Reforms to the Energy Performance of Buildings regime

CIEH response to a Ministry of Housing, Communities and Local Government and Department for Energy Security and Net Zero consultation

February 2025

About the Chartered Institute of Environmental Health (CIEH)

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Introduction

This introduction provides an overview of the issues raised by the consultation and evidence to support our views. We refer back to it in our responses to the consultation questions.

Overview

We believe that the current Energy Performance Certificate (EPC) process for domestic buildings is flawed, with weaknesses in the underlying calculation, infrastructure for evaluation, quality control, information and exemption databases, management of its application in the rental process, and use as a tool for diagnostics, remedial or enforcement action. Some of the problems are correctly identified in this introduction and the background papers cited.

The proposals in the consultation, however, do not consider these factors as a whole. By addressing each component in isolation, they risk allowing the domestic EPC replacement to duplicate the flaws of the existing system. Relevant and significant issues are ignored or avoided. This will undermine government ambitions and targets. It will cause confusion amongst tenants, landlords and the agencies supporting or enforcing improvement.

Three key fundamentals need to be addressed in order to fulfil the aims and aspirations listed in Chapter 1 of the consultation:

1. *Health:* The direct and indirect health impacts of excess cold are ignored in the discussion, which only focuses on comfort.

2. *Real life:* The fabric and energy performance of buildings is not fully considered in the context of the needs and behaviour of the target groups under discussion.

3. *Legislation and standards:* Options under discussion duplicate or overlap with existing housing standards and enforcement processes, making them complicated and unusable.

Many of our concerns were highlighted in the response we submitted in March 2024 to the Department for Energy Security and Net Zero (DESNZ) consultation on the Home Energy Model. They do not, however, seem to inform these fresh proposals.

Health

The predecessors of DESNZ (the Department of Energy and Climate Change and the Department for Business, Energy and Industrial Strategy) consistently used comfort rather than health for cost-benefit analyses when considering Affordable Warmth funding strategies. The view was that property occupiers could take a ‘comfort dividend’ from thermal efficiency improvements by heating the property to a higher, more comfortable temperature. Considerations of the health impacts of excess cold were explicitly excluded (see under “Evidence” below), severely skewing the analysis.

The large body of evidence demonstrating the chronic ill-health, accidents and deaths caused directly by cold housing, as well as its cost to the nation, was thereby ignored. Ignoring it again will undermine the priorities and vision set out in this consultation, which include “saving families money”, “protecting consumers” and supporting “a range of actions including reducing carbon emissions, tackling fuel poverty, improving decency and the Warm Homes Plan”.

The consultation recognises that “the current metrics may not provide a sufficiently rounded picture of performance and could better support government priorities such as delivering net zero by 2050, tackling fuel poverty and improving decency”. The current approach is nevertheless repeated. In Chapter 2 under “Other metrics” it is acknowledged that “it is likely that EPC metrics may need to change again in future” and that “metrics concerning occupant health, wellbeing … could be evaluated”.

Many people living in fuel poverty are faced with the choice of ‘heat, eat or pay the rent’. They do not take a ’comfort dividend’ because the cost of energy is still too high, irrespective of improved thermal efficiency. They will still only partially heat the property or not heat it at all, particularly in some very commonly occurring situations (see under ‘Real life’ below). In these cases the likely costs of ill-health and accidents are extremely high, so more fine-grained, relevant metrics need to be introduced now.

Real life

Many of the proposed metrics will help improve the overall, or average, energy performance of buildings but will not help or protect many occupants in fuel poverty. To illustrate why, we have cited below some examples that are commonly encountered by front line environmental health, housing, homelessness prevention and healthcare staff and need to be identifiable in the EPC metrics.

If the heating system cannot respond rapidly to sudden temperature drops or cannot be readily controlled or boosted (e.g. night storage heating), then in properties with poor or insecure ventilation the occupants will not ventilate the property. In doing so they would lose warm damp air, replacing it with cold drier air that they could not afford to heat during expensive daytime tariff periods and that might not warm up for several hours. This causes condensation and damp and mould with resultant asthma and respiratory problems.

Many combinations of factors exist which mean that current metrics may not capture the fact that people (particularly those in fuel poverty) will underuse the heating supplied or not use it at all.

