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Energy efficiency and condition standards in private rented housing: Analysis of responses to the public consultation exercise

PEOPLE, COMMUNITIES AND PLACES

social research

Energy efficiency and condition standards in private rented housing:

A Scotland's Energy Efficiency Programme Consultation

Analysis of responses to the public consultation exercise

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Introduction

Background

This report presents analysis of responses to a consultation on Energy Efficiency and Condition Standards in Private Rented Housing.

The Scottish Government has designated energy efficiency as a National Infrastructure Priority, the cornerstone of which will be Scotland's Energy Efficiency Programme (SEEP). This programme will improve the energy efficiency of homes and buildings, supporting efforts to reduce climate change emissions and tackle fuel poverty. Minimum energy efficiency standards will play a key role.

The consultation opened on 7 April 2017 and closed on 30 June. The consultation paper (available at https://consult.scotland.gov.uk/better-homes-division/energy-efficiency-programme/) asked a total of 68 questions.

Profile of respondents

In total, 198 responses were available for analysis, of which 108 were from groups or organisations and 90 from individual members of the public. The majority of responses were received through the Scottish Government's Citizen Space consultation hub.

Respondents were asked to identify whether they were responding as an individual or on behalf of a group or organisation. Organisational respondents were then allocated to one of seven categories by the analysis team. A breakdown of the number of responses received by respondent type is set out in Table 1 below and a full list of organisational respondents can be found in Annex 1.

Table 1: Respondents by type

Type of respondent	Number
Organisations:	
Energy related private sector, including EPC Assessors	*5*
Landlord	*28*
Letting Agent /Property Management/Chartered Surveyor/Legal Firm	*12*
Local Authority	*22*
Other	*4*
Professional or representative body	*26*
Third sector/ campaign body/social enterprise	*11*
Organisations	**108**
Individuals	**90**
All respondents	**198**

In addition to the standard responses, a report written by Shelter Scotland on behalf of WWF Scotland was also submitted. The report draws on the views of over 200 private tenants. It is referred to as the Shelter Scotland report when referenced elsewhere in the analysis.

As with any public consultation exercise, it should be noted that those responding generally have a particular interest in the subject area. However, the views they express cannot necessarily be seen as representative of wider public opinion.

Analysis and reporting

The remainder of this report presents a question-by-question analysis of the comments made. A small number of respondents did not make their submission on the consultation questionnaire, but submitted their comments in a statement-style format. This content was analysed qualitatively under the most directly relevant consultation question.

The consultation was divided into two parts. The first part covered proposals for an energy efficiency standard for private rented housing and asked 35 questions. The second part covered condition of private rented housing in Scotland and asked 33 questions. At the beginning of each section of the report there are summary findings covering that part of the consultation.

Part 1: Proposals for an energy efficiency standard for private rented housing

Summary findings

This summary gives an overview of some of the key themes to emerge from the analysis of responses to Part 1 of the consultation and also sets out the overall balance of opinion at some of the key questions asked.

Overall themes

- Overall, respondents' views at many of the questions posed were mixed.
- A key theme to emerge was around the practicality and cost implications of extending some of the proposed required improvements to older, rural properties and agricultural tenancies.
- Views were mixed as to the proposed timescales for introducing a minimum standard of Energy Performance Certificate (EPC) band E, first at change of tenancy and then at a backstop date. Those who disagreed with the proposed timescales tended to think they were too soon.

Scope

The consultation sought views on whether only tenancies covered by the repairing standard should have to meet the proposed minimum energy efficiency standards. A small majority of respondents (56% of those answering the question) agreed. The most frequent suggestion was that all tenancies should be included. An opposing view was that the private rented sector is already heavily regulated and no further measures are necessary.

Bringing in the standard at the point of rental and then at a backstop date

Respondents were asked whether they thought 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. A majority of respondents (63% of those answering the question) agreed.

As an alternative to a change in tenancy, a number of respondents suggested using the already existing Landlord Registration Scheme as a simpler mechanism for enforcement, while still capturing all property over a 3-year period.

When to introduce the standard and increasing it over time

A small majority of respondents (53% of those answering the question) disagreed that 1 April 2019 is the right date to start applying the minimum standard of EPC band E when there is a change in tenancy. There was no clear balance of opinion as to whether 31 March 2022 is the right backstop date, by which all privately rented properties would need to meet the minimum standard of E (44% agreed and 45% disagreed). The most frequent reason given by respondents who did not

agree was that 31 March 2022 is too soon, and 5 years was frequently suggested as an alternative.

A majority of respondents (57% of those answering the question) agreed that the trajectory after 2022 should be set out now. However, a majority (55%) did not agree 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.

Minimum standards assessment

Around 3 in 10 respondents who made a comment agreed that a new minimum standards assessment (MSA) which would tell landlords how to bring their properties up to standard should be based on EPC methodology. However, many other respondents described problems they saw with the existing EPC system, including suggesting that it requires revision. Some also suggested that the potential for costs to vary from property to property, including because of location or construction type, should be recognised.

A substantial majority of respondents agreed 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. This was seen as a positive or reasonable approach that allows for a more comprehensive and tailored assessment.

