



## Energy efficiency and condition standards in private rented housing A Scotland's Energy Efficiency Programme Consultation

### RESPONDENT INFORMATION FORM

**Please Note** this form **must** be completed and returned with your response.

Are you responding as an individual or an organisation?

- Individual  
 Organisation

Full name or organisation's name

ARLA Propertymark

Phone number

01926 417 777

Address

Arbon House, 6 Tournament Court, Edgehill Drive, Warwick

Postcode

CV34 6LG

Email

[davidcox@arla.co.uk](mailto:davidcox@arla.co.uk)

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

- Publish response with name  
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The option 'Publish response only (without name)' is available for individual respondents only. If this option is selected, the organisation name will still be published.

If you choose the option 'Do not publish response', your organisation name may still be listed as having responded to the consultation in, for example, the analysis report.

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

- Yes  
 No

## QUESTIONNAIRE

**Question 1.1** Do you think that only tenancies covered by the repairing standard should have to meet minimum energy efficiency standards?

X Yes     No     Don't know

If not, what other privately rented tenancies do you think should be included?

**Question 1.2** We propose to link the minimum energy efficiency standard to the energy performance certificate as we think this is the most suitable mechanism. Do you agree?

X Yes     No     Don't know

If you answered no:

**(a)** please explain why; and

**(b)** please set out your suggestions for how we could set the standard.

**Question 1.3 (a)** Do you think there are elements of the energy performance certificate assessment that would need to be altered to support a minimum energy efficiency standard?

Yes     No     Don't know

**(b)** If so, what areas do you think would need to be changed and what evidence can you offer to support your view?

**Question 1.4** Do you think that the minimum energy efficiency standard for private rented properties should be set at an energy efficiency rating of E in the first instance?

X Yes     No     Don't know

Please explain your answer.

A rating of E gives enough scope for the worst properties to be improved whilst allowing time for the majority of landlords with properties in the private rented sector to prepare for further improvements.

**Question 1.5** Do you think that the minimum energy efficiency standard should first of all apply only to those properties where there is a change in tenancy, and after that to all private rented properties?

X Yes     No     Don't know

Please explain your answer.

A phased approach will provide landlords with time to prepare and ensure that the work can be carried out.

**Question 1.6** Do you think that 1 April 2019 is the right date to start applying the minimum standard of E when there is a change in tenancy?

Yes    X No     Don't know

Please explain your answer.

A longer lead in time, less than the proposed 18 months will be required in order to ensure the message is well communicated to landlords and they have sufficient time to prepare.

**Question 1.7** Do you think that 31 March 2022 is the right date by which all privately rented properties would need to meet the minimum standard?

X Yes     No     Don't know

Please explain your answer.

But only for those properties that have had a change of tenancy in that period as per our response to question 1.5

**Question 1.8** Where a property has an EPC of F or G at the point of rental:

**(a)** do you think that we should require the owner to carry out a minimum standards assessment before renting the property out?

X Yes     No     Don't know

**(b)** do you think that we should allow a period of six months from the date of the minimum standards assessment to carry out the improvement identified by the assessment?

Yes    X No     Don't know

**(c)** do you think that the owner should have to provide a post-improvement EPC to prove that the necessary improvements have been made?

Yes    X No     Don't know

Please explain your answers.

For the worst energy rated properties we believe that an energy efficiency plan should be put in place to help improve the energy efficiency of these properties. This should include assessing the costs and benefits of improving energy efficiency and weighing these against options to market the property and/or provide an opportunity to re-negotiate the tenancy agreement. However, minimum standard assessment is a more in depth report and as a result will be expensive. Therefore the time period for improvements should be consistent with the Scottish Government's requirement for a standard of 'E' by 2019 and 'D' by 2022. Furthermore, a post-improvement EPC should only be necessary when there is a change in tenancy and where possible the Scottish Government should be supporting these landlords with funding initiatives.

