

Scottish Government Consultation on Energy Efficiency and Conditions in the Private Rented Sector Shelter Scotland Response

June 2017

INTRODUCTION

The private rented sector has almost tripled since 1999 and has increasingly become the home of families, as more are priced out of home ownership and as social housing demand exceeds supply, even with the increase in supply pledged 2016-21. Whilst many in the private rented sector are happy and there out of choice, for others there are issues of unaffordable rents, poor conditions and unresponsive landlords coupled with a lack of real choice meaning private tenants are unable to vote with their feet and move, and their consumer voice is limited. Over half of all clients coming to Shelter Scotland in 2016-17 were from people in the private rented sector, with one of the top 3 reasons being for conditions.

The passing of legislation to implement the new model tenancy, alongside changes to the dispute resolution process through the introduction of the Housing and Property Chamber of the First Tier Tribunal will help to strengthen the position of private tenants. Shelter Scotland supports the broad principles of the current proposal to regulate for a minimum energy efficiency standard in the private rented sector, as well as to amend the repairing standard, as a means to further level the playing field between private tenants and their counterparts, and as a step towards ensuring everyone in Scotland, no matter what sector they live in, is entitled to a warm, safe and affordable home.

111,000 households in the private rented sector live in fuel poverty in Scotland, i.e. need to spend over 10% of their household income on energy costs to maintain a satisfactory heating regime, equivalent to 33% of the sector¹. Housing quality varies across the sector, and private tenants live in the most inefficient homes with 9% of properties in the private rented sector in the two lowest energy efficiency bands². By comparison, in the social rented sector, where registered social landlords and local authorities are working towards statutory targets for energy efficiency, just 2% of their stock has the lowest EPC ratings. Regulation, when accompanied with sufficient scrutiny, enforcement and support, is both necessary and effective to achieve the aims set out, and the private rented sector has demonstrated over the last 15 years that regulation is no barrier to growth.

¹ Scottish Government, Scottish House Condition Survey 2015: Key Findings, <http://www.gov.scot/Publications/2016/12/1539/downloads>

² Homes rated with an Energy Performance Certificate of F or G, Scottish Government, Scottish House Condition Survey 2015: Key Findings, <http://www.gov.scot/Publications/2016/12/1539/downloads>

PART 1: PROPOSALS FOR AN ENERGY EFFICIENCY STANDARD FOR PRIVATE RENTED HOUSING

1.1 Do you think that only tenancies covered by the repairing standard should have to meet minimum energy efficiency standards? Yes/no/don't know. If not, what other privately rented tenancies do you think should be included?

Shelter Scotland believes the repairing standard should be extended to include additional tenancies as covered in the second part of this consultation. Therefore, for clarity, Shelter Scotland believes the minimum energy efficiency standards should only be applied to tenancies covered by the repairing standard with the intention that this repairing standard in future should be extended more widely to include, for example, holiday lets and farm cottages.

With regards to holiday lets, there are several reasons why the energy efficiency regulations should apply. If energy efficiency standards were not applied to holiday lets, it may result in landlords leaving the private rental market and moving to this sector, instead thereby reducing supply. There is also fluidity between holiday lets and the private rented sector: many properties are used as holiday lets throughout the summer then as a private rented property in winter, or will switch between the two year to year. In addition, given the Scottish Government is planning to consult on energy efficiency standards in owner occupied homes, this would leave a strange gap in the holiday market. The inclusion of holiday lets also sends the message that energy efficient properties are the new norm. Additional thought is required on how this will be monitored and enforced, as landlords do not have to be registered landlords to let a property as a holiday let.

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? 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

Shelter Scotland agrees that the minimum energy efficiency standard should be linked to the energy performance certificate (EPC). This is a fairly well known and understood standard with the public, and has benefits of being rolled out to appliances too. However, Shelter Scotland has been made aware by some of our partners and our landlord support officers around some of the issues with EPCs, particularly around the modelling data, as well as the accuracy of some of the EPC ratings, the ability of the EPC system to keep up with changes in technology, variances in local authorities and unrealistic standard suggestions for improvements, for example that landlords in off-gas areas look to install a wind

turbine. If these issues and concerns are not investigated and addressed, the EPC system and minimum standards will not be bought into by landlords, and landlords may look to that failing to justify their non-activity or non-compliance. This would not be in the best interest of the tenants. It is essential to investigate and address these concerns if there is to be confidence in the proposals here.

Equally, for the market to truly respond to consumer demand for energy efficient properties in the future, people need to have faith in the accuracy and usefulness of the EPC.

I tend to ignore EPC's when deciding about taking a tenancy...because they can be out of date, e.g. one place I rented had solar thermal and double glazing on the EPC. After I moved in I discovered that solar thermal had broken 2 years prior and that the double glazing was about 10 years out of date. Sometimes, the EPC is erroneous due to the assessor and sometimes due to the age of it and sometimes has a lower rating for having a coal fire even though I would never burn coal. [Private tenant³]

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.

Yes

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

As above, improvements in the accuracy and reliability of EPC ratings. We would also suggest the addition of a 'compliance with legislation' check on the certificate for ease of reference for tenants, landlords, letting agents and local authorities.

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? Yes/no/don't know. Please explain your answer.

Shelter Scotland is broadly supportive of a minimum standard of EPC E initially because it 1) means that the worst performing properties are upgraded sooner and therefore tenants reap the benefits sooner. Already, private tenants feel that the proposed enforcement dates are too far away⁴. 2) A staged approach should encourage greater buy in from landlords.

