Energy Efficiency in the Private Rented Sector

Using tenancy reform to tackle fuel poverty and reduce carbon emissions

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Executive Summary

Private renters have been the most vulnerable to the impact of the energy crisis of 2022-23, with one in four living in fuel poverty, a higher rate than social housing and owner-occupation. Poorly insulated homes are costing tenants an average of £570 more every year.

Although government regulations have brought down the number of the least energy efficient homes in England from 14 per cent of the private rented sector (PRS) to 5 per cent, too many private renters are still paying more than they can afford on heating their homes.

Generation Rent supports government proposals to raise the Minimum Energy Efficiency Standards (MEES) for private rented homes from EPC Band E to Band C. This is a considerably bigger task than the initial regulations, involving the improvement of more than two million homes in England, but is vital to reduce both fuel poverty and carbon emissions.

Some landlords are concerned that the costs of making these improvements will make their business unviable, while a proposed cost cap of £10,000 will leave up to 30 per cent of private renters in energy inefficient homes. This is potentially a bigger problem in poorer parts of the country where property values are less likely to support landlords in funding the works themselves.

Any policy aimed at improving the energy efficiency of private rented homes must be designed to minimise disruption for tenants, while accelerating the decarbonisation of the UK's housing stock to meet climate goals. Finding a suitable source of finance is key, but any public money must primarily benefit fuel poor tenants, not the businesses they rent from.

In this report, we argue that a solution is hiding in plain sight: means-tested retrofit grants, such as the Energy Company Obligation (ECO), which are available for people on low incomes, but are woefully underused in the private rented sector.

While there are similar numbers of private renters in fuel poverty (1.19m households) as owner-occupiers (1.33m households), owner-occupiers have received five times as many ECO grants (70 per cent of the total) as private renters (14 per cent).

This is partly a result of landlords having no clear incentive to upgrade their properties beyond E – but also because tenants have little incentive to apply for grants. There is nothing stopping a landlord, whose tenant has successfully applied for a grant, from evicting that tenant using Section 21 in order to sell their improved property and capture the entire benefit of the grant. In England this will be the case even under the proposed Renters (Reform) Bill.

Landlords could also raise the rent to reflect the improved quality of a retrofitted home, but this would cancel out energy savings for the tenant, further blunting their incentive to apply for a grant. It is not clear that safeguards in place at the Rent Assessment Tribunal would protect the tenant in such a scenario.

The current grant framework recognises that under current tenancy law landlords can easily become primary beneficiaries of the schemes, and as a result grants are less generous to private renters.

Not all PRS properties that need retrofit will have occupants that are eligible for grants but they are more likely to be in low value areas where landlords may face extra financial challenges to meeting MEES, being less able to borrow against the value of the property to fund the necessary works.

In England, the Renters (Reform) Bill offers an opportunity to address tenants' concerns, create incentives and unlock funding to allow more landlords to comply with the proposed regulations. New protections ensuring tenants reap the benefits could allow for more funding to go into the sector that has historically been the hardest to improve, and accelerate decarbonisation of our housing stock.

To achieve this, our recommendations include increasing MEES to EPC Band C as soon as possible, and two key measures that would apply to properties that have been improved with a means-tested grant:

- When determining the rent following a formal notice (Section 13 in England), **the First-tier Tribunal will treat the improvement as being the tenant's own, even if the landlord has made a contribution towards the improvement (as it would not have happened without the grant).** This will result in the rent being unaffected by the improvement.
- **The tenant is protected from a no-fault eviction (including grounds for sale and the landlord or a relative moving in) for six years,** so they can enjoy the full benefits of the grant.

Although the focus of this report is on England, the principles also apply to other nations of the UK.

Introduction

We know that private renters in England are more likely than people living in other tenures (e.g. owner-occupiers, social renters) to be living in the least energy efficient homes and significantly less likely to be living in more efficient homes than those in the social rented sector[1],[2]. This leaves private renters particularly vulnerable to rising energy costs during the current cost of living crisis, with many more falling into fuel poverty, but also presents significant opportunities for improvement. England faces particular challenges with regards to the energy efficiency of its private rented accommodation, relating to the relative age of the housing stock and negative policy decisions in the early 2010s, and this left private renters particularly vulnerable to the energy price shock arising from the war in Ukraine.

Households are considered to be in fuel poverty if they live in a home with a Fuel Poverty Energy Efficiency Rating of D or below and their disposable income after housing and energy costs puts them below the poverty line[3]. One in four private renters lives in fuel poverty (24.1 per cent) compared with 17.3 per cent of social tenants and 8.8 per cent of owner-occupiers.

This is not just the result of a combination of energy inefficient private rented homes and more private renters having low incomes, but the fact that private renters on low incomes are more likely to live in those energy inefficient homes. A report by the Institute for Fiscal Studies found that homes that were affordable for tenants relying on benefits had energy bills 20% higher than the wider private rented sector[4]. Homes with poor energy efficiency are also at a higher risk of damp and mould problems – putting occupants at a higher risk of health problems.

