

# **Energy Efficient Scotland 2019**

Shelter Scotland  
consultation  
response

June 2019

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# CONSULTATION QUESTIONS

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.

## Pace of Delivery

### **1. With regards to achieving an accelerated delivery of the standards proposed, do you think mandatory action for owner occupiers would be required? Please provide a rationale for your answer.**

Shelter Scotland believe that simply 'encouraging' owner occupiers to improve the energy efficiency of their homes will be ineffective, and thereby regulation is necessary. However, this must be rolled out in a way which does not adversely affect owner occupiers who are already struggling with household costs. Energy efficiency improvements must not be pursued at the cost of making housing unaffordable for people. The focus must be on providing tailored support, including financial, and advice to households. In line with Existing Homes Alliance Scotland, the introduction of regulation should be planned in such a way that enforcement would only be required in a small number of cases – there should be a clear and achievable route for all households to achieve compliance.

Without a full understanding of the detailed financial and other support planned for owner occupiers, it is difficult for Shelter Scotland to push for a definitive date. Notwithstanding that, the idea that a 'business as usual' approach could see almost all owner occupied stock brought to EPC C by roughly 2040 anyway demonstrates how unambitious the current proposal is. If the Scottish Government is serious about pursuing energy efficiency improvements and responding to a climate emergency, the target could and should be brought forward.

### **2. What trigger points, e.g. sale, renovation, etc. could be used to require owner occupiers to undertake energy efficiency improvements?**

The proposals to link compliance to trigger points including major refurbishment and when a property is sold are sensible and allow monitoring to be partially undertaken by local authority building standards teams and other parties. Sufficient resource will have to be in place for any department to follow up on non-compliance issues. There may be other sensible trigger points identified but Shelter Scotland do not have the evidence to suggest these or identify possible barriers to their use, aside from the obvious change of use trigger – for example an owner occupier choosing to rent out their property, which would automatically bring the property under the earlier private rented regulations and which should be pursued if it is not already.

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However, as highlighted in the consultation, introducing owner occupiers to undertake energy efficiency improvements at these triggers won't affect all owner occupied homes – for example using the point of sale will only capture around a third of the stock falling below EPC Band C within a ten year period. As such, a large number of properties will have to be picked up at a backstop date – currently proposed as 2040. The success of encouraging other owner occupiers to undertake work before the deadline will be reliant on a large scale communication strategy building on research showing what works, and ensuring that the tools and support (including financial and softer support such as handholding) are available for owners.

It is important to note the possible implication for bringing empty homes back into use with this policy – any barriers for owners to sell their home or change its use risks increasing the likelihood that an owner will continue to leave it empty, and also increases the risk of more homes becoming empty. There are currently 39,000 privately owned long term empty (six months or more) homes in Scotland. The Scottish Empty Homes Partnership, which is hosted by Shelter Scotland, has highlighted the importance of appropriate financial support being available for empty homes owners – often grants and loans have certain criteria relating to their occupancy or their use, which can make them unsuitable for owners who are unsure about the future tenure of the property while renovation is ongoing.

### **3. When should mandatory energy efficiency targets be introduced for the owner occupied sector? Should they be introduced before 2030?**

As outlined in question 2, the current proposals to introduce mandatory targets at certain trigger points at 2030 is unambitious and unlikely to show substantial results until closer to 2040, two decades from now. The mandatory energy efficiency targets relating to the trigger points should be introduced at an earlier stage.

### **Impact of Pace on Supply Chain**

#### **4. From a supply chain perspective, do you think bringing forward the timescales for the Programme would have a positive or negative effect on quality, skills & capacity and consumer protection? Please provide a rationale, and evidence where possible.**

Shelter Scotland does not have the evidence to answer this question.

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## Impact on Fuel Poverty & Climate Change

### **5. In your view, how would accelerating Energy Efficient Scotland help, and/or how would it hinder, plans to address fuel poverty?**

That poor housing stock is currently forcing households into fuel poverty is unacceptable. Increasing the energy efficiency of Scotland's housing stock across tenures helps both people currently in fuel poverty as well as preventing energy efficiency as a contributing factor for any future households living in those buildings.

Energy efficiency is one of four drivers of fuel poverty, and one where the government has the ability to make real change in tackling fuel poverty and meeting the targets outlined in the new Fuel Poverty (Targets, Definition and Strategy) (Scotland) Bill at the same time as meeting other obligations (such as reduction in emissions). As such, accelerating Energy Efficient Scotland to address fuel poverty should be pursued.