Of those answering the question, 44% of respondents agreed that a new role of a minimum standards assessor is needed. The most frequently-raised issues were the need for better understanding or knowledge of specific building types and construction methods.

What happens if the property doesn't meet the standard?

A majority of respondents (60% of those answering the question) agreed that local authorities should be responsible for enforcing the standard if the property is not improved within six months or by the backstop date. However, the most frequent comment, made by around 2 in 5 respondents, was that local authorities need to be provided with additional resources to take on this work, or that they lack the capacity to do it at present.

When asked whether the penalty for not complying with the standard should be a civil fine against the owner, the largest proportion of respondents (42% of those answering the question) said it should not. Many respondents suggested that rent penalty notices would be preferable to fines.

With respect to the level of fines proposed, a majority of respondents (55% of those answering the question) did not think these are appropriate and proportionate. The most frequently-made comments were that 6 months is too short a period for the landlord to carry out the work and/or that the proposed levels of fines are too high.

The consultation paper also asked about exceptions where a longer timeframe should be allowed for compliance, and here flexibility or discretion on the part of the enforcing body was welcomed by many respondents. It was also suggested, however, that there must be consistency of application across local authorities. Many respondents thought that there would be other situations that should qualify for an extension, with frequently-made suggestions including work on older or listed buildings, where subject to planning constraints, or in conservation areas.

Exceptions are also proposed for some situations where owners would not be penalised for failing to carry out the full improvement identified by the MSA - for technical or legal reasons, or because of the excessive costs involved. Respondents often agreed with the technical and legal grounds suggested in the consultation paper. Although there was also a significant level of agreement with the excessive cost reasons proposed, a number of respondents questioned the figures for estimated costs presented in the consultation paper. Other suggestions on the level of a cost cap included that rather than being set at a flat rate of £5,000 per property, the cap should be based on rental value, property value, the size of a landlord's organisation, or a percentage of the annual Local Housing Allowance rate.

Respondents who commented on the proposal that the exception should apply for 5 years often agreed, although a range of alternative validity periods was also proposed.

In terms of evidence required it was suggested that the onus should be on the landlord to provide evidence. The importance of ensuring consistency between local authorities was also noted and guidance on typical exception scenarios and the standard of evidence to be retained was requested.

Assessing impact

Potential positive impacts for business were largely identified as being for firms supplying or installing energy efficiency measures. Reduced energy bills and improved living standards for tenants were also identified as a positive outcome.

Potential negative impacts for business were both more numerous, and were identified by larger numbers of respondents. Those most frequently suggested were: that landlords will withdraw property from the private rental market for economic reasons; and increased rental prices - resulting both from landlords increasing prices to recoup their investment, and from reduced supply of property in the rental market.

With respect to the interim Equality Impact Assessment, many of those who identified positive impacts pointed to the benefits of improved energy efficiency and reduced heating costs for all tenants, including those with protected characteristics.

This remainder of this chapter sets out a question-by-question analysis for Part 1 of the consultation.

Scope

The consultation paper explains that it is proposed that the minimum energy efficiency standard should apply to properties already covered by the repairing standard. By aligning the energy efficiency standard with this it will be clearer to landlords and tenants as to whether or not their property would be covered by the energy efficiency standards. If a tenancy is not covered by the repairing standard, or is already at the required minimum energy efficiency standard, the landlord will be under no obligation to improve the property's energy efficiency under these regulations. In these situations, landlords may still choose to carry out improvements to their property to make them more energy efficient.

Question 1.1 - Do you think that only tenancies covered by the repairing standard should have to meet minimum energy efficiency standards?

If not, what other privately rented tenancies do you think should be included?

Table 2: Question 1.1 – Responses by type of respondent.

Type of respondent	Yes	No	Don't know	Not answered	Total
Organisations:					
Energy-related private sector	4		1		5
Landlord	18	3	2	5	28
Letting agents etc.	7	3		2	12
Local Authority	14	8			22
Other		2		2	4
Professional body	11	4	1	10	26
Third sector	3	6		2	11
Total organisations	57	26	4	21	108
% of organisations answering	**66%**	**30%**	**5%**		**100%**
Individuals	37	27	18	8	90
% of individuals answering	**45%**	**33%**	**22%**		**100%**
All respondents	94	53	22	29	198
% of all respondents	**47%**	**27%**	**11%**	**15%**	**100%**
% of all those answering	**56%**	**31%**	**13%**		**100%**

A small majority of respondents, 56% of those answering the question, agreed that only tenancies covered by the repairing standard should have to meet minimum

energy efficiency standards. Individual respondents were less likely to agree than those from organisations (45% and 66% respectively).

There were around 95 comments[1] at Question 1.1 with just over half coming from respondents who had answered No. The most frequent suggestion (from around 3 in 10 respondents who made a comment) was that all tenancies should be included. The majority of respondents expressing this view were individuals, although all categories of organisational respondents except landlords were also represented. A very different view, that the private rented sector (PRS) is already heavily regulated and that no further measures are necessary with regard to energy efficiency, was noted by a smaller number of respondents (around 1 in 12), almost all of whom were individuals.

Respondents who had answered Yes to Question 1.1 mostly made no further comment. Those who did comment sometimes restated their agreement, adding that the proposal is appropriate or represents a sensible approach.