In properties with fixed electric panel or convector heating, the need for heating is in the daytime or evenings, when the cost of electricity is at its highest. The occupants will often heat only one room (sometimes using portable oil-filled radiators) or a small part of the property at a time.

The fabric of the building is not heated, so, irrespective of the overall fabric performance, temperatures in large areas fall below dew point, leading to serious damp and mould

problems. If the occupants are older or disabled, then they are also highly likely to suffer from falls and injuries when using any of the unheated areas.

In older properties with high ceilings, hot air rises, making the rooms expensive to heat, irrespective of whether using gas central heating or expensive on-peak electricity. People in fuel poverty will tend to use the heating only for short periods, sometimes only for one hour around getting up and one hour around going to bed. In between these times the air temperature will drop to levels that are dangerous for older, disabled and vulnerable people.

Current EPC methodology, i.e. Reduced Data Standard Assessment Procedure (RdSAP), does not record or identify smaller areas (less than 10% of an element) of poor insulation or cold bridging where condensation will form. In situations such as those described above, the condensation and mould will be extreme, causing asthma, bronchial and respiratory problems and, in extreme cases, death.

This kind of fine-grained detail, as well as the responsiveness and controllability of heating systems, in the context of building design, such as high ceilings, would be essential for effective retrofitting, guidance and enforcement.

Other feedback in our response to the Home Energy Model consultation must be reflected in a revised EPC. For example, a suggested baseline of maximum ventilation potential that is based on assessing a property with all windows fully open would clearly be unrealistic for a ground floor property in a high-crime urban environment.

The ‘real life’ aspects of whether windows are in sight and can be safely left locked in a ‘first click’, and whether mechanical ventilation systems stay effective or are degraded, noisy and uncontrollable (with lengthy over-runs), illustrate the need for revised performance metrics that will benefit people in fuel poverty by identifying whether they can and will use the heating and ventilation systems.

This issue, i.e. whether a tenant is likely to use the heating system, given its context and nature, has been recognised in appeals against Housing Act 2004 improvement notices (see under “Evidence” below). An early assessment of potential problems, akin to a detailed retrofit survey, would improve tenants’ and landlords’ understanding and help dispute resolution.

At the same time, overall affordability is still key. The cost metric calculated at the time of the EPC assessment could be retained and displayed on the government website, but with the option to update it temporarily (on screen) by applying energy cost multipliers in force at the date of viewing. If applied nationally, this approach would not be resource hungry.

It is vital that the cost metric should be capable of showing the total real-world costs associated with a property in order to inform choice. People moving from lower (gas) tariffs to more energy efficient electricity-based heating systems may still face fuel poverty and not use the heating adequately because of the increased costs of on-peak electricity or

because they have moved to a property which, although it may have lower costs per square metre, still costs more to heat, overall, because it is larger.

Legislation and standards

Three relevant housing standards are currently under consideration or review: the Housing Health and Safety Rating System (HHSRS), the Decent Homes Standard (DHS) and 'Awaab's Law'. This consideration includes the application of the latter two standards to the private rented sector (PRS).

The HHSRS includes the hazard of excess cold. The evidence base of the HHSRS is dated but directly links excess cold in housing to a wide range of chronic and acute health problems. Excess cold also acts as a secondary hazard increasing the likelihood of damp and mould, falls and fire. It was intended that the affordability of the heating system should be considered when assessing the likelihood but this was removed from the Operating Guidance before publication.

The HHSRS risk assessment tool is used as a basis for deciding action under the Housing Act 2004. Although applicable to all types of tenure, in practice local authorities cannot enforce it in council stock (i.e. their own stock).

By contrast, in stock owned by registered providers of social housing (e.g. housing associations and council-owned stock) the DHS applies. The DHS includes the HHSRS, as well as a separate thermal standard.

An amended version of the DHS will be applied to the PRS by the Renters' Rights Bill, with specific provision for it to cover "the means of keeping the premises at a suitable temperature". The Bill will create an enforcement pathway equating nominated DHS standards with the equivalent category 1 or 2 HHSRS risk-rating, with a failure to meet the standard triggering mandatory or discretionary action by a local authority.