**Question 1.9** We think that all privately rented properties should have to meet the minimum standard by 31 March 2022. Where a property does not have an EPC of E:

(a) do you think that we should require the owner to carry out a minimum standards assessment by 30 September 2021 (the "backstop assessment" date)?

X Yes  No  Don't know

(b) do you think that we should allow a period of six months from the backstop assessment date to carry out the improvement identified by the minimum standards assessment?

X Yes  No  Don't know

(c) do you think that the owner should have to provide a post-improvement EPC to prove that the necessary improvements have been made?

Yes X No  Don't know

Please explain your answers.

Consideration should be given to current tenants who are content with the property condition and allowances afforded for those who specifically state they do not wish any works to be carried out during the terms of their tenancy.

In order to reduce costs and administration we believe that a post-improvement EPC should only be required at the change of a tenancy.

**Question 1.10** We are proposing that there should be a new minimum standards assessment based on the EPC methodology that will tell an owner how to bring their property up to standard. Please tell us your views on the following elements of that proposal:

(a) that the assessment would use EPC methodology, since that is how we are proposing that the standard is set.

Please explain your answer, and provide alternatives where applicable.

We are content that EPC methodology is used.

**(b)** that the assessment would work out the lowest cost technically appropriate package of measures to bring the property up to standard, based on the average of costs used in EPC methodology;

Please explain your answer, and provide alternatives where applicable.

Yes we are in agreement.

**(c)** that the assessment would set out the package to meet an energy efficiency rating of E, and separately of D, from the property's current rating;

Please explain your answer, and provide alternatives where applicable.

The requirement for energy efficiency improvements must be consistent with the timescales as set out in the legislation and post-improvements EPC's relevant for all new tenancies.

**(d)** that the assessment would include a calculation of the property's EPC rating before identifying the appropriate measures, where there is no EPC under the current version of the EPC methodology;

Please explain your answer, and provide alternatives where applicable.

Yes we are in agreement.

**(e)** that the assessment could include measures which are not currently in the EPC assessment, but which can be measured in the RdSAP methodology. If you agree with this proposal, please provide suggestions for what these measures might be, and what costs should be used for these;

Please explain your answer, and provide alternatives where applicable.

We do not have any further information to answer this question.

**(f)** that the assessment would cost in the region of £120-£160.

Please explain your answer, and provide alternatives where applicable.

We believe that it should cost less for the minimum standards assessment to take

place or there is an opportunity for landlords to claim the money back should they complete the work within a minimum time period.

**Question 1.11** Do you think that the assessment should only recommend a package of measures which improves both the energy efficiency and the environmental impact scores of the property?

X Yes  No  Don't know

Please explain your answer.

**Question 1.12** We propose to develop a new role of minimum standards assessor.

**(a)** Do you think that a new role of a minimum standards assessor is needed?

Yes X No  Don't know

Please explain your answer.

The credentials of the current assessors should be more than adequate. We would consider it difficult for a minimum standards assessor to accurately quote for any works that would be required in order for the property to meet the relevant rating and this should be a job for the applicable tradesperson.

**(b)** If so, what additional skills beyond those of an EPC assessor would be needed?

Please explain your answer.

**(c)** How long do you think it would take to get this in place?

Please explain your answer.

**(d)** Who do you think should maintain the register of assessors?

Please explain your answer.

If this was introduced it should be regulated by the Scottish Government

**Question 1.13** What are your views on the existing advice and information provision provided by Scottish Government for landlords and tenants? What changes, if any, do you think are required?

Greater awareness should be made available to both landlords and tenants  
Landlords on the benefits of improving the property and how this will affect the property value, energy saving costs which will all help with tenant retention

Tenants on their life style whilst occupying the property and better awareness on their use of energy.

**Question 1.14** What financial or fiscal incentives support - such as grant and loans, tax or otherwise - would you find most useful to help to accelerate the installation of energy efficiency measures and help landlords meet any proposed standards?

