homes is unacceptable: landlords will have to improve these properties or face prosecution.

Rented homes include a large number of households in fuel poverty, many are so cold and poorly insulated they are a health-hazard and cost a huge amount to heat. 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 2010 – over 15% of the housing stock. Wales has 140,804 (11% of the housing stock) and Northern Ireland has 81,000 private rented properties (11.5%)ⁱ

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.ⁱⁱ

There are about 680,000 rented properties in England with the worst energy efficiency ratings of F and G. Over forty per cent of households in these worst insulated rented homes live in fuel poverty.ⁱⁱⁱ

Research for Friends of the Earth estimates that tenants living in these homes should save an average of £488 a year off their energy bill when they are improved to meet the proposed minimum standard of Energy Performance Certificate „Band E“.^{iv}

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The Government's announcement is the result of a high profile campaign by a wide coalition of almost 40 health and consumer organisations, green groups, children's charities, councils and grassroots tenants' rights groups, led by Citizens Advice, Friends of the Earth and the Association for the Conservation of Energy.^v

The Fuel Poverty Advisory Group, the Mayor of London, the CBI and the Committee on Climate Change also called for the introduction of an energy efficiency standard for rented homes.

The campaign has huge support in Parliament with 179 MPs from across the political spectrum signing Early Day Motion 653 calling for a minimum energy efficiency standard from 2016.

If it is done properly a new law to ensure that rented homes meet a basic standard of insulation will be a bold and significant step forward for the UK – protecting thousands of vulnerable families from fuel poverty and high energy bills - and bringing health benefits for those tenants currently living in a cold home. It will give certainty to landlords to enable them to plan and invest in their properties for the low-carbon future.

However there are few important ways in which the current proposal falls short and also some vital issues which need to be resolved in the detail of the legislation.

1) The minimum standard should not wait until 2018 to be introduced.

The new minimum standard will have considerable health, climate and consumer benefits.

It is estimated that the proposed minimum energy efficiency standard for rented homes could lift 150,000 households out of fuel poverty,^{vi} saving an average of £488 on the annual energy bill of the homes improved. It will also save 1.87 million tonnes of CO₂ annually.^{vii} In addition it will cut the £145m the NHS in England is estimated to spend annually treating illness due to people living in cold rented homes.^{viii}

All these benefits for consumers, the climate and the taxpayer will be unacceptably delayed if the introduction of the minimum standard is pushed back to 2018 rather than 2016 as 179 MPs have called for. Seven years is an unnecessarily long time to wait for the introduction of the minimum standard. Such a long lead-in could reduce the „announcement effect“ which encourages voluntary action from landlords before the standard comes into force.

It is also worrying that the Government has announced a measure they say is intended to help tackle the high rate of fuel poverty in the rented sector but which does not come into force until two years after the date by which they have a legal obligation (under the Warm Homes & Energy Conservation Act 2000) to end fuel poverty.

It is also unclear why the Government intends to push back by a year – from 2015 to 2016 – the two measures already in the Energy Bill: stopping landlords refusing reasonable energy efficiency requests from local authorities and tenants. These measures should instead be brought forward to 2014 commencing a clear two years after the start of the Green Deal and two years before the date the minimum standard should come into force. This would mark a steady transparent incremental introduction of regulation in the sector, allowing time for landlords and tenants to adjust to each measure in turn.

Alongside legislation, it is also essential that landlords have the financial help, greater incentives and information they need to improve their properties. The Green Deal will help but Government should also encourage landlords to act early by substantially raising the £1500 tax break (the Landlords Energy Saving Allowance) currently available to landlords for energy efficiency measures.

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The legislation could also be made considerably more effective by introducing a register of landlords so that they can be informed about the new standard and directed to information about the Green Deal and any other help that might be available to improve their properties.

Where a landlord has ignored a local authority demand to install energy efficiency measures or fails to meet the minimum standard the local authority should have the choice to carry out the work themselves, charging the landlord, as an alternative to simply issuing a fine with the property remaining unimproved. This will also give councils the flexibility to deal with properties where the landlord is based overseas.

2) The minimum standard should be increased slowly over time.

Raising the minimum standard to Band D by 2020 would ensure that even more households are permanently lifted out of fuel poverty and help to meet the UK's carbon targets. Consumer Focus estimates that setting the minimum standard at Energy Efficiency Band D would mean 300,000 households would be able to afford to keep their rented homes warm who cannot today.^{ix}

The Government recently announced that it would accept the recommendations of the Committee on Climate Change for the level of its fourth carbon budget. This is a welcome step but meeting this target requires the Government to build future-proofed policies with this target in mind

3) Tenants demanding energy efficiency measures from landlords must be given proper legal protection from eviction.