While there are existing Minimum Energy Efficiency Standards (MEES), which require properties to meet a minimum of Energy Performance Certificate (EPC) Band E, the Government has previously consulted on raising these to ensure properties meet the requirements to achieve an EPC Band C[5]. Recent research has suggested that making these changes could save renters an average of £570 per year, leading to aggregate annual savings of £1.75 billion, while also helping to meet fuel poverty, energy demand and net zero targets, growing the economy and improving the health and wellbeing of private renters[6].

Making these changes would be a significant undertaking and represent a step change in the pace of improvement in the sector. Landlords would be required to spend up to £10,000 per property to meet the required standards and many more homes would be in scope than in previous iterations of the legislation (with two thirds having been reported as falling below the proposed standard of Band C in 2020-21[7]).

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[1] Department for Levelling Up, Housing and Communities, 2022, *English Housing Survey, Energy Report, 2020-2021.* Available at: English Housing Survey: Energy Report, 2020-21 (publishing.service.gov.uk)
[2] Department for Levelling Up, Housing and Communities, 2022, *English Housing Survey 2021 to 2022: Headline Report.* Available at: English Housing Survey 2021 to 2022: headline report - GOV.UK (www.gov.uk)
[3] Department for Energy Security and Net Zero, 2023, Annual Fuel Poverty Statistics LILEE Report, Chapter 1
[4] Institute for Fiscal Studies, 2023, Housing quality and affordability for lower-income households, page 18
[5] Department for Business, Energy and Industrial Strategy, 2020, *Improving the energy performance of privately rented homes.* Available at: Improving the energy performance of privately rented homes - GOV.UK (www.gov.uk)
[6] E3G, 2023, *Cutting Energy Bills and Raising Standards for Private Renters.* Available at: UK-Private-Rented-Sector-MEES_E3G-Briefing.pdf
[7] Department for Levelling Up, Housing and Communities, 2022, *English Housing Survey, Energy Report, 2020-2021.* Available at: English Housing Survey: Energy Report, 2020-21 (publishing.service.gov.uk)

The National Residential Landlords Association (NRLA) has argued that the proposed changes will be particularly harmful to landlords with properties in parts of the country with lower rental values and may result in some landlords (and hence properties) exiting the rental market[8]. However, it is important to recognise that there is financial support available to complete the required works including through the Energy Company Obligation (ECO) scheme which provides a grant where the tenant and/or property are eligible[9]. Unfortunately, the incentives for the parties involved – tenants and landlords – to access this funding are currently not powerful enough to drive their take-up and help landlords meet the proposed minimum standards.

While it is certainly important to ensure that meeting enhanced requirements will be feasible for landlords, it is also reasonable to expect that they should not materially benefit from schemes which are intended to benefit the household resident in the property (i.e. the tenant), and that detriment isn't inadvertently caused to the tenant by the scheme.

Past Generation Rent research has identified complex barriers for renters in successfully seeking energy efficiency improvements via their landlords[10]. These include lack of knowledge about existing measures in place and the potential for improvement, and lack of confidence they will benefit from improvements either because they don't expect to stay long term (due to either personal choice or potential for eviction by their landlord) or because they fear improvements may lead to an increase in rent which would cancel out any benefit arising from lower energy bills. Where tenants are keen to request improvements, they may be reticent to do so for fear of being ignored, rejected, or the request affecting their wider relationship with their landlord (particularly in the context of insecure tenancies). A careful balance must therefore be struck to ensure that renters are able to get the support they need through energy efficiency schemes and that conditions are such that they enable maximum uptake.

[8] National Residential Landlords Association, 2021, *Energy efficiency – finance and funding for the road to Net Zero.* Available at: Energy Efficiency Campaign | NRLA

[9] Information available at: Help from your energy supplier: the Energy Company Obligation - GOV.UK (www.gov.uk)

[10] Generation Rent, 2021, Heat our homes, not the planet. The role of renters in decarbonising housing. Available at: Heat our homes, not the planet! - Generation Rent

Background

Over time, a complex patchwork of energy efficiency grant schemes has developed, with a variety of measures supported and differing eligibility criteria for renters and landlords. A brief overview of current schemes is given below:

Scheme	Dates	Funding provided by	PRS eligibility (generally D-E and F-G with exemption)	Measures available for PRS	Landlord contribution
Energy Company Obligation (ECO) 4	April 2022 – March 2026	Energy suppliers via levy on consumer energy bills	Means-tested benefits or families with income below threshold; EPC E-G	Solid wall insulation or new heating system	Supplier's own policy
ECO Flex	October 2018 – March 2026	As above, but local authority (LA) referral. Statement of Intent needed from LA.	Considered by LA to be fuel poor, on low income or vulnerable	LA discretion	LA policy
GB Insulation Scheme (formerly ECO+)	Proposed for April 2023 – March 2026[11]	Energy suppliers via levy on consumer energy bills	Council tax bands A-D or low income/ vulnerable households not eligible under ECO 4	Insulation (loft and cavity wall only if low income)	If solid wall and some other types of insulation installed
Home Upgrade Grant (HUG) Phase 2	April 2023 – March 2025	UK government	Households on less than £30k; off-gas grid properties	Insulation and heat pumps	At least a third of the total cost. Cap of 4 properties.
Green Homes Grant Local Authority Delivery (LAD)	August 2020 – June 2022	UK Government (Green Homes Grant)	Households on less than £30k; focus on EPC E-G	Insulation and low carbon heating	At least a third of the total cost

[11] Department for Business, Energy and Industrial Strategy, 2022, Consultation on Design of the Energy Company Obligation https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1124891/consultation_on_design_of_the_energy_company_obligation_2023-2026.pdf

ECO 4 is the latest iteration of the ECO scheme and measures and eligibility differ from previous versions, as shown below:

Scheme	Dates	Funding provided by	PRS eligibility	Measures available for PRS	Landlord contribution
Energy Company Obligation (ECO) 1	January 2013 – March 2015	Energy suppliers via levy on consumer energy bills	Means-tested benefits or families with income below threshold, property in deprived or rural area, based on potential heating cost savings	New heating system, boiler repair or insulation	Supplier's own policy
ECO2	April 2015 – March 2017	As above	As above	New heating system or boiler repair (low income requirement), insulation (deprived or rural area requirement)	As above
ECO2T	April 2017 – September 2018	As above	As above	As above	As above
ECO3	October 2018 – March 2022	As above	Means-tested benefits or families with income below threshold	Solid wall insulation or new heating system, cavity and loft insulation EPC A-E only	As above
ECO3 interim delivery	April 2022 – June 2022	As above	As above	As above	As above
ECO4	July 2022 – March 2026	As above	Means-tested benefits or families with income below threshold; EPC E-G	Solid wall insulation or new heating system	Supplier's own policy

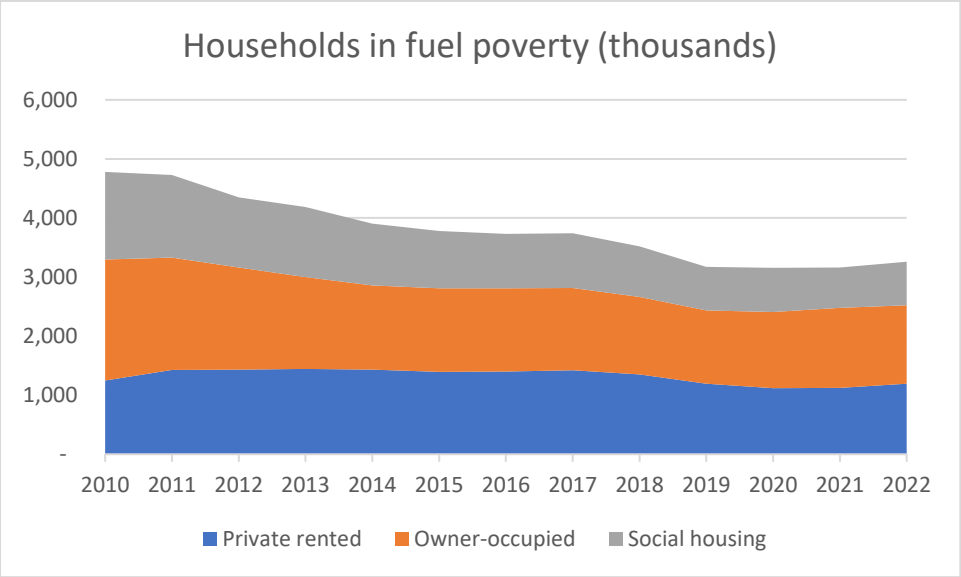
In late 2022, the Department for Business, Energy and Industrial Strategy estimated that, based on figures from the English Housing Survey 2020, 1.57 million privately rented households would have been eligible for the Green Homes Grant Local Authority Delivery Scheme (LAD) and based on the ECO4 final stage Impact Assessment, around 430,000 private rented sector (PRS) homes would be eligible for improvement via the ECO4 scheme[12].

Fuel poverty, grant eligibility and uptake

The most recent English Housing Survey figures show that the private rented sector continues to contain an overrepresentation of the most energy inefficient properties, with 4.9 per cent of the sector falling into bands F and G in 2021, below the MEES requirement for all properties to reach at least band E[13]. This compares to 2.5 per cent of the owner-occupied sector and just 0.7 per cent of the social rented sector. The PRS also has the lowest proportion meeting the potentially elevated standards, with less than half (44.5 per cent) being rated as band C or above.