Without financial assistance schemes upgrading the energy efficiency of a property is out now of the reach of many landlords. It should be standard practice to refund the cost (estimated to be between £60-120) of the EPC when landlords act upon one of the recommended 'lower cost' improvement measures. The Scottish Government need to develop a scheme that incentivises landlords to invest in improvements to make their property more energy efficient; for instance, tax benefits and interest-free loans to carry out required work. Funding options could also be staggered by a property's build date to incentivise landlords with older properties to seek funding first. Grant funding must be available for those properties and tenants in need of it most.

**Question 1.15** What impact do you think the introduction of minimum standards would have on local supply chains for energy efficiency works?

The Scottish Government must ensure that there are adequate numbers of appropriately trained industry workers available to carry out the work in the timescales that the legislation sets out.

Any considerations about raising the minimum standard to D should be put on hold until all properties have met the E banding.

**Question 1.16** Do you think it would be helpful for assessors and installers to have a traditional buildings qualification that raises awareness and understanding of energy efficiency measures for older, traditional or vulnerable buildings built prior to 1919?

X Yes  No  Don't know

Please explain your answer.

Yes, we do think it be helpful for assessors and installers to have a traditional buildings qualification for older, traditional and vulnerable properties because restrictions on listed buildings for instance mean that double glazing cannot be installed.

**Question 1.17** Do you think there are additional consumer protection safeguards the Scottish Government should consider for the private rented sector?

Yes  No  Don't know

Please explain your answer.

**Question 1.18** Do you think that local authorities should be responsible for enforcing the standard?

Yes  No  Don't know

If not, why not, and what alternative would you suggest?

**Question 1.19** Do you think that the penalty for not complying with the standard should be a civil fine against the owner?

Yes  No  Don't know

If not, why not, and what alternative would you suggest?

**Question 1.20** We have proposed the following fines:

- £500 for failing to have a minimum standards assessment
- £1000 for failing to carry out the works within six months of the assessment.

Do you think these proposed fines are appropriate and proportionate?

Yes  No  Don't know

Please explain your answer.



**Question 1.21** We have proposed some specific situations where owners should have longer than six months to bring their properties up to the minimum standard. Do you have any comments on these proposed situations in relation to:

- (a) the proposed reasons?
- (b) what evidence you think the landlord would need to provide for each?
- (c) should there be other situations, such as the completion of condition works?

Please explain your answers.

We do not have any further comments.

**Question 1.22** We have proposed some situations where we think owners should not be penalised for not carrying out the full improvement identified by the minimum standards assessment. Do you have any comments in these in relation to:

- (a) technical reasons
- (b) legal reasons
- (c) excessive cost reasons
- (d) the proposal that this would remain valid for a period of not more than 5 years?

Please explain your answers.

We do not have any further comments.

**Question 1.23** For local authorities to be able to enforce and monitor the proposed minimum standards:

- (a) what processes do you think local authorities will need to have in place for
  - (i) normal compliance
  - (ii) monitoring extended periods for compliance
  - (iii) monitoring situations where not all of the improvements are made?

Please explain your answers.

If local authorities wish to introduce and enforce an EPC register they must be prepared to bear the costs of a landlords updated EPC once improvements have been made to the property.

In practice, if the property does not meet the required standard and works are suggested to be carried out there is no requirement for a further EPC once the works are complete.

This would mean the register would incorrectly show the energy rating of the property and the local authority would be pursuing complaint landlords.

**(b)** what implications would this have for local authorities?

Please explain your answer.

There will undoubtedly be a cost for monitoring and compliance of the register with additional staff required.

**Question 1.24** What opportunities do you think there are to combine enforcement of minimum energy efficiency standards with other action in the private rented sector?

Please explain your answer.

It would seem this could be an opportunity to work this in with landlord registration.