Using Energy Efficient Scotland resources to tackle fuel poverty should be the priority and we welcome the proposal for higher targets for those who are living in fuel poverty to effectively remove energy efficiency as a driver for fuel poverty to focus resources on those most in need. The Energy Efficient Scotland Route Map sets out that households in fuel poverty should through various supports achieve EPC Band C by 2030, and then EPC Band B by 2040, where technically feasible, cost-effective and affordable. However, we are still not clear about how this will be achieved in practice and raise again questions from our 2018 consultation response: will this standard be pursued via using the fuel poverty definition as a criterion for eligibility for different schemes or by focusing resources and programmes, such as area-based schemes, in areas where there is a high rate of fuel poverty? Would this be legally enforced through regulation or simply something to aim for? By the very nature of the definition, households in fuel poverty will be less able to finance any works, and thereby the available support and funding is crucial here. What support will be available for fuel-poor private tenants to negotiate with their landlords to get works done to bring it up to the higher standard? This is particularly relevant given the concerns Shelter Scotland has about the current proposed enforcement route for the private rented sector (see question 7).

We support the Existing Homes Alliance Scotland's proposal that government energy efficiency and fuel poverty programmes (e.g. Area-based Schemes and Warmer Homes Scotland) should aim to achieve EPC band C or above by 2030 (see answer to question 1). They highlight in their submission that this avoids the need to return to the same area for further retrofit – which would result in further costs and disruption.

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Regarding accelerating EES for other tenures, we must ensure this target delivers on the ground for owner occupiers and private tenants, an issue we also raised in our 2018 consultation response. For EES targets to be effective for these groups, there will have to be a wide awareness raising campaign and support for private tenants to negotiate with their landlord for improvements, for example. The level of financial support here will also be a factor, otherwise it may result in landlords discriminating against households who might be in fuel poverty to avoid having to comply with the higher target. For owner occupiers, we must ensure any regulations are rolled out in a way which does not adversely affect owner occupiers who are already struggling with household costs. Energy efficiency improvements must not be pursued at the cost of making housing unaffordable for people.

**6. With regards to reducing the emissions associated with the supply of heat, what are your views on consideration of energy efficient improvements alongside changes to heating systems?**

Shelter Scotland does not have the evidence to answer this question.

**Private Rented Sector**

**7. What are your views on using change of tenancy as a trigger to require the increased standard?**

Shelter Scotland strongly believe using change of tenancy as a trigger to require the increased standard is problematic and likely to be ineffective in meeting the policy intention which, as we understand it, is to improve the energy efficiency of homes in the private rented sector, and specifically for all PRS properties to reach EPC band E by 31 March 2022 and EPC band D by 31 March 2025.

We previously stated in our response to the 2017 and 2018 consultations that the implementation of the standard (before the backstop date) at the change of tenancy is problematic because there is no natural communication between the landlord and local authority or the tenant and local authority at this date. Furthermore, we know that tenants do not feel in a position to challenge compliance or vote with their feet before a tenancy has begun. We proposed an alternative, that the standard is introduced at the point of landlord registration or re-registration. Local authorities already collect information on compliance with other regulations at this stage, for example gas safety certificates, and the recent landlord registration consultation proposed that EPCs were included at this stage. As the proposal stands, it is likely that monitoring and enforcement will be extremely difficult before the backstop date and in practice that the standard will not be easily monitored or enforced until the backstop date for each new EPC band.

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We understand the current draft proposals for enforcement are as follows:

- If a property is identified as having a below-regulation EPC and does not have a valid exemption, the local authority can serve a compliance notice.
- If the local authority is satisfied the landlord is in breach (which requires further investigation/monitoring to confirm), the local authority may issue a Penalty Notice.
- If the local authority upholds the Penalty Notice (i.e. if the landlord doesn't request and get a successful review), and the landlord does not pay, the local authority must go to court and follow up with debt recovery action.

Our concerns include the following points:

- Are local authorities adequately resourced to take this action? Will they follow through with this action and take the landlord to court? What routes are there for tenants to take actions, for example if their local authority is not enforcing standards?
- How long will this process take and what support is provided to the tenant who is living in a substandard property in the meantime? For example, do they receive support with their fuel bills in cases of non-compliance?
- Fines have been proposed at various levels but capped at £2,000, relating to the caps in the Energy Act under which these regulations are being brought in. This £2,000 fine is much less than the £5,000 cost cap for works. Given fines will be used in cases where a landlord is unwilling to take action, potentially more likely where expensive works are required, how will a £2,000 fine act as a deterrent given it still offers a potential saving when compared to the cost cap?