Otherwise at Question 1.1, similar points were raised by respondents irrespective of their answer to the Yes/No question. Reflecting the discussion presented in the consultation paper, the tenancies mentioned most frequently were agricultural tenancies and holiday lets, with smaller numbers of respondents making points about short-term lets.[2]

Agricultural tenancies

The inclusion of agricultural and tied tenancies was proposed by around 1 in 4 respondents who made a comment, particularly from the local authority, third sector and individual respondent groups, with around 1 in 7 specifically noting their support for the repairing standard covering these tenancies. Reasons given for taking this view included that housing standards in agricultural tenancies may be lower than in other parts of the PRS and that this is not justified or that additional research would be appropriate. Other points made included that tenants of tied properties cannot seek alternative accommodation; that tenants should be compensated if they pay for improvements themselves; that tenants of crofts are limited by the shortage of affordable housing in rural areas; and that there is concern about the high levels of fuel poverty in rural areas where agricultural tenancies are located.

A small number of respondents specifically expressed an alternative view that agricultural tenancies should not be included, while others described potential problems if energy efficiency standards were to be imposed. Issues raised tended

[1] Here and at subsequent questions the number of comments made at each question has been rounded up or down to the nearest five to give a sense of scale of response. The format in which some respondents made their submissions (statement style or by frequently cross referencing between answers at different questions) has meant that the analysis team had to make judgments as to where particular comments were best considered.

[2] Part 2 of the consultation seeks views on widening the scope of the repairing standard to include agricultural tenancies and some holiday lets. See questions 2.23 and 2.24 for details.

to concern the economics of agricultural tenancies, or the duration and terms of such tenancies. Points made included:

- The ability of landlords to fund improvements is affected by low agricultural rents.
- Farm rents would have to be increased or dwellings let under a separate residential tenancy in order to fund investment in properties.
- Grant funding will be needed.
- Agricultural tenants have responsibilities for the repair and maintenance of residential properties within their tenancy agreements and additional responsibilities should not be passed to landlords.
- Agricultural tenants may be reluctant to allow landlords access and secure agricultural tenancies mean the landlord has no ability to remove the tenant, even temporarily, to carry out improvements.
- Employees in tied cottages may live in same property for many years and the measures proposed could be very disruptive.

Rural property

As with agricultural tenancies, it was suggested that rural properties in general often attract relatively low levels of rent, and these may not provide a return on investment. Other comments included that where local market conditions will not support increased rents, landlords may consider selling properties, converting them into holiday lets, or leaving them empty. It was suggested that loss of affordable rented housing stock in rural areas could result accompanied by increasing numbers of homelessness applications to councils.

Holiday lets

Extension of minimum energy efficiency standards to include holiday lets was also proposed by a number of respondents with some also suggesting the repairing standard should be extended to include holiday lets. Almost all of those proposing inclusion of holiday lets also favoured inclusion of agricultural tenancies.

Points raised by those in favour of including holiday lets included:

- If they are not covered, landlords could switch properties to holiday lets to avoid the costs of upgrading. This could exacerbate shortages of affordable housing and undermine energy efficiency targets.
- Properties regularly move between the holiday sector and other tenure types, and regulations should be applied equally.

However, a small number of respondents argued against inclusion of holiday lets including because:

- They form an important part of Scotland's tourism economy and, as a result, some respondents thought they should be granted exemption from energy performance standards.
- Some respondents suggested that the inclusion of short-term holiday lets would be contrary to the principles of the Scottish Government's Better Regulation agenda, particularly in relation to proportionality and targeting.
- It was noted that holiday lets may only be offered for letting during the spring and summer, and suggested that the calculation of thermal efficiency based on occupancy throughout all the year is inappropriate.

Short term lets

It was also suggested consideration should be given to including properties offered for short term let via platforms such as Airbnb. The concern was that landlords may choose to move away from residential letting to short term letting if variations in standards make it easier, cheaper or more profitable to do so and it is important that regulations keep up with developments in these markets.

Other comments

Finally at Question 1.1, respondents made broader points about the process including that:

- The energy efficiency standard should be included within the repairing standard, rather than establishing a separate system.
- Exceptions may be needed for older properties, and listed buildings, where improved energy efficiency can be both difficult and expensive to achieve. Issues associated with building age and construction building types are discussed in more detail at Question 1.2.
- It is the occupant who consumes energy not the property and, depending on how the property is used, the potential reduction in energy consumption may not be delivered.
- Costs to tenants through increased rents must not outweigh the benefits, including savings in terms of fuel bills.
- Conditions such as limiting rent increases or the ability to sell the property for a specified period should be attached to any improvement grants.

Linking the standard to the Energy Performance Certificate (EPC)

It is proposed that the standard should be linked to the EPC system. This was proposed because landlords and tenants should be familiar with the document and the assessment method, as EPCs are already required at a change in tenancy. The rating system is also currently used for setting standards that apply to socially rented housing.

Question 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?

If you answered no: (a) please explain why; and (b) please set out your suggestions for how we could set the standard.

Table 3: Question 1.2 – Responses by type of respondent.