Many tenants will be deterred from making requests of their landlords for fear of being evicted if they do. This is known as "retaliatory eviction" and is made possible by Section 21 of the Housing Act 1988.

Work by Citizens Advice^x and others shows that fear of eviction is a barrier to many tenants asking for improvements and maintenance works in rented properties.

Under the Housing Act 2004 tenants are now protected from retaliatory eviction when the landlord fails to protect their deposit. This principle should extend to tenants who make energy efficiency requests using the legislation in the Energy Bill. Without this the Government would be encouraging tenants to demand energy efficiency measures from landlords without giving them protection from the potential consequences.

In 2008, Grant Shapps, Conservative Housing Spokesman, now Housing Minister, declared his opposition to retaliatory eviction in an interview with Environmental Health News:

"Retaliatory evictions are completely unacceptable and I throw my weight behind EHN's campaign...It is absolutely wrong and inappropriate.

"There are two competing thoughts in my mind. One is the desire not to make it over-complicated because the more legislation you pile on the more expensive it is to be a landlord and ultimately the more expensive it is to rent...Then again we need sufficient protections in place to make sure retaliatory evictions do not happen."^{xi}

In 2008 one hundred and one MPs, including Vince Cable, Lynne Featherstone, Andrew Stunell and Danny Alexander, signed Early Day Motion 727 expressing concern that some landlords use provisions under section 21 of the Housing Act 1988 to evict their tenants to avoid meeting their responsibility to carry out repairs and essential maintenance. The Motion went on to urge the Government to take steps to prevent retaliatory eviction by placing restrictions on the use of Section 21.

Conclusion

Friends of the Earth, ACE and Citizens Advice warmly welcome the announcement of the inclusion of legislation in the Energy Bill to create a legal minimum energy efficiency standard for private rented homes.

However the proposal falls short in two important ways and should be amended to:

Introduce the minimum standard from 2016 rather than 2018 as is currently planned. Ensure the Secretary of State raises the minimum standard progressively over time. Bring forward from 2016 to 2014 the introduction of the Government's existing measures enabling tenants and local authorities to make reasonable energy efficiency requests of landlords.

The Government should also include the following measures as they draft the legislation:

- Give local authorities, where a landlord fails to act, the choice of carrying out the improvement works themselves, charging the landlord, as an alternative to a fine.
- 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 protection against retaliatory eviction when they make energy efficiency requests of landlords under the legislation.

With these elements a strong minimum energy efficiency standard for rented homes from 2016 would be a significant advance in the fight against cold homes. However it will definitely not be „job done" on fuel poverty. Latest Government figures show there are 4.5 million households in the UK that can't afford to heat their home.

Millions will continue to live in homes so cold that make them ill and cost a fortune to heat. It is estimated there are 1.3m children living in homes that are so difficult to keep warm they are a health hazard.^{xii}

That is why it is vital that, as well as a strong minimum energy efficiency standard, the Government includes the Warm Homes Amendment to the Energy Bill to ensure it produces a plan or strategy for the policies which will see sufficient homes insulated and made energy efficient in order to end fuel poverty and meet carbon targets.

ⁱ English Housing Survey, Headline Report 2009-10, Living in Wales 2008 and *Building Sound Foundation*, Department for Social Development.

ⁱⁱ English Housing Survey, Headline Report 2009-10.

ⁱⁱⁱ Page 54, Energy Bill: Green Deal Impact Assessment, DECC, 2010

^{iv} Which Way Up – Advance Headline Findings, Energy Saving Trust, Feb 2011

^v 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 Council, Camden Council, Camden Federation of Private Tenants, Centre for Sustainable Energy, Chartered Institute of Environmental Health, 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, St Helens Community Empowerment Network, Scarborough Private Tenants Rights Group, Stop Climate Chaos, Town and Country Planning Association, UK Business Council for Sustainable Energy, UK Public Health Association, UNISON, WWF – UK, 38 Degrees.

^{vi} <http://www.consumerfocus.org.uk/files/2010/12/A-private-green-deal.pdf>

^{vii} Which Way Up – Advance Headline Findings, Energy Saving Trust, Feb 2011

^{viii} The health costs of cold dwellings, BRE and CIEH, April 2011

^{ix} <http://www.consumerfocus.org.uk/files/2010/12/A-private-green-deal.pdf>

^x http://www.citizensadvice.org.uk/press_20070613

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^{xi} Grant Shapps, Environmental health News, 10th October 2008,

<http://www.cieh.org/ehn/ehn3.aspx?id=15408>

^{xii} Personal communication with CLG based on Parliamentary Question 35684 to Greg Barker MP, 25 Jan 2011.