

Domestic Private Rented Sector Minimum Level of Energy Efficiency

Consultation to amend *The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015* in relation to domestic properties to remove the “no cost to the landlord” principle

Response from ARLA Propertymark

March 2018

Background

1. ARLA Propertymark is the UK’s foremost professional and regulatory body for letting agents; representing over 9,000 members. ARLA Propertymark agents are professionals working at all levels of letting agency, from business owners to office employees.
2. Our members operate to professional standards far higher than the law demands, hold Client Money Protection and we campaign for greater regulation in this growing and increasingly important sector of the property market. By using an ARLA Propertymark agent, consumers have the peace of mind that they are protected, and their money is safe.

Consultation Questions

1. 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.

3. ARLA Propertymark does not agree with the policy proposal to introduce a landlord contribution element where funding is unavailable to ensure that improvements to Band F and G properties can be delivered. The private rented sector has received significantly less support in terms of funding for energy efficiency improvements when compared to the social rented sector. Billions of pounds have been given in grant aid to social landlords whereas private landlords have barely benefited from any funding. This is because, Energy Company Obligation (ECO) Funding is more difficult and costly to implement when applied to the private rented sector. For example, one social housing provider with 1,000 units, compared to 1,000 private rented sector landlords with one unit, is a more cost-effective way for ECO-companies to deliver their

obligation. To balance out the funding that has been made available, funding to social housing should now be stopped, and all future funding should be dedicated to supporting the private rented sector.

2a. Do you agree that a cost cap for improving sub-standard domestic private rented property should be set at £2,500?

4. No, we do not agree that a cost cap for improving sub-standard domestic private rented property should be at £2,500. The cost cap should be much lower because a higher cost cap will further increase the financial burdens on landlords who will pass the costs onto tenants through higher rents.
5. Furthermore, we are concerned that the Government is moving away from the principle under the Energy Act 2011 that there should be “no upfront costs” to private landlords. To this end, the Government should be doing more to support private landlords by reintroducing the Landlord’s Energy Saving Allowance (LESA) and extending it to include anything contained within the Recommendations Report of an Energy Performance Certificate (EPC) to help landlords with the cost of energy efficiency improvements to their properties.¹
6. Using the Government’s cost cap proposal and associated utility bill savings as outlined in Table 3 on page 35 of the consultation document, if landlords amortise the improvement costs over five years, tenants will be worse off annually in accordance with the table below:

| Option | Cost cap amortised over five years | Rent increase per year | Utility saving | Amount tenant is worse off annually |
|--------|------------------------------------|------------------------|----------------|-------------------------------------|
| One | £1,000 | £200 | £85 | £115 |
| Two | £2,500 | £500 | £95 | £405 |

7. Therefore, even in option one, tenants will be £115 worse off per year. Should landlords amortise these costs over 10 years, tenants will be worse off in accordance with the table below:

¹ <http://www.arla.co.uk/media/1046348/autumn-budget-2017-representation-to-hm-treasury-from-arla-propertymark.pdf>

| Option | Cost cap amortised over 10 years | Rent increase per year | Utility saving | Amount tenant is worse off annually |
|--------|----------------------------------|------------------------|----------------|-------------------------------------|
| A | £1,000 | £100 | £85 | £15 |
| B | £2,500 | £250 | £95 | £155 |

8. In either scenario, the Government’s proposals will result in tenants being worse off because of these proposals. The Government’s stated aim is to alleviate fuel poverty, but it is clear from the tables above that neither option will have this affect.

2b. Do you agree that a cost cap for improving sub-standard domestic private rented property should be set inclusive of VAT?

9. Yes, we agree that a cost cap for improving sub-standard domestic private rented property should be set inclusive of VAT.

3. Do you agree that a cost cap should not take account of spending on energy efficiency improvements incurred prior to 1 October 2017?

10. Yes, we agree that a cost cap should not take account of spending on energy efficiency improvements incurred prior to 1 October 2017.

4. 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?

11. Yes, we 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, Supplier Obligation Funding, or energy efficiency grant funding from a Local Authority or other third parties.

5. 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.

12. No, we believe it is 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. A regulatory duty is necessary because it will allow landlords to work out the annual savings of the energy efficiency improvements. Landlords will then be able to communicate the accurate amount to tenants, who will be paying extra through rent to cover the meagre savings on their bills.

6. 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.

13. Yes, we believe that where a landlord is intending to register a 'high cost' exemption they should be required to provide three quotes for the cost of purchasing and installing the measures.