**Question 1.25** Do you think that we should set out now the minimum energy efficiency standard after 2022?

Yes    No    Don't know

Please explain your answer.

We would like to see the focus of the Government to make sure landlords and occupiers are aware of the importance of all properties making band E in the first instance.

Including the practicalities as ensuring there are sufficient tradespersons to carry out all required works with the Government being made aware of the full costs incurred by landlords in meeting the standard.

It will also allow the Government to calculate how much grant funding has been issued.

**Question 1.26** Do you think that the next standard should be to meet an EPC of D at point of rental from 1 April 2022, and in all privately rented properties by 31 March 2025?

Yes    No    Don't know

Please explain your answer.

The focus should be on a minimum standard of properties at band E at present.

**Question 1.27** When increasing the standard to EPC D, we propose that the cost cap will be £5000 for properties with an EPC of E, and £10,000 for properties with an EPC of F or G (which would include any spend made to improve the property

previously following a minimum standards assessment). Please tell us your views about this proposed cap.

As per our answer to 1.26 the focus should be on a minimum standard of properties at band E at present.

**Question 1.28** What are your views on the provisions in general for exceptions to the D standard, including that a property which has an exception from meeting E should not automatically be excepted from meeting D?

As per our answer to 1.26 the focus should be on a minimum standard of properties at band E at present.

**Question 1.29** What do you think the main benefits would be of introducing a minimum standard higher than D?

Please explain your answer.

We do not have any further information to add.

**Question 1.30** We think that any increase in the standard beyond D would bring new challenges in the form of cost, technical considerations and alignment with the Climate Change Plan.

**(a)** Are there other new challenges you are aware of?

**(b)** How do you think we could address these challenges if we raised the minimum standard beyond energy efficiency rating of D?

Please explain your answers.

All factors would have to be taken in to account before consideration of raising the rating above D such as current and future fuel sources as well as current and future heating equipment required.

**Question 1.31** Please tell us about any potential economic or regulatory impacts, either positive or negative, that you feel the legislative proposals in Part 1 of this consultation document may have, particularly on businesses (including landlords).

If there is an expensive burden on landlords who have to ensure their properties reach the relevant rating then this could leave many to depart the sector and

decreasing the housing stock available for rent.

**Question 1.32** In relation to the interim Equality Impact Assessment, please tell us about any potential impacts, either positive or negative, that you feel the proposals in Part 1 of this consultation document may have on any groups of people with protected characteristics. We would particularly welcome comments from representative organisations and charities that work with groups of people with protected characteristics.

We do not have any further information to add.

**Question 1.33** To help inform the development of the Child Rights and Wellbeing Impact Assessment, please tell us about any potential impacts, either positive or negative, that you feel the proposals in Part 1 of this consultation document may have on children's rights and welfare. We would particularly welcome comments from groups or charities that work with young people.

We do not have any further information to add.

**Question 1.34** Do you have any suggestions for the monitoring and review framework?

If any EPC register is being created and used as part of the monitoring and compliance framework it is essential that it is kept up to date.

**Question 1.35** Do you have any other comments on the proposals set out in Part 1 of this consultation?

We do not have any further comments on the proposals set out in Part 1 of this consultation.

## **Questions for Part 2**

**Question 2.1** Do you think that ensuring a house complies with the tolerable standard should be part of a private landlord's duties under the repairing standard?

X Yes  No  Don't know

Please explain your answer.

Considering that the Scottish House Condition Survey estimates that 5% of private rented homes were below tolerable standard we do not see a problem in including

the tolerable standard within a private landlord's duties under the repairing standard.

**Question 2.2** Do you think that private rented housing should meet a minimum standard for safe kitchens?

Yes  No  Don't know

**Question 2.3** If this is introduced, what exceptions (if any) do you think would be needed?

ARLA Propertymark wants to see tenants living in safe and habitable properties. However, we would make the point that social housing is designed to a specific specification whereas the private rented sector comprises a range of properties without that particular specification. Therefore we would like to see further details and evidence from the Scottish Government on the research it has done around the age, condition and size of properties in the private rented sector before introducing a one-size fits all policy.

