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

10 March 2018

DCHI is the South West Association for Energy Assessors, Green Deal Advisors & Residential Property Surveyors

www.dchi.org.uk

Consultation Questions

Question 1.

Do you agree with the policy proposal under consideration here to introduce a landlord contribution element where funding is unavailable to ensure improvements to Band F and G properties can be delivered (unless a valid exemption applies)? This would be subject to a cost cap.

If you do not agree, what are your objections, and how do you recommend the energy efficiency minimum standard should be achieved, given the current funding climate? Please provide reasons and evidence where available to support your views.

We agree entirely.

Landlords are running a business in order to generate an income. It is perfectly reasonable to expect any business to reinvest some of its income into its primary assets in order to continue to generate an income.

Question 2a.

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

If you do not agree, what would be the most appropriate level to set the threshold? Please provide reasons and evidence where available to support your views.

We do not agree that the figure of £2,500 is appropriate, or that any such set figure would be appropriate. One size does not fit all.

The sum of £2,500 could be a crippling burden on a landlord who offers low-cost accommodation to low income tenants. It would however be a mere drop in the ocean for a landlord who offers expensive accommodation in a prime location. To apply the same limit to both appears illogical.

In our view, the cap should be set as 25% of the annual gross rental income potential for the property. That should be a totally realistic reinvestment for any landlord to make.

For a landlord offering their property at £500 a month that cap would be £1,500. A cap of £2,500 would apply to a landlord offering their property at £833 a month. A landlord offering their property at £2,000 a month would have the cap at £6,000. In all cases this means the maximum the landlord would be expected to reinvest in the property to bring it up to an acceptable minimum standard is only three months' rent. That cannot be an unrealistic requirement for a landlord who is currently, through failure to reinvest appropriately until now, making money out of renting a property which is below the "minimum standard".

The additional benefit of this approach is that the legislation is not setting the amount of the cap on the landlord contribution; the landlord is doing it themselves. If a landlord is not prepared to invest more than £2,500 to bring their property up to the minimum standard, they themselves are determining that they cannot charge more than £833 a month in rent for that property. To increase the amount of rent they can charge, they need to be prepared to invest more in their property. That is a positive approach to incentivising landlords to do what the government needs landlords to do as the more they invest the more they can get back.

We would suggest that the cap on annual rental (at four times the amount the landlord is prepared to invest in the property) should apply either for three years from the date of exemption or for the period of the exemption.

Question 2b.

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

Again, as with question 2a, one size does not fit all.

The cap for improving properties should apply to the "true cost". For an individual private landlord, the true cost will be including VAT. For a landlord who is a VAT registered entity the true cost will be the cost excluding VAT. This is the only fair and equitable approach to applying the cap.

Question 3.

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

If you do not agree, what would be the most appropriate way of taking account of previous spending on measures which have failed to raise a property above EPC F or G? Please provide reasons and evidence where available to support your views.

This again appears to be an unfair approach. It risks imposing an unreasonable burden on a landlord who has recently invested in upgrading the property by treating them exactly the same as a landlord who never has.

In our view, the cost cap should take account of spending on energy efficiency improvements in the last three years prior to the date the cap is applied. A reinvestment of the scale we are talking about should be reasonably achievable three years after the previous one but it is unreasonable to expect it significantly sooner.

However, it is imperative that the cost cap should take account only of spending which is specifically on recognised energy efficiency improvements. This does not include things like boiler replacement even if the new boiler is more efficient or roof replacement even though the new roof will have more insulation than the old one. This is because both of these examples are repairs and maintenance rather than energy efficiency improvements and the improvement comes from the fact that such works have to be carried out to current standards.

Installing a central heating system in a property which did not previously have one or adding insulation to an existing roof would qualify as spending on energy efficiency improvements.

Question 4.

Do you agree with the proposal that where a landlord contributes to the improvement, the cost cap threshold should be inclusive of any funding which can be obtained through a 'no cost' finance plan (including a Green Deal finance plan), Supplier Obligation Funding (for

example, ECO: Help to Heat or a successor scheme), or energy efficiency grant funding from a Local Authority or other third parties?

If you do not agree, please provide reasons and evidence where available to support your views.

We do not agree that it is reasonable to treat “finance” and “funding” in the same way.

Energy efficiency improvements which are “financed” by a loan which has to be repaid by the landlord, or by the tenant but attached to the property and therefore the landlord’s problem if the property has to be re-let, should be included in the cost cap.

Energy improvements which are “funded” in a way that means the landlord does not have to pay for them should most definitely not be included in the cost cap.

Funding (rather than finance) should not reduce the landlords’ requirement to reinvest in their property. Doing so is using public money to subsidise the profitability of a private business and that is not what the rest of the population are paying their taxes for. It is essential that funding for energy efficiency measures pays for additional energy efficiency measures to be installed that otherwise would not happen. It must not be used to replace private finance for measures that private businesses have a responsibility for and will generate an ongoing income from.

Question 5.

Do you agree that it is not necessary to place a regulatory duty on energy suppliers, or their agents, to provide landlords with cost information relating to the value of energy efficiency improvements made to the landlord’s property through a supplier obligation?

Yes, we agree that involvement of energy suppliers or their agents would not be beneficial.

Past history shows that there is the potential for the market to be adversely affected or even manipulated by their actions or inactions. Anything which steers landlords away from building relationships with established and professional local tradesmen towards volume businesses associated with the energy suppliers should be discouraged. It has a negative effect on quality and on local communities.

Question 6.

Where a landlord is intending to register a ‘high cost’ exemption, should the landlord be required to provide three quotes for the cost of purchasing and installing the measures, in line with the non-domestic minimum standards?