7. 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?

14. No, we do not agree with the proposal to limit the validity of any 'no cost to the landlord' exemptions. We believe it is unfair for the Government to continue to change the rules, especially when you consider the length of time it takes to carry out energy efficiency work.

15. ARLA Propertymark suggests that any 'no cost to the landlord' exemptions registered between October 2017 and April 2019 should need upgrading at the issuing of a new tenancy or the 2020 back-stop date. This would reduce the disruption to tenants by preventing work having to be carried out half-way through a tenancy. Importantly, it would also reduce the risk of a tenant refusing consent. Private landlords need clear information and advice from the Government along with a consistent approach that allows them to implement the rules.

8. 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?

16. We believe that the consent exemption under Regulation 31(1)(a)(ii) should be retained. If the consent exemption is not retained landlords could be forced to pay for energy efficiency improvements (which they could get at 'no cost' through the Green

Deal) if tenants refuse consent. Removing this exemption would give tenants a financial incentive to refuse consent and run contrary to the spirit of the Energy Act 2011. Therefore, the consent exemption should be retained to ensure that there are still “no upfront costs” options available to private landlords.

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

17. No, we do not have any further comments on the policy proposals.

10a. 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?

10b. 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?

10c. 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?

18. Overall the impact assessment is very poor and totally disregards key issues. It uses evidence which is woefully out of date and overall demonstrates a complete lack of understanding from Government of how the private rented sector operates and the actual implications of these proposals.

19. A lot of the information in the Impact Assessment is not up to date and evidence about the private rented sector is 15 years old. This is highlighted in Annex D, firstly at paragraph 6 and secondly at paragraph 8. For instance, paragraph 6 highlights evidence from 2003 and the information at paragraph 8 does not reflect the changes to allowable costs for landlords which have already been introduced.

20. Within the section 6.2 ‘Small and Micro Business Assessment’ we dispute the accuracy of paragraph 61. Letting agents will be able to point landlords to sources of information but will not bear any costs such as being able to levy economies of scale.

21. The Government has not provided a reference for the source of information evidencing that 68% of landlords do not use agents. We believe that this figure is much

lower and at least 60% of private rented sector properties are managed by letting agents.²

22. Data sources throughout the document are not referenced, such as at paragraph 17 of Annex D. Furthermore, a report from the Energy Saving Trust highlighted at paragraph 21 does not include a publication date.
23. We do not agree with the information provided in Annex D on the impact on rents and rent affordability. The Government have failed to recognise that landlords will amortise the costs over a five or 10-year period and increase rents accordingly leaving tenants worse off. Furthermore, the information written in paragraphs 24, 25 and 26 quotes non-referenced data.
24. The cost calculations at paragraphs 28 to 33 of Annex C are wildly underestimated and demonstrate the lack of understanding that the Government has about how these regulations will impact on the private rented sector. For instance, if landlords must get three quotes to demonstrate an exemption this means at least three telephone calls to arrange an inspection of a property and three return trips to the property for the inspections to take place. The cost calculations also do not take into consideration the time the agent or landlord will spend at the property during the inspection and the time it will take liaising with both the company and tenant to do the inspection. Furthermore, the agent or landlord will need time to understand and collect all the results and file all necessary paperwork to apply for the exemption. We believe that the hours it will take to carry out this work will be in the region of 20 hours rather than two. The Government must factor in the time landlords will have to take off work as for most, letting property will not be their regular business or primary source of income. Furthermore, it will take landlords longer than one hour to familiarise themselves with the legislation and as a result the Government's assumption as outlined at paragraph 26 of Annex C is underestimated. To this end, we can verify that the hundred-page 'Domestic Landlord Guidance', on the minimum level of energy efficiency required to let domestic property under the Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015, takes six hours to read.³
25. The information in Annex B entitled 'Counterfactual' at paragraph two and at section 5.2, paragraph 20, are inaccurate. They do not recognise that Green Deal Finance is

² <https://www.york.ac.uk/media/chp/documents/2008/prsreviewweb.pdf>

³

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/669587/Domestic_Private_Rented_Landlord_Guidance_-_Updated_Version.pdf

now available both nationally and at scale. Furthermore, the Government need to understand that with a choice between paying £2,500 or using a Green Deal Plan, landlords, as businesses, will always choose the Green Deal Plan. Therefore, the Counterfactual information needs to consider that any of the 1- 4 Policy Options will drive uptake of Green Deal Finance to mitigate landlords' costs associated with paying for the improvements themselves.