This is a significant factor in the high prevalence of fuel poverty in the sector, with the most recent statistics suggesting that the PRS has the highest proportion of households deemed to be living in fuel poverty (24.1 per cent), meaning that despite the sector making up a much smaller proportion of homes in total, there are only marginally fewer fuel poor households in the PRS than the owner occupied sector (representing 36.6 per cent of fuel poor households compared to 40.9 per cent)[14].

Since 2010, fuel poverty rates have fallen significantly in all tenures except the PRS. The number of households in fuel poverty in the local authority sector more than halved, falling by 54%. For housing association tenants, their number fell by 47% and among owner-occupiers, by 35%. In the private rented sector, despite the MEES regulations reducing the number of F and G properties, the number of households in fuel poverty fell by just 4% in the same period.

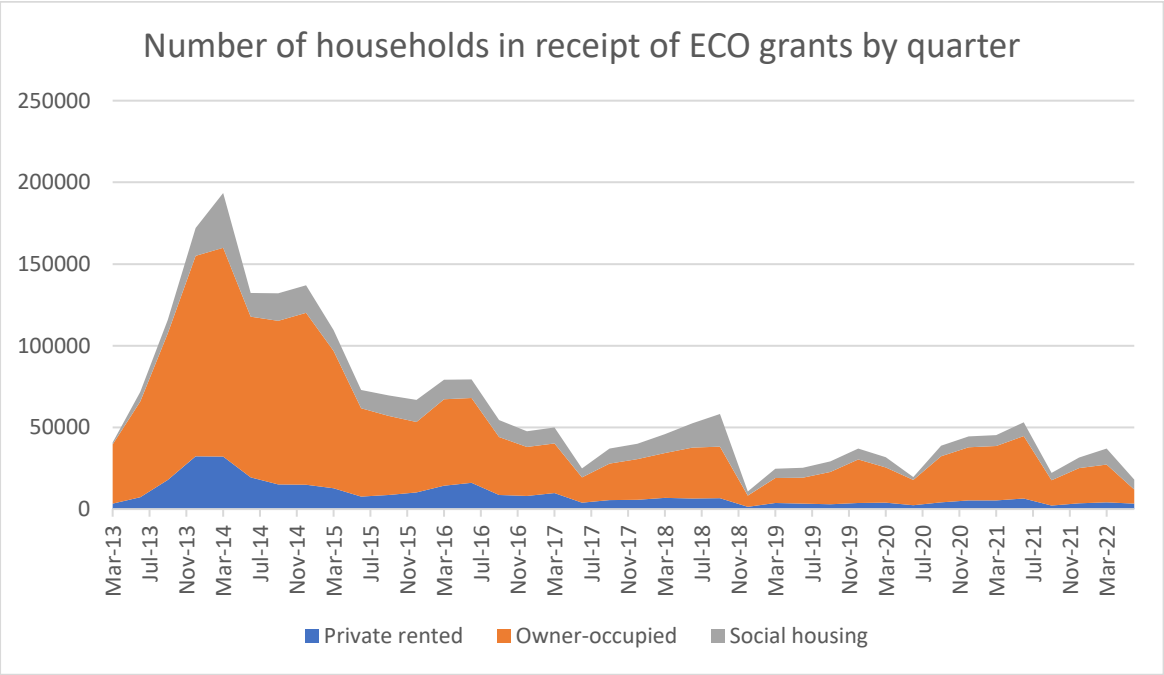


[12] Parliamentary question for the Department for Business, Energy and Industrial Strategy answered by Graham Stuart, 2022, UIN 54500. Available at: Written questions and answers - Written questions, answers and statements - UK Parliament

[13] Department for Levelling Up, Housing and Communities, 2022, *English Housing Survey 2021 to 2022: Section 2: housing stock annex tables.* Available at: English Housing Survey 2021 to 2022: headline report - GOV.UK (www.gov.uk)

[14] Department for Energy Security and Net Zero, 2023, *Annual Fuel Poverty Statistics in England, 2023 (2022 data).* Available at: Annual fuel poverty statistics report: 2023 - GOV.UK (www.gov.uk)

Conversely, uptake of ECO in the decade since its inception in 2013 suggests just 14.0 per cent of homes upgraded have been drawn from the PRS while 69.9 per cent have been owner occupied[15].



A scheme that was better designed to target fuel poverty could have made a much greater impact for private tenants. In 2013, 34.5% of fuel poor households lived in the private rented sector. If ECO grants had been allocated in proportion to the scale of fuel poverty in each sector, we estimate that an additional 482,000 private renter homes would have been retrofitted[16]. Assuming those homes would all meet EPC Band C, this would have brought the number of private renters in fuel poverty down to 710,000 households, or 14% of the sector.