Type of respondent	Yes	No	Don't know	Not answered	Total
Organisations:					
Energy-related private sector	4	1			5
Landlord	11	12		5	28
Letting agents etc.	6	3	1	2	12
Local Authority	19	1	2		22
Other	1			3	4
Professional body	15	3	1	7	26
Third sector	9			2	11
Total organisations	65	20	4	19	108
% of organisations answering	**73%**	**22%**	**4%**		**100%**
Individuals	44	36	2	8	90
% of individuals answering	**54%**	**44%**	**2%**		**100%**
All respondents	109	56	6	27	198
% of all respondents	55%	28%	3%	14%	**100%**
% of all those answering	**64%**	**33%**	**4%**		**100%**

A majority of respondents, 64% of those answering the question, agreed that the minimum energy efficiency standard should be linked to the energy performance certificate. Individual respondents were less likely to agree than those from organisations (54% and 73% respectively).

There were around 115 comments on Question 1.2. Amongst respondents who answered No, a small number restated opposition to further regulation of the sector

while most set out what they saw as failings or limitations of the current EPC system. The most frequently-stated opinions were that:

- The system is unclear, too subjective, flawed/inaccurate or inconsistent and does not always reflect the actual thermal performance of a property.
- The process is not fit for purpose for older properties with solid walls. Different standards/assessment methods are required for older, traditionally constructed and listed buildings.

These points were most likely to be made by Individual and Landlord respondents.

The majority of respondents who answered Yes at Question 1.2 made no further comment. Others expressed a view that the proposed approach is sensible or reasonable, and that the EPC system is the best mechanism available at present. Advantages cited included that the EPC system is familiar and easy to understand, cost-effective, nationally recognised, and is the approach used by the Energy Efficiency Standard for Social Housing, allowing comparisons to be made between sectors. However, some respondents who agreed the EPC is the most suitable mechanism also highlighted their concerns that they consider the current system is flawed, limited or inaccurate and it was argued that such concerns must be addressed to create confidence.

Otherwise at Question 1.2 similar points were raised by respondents irrespective of their answer to the Yes/No question. These comments tended to either raise what respondents saw as failings in the EPC system and/or make or suggestions for improvement and are set out in turn below.

Methodology

Some respondents felt that the EPC methodology should be updated or improved and kept under review to ensure it reflects changes in technology, such as battery storage and infra-red heating.

The use of the Reduced Standard Assessment Procedure (RdSAP) was questioned and it was suggested that it should be reviewed or replaced with the more detailed Standard Assessment Procedure (SAP). There was also concerns around the data modelling employed and that real and modelled energy consumption can be very different, with the greatest divergence in buildings that do not conform with the assumptions used in the BRE Domestic Energy Model (BREDEM).

As noted previously, many respondents opposed to use of the EPC pointed specifically to problems they saw with assessments of traditionally built properties, and suggested that the standards set are not realistic for traditional stone built buildings with solid walls, particularly in rural areas. Respondents described their own experience of significant works resulting in only marginal improvement in the EPC rating, or highlighted anomalies in ratings achieved by apparently similar buildings.

A number of the assumptions made during the assessment process were also questioned. There were particular frustrations that assessors will not accept that insulation is present if they cannot see it and that some modern insulation methods may be counter-productive for older properties – for example increasing damp if ventilation is reduced. In some circumstances, it was suggested that improved property management could be more effective than installing insulation.

Development of a Scottish model, using real energy consumption data and other measured data on the performance of Scottish building types in different Scottish climates was proposed. It was argued that:

- Improvements suggested and the costs of carrying out such works must be more realistic.
- It should be possible to make allowances for specific local factors – such as a private water system with pressure too low for combi boiler to be installed.

Fuel sources and prices

As running costs are a factor, it was suggested the EPC rating is not a reliable measure of energy efficiency in largely rural areas where there is no mains gas and the alternative fuels available are more expensive. It was suggested being off-gas grid will lower a property score by one or two grades, while falling fuel prices can result in improved EPC ratings when no improvements to the environmental performance of the building have taken place. Rural homeowners may also not be eligible for advantageous incentive schemes or tariffs because their homes do not achieve a D EPC rating.

Also with reference to heating methods it was noted that:

- Benefits of district heating systems are not recognised by the present assessment method.
- Heating options that improve an EPC may not be preferred by the tenant.

With respect to the fuel poverty threshold calculation, it was suggested that, if the aim is to reduce fuel poverty, the proportion of net disposable income against actual energy consumption is a more accurate measure and that the EPC's ability to account for the carbon and fuel poverty impact of a property and to set a clearer route for improvements should be enhanced.

Comparability

Respondents commented on the importance of being able to compare ratings including that: there should be a consistent approach across the private and social housing sectors; if the current methodology is changed it may not be possible to compare old and new EPCs; and that a minimum E rating will be needed to let property in England from April 2018. However, it was also suggested that assessment of similar buildings in England and Scotland will produce a poorer rating for the Scottish property as climatic conditions are taken into account.

Respondents also expressed views that standards of EPC surveyors and the EPCs produced can vary at present, and that the new requirements may lead to a shortage of properly qualified EPC assessors or that the retraining of assessors could be lengthy and expensive.

