

LGA response to DECC consultation: Private Rented Sector Energy Efficiency Regulations (Domestic)

The LGA is responding to proposed regulations from DECC on private rented sector housing. The regulations will introduce:

- A tenants right to request consent to energy efficiency improvements, to be in force by 1 April 2016
- A minimum energy efficiency standard for properties in the domestic private rented sector, to be in force by 1 April 2018
- Local authorities will be responsible for enforcing the new requirements,

Summary

A simple, clear minimum energy efficiency standard is welcome as an additional tool to improve conditions in privately rented housing. Homes in this tenure have lower levels of energy efficiency than other parts of the housing stock. While exemptions are a proper part of this process Houses in Multiple Occupation (HMOs) should be in the scope of the regulations.

Activity to raise awareness and communicate the changes to tenants and landlords is critical to the success of the measures. This will require sustained work with landlords, letting agents and tenants groups and must be properly resourced. This is explored further in our response.

The introduction of a right for tenants to request improvements and a minimum energy efficiency standard are an opportunity to raise awareness of the options available to fund improvements and could help to tackle fuel poverty. The Green Deal and ECO will be a resource to do this and if used appropriately will not increase costs for tenants and landlords. However, the Green Deal and Green Deal finance will not be appropriate for all households and this is likely to leave a funding gap for some tenants and landlords and create a missed opportunity to treat some of the coldest and hardest to treat properties.

The Energy Act makes local authorities responsible for enforcing the measures set out in this consultation. At a time of constricted budgets within local authorities it is essential that funding is made available for authorities to undertake this role. The LGA would be happy to discuss the detail of the new burden placed upon local government.

This consultation also represents an opportunity for government to take action to ensure that the wider regulatory framework is fit for purpose to meet the expectations of tenants. One outcome from these measures may be an increase in complaints concerning excessive levels of cold as tenants become increasingly aware of their rights. It is helpful that the government has listened to local authorities and proposed aligning the new regulations with existing enforcement tools – in particular the Housing Health and Safety Rating System (HHSRS). However, the wider legal and regulatory framework covering the private rented sector has been built up over a number of years. It is confusing and the new regulations will be overlaid on a framework that is

already complex and burdensome for councils. As such this consultation should be accompanied by a wider review of the framework. The introduction of new regulations makes the LGA's call for streamlining the system even more pressing.

Reducing fuel poverty in the private rented sector

We share the governments concern that 1 in 5 households in the private rented sector are estimated to be in fuel poverty. The least efficient homes are also the hardest and most expensive to treat, such as rural properties with solid walls and homes that are not connected to the gas network. The reduction in support available through the Energy Company Obligation (ECO) will make this task more difficult and the LGA is concerned that the measures will mean that those homes that are coldest and most expensive to treat will not be tackled by energy companies.

The measures are based on the principle that there will be no net or upfront costs for landlords in bringing their properties up to standard. The government identifies a range of funding sources for landlords including Green Deal Finance, ECO, contributions from tenants and funding from local authorities. The Green Deal and ECO will be a resource to do this and if used appropriately will not increase costs for tenants and landlords. However, the Green Deal and Green Deal finance will not be appropriate for all households and this is likely to leave a funding gap for some tenants and landlords and create a missed opportunity to treat some of the coldest and hardest to treat properties. Given the financial pressures facing local authorities it is also likely that in many cases authorities will not be able to provide grant funding.

Enforcement

The Energy Act makes local authorities responsible for enforcing the measures set out in this consultation. The Impact Assessment assumes minimal costs for local authorities as this role is expected to be aligned with existing duties such as those requiring the enforcement of energy performance certificates in the private rented sector.

At a time of constricted budgets within local authorities it is essential that funding is made available for authorities to undertake this role. The additional enforcement required by the introduction of the regulation will be a burden on local authorities.

For example, authorities will be required to maintain and check exemptions for landlords before taking any action which is likely to be time consuming and require evidence to be collected from tenants and third parties such as freeholders. The consultation paper invites feedback on certification of exceptions and the role of third parties in endorsing them. We agree that this would be a useful additional to the process and suggest that landlord accreditation schemes would be well placed to act in the third party role. This should be a voluntary role so that arrangements can be flexed to meet local circumstances.

Further costs will be added by the need to learn new processes and in some case to provide training. We would also expect the introduction of the regulations to lead to a high volume of enforcement activity through the Housing Health and Safety Ratings System. We have previously highlighted the practical problems with using the HHSRS and recommend that these are addressed by DCLG¹.

We are pleased that DECC have responded to the concerns of local authorities that the new regulations would clash with existing enforcement tools, particularly the Housing Health and Rating System (HHSRS). We agree that enforcement through the HHSRS must take precedent over the new regulations. The flexibility for councils to position enforcement activity either within trading standards or environmental health/private housing is also correct. This could go further and revisit the original EPC enforcement powers awarded to trading standards to allow greater flexibility for enforcement in two tier areas.

The legal and regulatory framework covering the private rented sector has been built up over a number of years. It is confusing and the new regulations will be overlaid on a framework that is already complex and burdensome for councils and landlords. Our response to DCLG's discussion paper on conditions in the private rented sector highlighted the practical problems with enforcing the current set of regulations. The introduction of new regulations makes the LGA's call for streamlining the system even more pressing.

Breadth and impact of the regulations

Further investment will be required beyond enforcement. The LGA would like to see the government invest in significant awareness raising and support and incentives for landlords well before the introduction of the minimum standards. Local authorities will also support this through landlord forums and accreditation schemes.

The current regulations set out a range of exemptions to the regulations. In particular Houses of Multiple Occupation are currently outside of the scope of the regulations. Housing statistical returns from local authorities estimated that there are 426,834 HMOs in England². HMOs make up around 10%³ of the private rented sector with the highest numbers estimated in London, Bristol and Manchester. Houses of Multiple Occupation represent a significant proportion of the total number of rented properties and should be included in the regulations.

¹ Including LGA written evidence to the APPG on the private rented sector, 2013
http://www.local.gov.uk/c/document_library/get_file?uuid=9a98e4ad-3369-448a-b10f-f97c1b6a29f1&groupId=10180

² DCLG data resources 2011. Figures based on 2004 Housing Act definition of an HMO
<http://data.gov.uk/dataset/estimated-total-number-of-houses-in-multiple-occupation-in-area>

³ DCLG Table 104 on dwelling stock recorded 4,286,000 privately recorded dwellings in 2012
<https://www.gov.uk/government/statistical-data-sets/live-tables-on-dwelling-stock-including-vacants>