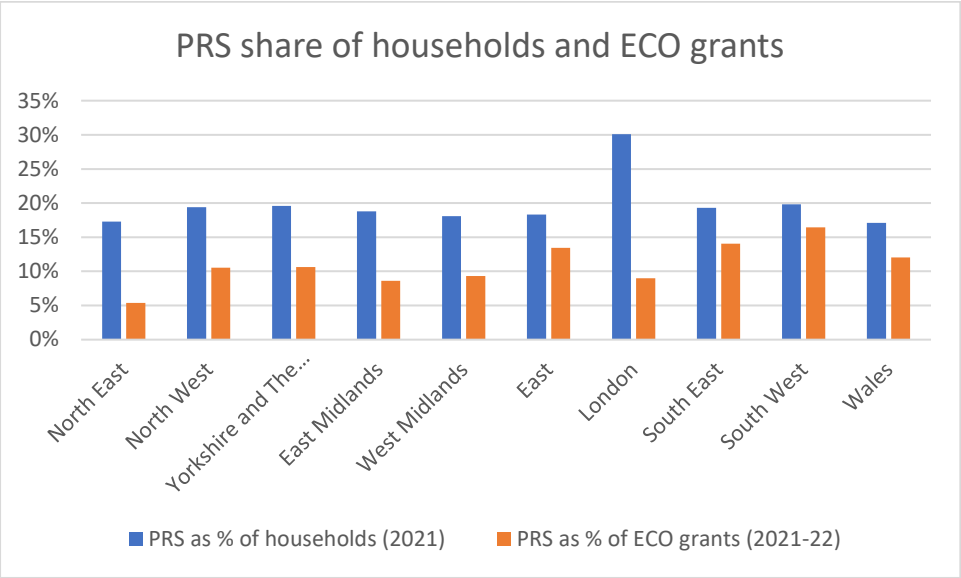
Generation Rent have obtained a breakdown of ECO grants awarded by tenure and region, enabling some further analysis which reveals that there are also regional disparities in the extent to which private rented properties are being reached by ECO support. While London has the lowest proportion of PRS properties in bands F and G (3.3 per cent), the sector accounts for the highest proportion of the city's lowest rated properties (30.1 per cent) compared to other regions, reflecting the tenure's size (30.8 per cent of all properties). However, the PRS attracted just 9 per cent of ECO funding in the year from October 2021 to September 2022. Similarly, in the North East, the PRS represents 16.6 per cent of all properties and contained 25.1 per cent of band F and G-rated properties but only received 5.4 per cent of ECO funding in the same year.

The South West is the region where the level of grant funding distributed recently has been closest to matching the size of the PRS, with 15.9 per cent of grant-funded properties in the 12 months from October 2021 being in the sector, which makes up 20.4 per cent of properties in the region overall. This may reflect the fact that this is the region with the highest proportion of private rented properties which do not meet MEES requirements and fall into bands F and G (9.1 per cent) with almost a quarter (23.8 per cent) of the worst properties in the region being in the PRS. Uptake of ECO still appears to be a substantial underrepresentation of the comparative need in the sector. The

[15] Department for Business, Energy and Industrial Strategy, 2023, *Household Energy Efficiency statistics.* Available at: Household Energy Efficiency statistics - data.gov.uk

[16] 34.5% of 2.35m ECO grants is 811,862, 482,021 higher than the figure of 329,841 recorded in the statistics.

sector has only made up 12 per cent of properties funded in the region since the scheme's inception, so it is unclear if this uptick in uptake is a long-term pattern or short-lived trend.



These disparities in ECO funding between tenures and regions demonstrate the importance of recognising that eligibility does not automatically lead to uptake. With a finite amount of funding available and only around five per cent of eligible homes expected to be upgraded via ECO4 (the largest scheme), the relative accessibility of grant funding by tenure is likely to have a significant impact on the proportion of the least energy efficient private rented homes which will benefit from the funding available.

Incentives for landlords and owner-occupiers

It is also worth noting the relatively low proportion of mortgaged homeowners who are eligible for grants. ONS data show that in 2021 just 13.9 per cent of mortgage borrowers had household incomes of under £30k[17], therefore excluding the vast majority of mortgaged homeowners from eligibility for most grant schemes. If, as the NRLA suggests could be the case, higher requirements placed on landlords could lead to some exiting the market and selling their properties on, properties will either end up with landlords, who would face the same obligation to retrofit, or owner-occupiers. New owner-occupiers would have a strong financial incentive to install cost-effective energy efficiency measures, but they are less likely to be eligible for funding than tenants living in those properties now and don't have the same legal obligations a landlord would. That means there is a risk that many of the worst properties would remain unimproved unless new owners opted to fund works themselves.

Within the framework of a PRS with expanded requirements, homes could and would be upgraded faster than they would be in the owner-occupier sector, particularly if there were sufficient incentives to drive take up of grants where tenants were eligible.