However, we strongly advise that any information through the communication strategy, and certainly in the minimum standards assessment is linked to the

³ Shelter Scotland (2017), Scottish Government Consultation on Energy Efficiency: The Views of Private Tenants, available on request

⁴ Shelter Scotland (2017), Scottish Government Consultation on Energy Efficiency: The Views of Private Tenants, available on request

future standard of EPC D to encourage landlords to raise the standard of their properties to D in one go to minimise potential disruption to tenants (and indeed to encourage work beyond D – see question 1.29 and 1.30). This would therefore include information on mandatory works (to reach EPC E) and advisory measures (to meet EPC D, and beyond).

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? Yes/no/don't know.

No. Shelter Scotland believes that the minimum energy efficiency standard should be implemented at the point of registration or re-registration for the landlord, which has to be done every three years. Shelter Scotland understands this has been previously considered but believe there is strong logic to reconsider.

At the point of a change in tenancy, there is no natural link between the local authority and the landlord, therefore there is also no prompt for the local authority or means to check adherence. Equally tenants at this point are not in the position to push for standards or adherence to regulation pre-tenancy, where the likelihood is the landlord would just go with another candidate in the context of high demand for properties. By contrast, there is already a statutory duty for landlords to register and re-register every three years, thereby providing a natural time for local authorities to engage. The landlord registration system should be adapted to include a tick box for landlords to indicate each property is compliant at the registration stage, and the potential to upload supporting evidence. The ideal would be for systems to automatically tie up – for example entering an EPC reference number would link to the EPC register and flag whether the property met the standards, or required a minimum standards assessment to be completed. This could also then provide a prompt to the local authority to take follow up action as required. This has the additional benefit of highlighting to landlords in another way the requirements of them as a landlord, and could bring together other regulatory issues such as the requirement to provide a gas safety certificate.

This would automatically enrol all landlords in the new regulations within three years (because of re-registration requirements) and would tackle the issue for local authorities of how to confirm if the tenancy has changed hands in the period between the change in tenancy regulatory date and the backstop date, to understand if a landlord is compliant or in breach of the regulations. In addition, the change in tenancy date is quite unreliable with council tax records often out of date, and issues with data sharing even within local authority departments meaning it is difficult to confirm. As such, the change in tenancy dates would be difficult to rely on for monitoring and enforcement of the standard.

In addition, changes of tenancy can come at quite short notice for landlords meaning they may not have adequate time to financially prepare to meet the regulatory standard, for example if a tenant in a rolling month by month contract unexpectedly provided their 40-day notice to end their tenancy.

In practice, there would still be an initial date (say April 2019) – after which landlords must comply with the standard on their re-registration date which occurs every 3 years. This would ensure that all properties were brought up to the standard by the existing proposed backstop date of 31st March 2022.

As highlighted previously, further thought needs to be given to how this might be introduced for holiday lets.

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/no/don't know. Please explain your answer.

Fuel poverty is a major issue right now, and Shelter Scotland believe that the sooner the most inefficient properties are tackled the better.

However, as a result of the delays to this consultation being published, we do have some concerns that this is quite a short time period between the regulation being passed and the standards coming into play, and the ability for information to be shared on the new regulations and landlords and tenants provided with information about their rights and responsibilities in respect of the new legislation, as well as the ability of local authorities to set up new monitoring and enforcement mechanisms in this time. A significant communication strategy will need to be swiftly rolled out to ensure this regulation is successfully introduced, and local authorities will need to be adequately resourced to cope with the additional demands on their time.

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? Yes/no/don't know. Please explain your answer.

Yes. As stated in question 1.5, we suggest that an alternative enforcement date might be looked at, namely the date of re-registration. If the Scottish Government were minded to bring this into force, this would ensure that all properties were brought up to the standard by the existing proposed backstop date of 31st March 2022 because of the need for re-registration every three years anyway.

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? Yes/no/don't know.

Yes, it seems reasonable and sensible to require the owner to carry out a minimum standards assessment before renting the property out, as it minimises the disruption to the tenant. There should also be a duty for the landlord to share this assessment with the tenant, so they are aware of the work that will need to be completed within the next 6 months when they are in the tenancy and can consider this when deciding whether to go ahead with the lease. This is also where a communication strategy is important, so tenants understand all properties within the private rental sector not currently up to standard will have to

go through this process to meet the regulations, thereby allowing tenants to make an informed choice where the market allows.

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/no/don't know.

Yes. Shelter Scotland do have some concerns regarding the potential disruption to tenants and believes that landlords should be required to inform new tenants of the work they will be required to do in the next six months. As currently, any major work within the property that may limit the tenant's use of certain facilities (for example going without heating or hot water or having to move belongings in order for any measures to be put in) may entitle the tenant to claim a reduction on their rent.

There may be some cases where it is unreasonable for the work to be completed within 6 months of the assessment, for example securing tradespeople in very rural areas. As outlined in question 1.21 and 1.22, local authority discretion is important here to ensure reasonableness where it can be evidenced landlords have truly tried to meet the timescales and appropriate support and enforcement given when this is not the case.

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/no/don't know.

Please explain your answers.

The owner should be required to provide some evidence to the local authority of their compliance with the standard. An updated EPC certificate would come at an additional cost to the landlord, but would ensure that future proofing of the property and a standard measure and piece of evidence for the tenants to understand and check their landlord's compliance in a simple and straightforward way. The EPC should be adapted to include a 'compliance with standards for private rented housing', including a section for further information regarding any exemptions or exceptions and a time frame for this, for clarity for the tenant, landlord and local authority enforcement officer.