At the same time, in the PRS, Minimum Energy Efficiency Standards (MEES) apply, using the EPC as a metric. There are therefore two main tools used to judge rented properties. One (HHSRS) is solely risk-based, taking into account factors such as the controllability, capability and fixed nature of the heating system. The other (EPC) is based on the total energy cost per square metre.

In addition, tenants can take action using the fitness for human habitation standard, which includes the HHSRS, to demonstrate that their property is 'not reasonably suitable for occupation in that condition'.

These overlaps and duplications already cause confusion. Landlords and tenants may not realise that, although a property can be let under MEES because it has an EPC rating of 'E', it may still have a category 1 excess cold hazard in the HHSRS, indicating an unacceptable level of risk. Local authorities may also have policies allowing formal action at a lower risk level in the case of particularly vulnerable occupants.

Furthermore, despite the lack of overlap between HHSRS risk-assessment and the cost-based EPC metric, the Ministry of Housing, Communities and Local Government does recognise energy cost as a yardstick for assessing excess cold. The English Housing Survey continues to use (see under "Evidence" below) a Standard Assessment Procedure (SAP) rating of 37.6 to be equivalent to a category 1 excess cold hazard. This is not widely publicised.

The Government has also indicated that it will apply 'Awaab's Law' to the PRS, requiring timelines for remedying nominated hazards and an assessment of the tenant's vulnerability to the hazard. It is unclear whether this could be achieved by an amendment to the (risk-rating) HHSRS guidance or by identifying specific issues under DHS headings.

Where would an amended EPC fit? One of the proposed metrics could be used to assess the DHS requirement for "the means of keeping the premises at a suitable temperature". This would replicate the current situation, however, with two separate yardsticks for cold – one measuring 'the capability of the system' and one measuring 'level of risk' (both ignoring affordability).

Other EPC metrics suggested here could provide some continuity in the MEES trajectory to EPC 'C'. Appropriate enforcement and retrofit support will only be possible, however, if metrics are identified that actually address the declared goals of tackling fuel poverty or decency by evaluating real-life, health-impacting factors.

The ideal

Multiple subdivisions and equal weighting of property information, rather than a coherent whole, make an overview difficult and hamper decision-making. Any information on an EPC should be simplified to guide users to the information that is most relevant and useful to them.

One way of doing this might be to split the data headings in this consultation between 'Property Performance' and 'Occupancy Performance', identifying deficiencies or sub-optimal components for remedial action or to enable decision-making.

From a legal perspective, a single EPC metric should be equally applicable to the HHSRS, DHS, Awaab's Law and fitness for human habitation (and, ideally, for any assessment of nuisance under the Environmental Protection Act 1990).

There should also be identical standards for *all* dwellings used as living accommodation, irrespective of tenure length or type or whether the dwelling is considered to be commercial or domestic.

Evidence

Health

In July 2013 the Department of Energy and Climate Change published 'Fuel Poverty: a Framework for Future Action – Analytical Annex'. In 'Section Six: Measuring the health impacts of cold homes' this document recognised that vulnerable people required additional heating.

> A standard heating regime assumes that the occupants are not in the dwelling during normal working hours. In this case it is assumed that the occupant heats the dwelling for two hours in the morning and then for seven hours from late afternoon. During the weekend it is assumed that the property is heated throughout the day for 16 hours. **However, this heating pattern does not apply for large sectors of the population (in particular, 'vulnerable' households, such as elderly and those caring for young children).**" [emphasis added][1]

The document did *not* consider the impacts on people who could not use the heating systems for assumed standard heating times because of the physical permutations of the property. Nor did it incorporate the costs of ill-health into the cost-benefit analysis, stating the following.

> Our intention is that we will ultimately be able to incorporate these results into economic appraisals and into the FP-MACC analysis (see Section Five). This will help us to fully capture the benefits associated with fuel poverty policies. However, more work needs to be done to be able to integrate these benefits into economic appraisal – in particular, **we will need to incorporate the impacts in a way that accounts for comfort taking (which at least partially reflects health benefits)** to ensure that we are not double counting benefits. [emphasis added][2]

Three years later, however, the Department of Energy and Climate Change published 'ECO: Help to Heat – Transitioning to a new fuel poverty focussed obligation: Consultation Stage Impact Assessment'. In this document they considered the balance between Affordable Warmth funding and Carbon Emissions / Carbon Saving funding. In assessments of the costs and benefits of each option, the health benefits were specifically excluded from the monetised benefits.[3]

> Health impacts associated with the improved energy efficiency of properties treated under ECO have been estimated at £113m (PV). **This benefit is not included in the CBA tables owing to potential overlap with comfort taking.** [emphasis added][4]

Finally, in January 2017, the Final Stage Impact Assessment was published by the Department for Business, Energy and Industrial Strategy. This document completely ignored the impact on health, simply stating the following.