It is conceivable that private rented properties which are not meeting the MEES would be sold to owner-occupiers (or perhaps another landlord) at a discount as a result of the existing owner's inability or unwillingness to fund the retrofit. In that scenario, the reduced price of the property could in effect fund the retrofit, as the new owner would spend the money they saved by not buying

[17] Office for National Statistics, 2022, House Price Index: Annual tables 20 to 39. Available at: House Price Index: annual tables 20 to 39 - Office for National Statistics (ons.gov.uk)

a Band C property in meeting the regulations (if a landlord) or upgrading the home's energy efficiency rating for personal benefit (for owner-occupiers). This is more likely to happen in a property in a high-value area such as London as opposed to a lower-value area such as the North West, where such discounts would be worth less in relation to the cost of retrofit measures, which do not vary as much by region as property values. Nonetheless, both outcomes illustrate the positive impact that the introduction of such regulation could have on energy efficiency on homes both in the PRS and the owner-occupier sector by extension.

It is also relevant that many households in fuel poverty would be eligible for social housing if such homes were available. One further scenario where a landlord is selling an energy inefficient property – or simply evading their obligations under MEES – is for a social landlord to buy it, with the tenant in situ, and invest in improving it. This would be another way of reducing fuel poverty levels and the current economic climate presents an opportunity to explore how to achieve this. We note work by the New Economics Foundation and Joseph Rowntree Foundation on this theme[18].

Barriers to scheme uptake in the private rented sector

In order to establish how to successfully increase uptake of energy efficiency grant schemes in the private rented sector, it is important to consider the barriers that have existed up until now, and may continue to exist under current proposals.

The Renters (Reform) Bill, published in May 2023, will alleviate some concerns of renters by abolishing arbitrary section 21 evictions. This will mean that tenants will be protected from losing their homes in retaliatory evictions when making complaints or requests to their landlords relating to energy efficiency or prospective grants, further empowering them to do so. By giving tenants more assurance that they can stay in a home long term, more of them will feel confident that they would do so and thus benefit from improvements if they requested them.

The introduction of a property portal, where tenants can check the compliance of their property, could also help to raise awareness of tenants' rights, potential improvements that could be made to their home, and their eligibility for certain grants.

However, there are several areas where the proposals do not go far enough.

Fear of rent increases

The potential for improvements to result in rent increases may be alleviated where they are entirely or predominantly grant-funded, in that landlords won't be seeking to recoup their investment via rent. However, some may still identify an opportunity for the property to command a higher rent as a result of improvements. The landlord could feel empowered to raise the rent in the knowledge that the property is now both more attractive and that the tenant would be saving money on their energy bills, and so will have more in their pocket to spend on rent. This would be the landlord's justification to the tenant and they would hope that the First-Tier Tribunal rent assessment process would agree, if the tenant made a formal challenge.[19] The tribunal discounts the rent to account for

[18] New Economics Foundation, 2023, Upgrading and repurposing private rented homes to create a new generation of social homes offers a clear path out of the housing crisis, and Joseph Rowntree Foundation, 2022, Reform the private rented sector and open up access to home ownership and social housing, says JRF

[19] The tribunal process exists at present but will become more important under proposed government reforms.

any improvements by the tenant, but it is not clear if such improvements include work carried out on behalf of the tenant with funding that the tenant applied for. [20] .

If the rent is increased, and once the reduction in energy costs is taken into account, the overall impact of works would in theory be cost-neutral for the tenant (with this increased rent cancelling out the costs saved on energy bills). This means that the value of the improvements would flow to the landlord. This is particularly concerning in the cases of grant-funded improvements, whereby there is no or minimal outlay and an ongoing rise in income. In any case, this potential for exploitation would reduce or remove the incentive for a tenant to seek improvements.

It is also important to recognise that savings for tenants will only be realised if they currently utilise their heating system to maintain optimum home temperatures. Where they are living in fuel poverty and/or on a low income, they may already underheat their properties as a way of making ends meet. This has been demonstrated by recent research which showed that households in lower income areas were less likely to sustain reductions in energy usage following on from energy efficiency improvements being made to their home, meaning that while their comfort and health may be optimised by works, improvements may not have a material impact on their finances[21]. In these instances, a rent increase would therefore be overall detrimental even if deemed 'fair' based on market analysis.

These complex dynamics could be tackled through the First-tier Tribunal treating energy efficiency improvements secured through a means-tested grant based on the tenant's eligibility as work done by the tenant, meaning that landlords would not be able to increase the rent as a result of any appreciation in the property's rental value. This is a reasonable approach, particularly given the property is only being improved based on the tenant's financial situation. The Renters (Reform) Bill does not indicate any intention to clarify this.

Fear of eviction

Another reason that a tenant may not seek to initiate improvements is due to the fear of eviction if the landlord considers them to be a 'demanding tenant' as stated above. In other situations, having made improvements to the property, the landlord may decide to sell on the basis that the property is now worth more. Research has previously indicated that an improvement in the energy efficiency of a property from EPC band D to C could lead to a five per cent increase in sale value[22] and it is not known whether the current climate of higher energy costs could make this difference larger and increase the incentive to sell on an improved property.