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)? Yes/no/don't know.

Yes, as in question 1.8a).

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? Yes/no/don't know.

Yes, as in question 1.8b).

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/no/don't know.

Please explain your answers.

Yes, as in question 1.9b).

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 the standard is set;

Yes, the minimum standards assessment should be based on the EPC methodology to match up the standards and ensure clarity and compliance for landlords, tenants and local authority enforcement officers. However, our support for this is under the proviso that the existing concerns around EPCs detailed in question 1.2 are considered.

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;

N/A

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

The assessment should include the package of measures to meet the E rating, separately of D, but it should also include the measures to meet D to allow both forward planning and staged costing. It may be more cost effective for the landlord to bring the property up to EPC D in one go, and this may be least disruptive option for the tenant, and takes away an additional step of enforcement from the local authority. However, there should be sufficient information and financial support, where appropriate, to encourage the landlord to do this.

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;

Yes, it seems sensible to combine assessments into one to minimise cost and disruption, however this should be streamlined with the EPC system for clarity.

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;

N/A

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

This seems a reasonable cost if accurate. Some of our partners have concerns this might be an underestimate.

1.11 Do you think that the assessment should only recommend a package of measures which improves both the energy efficiency and environmental impact scores of the property? Yes/no/don't know.

Please explain your answer.

Yes. This should allow access to a wider pool of funding for meeting multiple aims, and will avoid possible contradictory policies.

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/no/don't know.

A minimum standards assessor will help ensure landlord buy in for the regulations, if this is a suitably qualified individual. Without ensuring professional standards, landlord may use this as an excuse for their non-compliance.

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

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

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

Please explain your answers.

No answer provided.

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?

More communication of the existing advice and information provision is required for the roll out of any regulations. The experience of our private renting project which works with landlords and letting agents has suggested there is still a lack of

awareness of information and support available, though this may be improved by the additional resource recently granted for updates to Renting Scotland.

The experience of our advisers supporting private tenants is that their knowledge of their rights is limited, and over half of private tenants in an online survey stated they were unaware where to go for information and advice on energy saving, and reducing fuel costs⁵.

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?

Shelter Scotland supports the recommendation of the Existing Homes Alliance that a full evaluation should be carried out of existing financial incentives.

However, we would stress the need for any financial or fiscal incentives to tie in with work to bring long term empty homes back into use. The Scottish Empty Homes Partnership, hosted by Shelter Scotland, works with a network of empty homes officers in local authorities across Scotland to support owners to bring their privately owned, long term empty homes back into use. Lack of finances to bring up to standard to occupy, rent or sell is regularly cited as the reason the property has remained empty for a prolonged period. Feedback from the Scottish Empty Homes Officer Network is frustration that when they are proactively engaging owners of long term empty properties to carry out renovations which will improve energy efficiency, owners relate that there is a lack of financial incentives for them, because the property is unoccupied, even if the owner's end goal is to rent the property. Empty homes specific advice, information and incentives, loans and grants towards carrying out the measures would respond to this. Without empty homes specific grants or loans, owners could be put off of renting as an end use option due to the increased expense of bringing it up to the letting standard. This could result in the property remaining empty for longer, with low value and deteriorating properties languishing on the market as they fail to sell. Enabling empty home owners access to funding to improve energy efficiency of properties they intend to rent will increase supply as well as tackling many of the problems associated with long term empty homes.

We believe finance should be available to enable works to be done above the proposed cost cap, so private tenants are not penalised for living in a more inefficient property.

The availability of fiscal and financial incentives could also help to prevent the costs of works being passed on to tenants in the form of unjustified rent rises.

⁵ Shelter Scotland (2017), Scottish Government Consultation on Energy Efficiency: The Views of Private Tenants, available on request

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

No answer provided.

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? Yes/no/don't know. Please explain your answer

Don't know. Given the age profile of private rented accommodation, where 10% of private rented houses and 31% of private rented flats were built pre-1919, it is important assessors and installers are aware of these issues though this may be an area some assessors and installers can qualify in rather than all having to be skilled up in this area.

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.

No answer provided.

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?

Shelter Scotland believes local authorities are the most appropriate agency to enforce the energy efficiency standard. However, this must be resourced sufficiently.

The experience of our advisers and landlord support officers is that there is already a variable level of enforcement on existing regulation around Scotland, including landlord registration or the power to make third party applications to the Tribunal to enforce the repairing standard. A large number of local authorities are not using the enforcement powers that they have. Moreover, tenants are often unaware of the role of local authorities and the powers that are available to them. This results in either tenants not contacting their local authority about issues linked to the let property or, if they do contact their local authority, they often find that their local authority does not take further action.

If the energy efficiency standard was linked in with the repairing standard this would enable tenants and local authorities (through third party applications) to access the First Tier Tribunal, linking in to repairing standard enforcement orders and the provision of rent penalty notices. This may be more likely to be effective given a large number of local authorities are not using the majority of powers they already have.

Importantly, enforcement should not be the only contact the local authority have with landlords – there should be ongoing opportunities for engagement before enforcement is considered. Again, this requires resource. Shelter Scotland currently runs a Private Renting Project, piloting the provision of Private Landlord Support Officers in the Highland Council and Dundee City Council areas. The landlord support officers work on a one to one basis with landlords, assisting them operate to the best possible standard. The service educates landlords on legislative requirements and best practice, as well as access to other useful services. For those landlords that are falling short of the expected standard, the service provides an opportunity for them to engage on a more informal basis and accept assistance at an early stage of intervention, prior to enforcement action being considered. The project runs for another year and provides a model that can be replicated across all 32 local authorities to complement and add value to a consistent enforcement approach.