**Question 2.4** Do you think that private rented housing should have a minimum standard for food storage space?

Yes  No  Don't know

**Question 2.5** If this is introduced, what exceptions (if any) do you think would be needed?

In principle yes we think that private rented housing should have a minimum standard for food storage. However, the sector is built on flexibility and therefore adapting a property to suit a family of four may then take up space that an individual or couple may not need and vice-versa could subsequently affect the viability of certain properties being rented out on a continuous basis.

**Question 2.6** Do you think that private rented housing should have a fixed heating system?

Yes  No  Don't know

**Question 2.7** If this is introduced, what exceptions (if any) do you think would be needed?

To help landlords install a fixed heating system the Scottish Government should introduce funding options including interest free loans.

However consideration should be afforded to rural properties for example which may not have easy access to fuel supplies

**Question 2.8** Do you think that private rented housing should be free of lead pipes from the boundary stopcock to the kitchen tap?

X Yes  No  Don't know

**Question 2.9** If it is not possible to establish whether or not there are any lead pipes from the boundary stopcock to the kitchen tap, do you think a water quality test should be carried out before the tenancy commences?

Yes  No X Don't know

Before introducing such tests the Scottish Government need to outline who will conduct the test, how much they will cost, when they will have to be conducted, what documentation will be needed and who this information needs to be provided to.

**Question 2.10** Do you think that private rented housing should meet a minimum standard for **(a)** safe access and **(b)** safe use of common facilities provided with the tenancy?

X Yes  No  Don't know

**Question 2.11** If this is introduced, what exceptions (if any) do you think would be needed?

We want to see safe properties across the private rented sector. However, the Scottish Government must take into consideration the varying sizes and age of property in the sector before comparing it like-for-like with purpose design social rented housing.

**Question 2.12** Do you think that private rented housing should meet a minimum standard for safe and secure common doors?

X Yes  No  Don't know

ARLA Propertymark believes that landlords have a duty of care to ensure the property is safe and secure for all tenants. It is our view that locks and lights are the two main things that make life difficult for burglars.

We are supportive of the Scottish Fire and Rescue Service recommendation that thumb-turn locks are fitted to common doors in all above ground flatted properties to make it easier for residents to exit.

Consideration must be afforded to landlords for the costs of works to any common parts. These parts are common with other proprietors and therefore legally costs are shared. A landlord should not be held solely liable for the costs of works to common parts.

**Question 2.13** Do you think that baths and bidets in private rented housing should be fitted with thermostatic mixing valves (or similar measures)?

Yes  No  Don't know

**Question 2.14** Do you think that electrical installations in private rented housing should be fitted with residual current devices?

Yes  No  Don't know

ARLA Propertymark was a member of the Department for Communities and Local Government Working Group which recently looked at mandating electrical safety checks in all private rented property in England. The Working Group was made up of landlord representatives, the Fire Service, Electrical Safety First, Shelter and local councils. We were informed that residual current devices are an extra protection but they need to be tested every three months (according to manufactures instructions) and there is no guarantee that they will work.

Furthermore, under the current rules in Scotland residual current devices do need to be installed if required by the electrical installation inspection. We don't believe that cost of purchasing and installing a residual current device is an issue but there would seem to be difficulty in the practicality of ensuring they are tested and safe amongst existing legislative requirements in this area. Therefore until further evidence is produced it may be best to keep them as a condition of the inspection and considered good practice.

**Question 2.15** A qualified specialist must be employed for any work that involves removing or disturbing asbestos. Asbestos surveys ensure that a landlord knows when a qualified specialist must be used. Do you think that asbestos surveys should be carried out in private rented housing?