Landlords tend to sell properties after first evicting the tenants. They currently do this by using Section 21 evictions, but will continue to be able to do so after the Renters (Reform) Bill, which introduces an eviction ground for landlords who intend to sell. This would lead to the tenant likely moving into another similarly badly insulated home in the PRS, and the experience of the eviction for

[20] A Parliamentary answer by the Department for Business, Energy and Industrial Strategy answered by Andrew Stephenson offers no clarity on this precise question. 2022, UIN 51599. Available at: https://questions-statements.parliament.uk/written-questions/detail/2022-09-20/51599

[21] Peñasco, C. & Díaz Anadón, L., 2023, Assessing the effectiveness of energy efficiency measures in the residential sector gas consumption through dynamic treatment effects: Evidence from England and Wales, *Energy Economics,* vol. 117.
Available at: https://www.sciencedirect.com/science/article/pii/S0140988322005643

[22] Fuerst, F. and Adan, H., for the Department of Business, Energy and Industrial Strategy, 2017, *Do House Prices and Rents in the Private Rented Sector Reflect Energy Efficiency Levels?.* Available at: Do prices and rents in PRS reflect energy efficiency levels? (publishing.service.gov.uk)

sale would leave them reluctant to apply for another grant to improve their new home, if they were still eligible to receive one. To prevent landlords 'capturing' the value of grants intended for the tenant in this way, tenants need protections to reduce the risk of properties being sold (with tenants consequently evicted) soon after grant-funded improvements are made. In a similar vein, tenants should not be vulnerable to eviction under the ground for refurbishment in order to allow grant-funded works to take place.

Lack of incentive for landlords

There are clearly benefits for landlords of improving the energy efficiency of their properties, such as a potential increase in property value and possibly an increased future rent. Even if a tenant were protected from a rent increase, the landlord could still charge the full market value after that tenant had decided to move out. However, these future prospects do not necessarily represent a significant incentive, particularly if landlords need to self-fund any element of the work and don't intend to sell on or remarket their property for rent.

Without regulations to set MEES at the level deemed acceptable for the provision of accommodation that is affordable to heat, many landlords will simply not make improvements. Even if a tenant was eligible for a grant, landlords would be under no obligation to agree to works without the threat of a fine for non-compliance. Furthermore, when a tenant decides to move out, a void property gives landlords a good opportunity to make improvements, but many landlords will not consider this if there is no obligation on them to do so. This is why increasing MEES to Band C is so important alongside measures to provide greater security to tenants.

Even if MEES were increased to Band C, the proposed £10,000 cap on spending, where the landlord is not obliged to make improvements that would take them past that cap, is another barrier. Given that many fuel poor tenants are living in homes that are expensive to treat, such as solid wall terraces, this is likely to leave them paying unaffordable bills or going cold and putting their health at risk. The government's own consultation on MEES indicated that a £10,000 cost cap would leave 30% of private rented homes below C[23]. Measures that gave tenants the security they needed to apply for grants, and ensured that this support would override the cap, would lead to more private renter households escaping fuel poverty.

In some cases, where a landlord is required to invest their own funds in their property, there may be a risk that they need to consider selling it instead due to a lack of available funds. Consideration should therefore be given to enabling the landlord to deduct their own spending on energy efficiency improvements from their taxable income for the year the improvements were made, as set out in E3G's recent briefing on this subject[24]. This would create an incentive for landlords to undertake the works in a way that isn't detrimental to the tenant.

Limited enforcement activity

It seems that changes in regulations can have a very significant impact on standards in the PRS, with the proportion of F and G rated properties in the private rented sector having decreased from 14 per cent in 2010 to five per cent in 2021[25], which is likely to be at least in part linked to changes in

[23] Department for Business, Energy and Industrial Strategy, 2020, Improving the energy performance of privately rented homes: consultation, pages 26-27

[24] E3G, 2023, *Cutting Energy Bills and Raising Standards for Private Renters.* Available at: UK-Private-Rented-Sector-MEES_E3G-Briefing.pdf

[25] Department for Levelling Up, Housing and Communities, 2022, *English Housing Survey, Energy Report, 2020-2021.* Available at: English Housing Survey: Energy Report, 2020-21 (publishing.service.gov.uk)

regulations and availability of funding to support improvements. However, there remain around 212,000 properties which do not meet an E standard as required by MEES, with only 9,000 having an exemption, suggesting that there is still a sizable minority of landlords who have not adhered to the regulations[26]. Generation Rent used the Freedom of Information Act to gather information on enforcement activity and found that just 24 of 100 local authorities in England had issued any enforcement notices in relation to breaches of MEES, and only 14 had issued any financial penalties[27]. Even where standards are being enforced, fines are just £5,000, meaning that some landlords may prefer to risk non-compliance than invest in their properties. Tenants in these properties have little protection, having to meet higher energy costs or live with much lower thermal comfort and the threat of retaliatory eviction if they complain. If their landlord is fined, the tenant gets no compensation for the costs they have had to bear, whether to their finances or their health. Consideration should therefore also be given to how penalties can be reformed to ensure that standards are better enforced and tenants have a better incentive to take action.