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[1] Department of Energy and Climate Change, *Fuel Poverty: a Framework for Future Action – Analytical Annex*, July 2013, p. 80.
[2] Department of Energy and Climate Change, *Fuel Poverty: a Framework for Future Action – Analytical Annex*, July 2013, p. 84.
[3] Department of Energy and Climate Change, *ECO: Help to Heat – Transitioning to a new fuel poverty focussed obligation: Consultation Stage Impact Assessment*, June 2016, pp. 3-5.
[4] Department of Energy and Climate Change, *ECO: Help to Heat – Transitioning to a new fuel poverty focussed obligation: Consultation Stage Impact Assessment*, June 2016, p. 4.

> *Wider benefits:* ***There are also likely to be a range of benefits associated with improved health outcomes, potentially savings for health service provision, and improvements in productivity that it has not been possible to monetise****. [emphasis added]*[5]

The failure to take proper account of impact on health is all the more disappointing given that the monetary costs of ill-health have long been known. For example, the Building Research Establishment (BRE) has produced a tool which can specifically cost the health impacts of the main injuries and accidents directly linked to cold housing (excess cold, damp and mould growth, falls and fire).[6]

It is notable that even now, 11 years after the original paper, this EPC consultation still only discusses comfort and not the ill-health caused by cold and poor housing that is extremely expensive to the country and Treasury.

Real life

The issue of whether a tenant is likely to use the heating system, given its context and nature, has been recognised in appeals against Housing Act 2004 improvement notices.

> Plymouth City Council v McCabe 2011 (appeal against Improvement Notice): Southern Rent Assessment & Leasehold Valuation Tribunal, Residential Property Tribunal Case No. CHI/00HG/HIN/2010/0021
>
> Liverpool City Council v Kassim 2011: UKUT 169 (LC) and subsequent appeal hearings to 2015 (The council successfully argued that the heating systems provided were so expensive to run that the likely occupiers of the flat would not be able to afford to use them as required.)

Legislation and standards

The original intention to include affordability is referenced in the HHSRS Operating Guidance, which explicitly states the following.

> The dwelling should be provided with adequate thermal insulation and a suitable and effective means of space heating so that the dwelling space can be **economically** maintained at a reasonable temperature. [emphasis added][7]

The English Housing Survey continues to use a SAP of 37.6 to model and calculate the number of properties with a HHSRS Excess Cold category 1 hazard. (This is the latest equivalent of the SAP of 35 using the original SAP 2001 methodology.) It thereby makes a

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[5] Department for Business, Energy and Industrial Strategy, *ECO: Help to Heat April 2017 to September 2018: Final Stage Impact Assessment*, January 2017, p. 40, para. 181.
[6] See Building Research Establishment, *How the HHCC calculates the health cost data*.
[7] Office of the Deputy Prime Minister, *Housing Health and Safety Rating System: Operating Guidance*, February 2006, p. 27, Box 9.

direct link between the energy cost per square metre of a property and an unacceptable level of risk from Excess Cold.

> [Excess Cold category 1 hazard defined as:] Estimates the number of households living in homes with a threat to health arising from sub-optimal indoor temperatures using the Standard Assessment Procedure (SAP). This hazard is based on dwellings with an energy efficiency rating of less than 35 based using the original SAP 2001 methodology. The updated SAP 2009 methodology, used for the 2010-2012 EHS reports, recalculated the comparable threshold to be 35.79. From 2013 to 2017, the EHS report used the updated SAP 2012 methodology and the comparable excess cold threshold was recalculated to 33.52. In 2018, the SAP 2012 methodology was updated for the EHS and the comparable excess cold threshold was recalculated to 37.6. This approach ensured that the number and percentage of dwellings failing on excess cold would be the same under both the old and new SAP2012 methodology. Although the changes in SAP methodology and cut-off thresholds create difficulties in reporting on excess cold trends over time, the approach allows the findings to offer some degree of consistency for those who wish to look at HHSRS over time.[8]

Responses to consultation questions

2. What EPCs measure

Energy cost

Question 1
To what extent do you agree or disagree that information using an energy cost metric should be displayed on EPCs? Please select one option for each building type.