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?

Some kind of penalty is essential to ensure compliance with the regulations. However, as referred to in question 1.18, there needs to be a balance with appropriate support and information available for the landlord to encourage compliance and not simply result in landlords leaving their property empty, removing it from the rental market, or trying to bypass the regulations.

Shelter Scotland propose the minimum energy efficiency standard should be added to the repairing standard, rather than using civil fines. This would pull all aspects of regulation and enforcement together, and would allow the tenant and/or local authority to go through the First Tier Tribunal for resolution.

As referred to in question 1.18, a large number of local authorities are not currently using the enforcement powers they have. If the energy efficiency standard was incorporated into the repairing standard, this would allow enforcement, where necessary, to be carried out via the Tribunal system. Tenants could apply directly in a non-compliance case, or local authorities could make a third party application on identifying non-compliance. It would open up alternative penalties including the provision of rent penalty notices and repairing standard enforcement orders.

A rent penalty notice would benefit the tenant by suspending their rent for a period, which would go some way to meeting the inconvenience and likely added expense of living in a substandard property.

Rent penalty notices would also better link the financial penalty to the rental income of the property, arguably making this fairer for the landlord: a property

with a monthly rental income of £500 will be financially hit by a £1,000 fine much harder than a property with a monthly rental income of £2,000.

A repairing standard enforcement order would order the landlord to repair the problem (in this case, improving the energy efficiency of the property). A repairing order would also be lodged on the deeds to the property, so if the tenant leaves the landlord is unable to re-rent the property.

It would also link more easily to the revocation of landlord registration, as a repairing standard enforcement order in some councils is automatically taken to licensing committee to look at the circumstances and whether the landlord's license should be revoked.

In contrast, the proposed civil fine of £1,000 for failing to carry out the works is not enough of a deterrent for private landlords to complete works, for example if their works have been estimated at £4,000, if they're expected to be particularly disruptive, or if the tenant is not engaging. If the Scottish Government were minded to pursue civil fines, a recurring fine may help to make this a more effective deterrent.

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.

No, as indicated in question 1.19, Shelter Scotland believes rent penalty notices should be used instead of civil fines.

The views of private tenants were mixed on whether the proposed fines were appropriate and proportionate⁶. Some tenants commented that larger fines should be considered, or that the fines should be variable to allow it to be linked to the condition, rent level, or size of the property. This would partially be addressed if rent penalty notices were pursued instead of civil fines. There were a lot of concerns about enforcement of the regulations.

1.21 We have proposed some specific situations where owners should have longer than six months to bring their properties up to the minimum

⁶ Shelter Scotland (2017), Scottish Government Consultation on Energy Efficiency: The Views of Private Tenants, available on request

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?

These seem reasonable but it must be ensured that there is consistency of approach across local authorities.

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 on these in relation to:

a) technical reasons

b) legal reasons

c) excessive cost reasons

Technical and legal reasons

In general, the technical and legal reasons mentioned seem reasonable, though it will be important to ensure there is a consistent application of these across local authorities and in terms of the evidence required from landlords to show these points apply.

The tenants we spoke to highlighted the importance of ensuring tenants are informed of the restrictions to the building they are renting so they can make an informed choice about choosing to rent a property which is listed and exemptions mean that it cannot be improved. They also emphasised the importance of proper evidence and proof to ensure landlords aren't using exemptions as loopholes:

Listed buildings can be insulated and draught-proofed in some way. If it is not the most conventional, that will mean that it is not going to be the cheapest install but "listed building" has, in my experience, been used by agents as an excuse to do nothing about structural repairs needed or internal plumbing fixed and will be seized upon as an excuse to not be brought up to standard. [Private tenant⁷]

An effective communication strategy is important to reduce the likelihood of tenants refusing works. It is important there is sufficient safeguards in place to ensure that landlords don't coerce tenants to reject works for that reason, for

⁷ Shelter Scotland (2017), Scottish Government Consultation on Energy Efficiency: The Views of Private Tenants, available on request

example having an independent person or agency contacting tenants who have refused works as part of the processing of the exemption.

Excessive cost reasons

Regarding the excessive costs, a cost cap is important for this regulation to be palatable and achievable for landlords and therefore for it to be successful.

However, the most important result of the proposed regulation is that tenants live in a more energy efficient home, with all the benefits that come with this including being the home being warmer and cheaper to run.

As such, it is what happens after the costs are assessed at over £5,000 that is important. The Scottish Government should consider how they are able to support the landlord to complete the work, for example if they are able to meet the surplus costs of the work via loan funding. Alternative arrangements could also be considered, such as reducing council tax rates for properties that can't meet the standard, to even the playing field for those tenants. All tenants deserve to live in a warm and affordable home.

Another concern raised by tenants which supports a cost cap is that landlords will pass on the cost to tenants⁸. Some tenants felt they would be willing to pay a proportionally higher rent if they were reaping the benefits of the works in terms of warmth, comfort and lower energy bills. Others were resistant to rent increases, and concerned of the impact of any rent increase on the market. There also has to be consideration of the current consultation on rent pressure zones. Local authorities will be able to apply to have an area designated as a rent pressure zone, meaning there will be a cap on rent increases during a tenancy term. Under this, there are exceptions proposed where landlords will be able to increase the rent beyond the cap if there has been significant work done which increases the rental value. The potential for landlords to use their compliance with a basic energy efficiency standard as a reason for a rent increase within a rent pressure zone must be considered.