If you do not agree, please provide reasons and evidence where available to support your views.

There should be a table of “reasonable cost band” values for the main energy efficiency measures. If the landlord is intending to register a “high cost” exemption and provides a quote within this band that should be sufficient. If there are reasons why the quote is higher than what is normally accepted as “reasonable cost” then three quotes should be required.

The reason for us taking this view is that we feel it is totally unreasonable to expect small businesses to spend their time producing quotes for landlords for work the landlords have no intention of carrying out.

We would anticipate that organisations such as the Federation for Small Businesses would be extremely troubled by legislation that created unpaid work for their members, producing quotes for measures that will not be undertaken and which are actually for the sole purpose of providing the landlord with a way to not undertake them. Small businesses cannot afford to take on that burden, nor should they be expected to.

Question 7.

Do you agree with the proposal to limit the validity of any 'no cost to the landlord' exemptions (under Regulation 25(1)(b)) registered between October 2017 and the point at which a capped landlord contribution amendment comes into force?

If you do not agree, what are your objections, and how do you recommend that the minimum standard regulations be amended to ensure the energy efficiency improvements are delivered to such properties which might otherwise be left unimproved once the amended regulations came into force? Please provide reasons and evidence where available to support your views.

Yes, we agree with the proposal. In our view it was never realistic to suggest that there should be no cost to the landlord in meeting the minimum energy efficiency standards. Now this has been recognised the correction should apply to all landlords and it should not be possible for a proportion to avoid their reasonable obligation by getting an exemption in before a deadline.

Question 8.

Do you have views on whether the consent exemption under Regulation 31(1)(a)(ii) should be removed from the minimum standard regulations or retained?

Please provide reasons and evidence where available to support your views.

It is our view that the consent exemption should be removed.

As previously expressed, we believe it is reasonable for landlords to be expected to make a reasonable reinvestment in their property to ensure it meets the minimum standards. If a landlord is fortunate enough to be able to persuade their tenant to pay for improvements to the landlords' property, whether attached to the energy meter or by other means, that is a bonus for the landlord. If the tenant, for whatever reason, is not willing to accept involvement in paying for the improvement that does not in any way lessen the landlords' obligation to be providing the tenant with a property that meets the minimum standards.

Question 9.

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

In the domestic sector, the minimum energy efficiency standard is based upon the use of domestic EPCs. These are produced in a consistent manner by a number of domestic energy assessors (DEAs) roughly appropriate to meet the demand. The successful implementation of the PRS regulations in the domestic sector is based upon an established product in a stable marketplace. Whilst nobody is going to claim perfection, it is not broken so it does not need to be fixed.

The last thing that is needed now is significant change to the EPC or the infrastructure around it. In particular, there is no need to up-skill existing DEAs to support an expanded DEA role as some seem to be suggesting. There is also no benefit to be gained by altering the accreditation scheme structure that exists to support the production of EPCs.

We are aware of pressure from vested interests linked to the industry to create a parallel structure that bypasses the existing accreditation schemes, for a slightly different product that is confusingly similar to the EPC. Our view is that this would repeat many of the mistakes of Green Deal and is a path that must not be followed. Apparently, it was Albert Einstein who said, "The definition of insanity is doing the same thing over and over again, but expecting different results".

The last thing we need is another type of green deal advice organisation by another name. If there is to be a "tailoring" step beyond the EPC it is essential that is managed as an additional function within the existing accreditation scheme structure to avoid undermining the stability we already have.

Question 10a

Do you have any evidence or comments regarding the consultation impact assessment (including views on any of the assumptions we have made to support our analysis), which could inform the final stage impact assessment?

No

Question 10b.

Do you have any evidence or information on the potential for these proposals to impact on the PRS market, including any potential for landlords who are required to act by the minimum standard regulations to pass through costs to tenants after making improvements to their properties?

The main point we believe is worth making, is that the market will sort itself out provided the legislation does not prevent that happening.

The principle behind Green Deal is that the cost of financing the improvements is no more than the resulting saving in energy cost. Therefore, the tenant ends up paying the same or less. If the landlord has to reinvest in the property to raise it to the minimum standard it is reasonable to expect the landlord will seek to increase the rent to recover the cost over a period. However, the tenant will be occupying a more energy efficient property so although their rent will have gone up, their energy bills should be less by an amount that offsets this. As long as the money has been spent on genuine energy efficiency improvements, which use of the EPC should ensure, the end result will be pretty much the same as Green Deal without the bureaucracy and cost that involved.

This will happen in the property market as long as there is a level playing field. The sort of thing that will stop it happening is allowing some landlords to opt out of reinvesting in their properties.

Most landlords will have relationships with local tradesmen capable of doing what they need to a good standard and at a reasonable price. It is damaging to create a scenario (which we have seen in the past) where to access funding or finance the landlord has to use volume businesses (who send in less skilled workers to do the job as quickly as possible). There are no winners apart from the companies that cream off a margin for administering large gangs of workers. The landlords are unlikely to benefit from either higher quality or better value for money.

There is no reason why the provision of most energy efficiency measures cannot be done by local tradesmen in the same way as other home improvement works are completed. Businesses in the local community will adapt to meet the needs of the local market as long as systems are not imposed that drive the business to national organisations.

Question 10c.

Can you provide any evidence on the likely costs associated with the compilation of evidence in advance of registering an exemption on the PRS Exemptions Register?

Our members produce EPCs in an independent and impartial manner and are not part of the supply chain for measures that result subsequently. We would not have any evidence to contribute on the part of the process that we are not involved in.

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