Validation periods

With respect to the length of the validation period it was suggested that, as the certificate currently lasts for 10 years, a landlord should be asked to confirm that the property has not changed. Alternatively, the validation period should be reduced to 3 years as survey data and calculation methodology will have changed.

Monitoring and regulation

It was suggested that there should be penalties for procuring or providing a false or deliberately misleading EPC. Further points made included:

- There is no system of quality control on the improvements carried out.
- There should be some form of appeals or adjustment process.
- New research on levels of awareness and understanding of EPCs would help inform engagement and the advice provided to support compliance.

Alternative suggestions

Although most respondents focused their remarks at Question 1.2 on perceived problems associated with the existing EPC system and how these might be corrected, a small number suggested alternative or additional approaches. These included:

- A measure based approach based on minimum thermal standards (e.g. for loft insulation or cavity wall construction) and a minimum standard for whole house heating provision and unwanted ventilation heat loss.
- Use of thermal imaging.
- Operational assessment of actual energy use, which would also motivate and empower individuals to take ownership of their energy use.

It was also suggested that, with appropriate resources, Local Authority Housing Services could offer EPCs and commission work in a similar manner to mutual repairs.

Question 1.3 - 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?

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

Table 4: Question 1.3 – Responses by type of respondent.

Type of respondent	Yes	No	Don't know	Not answered	Total
Organisations:					
Energy-related private sector	2	2		1	5
Landlord	17	2	3	6	28
Letting agents etc.	6	3	1	2	12
Local Authority	6	8	8		22
Other	1			3	4
Professional body	9	2	4	11	26
Third sector	5	3		3	11
Total organisations	46	20	16	26	108
% of organisations answering	**56%**	**24%**	**20%**		**100%**
Individuals	51	15	16	8	90
% of individuals answering	**62%**	**18%**	**20%**		**100%**
All respondents	97	35	32	34	198
% of all respondents	49%	18%	16%	17%	**100%**
% of all those answering	**59%**	**21%**	**20%**		**100%**

A majority of respondents, 59% of those answering the question, thought that elements of the energy performance certificate assessment would need to be altered to support a minimum energy efficiency standard. Individual respondents were more likely to agree than those from organisations (62% and 56% respectively). A majority of local authority respondents did not agree.

There were around 120 comments at Question 1.3. Respondents who answered No made limited further comments, but their remarks at earlier questions indicated that some were generally opposed to the principle of introducing an energy standard, while others were broadly supportive of the EPC system in its current form.

In contrast, some of the comments made by respondents who agreed that elements of the EPC system need to be altered were extensive but often reflected issues

raised at Question 1.2. Some respondents referred back to their comments at Question 1.2 or reiterated views on the need to address current limitations of the EPC system including assessment of older buildings or rural properties; experience of varying standards of quality and consistency in the assessment; the need to reflect new technologies and renewable energy; the need to reflect actual energy use; the conditions and maintenance of the property and how well any insulation or energy improvement measures have been fitted. Other general criticisms included that the system is perceived as neither transparent nor accountable.

Suggested additions or changes to the EPC

A number of respondents suggested features that should be added to the existing EPC system including:

- Identifying the increase in rating expected from each recommended individual measure and providing a much wider range of choices and points allocations to allow owners to consider all available options.
- A website with Frequently Asked Questions, helpline, virtual reality houses, etc. to improve understanding of the RdSAP/EPC system.
- Indicating if a property is listed, if planning permission is required to implement suggested changes, if house is considered “hard to treat”, and if substantial energy improvement work has already been done by the landlord.
- Indicating where simple solutions have been applied, such as heavy curtains in listed buildings in combination with draught proofing windows.
- Making clear that where a statutory minimum standard applies it is compliance with the standard that is required, not simply carrying out a list of works that may assist in meeting the standard.
- Setting out measures to improve the standards above the minimum and a clear pathway to achieve these. It was suggested this could encourage landlords to make further improvements when costs would not be excessive or where it may be cheaper to carry out improvements at the same time rather than having to undertake further work in future.
- Adding a ‘compliance with legislation’ check on the certificate for ease of reference for tenants, landlords, letting agents and local authorities.

Amongst other changes suggested were that only those parts of the EPC relating to the structure of the house should be considered and that recommendations should relate to energy efficiency rather than to using lower carbon energy sources or renewable energy. Several respondents made specific reference to issues concerning treatment of electric heating while others commented on specific technical details not handled well by the existing system.

Reduced Data Standard Assessment Procedure (RdSAP)

In particular, a number of respondents identified issues they saw with the RdSAP or SAP systems used in EPC assessments. Comments included:

- The RdSAP/EPC system was developed as a method for reporting energy efficiency levels not to be a regulatory tool to improve energy efficiency.
- Many measures that contribute to energy efficiency are not taken into account.
- This is a complex area requiring expert opinion, and a review could be the subject of a separate consultation. It should not be rushed.
- There should be direct engagement with assessors and the software developers.
- The RdSAP system could be enhanced by allowing the assessor to give advice to the tenant in the form of an occupancy evaluation.
- The system needs to be made more flexible to hold core data for each house, that can be referred back to as additional improvements are made, without incurring the full cost of a complete re-survey and new EPC.
- The quality assurance systems run by the RdSAP software developers rely on photographs taken by the surveyor rather than checks with clients, so measures that are not visible may not be credited.