Any flat up for rent should be of an adequate living standard regardless of how much it costs a landlord to fix it. If they can't make a flat suitable then it shouldn't be rented [Private tenant⁹]

Landlords for far too long have gotten away with letting properties of bare minimum standard for absolute maximum rent. [Private tenant¹⁰]

d) the proposal that this would remain value for a period of not more than 5 years?

⁸ Shelter Scotland (2017), Scottish Government Consultation on Energy Efficiency: The Views of Private Tenants, available on request

⁹ Shelter Scotland (2017), Scottish Government Consultation on Energy Efficiency: The Views of Private Tenants, available on request

¹⁰ Shelter Scotland (2017), Scottish Government Consultation on Energy Efficiency: The Views of Private Tenants, available on request

It seems reasonable that after 5 years, the local authority should review the situation and whether there are any changes that mean the exceptions no longer apply.

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?

b) what implications would this have for local authorities?

The details of enforcement and support required for local authorities to enforce this are for them to comment on directly. However, Shelter Scotland is concerned that local authorities are not sufficiently geared up to enforce these minimum regulations considering the current resources and systems in place.

Shelter Scotland strongly supports a model of engagement with private landlords, like that in our Private Landlord Project, which includes early intervention and ongoing engagement with private landlords provided by Private Landlord Support Officers before enforcement action is necessary. See question 1.18 for more information.

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 answers.

As discussed in question 1.5, local authorities might ensure standards are being met by imposing an obligation on landlords at the point of registration and re-registration to provide confirmation, and ideally evidence, that their properties are up to standard in several areas. This could include the submission of scanned copies of the Electrical Installation Condition Report, Gas Safety Certificate and Energy Performance Certificate/Minimum Standards Assessment for each of the landlord's properties. This would also be the case for adding new properties during a registration period. This has the benefit of pulling together several duties of the private landlord in one way. This could be combined by inspection activity either targeted where a landlord has failed to produce all the required documentation or on a random sample of properties.

One possible objection to this in remote and rural areas is lack of access to internet. This can be overcome by landlords visiting their local Service Point and getting their documents scanned in there.

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.

Yes, this makes the best use of communication and marketing opportunities to inform tenants and landlords, and enables landlords to choose a potentially more cost-effective option of upgrading their property in one go. This would have the added benefit of removing an enforcement step for the local authority, and minimising potential disruption for tenants. Landlords should be motivated through information and incentives to meet the final standard earlier, and indeed encouraged to go beyond the minimum energy efficiency standard of EPC D.

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.

Yes

1.27 When increasing the standard to EPC D, we propose that the cost cap will be £5,000 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.

We agree that there should be a cap on spend for landlords. See question 1.22.

A cost cap is important for this regulation to be palatable and achievable for landlords and therefore for it to be successful.

However, the most important result of the proposed regulation is that tenants live in a more energy efficient home, with all the benefits that come with this including being the home being warmer and cheaper to run.

As such, it is what happens after the costs are assessed at over £5,000 that is important. If the Scottish Government is truly committed to reducing emissions, meeting targets and tackling fuel poverty, and has faith in the accuracy of their estimates of the small number of properties where works might be costed at more than £5,000/£10,000, then the Scottish Government should consider how they are able to support the landlord to complete the work, for example if they are able to meet the surplus costs of the work via loan funding. Alternative arrangements could also be considered, such as reducing council tax rates for properties that can't meet the standard, to even the playing field for those tenants.

A tenant living in a, likely rural, property, which is classed as costing more than £5,000/£10,000 to bring up to the minimum energy efficiency standard should still have the same right as any other tenant to live in a warm, dry home. Data from

the Scottish Rural Fuel Poverty Taskforce¹¹ also suggests the additional costs faced by tenants likely to fall into this group, including VAT and multiplier effects as tenants have to face the bills for the more inefficient properties suggesting this is probably the group who are most vulnerable to fuel poverty.

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?

We agree a property with an exception from meeting E should not automatically be excepted from meeting D. Some of the barriers for meeting the E standard might no longer be relevant, if external factors have changed or if the landlord has had other works done to the property. However, this should be tied in with the five yearly review of exceptions as indicated in question 1.22 d.

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

Introducing a minimum standard higher than D would truly level the playing field on energy efficiency issues with the social rented sector. Experiences of our advisers show that there is a large group of people in the private rented sector not out of true choice, but because they have been priced out of owner occupation and because of the great demands on social rented housing. Private tenants are therefore unfairly penalised – they cannot undertake certain types of work in their home to improve the energy efficiency without the consent of their landlord, and yet they are not entitled to a warm, dry home in the same way that social sector tenants are. We know that the rate of fuel poverty is lower in more energy efficient homes¹², and that this is one effective way to tackle fuel poverty, and one which supports the Scottish Fuel Poverty Strategic Working Group's aspiration to eliminate poor energy performance of a property as a driver of fuel poverty¹³.

In addition, there are many ex-council owned private rented sector properties in the same block as council property, therefore equivalent standards would address some of the barriers in completing works in mixed-tenure blocks.

Shelter Scotland believes introducing a minimum standard higher than D will also be necessary to meet the target set out in the Climate Change Plan.