Domestic buildings

- Strongly agree

Non-domestic buildings

- Strongly agree

Please see the introduction to this consultation response and note the comment in the overview under “Ideal” regarding consistent standards for all dwellings used as living accommodation.

Fabric performance

Question 2

[8] Ministry of Housing, Communities and Local Government, *English Housing Survey: Technical Report, 2022-23*, Annex Table 5.5.7: Modelling HHSRS hazards using EHS data, p. 100.

To what extent do you agree or disagree that information derived from a fabric performance metric should be displayed on EPCs? Please select one option for each building type.

Domestic buildings

- Strongly agree

Non-domestic buildings

- Strongly agree

Please see the introduction to this consultation response and note the comment in the overview under “Real life” regarding the need for fine-grained assessment.

Question 3
When evaluating the fabric performance of buildings, which methodology do you think should inform the basis of calculating a fabric metric? Please select one option for each building type.

Domestic buildings

- Other

Please see the introduction to this consultation response under “Real life” in the overview and evidence. A global average performance figure is misleading if it masks specific areas of poor performance that can be injurious to health. FEES would be better as a basis, if only to reflect the impact of solar gain and requirements for cooling demand – but would need major amendment because it uses averages.

Non-domestic buildings

- FEES

Please see the introduction to this consultation response and note the comment in the overview under “Ideal” regarding consistent standards for all dwellings used as living accommodation.

Heating system

Design of a heating system metric

Question 4
To what extent do you agree or disagree that information based on a heating system metric should be displayed on EPCs? Please select one option for each building type.

Domestic buildings

- Strongly agree

Non-domestic buildings

- Strongly agree

Please see the introduction to this consultation response under “Real life” and “Legislation and standards” in the overview and evidence. A global performance figure is misleading if it masks specific combinations of fabric, heating and ventilation that make it unlikely that occupants will use the heating fully, leading to excess cold that is injurious to health.

Question 5
What are your views on the design principles and the scope for a Heating System metric? Please provide evidence where possible.

Please see the introduction to this consultation response under “Real Life” and “Legislation and Standards” in the overview and evidence. The metric should make it possible to identify and remedy specific combinations of fabric, design, heating and ventilation which make it unlikely that occupants will use the heating fully, leading to excess cold that is injurious to health.

Smart readiness

Question 6
To what extent do you agree or disagree that information based on a smart readiness metric should be displayed on EPCs? Please select one option for each building type.

Domestic buildings

- Disagree

Non-domestic buildings

- Disagree

Question 7
What are your views on the definition, design principles and the scope for a smart readiness metric? Please provide evidence where possible.

There are significant regional and local issues that would distort and undermine the value of such a metric. For example, smart meter signalling technology in Northern England is different from (and significantly less effective than) smart meter signalling technology in the South. Large areas lack the local infrastructure for new electrical connections - note the new construction bottlenecks in both rural and urban areas. This may affect the level of connectivity available for individual new properties and existing individual properties often have standard mains connections that may not permit simultaneous electric vehicle and

heat pump connections. Some emerging technologies are not yet cost effective. (The return on investment period of battery systems is often longer than the expected life of the battery.) Thus a smart-readiness metric on an individual property may be completely misleading and dependent upon local and area characteristics. There also remains some inherent risk in offering lower tariffs at off-peak times – battery-charging and tumble-drier use, for example, are safer when people are awake and alert.

Such a metric is not readily applicable to houses in multiple occupation (HMOs) and flats, and issues will exist with the exempt class of heat networks. In addition, will the National House Building Council and equivalent 10 year schemes cover these within their warranties and insurance cover for newbuild schemes?

Energy use

Question 8
To what extent do you agree or disagree that information from an energy use metric should be displayed on EPCs? Please select one option for each building type.