Qualification of assessors

Perceived inconsistencies of application in the existing EPC system were sometimes attributed to the quality of assessors and their training. Suggestions to remedy this included:

- Minimum Standard Assessments should be carried out by suitably qualified professionals: chartered surveyors, architects or members of the Chartered Institute of Builders.
- Assessors should undergo ongoing Continuing Professional Development style training to refresh their skills and ensure they are up to speed with new developments.

Measures to prevent misuse of the system

Several respondents suggested that care is needed to ensure the EPC system is not manipulated to achieve a required minimum rating where there is a clear commercial benefit to attaining a particular rating. Suggestions included:

- A smart audit process for EPCs.
- An EPC assessor must visit and inspect the property as part of the process and, where the property is tenanted, the tenant must be advised when that inspection will take place.
- The EPC should be renewed each time a landlord re-registers for each of the properties they are renting out (and also at the point of registering for the first time).

Setting the level of the minimum standard

It is proposed that an initial standard of E should be set from 2019, rising to D within 3 years. This will ensure that action is taken to improve the worst performing properties first, while also setting out a clear direction for owners of rented properties that a higher standard will be required over the longer term.

Question 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?

Please explain your answer.

Table 5: Question 1.4 – Responses by type of respondent.

Type of respondent	Yes	No	Don't know	Not answered	Total
Organisations:					
Energy-related private sector	5				5
Landlord	9	10	1	8	28
Letting agents etc.	5	4	1	2	12
Local Authority	14	5	2	1	22
Other	2			2	4
Professional body	11	6	1	8	26
Third sector	4	5		2	11
Total organisations	50	30	5	23	108
% of organisations answering	**59%**	**35%**	**6%**		**100%**
Individuals	32	39	11	8	90
% of individuals answering	**39%**	**48%**	**13%**		**100%**
All respondents	82	69	16	31	198
% of all respondents	41%	35%	8%	16%	**100%**
% of all those answering	**49%**	**41%**	**10%**		**100%**

There was no clear balance of opinion at this question. Of those answering, 49% agreed that the minimum energy efficiency standard for private rented properties should be set at an energy efficiency rating of E in the first instance. However, 41% disagreed and 10% said they did not know. Individual respondents were less likely to agree than those from organisations (39% and 59% respectively).

Around 155 respondents made a comment at Question 1.4. Among respondents who agreed with the proposed approach, comments included that this is sensible, logical, reasonable or achievable and would make the position in Scotland the

same as that in England and Wales. It was also suggested the staged approach would encourage acceptance from landlords and give landlords time to plan for further improvements but ensure that the worst performing properties were improved first. From an administrative perspective, it would affect fewer properties initially, giving an opportunity to review the processes involved before the move to D which will affect a larger number of landlords. It was also suggested that the backstop date for achieving an E rating should be brought forward from March 2022 to March 2021.

Respondents who disagreed with setting minimum energy efficiency standard at E in the first instance gave widely differing reasons for their views:

- Some disagreed with setting a minimum level at all.
- Some thought E to be too high, or that the minimum should not be raised above E.
- Some thought E not high enough.

Irrespective of their answer to the Yes/No question, many respondents actually made similar points – set out below - concerning issues that they thought needed to be addressed, although differing as to whether they saw a 'challenge' or something that simply could not be achieved.

Rural properties

Respondents who disagreed with the proposal often restated points made at earlier questions about serious economic, technical and practical difficulties in improving the ratings for traditionally built properties, particularly in rural areas. Respondents who agreed with the proposal also noted that the minimum standard of band E will itself be challenging, especially for some rural properties.

Exceptions and special cases

Both respondents who agreed and those who disagreed with the proposals pointed to the need for exceptions, or for differing standards to be set for different types of property or location. Introduction of benchmarks made up of fuel type and age of building were suggested, and that these could be refined over time to better reflect the potential of each 'benchmarked' home.

However, it was also suggested that any process for making a property exempt should be both challenging and auditable.

Incentives / assistance / engagement

Respondents sometimes suggested landlords will need help to understand the requirements and their options and to be provided with incentives or financial assistance. Specific suggestions included:

- Tax relief/incentives.
- Reimbursement of VAT.

- Low cost loans and grants.
- An engagement and support programme, including incentives and promotions to encourage and reward early adoption of the standard.

Other points on the need for engagement included that, unlike social landlords (who worked to the Scottish Housing Quality Standard before the Energy Efficiency Standard for Social Housing was introduced) the PRS has not had to meet minimum energy efficiency standards before, but does have very diverse management.

Moving to band D

Many respondents suggested the staged approach proposed may be more confusing, expensive for landlords or disruptive for tenants, and that it would be better to go straight to band D, sometimes suggesting a longer lead time would be required as a result. Others argued that the further action necessary to achieve the D rating should be explained, allowing landlords to make informed decisions about the future and whether upgrade straight to D and that clear guidance about the future trajectory of regulation in this area is necessary.