It is however, heartening to know that the new letting agent code of practice can help provide an additional route for compliance and monitoring, as outlined in section 31, which states that letting agents must not act on a landlord's behalf if they know them to not be meeting their legal obligations as a landlord, and they must inform the appropriate authorities. Notwithstanding this positive, not all landlords rent their property through letting agents.

If change of tenancy is the route decided upon, and therefore that the local authority is responsible for taking forward compliance issues, the issues outlined above must be addressed. Some of this will be outwith the remit of the energy efficiency team and should be picked up as part of wider work to improve the private rented sector. We outline other options and benefits of other routes in our previous consultation responses specifically on the private rented sector and would be very happy to discuss this issue further.

## **8. What are your views on using 1 April 2025 as the date to start applying the minimum standard of C when there is a change in tenancy?**

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We strongly agree with implementing a minimum standard of C from 2025.

Introducing a minimum standard of C further levels the playing field between the private and social rented sectors, which is particularly important given 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. 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.

The 2025 date makes the best use of communication and marketing opportunities to inform tenants and landlords about earlier standards, and enables landlords to choose a potentially more cost-effective option of upgrading their property in one go. It also minimises potential disruption for tenants where landlords choose to upgrade to C when meeting the earlier EPC standards. Indeed, landlords should be motivated through information and incentives to meet the final standard earlier.

As discussed above, we dispute the effectiveness of introducing this at a change in tenancy.

**9. With regards to providing a useful tool to landlords planning and executing improvement works, what are your views on basing any cap of required works on a definition of cost-effectiveness and technical feasibility?**

Theoretically, 'cost-effectiveness' and 'technical feasibility' are important elements to consider in any cap of required works. However it depends on the definition and the detail of the calculation.

Undoubtedly some measures will not fall under whatever definition is chosen and the policy aim should be kept in mind with consideration of the wider factors that are pushing energy efficiency work including environmental targets and reducing fuel poverty. When taking these into consideration on balance it may be worthwhile to go ahead with a measure even if it is not considered to be cost effective by the proposed definition. If this is the case, there needs to be solutions provided for exemptions or high cost barriers. For example, it is likely to exclude some works in the most rural areas, who may be subject to higher installation fees or where works cannot be done on a large enough scale to reduce costs. It may be there is a requirement for the Scottish Government to consider grants or loans, or assisting with lower installation fees, for work to go ahead. Equally, it must be considered who any decision is 'cost effective for' – for tenants, it might be that further support (financial or otherwise) should be considered if their homes are unable to be upgraded to a higher energy efficiency standard, and therefore they would continue to struggle with unaffordable fuel bills.

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For owner occupiers, the cost-effective measure should also take into consideration the financial situation of the householder and support provided if necessary to make compliance financially viable.

Care around the communication of this aspect will be necessary for the PRS and the impact of the roll out of this policy must be monitored closely, to ensure that private renters in particular are not unfairly affected by rent rises by landlords passing on the cost of compliance with a new standard by landlords seeking to keep any improvements 'cost effective'. It remains to be seen how effective provisions regulating rent increases under the new Private Residential Tenancy will be.

### **Impact on Supply Chain: skills and capacity**

**10. The Short Life Working Group have made recommendations which they believe represent the actions required to ensure that Energy Efficient Scotland will achieve consistently high levels of quality, health and safety and consumer protection. Do you agree? If not, what more or less should be done?**

Shelter Scotland does not have the evidence to answer this question.

**11. Do you have any views on how this can be achieved whilst at the same time ensuring maximum participation from suppliers across Scotland regardless of their size and geographical location?**

Shelter Scotland does not have the evidence to answer this question.

**12. What do you think the role of Scottish Government should be in ensuring the quality criteria are consistently met?**

Shelter Scotland does not have the evidence to answer this question.

### **Heat Networks**

**13. Taking the above into account, what further incentives could drive further heat demand onto networks?**

Shelter Scotland does not have the evidence to answer this question.

**14. Taking the above into account, what further assistance could support the growth of approximately-sited, low carbon heat networks?**

Shelter Scotland does not have the evidence to answer this question.



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Please support us at [shelterscotland.org](https://shelterscotland.org)

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