A future standard beyond D should be laid out and communicated in the communication strategy that will be necessary for landlords, tenants and local

¹¹ Scottish Rural Fuel Poverty Taskforce (2017), An Action Plan to Deliver Affordable Warmth in Rural Scotland, <http://www.gov.scot/Publications/2016/10/2017/downloads>

¹² Scottish Government, Scottish House Condition Survey 2015: Key Findings, <http://www.gov.scot/Publications/2016/12/1539/downloads>

¹³ Scottish Fuel Poverty Strategic Working Group (2016), A Scotland without fuel poverty is a fairer Scotland: Four steps to achieving sustainable, affordable and attainable warmth and energy use for all, <http://www.gov.scot/Publications/2016/10/2273/downloads>

authorities for the proposed E and D standards, to ensure and enable planning and to encourage early action to meet the future standard.

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.

No answer provided.

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).

No answer provided.

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.

Shelter Scotland believes there will be many positive impacts of the proposals on groups of people with protected characteristics. 748,000 households live in fuel poverty, and we know that fuel poverty disproportionately affects older households. We are also aware of the impact of high energy costs and fuel poverty on families with young children and pregnant women, as well as relationships between disability and the disproportionate impacts of cold homes, particularly on the relationship between cold homes and health of these groups¹⁴.

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.

¹⁴ For example, Shelter Scotland (2017) Working with the health sector to tackle fuel poverty, http://scotland.shelter.org.uk/professional_resources/policy_library/policy_library_folder/working_with_the_health_sector_to_tackle_fuel_poverty, and ScotPHN (2016) Fuel Poverty: An Overview, https://www.scotphn.net/wp-content/uploads/2016/11/2016_11_10-Fuel-Poverty-JA-Lit-review.pdf

Children living in cold homes are more than twice as likely to suffer respiratory problems¹⁵. Living in a cold home is significantly linked to failure to thrive and poor weight gain in babies and young children as well as delay with developmental milestones, more frequent and severe asthma symptoms, and higher rates of hospital admission¹⁶. Being sick more often and having a higher chance of developing serious, long-term illnesses will inevitably lead to children who grow up in cold homes missing more school and affect their educational achievements.

In addition, a snapshot survey of families being supported by Shelter Scotland's Foundations First project identified that 44 per cent of families struggling to meet fuel costs¹⁷.

Shelter Scotland therefore believes that raising the energy efficiency of homes in the private rented sector across Scotland will have a very positive impact on children's rights and welfare.

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

No answer provided.

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

No answer provided.

¹⁵ Marmot Review Team (2011), The health impacts of cold homes and fuel poverty, <http://www.instituteofhealthequity.org/projects/the-health-impacts-of-cold-homes-and-fuel-poverty>

¹⁶ UK Health Prevention First Forum, 2014, Fuel Poverty: How to improve health and wellbeing through action on affordable warmth, <http://www.ukhealthforum.org.uk/prevention/fuel-poverty/?entryid43=34642>

¹⁷ Shelter Scotland (2016), A Child Poverty Bill for Scotland: Consultation Response, http://scotland.shelter.org.uk/__data/assets/pdf_file/0003/1286337/Shelter-Scotlands-Response-to-the-Child-Poverty-Bill-Consultation.pdf/_nocache

PART 2: THE REPAIRING STANDARD

Shelter Scotland believes fundamentally that private tenants should not be subject to a lesser standard of housing, simply because of the tenure they reside in. This is particularly the case now that there is a growing number of households in the sector, including many families with children, and many who do not have the choice of other tenures including social housing or owner occupation.

That said, Shelter Scotland has real concerns about the ability to enforce many of the proposed changes. Local authorities need to be fully and adequately resourced to monitor and enforce issues, and tenants need to be informed and empowered to raise concerns and follow them through. As with the minimum energy efficiency standards, we need to ensure that any new standards result in real change on the ground, and so effective enforcement must be built in from the start. Opportunities for local authorities to engage in an ongoing way with private landlords is also important.

The principles proposed for amending and adding to the repairing standard would provide an improvement, but this must be carried out in a careful way, with support (including financial) and information for landlords, to balance the positive improvements with possible unintended consequences, for example landlords leaving the sector or increasing rent.

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? Yes/no/don't know. Please explain your answer.

Yes, ensuring a house complies with the tolerable standard should be part of a private landlord's duties under the repairing standard. This will send a clear message that houses must meet the tolerable standard and will enable tenants, and local authorities on their behalf, to apply to enforce this through the Tribunal.

2.2 Do you think that private rented housing should meet a minimum standards for safe kitchens? Yes/no/don't know.

Yes. The proposals for safe kitchens are sensible and would help safeguard tenants as well as providing them with the same right to safety as their social rented counterparts. This will provide a welcome challenge to the practice of splitting up some properties into multiple small units for more profit.

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

Exceptions may be required in some property types where major structural work would be required to amend, but should not be allowed where the landlord has remodelled the property.

2.4 Do you think that private rented housing should have a minimum standard for food storage space? Yes/no/don't know.

No. This is not a priority issue for the private tenants we support, and though might be useful for planning considerations for proposed works and new builds, it is not important enough to oblige a change to the repairing standard.

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

As above, we do not believe the repairing standard needs to be amended to include a minimum standard for food storage space.

2.6 Do you think that private rented housing should have a fixed heating system? Yes/no/don't know.

The issues around safety and warmth are serious considerations here, and Shelter Scotland supports the principle of fixed heating systems in private rented housing. However, given the proposals in part 1 of this consultation regarding the introduction of a minimum energy efficiency standard for private landlords, we believe this might be a confusing and at times conflicting message. It might also create issues with enforcement for example where a landlord is exempt under the energy efficiency regulations but has been given a repairing standard enforcement order to install a fixed system. For clarity, therefore, though it might be desirable, we do not believe a fixed heating system should be a requirement under the repairing standard.