Additional reasons given for setting the initial target at D included that it would be more effective use of the resources local authorities will have to invest in regulation and enforcement, it would give parity with the social rented sector, and that measures to alleviate fuel poverty should be implemented as soon as possible. A route map to a longer-term minimum of band C was also proposed.

However, other respondents cautioned against future move to band D, suggesting this is unrealistic or that a review should be carried out first to assess the success of the first phase and identify any unintended consequences.

Tenant choice

A small number of respondents argued that the regulation proposed may take choices away from tenants. Their points included that:

- Some tenants find renting convenient for career purposes, but are not necessarily short of money and may prefer facilities or equipment with higher energy requirements.
- Some tenants may prefer to live in older or rural properties, possibly paying a lower rent which could offset higher energy costs. As long as they are aware of possible higher energy costs they should have freedom to choose, and imposing a minimum standard removes the ability for the Tenant and Landlord to negotiate a settlement.

Questions on information in the consultation paper

A number of respondents also questioned some of the information presented in the consultation paper including:

- The projected costs for implementing energy efficiency measures for band E, F and G properties represent significant underestimates.
- The number of properties affected is underestimated.
- Information on how many properties are expected to be removed from the F and G housing stock without regulation has been omitted. It was suggested that ratings will improve in any case as properties are refurbished, better technologies are available, and tenant's expectations increase.

Bringing in the standard of EPC E at point of rental and then at backstop date

Question 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? Please explain your answer.

Table 6: Question 1.5 – Responses by type of respondent.

Type of respondent	Yes	No	Don't know	Not answered	Total
Organisations:					
Energy-related private sector	3	2			5
Landlord	12	8	2	6	28
Letting agents etc.	10			2	12
Local Authority	12	7	1	2	22
Other	2			2	4
Professional body	12	5		9	26
Third sector	6	3		2	11
Total organisations	57	25	3	23	108
% of organisations answering	**67%**	**29%**	**4%**		**100%**
Individuals	49	28	6	7	90
% of individuals answering	**59%**	**34%**	**7%**		**100%**
All respondents	106	53	9	30	198
% of all respondents	54%	27%	5%	15%	**100%**
% of all those answering	**63%**	**32%**	**5%**		**100%**

A majority of respondents, 63% of those answering the question, agreed 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.

Individual respondents were less likely to agree than organisations (59% and 67% respectively).

Around 140 respondents made a comment at Question 1.5.

Among those who agreed, respondents suggested that at a change of tenancy seems a natural, appropriate, practical, reasonable, fair or sensible time at which to apply new minimum standards. The most frequently identified benefits were:

- Work is easier in a vacant property and this will minimise disruption for tenants, especially those with children.
- It will allow landlords time to plan and spread costs.
- It will avoid problems with availability of assessors or contractors, or inflated costs as deadlines approach.
- The relatively high turnover rate means many properties will be upgraded.

Respondents who did not agree gave a number of reasons, most frequently and in approximately equal numbers:

- General opposition to the proposal to impose minimum energy efficiency standards at all.
- Agreement with the application of the minimum standard at a change in tenancy, but not that it would later would apply to all tenancies – that is that there should be no backstop date.
- Agreement with the minimum standard, but not that it should apply at a change in tenancy.

Other suggestions made, but by fewer respondents, included: the requirement should apply when tenancies are renewed or changed, as will be the case in England and Wales from 2018; it should apply to the implementation of the proposed E standard but not thereafter; the worst rated properties should be addressed first, irrespective of a change in tenancy; or the requirement should apply to all tenancies.

In other respects, similar issues were raised by respondents irrespective of their answer to the Yes/No question. These are outlined below.

Exceptions

As at other questions, both respondents who agreed and those who disagreed with the proposals made a case for differing standards for different types of property, or that a longer period should be allowed in certain circumstances. These included flats with deed restrictions in buildings with multiple flats/owners; and improvements requiring planning permission.

Unexpected ending of a tenancy

Potential problems were highlighted associated with the unexpected ending of a tenancy, such as an unexpected void leaving a landlord without enough time to

raise funds to implement improvements, arrange an assessment and organise contractors. It was also noted that the new Private Tenancy regulations will give tenants greater freedom to end their tenancies at short notice making it harder for landlords to plan in these circumstances.

Enforcement

Local authority respondents in particular identified problems surrounding enforcement, including questioning what data will be legally available to inform their officers of a change of tenancy. Council tax data or tenancy deposit schemes were suggested but it was pointed out that procedures would have to be changed for this information to be shared, or that significant work could be created for the departments involved. Since there is no requirement for landlords to notify the local authority of a change of tenancy unless it affects council tax or housing benefit, it was suggested information about a new tenancy will be difficult to manage or only available retrospectively.

As an alternative to a change in tenancy, the Landlord Registration Scheme was suggested as a simpler mechanism for enforcement, while still capturing all property over a 3-year period – with an EPC being required at the point of reregistration for the landlord. It was suggested that this requirement could be flagged up to the landlord well ahead of the renewal date, and that an increase in landlord's registration fees would cover the cost of implementing the new measures.

Other suggestions included:

- A rent increase could be a further trigger requiring compliance.
- More detail is needed on how accommodation with a sitting tenant can be monitored.
- A fixed backstop date would be less complicated for landlords and easier for local authorities to enforce, while not preventing a landlord taking advantage of an earlier change in tenancy to carry out work.