Domestic buildings

- Strongly agree

Non-domestic buildings

- Agree

An energy use metric with fine-grained detail would be important to help with investment choices for both tenants and landlords. For example, a property with high thermal mass may be more suitable for background heating that can utilise heating which can use lower-priced energy.

Alternatively, if tariff options are widened to include higher unit price with no standing charge versus lower unit price with a daily standing charge, understanding the energy use of a property might enable investment choices.

Question 9
If an energy use metric is to be displayed on Energy Performance Certificates (EPCs), which type of energy use measurement should be used to calculate this metric? Please select one option for each building type.

Domestic buildings

- Delivered energy

Non-domestic buildings

- No preference

Please see the introduction to this consultation response under “Ideal” in the overview and evidence. Energy use and the resultant energy costs are vital for management of the property by the occupants and, as an aim of this consultation, to enable choice. It therefore has to be delivered energy, ideally with an ability to cost it (see overview).

Carbon

Question 10
To what extent do you agree or disagree that information from a carbon based metric should be displayed on EPCs? Please select one option for each building type.

Domestic buildings

- Neither agree nor disagree

Non-domestic buildings

- Neither agree nor disagree

SMETER methods

Question 11
To what extent do you agree or disagree with incorporating smart metering technologies, like SMETERS, into the energy performance assessment framework for buildings? Please select one option for each building type.

Domestic buildings

- Strongly disagree

Non-domestic buildings

- Strongly agree

Please see our response to Question 7.

In addition, the assessment model used Heat Transfer Coefficient (HTC). It seems odd to consider FEE when all the pilot work is in relationship to HTC. In the ‘Technical Evaluation of SMETER Technologies (Test) Project: Executive Summary’ there were limitations. There is still a need to refine the technology to deal with diverse matters, for example wood burners, large energy using appliances outside the heat envelope, electric vehicles, hot tubs and homes with ill-defined thermal envelope.[9]

The metric is still in its infancy and will take away the focus needed on existing old stock.

[9] Department for Business, Energy and Industrial Strategy, *Technical Evaluation of SMETER Technologies (Test) Project: Executive Summary*, January 2022.

Transition

Question 12
Do you have any views on key transition issues?

Please see the introduction to this consultation response. If the EPC metrics are developed from the Home Energy Model and intended to dovetail with the amended HHSRS, Decent Homes Standard and (possibly) Awaab's Law, and if any of the recommendations here are adopted, then the most positive benefits will be achieved if local authorities can work with landlords and agents to carry out retrofit work (especially for households in fuel poverty). This requires a grace period, with a carefully constructed timetable in which different components - assessment, legal framework and support packages - come into place. This would enable landlord registration and grants/loans to act as incentives, and information to be disseminated, before any enforcement action. It may also be necessary to abandon any idea of direct continuity with the old EPCs and instead agree an equivalence calculation for the progression to EPC C for MEES.

3. When EPCs and DECs are required

Reducing the validity periods for EPCs

Question 13
What should be the validity period for Energy Performance Certificate (EPC) ratings?

- 10 years

Question 14
To what extent do you agree or disagree with the approach for any changes to validity periods to only apply to new EPCs?

- Agree

This timing (of the validity period referred to in Question 13) would be set to allow an initial grace period but could then be replaced by a 5 year validity. The underpinning design of the Home Energy Model (with its 17, mainly open-source, modules, updated by multiple organisations) means that the replacement for the EPC methodology may be one that will evolve much more frequently than BRE's current model, with periodic larger updates.

In addition, excess heat in housing is going to have a much greater health impact on occupants, requiring changes that have not yet been considered. For example, heat pumps currently being installed are air-to-water systems, which cannot be used for both heating and cooling, unlike air-to-air systems ('air-conditioning') used in semi-tropical countries. A 5-year validity would offer more flexibility for recognition of evolving needs.

Requiring a valid EPC throughout the tenancy period

Question 15
To what extent do you agree or disagree that a new EPC should be required when an existing one expires for private rented buildings?

- Agree

If this is not done, and there are fabric performance or significant heating/ventilation changes at the property, then potential buyers or renters may be deceived. This will not be necessary if the current requirement for a valid (e.g. new) EPC is properly enforced for new rentals or purchases.