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

As above, we do not believe the repairing standard should be amended to include a fixed heating system.

2.8 Do you think that private rented housing should be free of lead pipes from the boundary stopcock to the kitchen tap? Yes/no/don't know.

Yes.

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/don't know

Yes, where there are grounds to believe that there may be lead pipes.

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? Yes/no/don't know.

Shelter Scotland believe these are already covered under section 13 (1)(b) and section 15 (1) of the Housing (Scotland) Act 2006, whereby the application of the duty in relation to flats etc notes where a house forms part only of any premises, the owner of the house is responsible for maintaining (solely or in common with others) these areas. Landlords would also be liable for repairs if e.g. outhouses or sheds were mentioned in the tenancy contract. If this is not the case, then we would support the proposed addition.

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

This is likely to be a particular issue in mixed tenure blocks. Reasonable exceptions should be allowed on a case by case basis, within the context of agreed upon guidance to ensure there is consistency across local authorities.

2.12 Do you think that private rented housing should meet a minimum standard for safe and secure common doors? Yes/no/don't know.

Yes, private rented housing should meet a minimum standard for safe and secure common doors, again provided reasonable exceptions were allowed.

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.

Don't know. This is not a priority issue for the private tenants we support. We suggest this might be useful for planning considerations for proposed works, any upgrading of bathrooms, and new builds, but we do not have the evidence which suggests this should oblige a change to the repairing standard.

2.14 Do you think that electrical installations in private rented housing should be fitted with residual current devices? Yes/no/don't know.

Yes, Shelter Scotland supports the fitting of residual current devices in electrical installations in private rented housing.

In 2013, Shelter Scotland was a signatory on a joint letter to the Scottish Government expressing support for the introduction of mandatory residual current devices in privately rented homes, alongside Electrical Safety First, RICS Scotland and the Chartered Institute of Housing Scotland. They are also supported by the RLA (Residential Landlords Association)¹⁸.

¹⁸ See Electrical Safety First submission, and letter in appendix 1 at the following link: http://www.parliament.scot/S4_InfrastructureandCapitalInvestmentCommittee/14.02.26_Electrical_Safety_Council.pdf

We are aware of some concerns about the cost to landlords about this and the cost estimates being incorrect and actually likely to be closer to £400, however Electrical Safety First have advised it should be between £100 and £300.

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.

Yes. This is a reasonable requirement if it is intended to be enforced when work is being done, but should not dictate unnecessary disturbance of asbestos if no there is no risk or likelihood of work being undertaken.

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? Yes/no/don't know.

Don't know. Again, our understanding is that this should be accounted for already under the tolerable standard in terms of providing an adequate piped supply of wholesome water available within the house, and the repairing standard regarding the supply of water in a reasonable state of repair. If there is evidence that this existing regulation is not sufficient to ensure private water supplies should be of a sufficient quality, then Shelter Scotland would support the proposed amendment.

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 (option 1)? Yes/no/don't know.

Yes, Shelter Scotland supports the amendment of the repairing standard to include capacity for a fridge/freezer in order to ensure people are able to store food, as detailed in option 1.

2.18 Do you think that private landlords should be required to provide cookers, fridges and freezers (option 2)? Yes/no/don't know.

No, private landlords should not be required to provide cookers, fridges and freezers for all tenants in receipt of Housing Benefit and Universal Credit. This has the potential to result in stigmatisation of benefit recipients. Instead, provision of these should continue to be provided via the Scottish Welfare Fund.

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? Yes/no/don't know.

Yes, Shelter Scotland strongly supports the amendment of the repairing standard to include specific reference to safety of heating systems using other fuels in addition to gas and electricity.

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

Yes/no/don't know.

Don't know. Shelter Scotland is aware that this is addressed within Houses in Multiple Occupation (HMO) licensing. If there is evidence that this is an issue for non-HMO properties then this might be considered, but at present this is not a priority issue for Shelter Scotland. We suggest that this might be something that can be supported and addressed via mediation services, but that certainly should be considered on a case by case basis. Concern was raised by tenants that this might result in the installation of unwanted carpets or other fixtures to tick a box. Further evidence is required to understand how much of an issue this is to warrant a change to the repairing standard.

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

No answer provided.

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

Yes, Shelter Scotland believe that the minimum energy efficiency standard should be added to the repairing standard as detailed in question 1.18 and 1.19.

2.23 Do you think that agricultural tenancies, rented crofts and small landholdings should be subject to the repairing standard? Yes/no/don't know.

Yes. Shelter Scotland believes tenants in these properties should be entitled to live in a safe, warm home in a good state of repair. However, there are additional considerations here that need to be examined in detail, including issues of who is responsible for works. This should be done in full consultation with all stakeholders and specific focus on gaining the views of tenants in these properties.

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?

Yes/no/don't know.

Yes. Shelter Scotland believes that holiday lets should be subject to the repairing standard, and believe that clarification on this issue would be helpful. Otherwise there is a risk of landlords leaving the private rental market and letting their property as a holiday let instead, and additionally people should be entitled to expect a safe and secure property that meets the repairing standard. See question 1.1.

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? Yes/no/don't know.

Yes, Shelter Scotland is in support of a significant lead in time for landlords to comply with any changes to the repairing standard. If the Scottish Government were minded to include minimum energy efficiency standards in the repairing standard, this might provide a future date to pull together all of the proposed changes for the private rented market and would allow a combined marketing and information push for both tenants and landlords regarding what to expect by this date.