Recommendations

As stated earlier in this note, there is insufficient funding available via ECO4 and other schemes to retrofit all eligible properties. However, taking proactive action could help to ensure that the private rented sector is able to attract a share of funding proportionate to the number of eligible properties and households in the sector, and getting incentives right at this stage could help to design a better package for future funding rounds, assisting the work of the Energy Efficiency Taskforce soon to be established by the Government.[28]

Recommendations which may help to improve uptake in the private rented sector include:

Where a property has been improved with a means-tested grant:

1. The landlord shall be prevented from raising the rent in the first 12 months after the improvement has been made.
2. When determining the rent following a Section 13 notice, the First-tier Tribunal will treat the improvement as being the tenant's own, even if the landlord has made a contribution towards the improvement (as it would not have happened without the grant). This will result in the rent being unaffected by the improvement[29].
3. The tenant is protected from a Landlord Need eviction (including grounds for sale and the landlord or a relative moving in) for six years[30], so they can enjoy the full intended benefits of the grant.

These recommendations aim to ensure that the initial benefit of the grant, whereby the tenant has been means-tested and prioritised based on their financial situation, is channelled towards the tenant. The landlord may still benefit long term from an enhancement in property rental value for future tenants (who were not party to the grant) and resale value, but this would ensure that retrofit funding drives down fuel poverty.

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[26] Department for Levelling Up, Housing and Communities, English Housing Survey 2021-22, Headline Report, Stock Annex Table 2.8; Rt Hon Kwasi Kwarteng MP, House of Commons Hansard, 23 July 2020, Private Rented Housing: Energy

[27] Generation Rent, 2023, *Council enforcement of private rented sector 2021-22, MEES tab*

[28] As announced at the 2022 Autumn Statement https://www.gov.uk/government/news/beis-in-the-autumn-statement

[29] When the tenant moves out, the landlord will be able to charge the full market rent, in the absence of any stronger rent controls. For this reason, stronger protections against no-fault eviction and its abuse are needed.

[30] See Note on recommended protected period on page 14

Our further recommendations:

4. Raise the minimum energy efficiency rating from E to C, with a cost cap of at least £10,000.
5. Where the landlord is in breach of the Minimum Energy Efficiency Standards, the tenant can apply for a Rent Repayment Order to compensate for the additional energy bills they have incurred[31].
6. EPC information should be available on the property portal to be delivered by the Renters Reform Bill, and failure to comply with this should also incur a Rent Repayment Order.
7. The landlord can deduct their own spending on energy efficiency improvements from their taxable income for the year the improvements were made.

These recommendations are intended to provide both carrot and stick to encourage and enable landlords to meet minimum standards.

What protected period is reasonable?

The recommended protected period of six years is given using figures from the ECO4 Impact Assessment[32] which gives an overall target of £224.3 million in notional annual bill savings, with a Band E, F and G sub obligation of £155.9 million in savings, which is the equivalent of 150,000 private sector homes each saving approximately £1,039 per year.

For the total number of homes treated across all tenures (450,000), costs of £2.4 billion in installation costs and £410 million in assessor costs are given, which would be paid by property owners in the absence of grants. This equates to £6,244 per home. If the landlord raised the rent by the level of projected energy bill savings (£1,039 per year or £86.58 per month), it would take around six years to recoup their investment.

On this basis, if the property is upgraded with a means-tested grant, that should mean that the tenant is entitled to enjoy the £6,244 of value equivalent to the average grant – i.e. energy savings arising from the improvements for six years (though they could still move out if they wished). After that time, the landlord would be entitled to use a Landlord Need ground if they chose to. The First-tier Tribunal would still discount the rent on the basis that the improvements were made by the tenant, though without further protections, they would still increase at a similar rate to the market rent.

Note on method: The total cost is based on all types of measures, including those that private renters are not eligible for. It is not clear how to disaggregate the likely average cost for a private rented property, though it is likely to produce a higher average cost due to the poorer condition a private rented home must be in to be eligible, and types of measures (e.g. solid wall insulation) needed to attract funding, which would extend the recoup period. As such, this method likely produces a relatively generous outcome for landlords.

[31] As recommended in the 2019 RSM report 'Enforcing the enhancement of energy efficiency regulations in the English private rented sector' commissioned by the Department for Business, Energy and Industrial Strategy, available at: Enforcing the enhancement of energy efficiency regulations in the English private rented sector (publishing.service.gov.uk)

[32] Department for Business, Energy and Industrial Strategy, 2022, *Final stage Impact Assessment ECO4.* Available at: ECO4 final stage Impact Assessment (publishing.service.gov.uk)