Marketing a building for sale or rent

Question 16
To what extent do you agree or disagree that the regulations should be amended so that a property must have a valid EPC before it is marketed for sale or rent?

- Strongly agree

Please see our response to Question 15.

Houses in multiple occupation

Question 17
To what extent do you agree or disagree that houses in multiple occupation (HMOs) which don't already fall under the (Minimum Energy Efficiency Standards) MEES should do so when a room is rented out?

- Strongly agree

Please see the introduction to this consultation response under "Ideal" in the overview and see the evidence. Not only should all dwellings used as living accommodation have an identical standard but this allows the landlord time to make any necessary upgrades (see our response to question 18). In addition, it is vital that HMO EPC assessments should *not* be an average for the whole building. This masks small substandard areas which might include a whole room. As the HHSRS clearly identifies, long-term exposure to any hazard increases the likelihood of an incident (which can be chronic). The health implications of excess cold must be taken into account in the EPC metrics (see the introduction to this consultation response under "Health" in the overview and evidence).

Question 18
To what extent do you agree or disagree that there should be a transitional period of 24 months to allow HMO landlords to obtain a valid EPC and comply with MEES regulations?

- Agree

If the owner of a HMO is currently exempt from the requirement, then the tenancies are probably long-term, and there have been no new lettings. The transitional period should be used to allow the landlord first to obtain a new 'provisional EPC'.

If this incorporates the suggested amendments (see the introduction to this consultation response under "Real Life" in the overview and evidence), particularly in respect of small areas of poor fabric performance and identifying fabric and heating system permutations that inhibit the occupier from properly heating the accommodation, then the EPC should have detailed retrofit information which can be used by agreement with the long-term tenants to minimise disruption.

Short-term rental properties

Question 19
To what extent do you agree or disagree with requiring short-term rental properties to have a valid EPC at the point of being let?

- Strongly agree

Please see the introduction to this consultation response under "Ideal" in the overview and see the evidence. All dwellings used as living accommodation should have an identical standard. There are also two other important reasons. Firstly, if it is accepted that a cold property has health impacts and can be dangerous, why should short-term rentals be allowed to be more dangerous? Secondly, why should a loophole be left whereby a landlord can effectively let a substandard property to a tenant using a sequential series of short-term lets? Requiring the same standard would reduce the incentive to use this loophole.

Question 20
To what extent do you agree or disagree with requiring short-term rental properties to have a valid EPC irrespective of who is responsible for meeting the energy costs?

- Strongly agree

Please see our response to Question 19. The requirement should also cover rooms let to lodgers in the landlord's own home.

Heritage buildings

Question 21
To what extent do you agree or disagree that we should remove the exemption for landlords from obtaining an EPC for buildings officially protected as part of a designated environment or because of their architectural or historical merit?

- Agree

There should be a requirement to obtain an EPC for such buildings in all cases, as a basis for establishing whether some or any of the recommended upgrades would actually impact on their character.

There needs to be considerable tightening of the rules, however, and the current exemptions database needs a complete overhaul and policing. Many owners mistakenly or deliberately upload irrelevant information and the information explaining the types and rationale for exemptions can be very misleading.

In addition, the existing exemption price cap of £3,500 can be abused by unscrupulous landlords obtaining artificially high quotes for work. There should be openness to scrutiny and challenge as a specific part of the exemption registration process. Some listed buildings genuinely cannot be upgraded without destroying their character, so there should be an allowance for a cost cap for what can genuinely be achieved.

4. EPC and DEC data

Removing opt-out from the EPB regulations

Question 28
To what extent do you agree or disagree with the approach to remove the option to opt-out EPCs from the EPB Register public address search?

- Strongly agree

Question 29
To what extent do you agree or disagree with retaining the option to opt-out EPC address level content from the Open Data?

- Strongly disagree

The benefits of having a complete open data source for research and for planning and investing in upgrade projects outweigh the limited amount of data protection and privacy that would be given by an opt-out option. If such information is going to be available at individual address level on the proposed landlord and property register (in the Renters' Rights Bill) to achieve the avowed intention of giving buyers' and renters' choice, then the information will be in the public domain in any case.