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.

Yes, evidence from our advice services demonstrates that tenants already struggle at times to understand and enforce their rights. One new enforcement date would help simplify the information to be provided to tenants to understand their rights.

2.27 Do you think that the timetable for changes should be linked to wider government milestones on climate change? Yes/no/don't know.

In principle this seems sensible, but the most important aspect from our point of view is that the timetable works in practice for tenants and is feasible for local authorities as the monitoring and enforcement agents.

2.28 Are the current enforcement routes via the housing tribunal appropriate for the proposed new measures in the repairing standard? Yes/no/don't know.

No.

Shelter Scotland strongly believes that there needs to be a tangible route through which consumers can require that their landlords bring properties up to standard, should they fail an element of the repairing standard. This should include meaningful and clear legal rights backed up by a well-functioning dispute resolution system. Unfortunately, Shelter Scotland has several concerns about the current system for ensuring that landlords comply with minimum standards in relation to repairs. Shelter Scotland strongly believes that this current review of the repairing standard therefore provides a great opportunity to strengthen the enforcement of the repairing standard, especially by making it an implied term of all private rented sector tenancies:

- By making the repairing standard an implied term, the repairing standard would be considered to be a contractual term of all tenancy agreements, even if it was not included in the written contract. This would also apply in cases where a tenant has no written lease.

- Shelter Scotland is of the opinion that this would ensure increased compliance among landlords and letting agents and thereby lead to better standards across the private rented sector in Scotland. [51 per cent of private rented sector properties](#) failed the Scottish Housing Quality Standard in 2015 – meaning that probably more than half of the 350,000 households living in this sector across Scotland, including 91,000 households that contain children, live in properties that have serious disrepair, are not energy efficient, lack modern facilities or services, are not healthy, safe or secure, or are below the tolerable standard.
- It is important to note that the repairing standard is not a statutory term under the new tenancy regime, which is due to come into force in December 2017. Tenants will therefore not have any further protection in this regard under the new tenancy than they currently do.
- Landlord's repairing obligations are implied terms of the tenancy agreements for both social sector tenants in Scotland and private tenants in England. Schedule 10 of the Housing (Scotland) Act 1987 created an implied condition on all short leases of less than 7 years that landlords have to provide and maintain the let property in a habitable condition and keep the structure and exterior, sanitary installations and installations for the supply of gas, electricity and water in working order and repair. However, the Housing (Scotland) Act 2006 removed the implied nature of the repairing obligation in relation to the private rented sector but still applies to social tenants across Scotland. In England, Section 11 of the [Landlord and Tenant Act 1985](#) made the landlord's obligation to carry out basic repairs an implied term. Shelter Scotland believes that private tenants across Scotland deserve the same rights and protections in regard to repair issues, as private tenants in England and social tenants in Scotland.
- Moreover, making the repairing standard an implied term would merely be following the advice that policy stakeholders expressed clearly in the run up to the drafting of the Housing (Scotland) Act 2006. The Housing Improvement Task Force, which was established in 2000 by the then Social Justice Minister, was tasked with undertaking a comprehensive evaluation of housing policy in relation to the state of private sector housing across Scotland. The Task Force recommended in [its final report](#) in 2003 that all written leases should be required to include an explicit statement of the repairing obligation. It further suggested that where "a written lease is required but is not provided, and with tenancies where there is no legal requirement for the provision of a written lease, the statutory repairing obligation should continue to be an implied term of contract." Shelter Scotland believes that following this recommendation is long overdue.
- Currently, tenants are unable to claim damages unless the repairing standard is an explicit term of the tenancy agreement or tenants can prove negligence on behalf of the landlord. However, proving negligence entails the tenant having to prove that the landlord could reasonably have foreseen that his or her actions might cause damage or an injury. There is therefore a much higher threshold for negligence than if the tenant is claiming damages linked to a contractual obligation that the landlord failed to comply with. If the repairing standard were an implied term, tenants

would be able to claim damages regardless of the content of their tenancy agreement.

The other way that tenants can currently try to recover any possible expenses they incurred due to disrepair is through a rent penalty notice. The Tribunal can issue such a notice to restrict rent in order to enforce a repairing standard enforcement order and get the landlord to address the disrepair. However, this will not help tenants who have already moved out and are no longer paying rent.

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? Yes/no/don't know.

Don't know.

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

a) costs

b) timing

c) enforcement?

As stated previously, Shelter Scotland broadly supports the majority of changes proposed to the repairing standard. It must be ensured that these are realistic and that it is possible to enforce these to ensure real changes on the ground. Time scales, enforcement and costs must all be considered in the wider context to ensure unintended consequences are minimised.

Shelter Scotland strongly supports a model of engagement with private landlords, like that in our Private Landlord Project, which includes early intervention and ongoing engagement with private landlords provided by Private Landlord Support Officers before enforcement action is necessary. See question 1.18 for more information.

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.

No answer provided.

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.

Shelter Scotland believes raising the basic standard of repair will benefit all private tenants, including those with protected characteristics.

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 group groups or charities that work with young people.

The repairing standard is a basic level of repair which all private rented accommodation must reach. Many of the proposals will reduce risk of harm to children, for example the introduction of thermostatic mixer valves to reduce the risk of scalding, and therefore will have a positive impact on children's rights and welfare.

Shelter Scotland helps over half a million people every year struggling with bad housing or homelessness through our advice, support and legal services. And we campaign to make sure that, one day, no one will have to turn to us for help.

We're here so no one has to fight bad housing or homelessness on their own.

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