Yes  No  Don't know

**Question 2.16** Do you think that the repairing standard should be amended to include a duty on landlords of private rented properties with a private water supply, covering **(a)** risk assessment of the supply, and **(b)** annual water quality testing?

X Yes  No  Don't know

**Question 2.17** Do you think that the repairing standard should be amended to include capacity for a fridge/freezer in order to ensure people are able to store food?

Yes X No  Don't know

### **Flexibility of the sector Furnished or unfurnished**

**Question 2.18** Do you think that private landlords should be required to provide cookers, fridges and freezers?

Yes X No  Don't know

Might push up rents

**Question 2.19** Do you think that the repairing standard should be amended to include a specific reference to safety of heating systems using other fuels in addition to gas and electricity?

X Yes  No  Don't know

### **What are most common fuels of heating systems.**

**Question 2.20** Do you think that the repairing standard should be amended to include flooring materials to reduce sound transmitted to other homes?

Yes X No  Don't know

**Question 2.21** What (if any) other measures to reduce sound transmission should be considered?

We do not have any further information to add.

**Question 2.22** Do you think anything else should be added to the repairing standard?

We do not have any further information to add.

**Question 2.23** Do you think that agricultural tenancies, rented crofts and small landholdings should be subject to the repairing standard?

Yes  No X Don't know

**Question 2.24** Do you think that we need to clarify whether holiday lets (or certain types of holiday lets) should be subject to the repairing standard?



X Yes  No  Don't know

**Question 2.25** Do you think that there should be a lead-in time of at least 5 years for landlords to comply with any changes to the repairing standard?

X Yes  No  Don't know

**Question 2.26** Do you think that different lead-in times for different measures would cause any difficulties for **(a)** landlords or **(b)** tenants? Please tell us what difficulties you think could be caused.

In older properties and those that will require a lot of work, by introducing different lead-in times this will allow landlords to plan better financially and letting agents to adapt their business practices accordingly.

**Question 2.27** Do you think that the timetable for changes should be linked to wider government milestones on climate change?

X Yes  No  Don't know

**Question 2.28** Are the current enforcement routes via the housing tribunal appropriate for the proposed new measures in the repairing standard?

X Yes  No  Don't know

We do think that the current enforcement routes via the housing tribunal are appropriate for the proposed new measures in the repairing standard. However, in August 2016 it was reported in the media that a number of de-registered landlords were continuing to work in Glasgow despite being struck off. Considering that an outstanding repairing standard enforcement order (RSEO) is also noted in the landlord register and taken into account in the application of the "fit and proper person" test, it would appear that the landlord registration scheme in Scotland is not doing what it is meant to be and more resources need to be put into enforcing the rules.

**Question 2.29** Do you think that rules on exceptional circumstances (where landlords are not required to comply with the repairing standard) should be revised to ensure situations such as technically infeasible work, unreasonable costs and withheld consents are covered?

X Yes  No  Don't know

**Question 2.30** Do you have any other views on the measures proposed in relation to:

- (a) costs
- (b) timing
- (c) enforcement?

We do not have any other views on the measures proposed in relation to costs, timing and enforcement other than what we have already stated.

**Question 2.31** Please tell us about any potential economic or regulatory impacts, either positive or negative, that you feel the legislative proposals in Part 2 of this consultation document may have, particularly on businesses.

We do not have any further information to add.

**Question 2.32** In relation to the interim Equality Impact Assessment, please tell us about any potential impacts, either positive or negative, that you feel the proposals in Part 2 of this consultation document may have on any groups of people with protected characteristics. We would particularly welcome comments from representative organisations and charities that work with groups of people with protected characteristics.

We do not have any further information to add.

**Question 2.33** To help inform the development of the Child Rights and Wellbeing Impact Assessment, please tell us about any potential impacts, either positive or negative, that you feel the proposals in Part 2 of this consultation document may have on children's rights and welfare. We would particularly welcome comments from groups or charities that work with young people.

We do not have any further information to add.