Data sharing

Question 30
There is a proposal to remove the general prohibition on sharing data gathered under the EPB Regulations and replace it with a Secretary of State discretion about when, how and with whom to share the data.

To what extent do you agree or disagree with the proposal?

- Strongly disagree

This data is vital for local authorities, both in carrying out their enforcement, grant giving and loan roles and for being able to survey, research and target resources for area action. Equally importantly, if the Secretary of State demands (as he or she will be able to do under the regulations under the Renters' Rights Bill) verification of data on the landlord and property register, then local authorities will be better placed to comply if they have automatic access. This would also give any government the power to monetise the information in the database.

Using existing data in EPC assessments

Question 31
To what extent do you agree or disagree that data gathered in previous EPC assessments should be available for use in future EPC calculations for a dwelling?

- Strongly disagree

Question 32
What are your views on the approach to using existing data, while balancing accuracy and practicality?

We have strong reservations – existing data has to be used very carefully. Please see the introduction to this consultation response under "Real life" and "Legislation and standards" in the overview and evidence. The metric should make it possible to identify and to remedy specific combinations of fabric, design, heating and ventilation which make it unlikely that occupants will use the heating fully, leading to excess cold that is injurious to health. Existing data sets (particularly those used to calculate RdSAP) have severe and misleading limitations – particularly around small areas of cold bridging or substandard construction and assumed construction types (based on dates of Building Regulations approvals – these can often be wildly optimistic). Extrapolation from this data would compound the error.

5. Managing EPC quality

Assessor fraud

Question 33
To what extent do you agree or disagree that Accreditation Schemes should be given more responsibility for overseeing the training of energy assessors?

- Strongly agree

This has to be coupled, however, with a much stronger random sampling programme by an independent body, sanctions against accrediting bodies that fail to demonstrate rigour, and stronger checks on assessor identity and ability to re-register with an alternative accrediting body. There also needs to be random auditing of successive historic energy assessments to check for discrepancies, particularly in the major elements that have the largest impact on

the results (floor area and wall, floor and roof construction). Local authorities should have the ability to be able to request specific audits (if they can present evidence to justify this).

Question 34
Do you have suggestions for other actions which could be taken to improve the accuracy and quality of energy assessments, or to help identify fraud in EPC assessments?

Please see our response to Question 33.

Improve EPC compliance and enforcement

Proposals to improve compliance

Question 35
To what extent do you agree or disagree with these proposals to improve compliance?

- Agree

This is dependent, however, upon stronger sanctions being introduced to stop the marketing of properties without EPCs, or with false EPCs, or the failure to display the EPC or Energy Efficiency Rating as part of the marketing.

Penalties

Question 36
To what extent do you agree or disagree that penalties should be increased?

- Strongly agree

We strongly agree if the increase would be coupled with metrics improvements made in line with responses above and with improvements to the usability of both the EPC online register and the exemptions register – please see also our response to Question 35.

Question 37
If penalties were to increase, how much should current penalties increase by?

- Other

Fixed penalties (especially small fixed penalty notices) have disproportionately high administrative costs and time overheads to police and are pinpricks compared to the financial savings from non-compliance. A more effective deterrent would be to have an incremental fine scale – such as a level 4 fine or Community Protection Notice - with an initial lower penalty followed up with a higher one for repeat or multiple offenders.

Question 38
When should penalties be imposed for non-compliance with Energy Performance of Buildings Regulations (EPBR) requirements?

- At 6 months (no increase)

Enforcement authority responsibilities

Question 39
What are your views on changing the current allocation of responsibilities for enforcing Energy Performance of Buildings Regulations (EPBR)?

We have not responded to this question as any such proposal seems likely to be superseded by new government proposals for local government reorganisation.

7. Additional questions

Question 48
Please let us know if you have any comments on the impact assessment in general, including any evidence you have on the impact of these proposed reforms.

There are no details in the impact assessments of the improved health outcomes achievable through affordable warmth and through reduced damp and improved internal air quality from a reduction in mould spores, let alone the reduced cost to the nation of hospital support. The transport analysis guidance (TAG) data book gives details on many aspects of the impact of the reforms but not how buildings affect health. Please note the introduction to this consultation response under “Health” in the overview and especially in the evidence.