A backstop date

The potential effect of a backstop date on long term tenants was raised by several respondents including that:

- Existing tenants will be disadvantaged by having to wait longer for improvements.
- Long term tenants may not want invasive work done or may not be able to remain in the property while the work is done and may be forced to move out. It was suggested there should be an exception if works would require the tenant to move out or if a tenancy would have to be ended as a result.
- Since rural tenancies are typically much longer than urban ones, the work on rural property would often be completed at the backstop date, so there may be a bottleneck at the backstop date.

However, other respondents agreed that there has to be a backstop date even if property is not empty.

Other suggestions

Other points raised at Question 1.5 included that there should be an effort to raise awareness of the changes to ensure compliance before the commencement of a new tenancy, and also that subsequent changes of tenancy should not reset the clock for the completion of improvement measures.

Question 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?

Please explain your answer.

Table 7: Question 1.6 – Responses by type of respondent.

Type of respondent	Yes	No	Don't know	Not answered	Total
Organisations:					
Energy-related private sector	5				5
Landlord	8	14	1	5	28
Letting agents etc.	4	4	2	2	12
Local Authority	14	5	3		22
Other	2			2	4
Professional body	4	10	3	9	26
Third sector	4	4		3	11
Total organisations	41	37	9	21	108
% of organisations answering	**47%**	**43%**	**10%**		**100%**
Individuals	22	52	8	8	90
% of individuals answering	**27%**	**63%**	**10%**		**100%**
All respondents	63	89	17	29	198
% of all respondents	32%	45%	9%	15%	**100%**
% of all those answering	**37%**	**53%**	**10%**		**100%**

A majority of respondents, 53% of those answering the question, disagreed that 1 April 2019 is the right date to start applying the minimum standard of E when there is a change in tenancy. Overall, individual respondents were more likely to disagree than organisational respondents (63% and 43% respectively) although there was substantial variation in the level of support between different organisational groups: all of the energy related private sector and other respondents who answered the

question agreed with the proposed date, but only a small proportion of professional body respondents and landlords agreed.

The Shelter Scotland report asked private tenants if they agreed with the dates for starting to apply the minimum standards of E (as at this question) and D (as at the next question. Of the 24 private tenants who answered this question, 14 thought the dates are too far away.

Around 145 respondents made a comment at Question 1.6. Among respondents who agreed, comments included that 1 April 2019 is fair, realistic, reasonable, achievable or gives sufficient time, that the minimum standard should apply to all tenancies from the start, and that renewals should be included as well as changes of tenancy. Other points included that agreement was conditional on there being no delays in making the regulations or that there needs to be a clear tax year between legislation being laid before parliament and enforcement.

Respondents who did not agree gave a range of reasons, the most frequent being:

- April 2019 is too soon. (Around 1 in 5 respondents.)
- General opposition to any minimum standards, or a suggestion that the proposed E rating is too high, or that many exceptions will be required. (Around 1 in 9 respondents.)
- The EPC assessment system should be improved first. (Around 1 in 10 respondents.)

Other reasons, each given by a smaller number of respondents, included:

- Other regulatory changes in this sector – particularly implementation of the Private Housing (Tenancies)(Scotland) Act 2016 – need time to bed in before further reforms are introduced.
- That the date should instead be earlier.

Around 1 in 7 respondents suggested alternative start dates, ranging from 1 April 2020 to 5 years after the EPC system has been improved. The most frequently suggested alternatives were 2 years from the point when regulations are finalised or the legislation is implemented, or after at least 5 more years.

As at Question 1.5, several respondents suggested that the phased implementation approach should be rejected in favour of a move straight to band D sometimes also proposing additional time will be required to achieve this: alternative start dates of 2021 and 2025 were suggested, or simply that the time should be longer than currently proposed.

An alternative proposal, again reflecting comments at Question 1.5, was that the standard should apply not at a change of tenancy, but at the point of landlord reregistration.

Other points, raised by respondents irrespective of their answer to the Yes/No question (although predominantly by those who had said No) included:

- Concern about the availability or quality of trained assessors.
- Concern about the availability of tradesmen or contractors.
- Concern about the time and resources available to local authorities in order to implement monitoring and enforcement measures.
- That an effective communication strategy must be put in place to ensure all involved are aware of the changes.

Other suggestions made, but by only a small number of respondents included:

- New guidelines should apply to property new to the sector.
- A cap on tenant turnover should be implemented – so that no more than a certain % of a landlord's portfolio has to be upgraded in a single year, irrespective of the number of tenancies that change.
- Allowances should be made where a high level of recent expenditure on a property can be demonstrated.
- There should be a pilot stage before the regulations are fully rolled out
- Landlords could be given the option of producing a programme for improving their properties within the overall improvement timescales envisaged, showing they intend to make improvements.

Question 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?

Please explain your answer.

Table 8: Question 1.7 – Responses by type of respondent.

Type of respondent	Yes	No	Don't know	Not answered	Total
Organisations:					
Energy-related private sector	3	1		1	5
Landlord	3	18	2	5	28
Letting agents etc.	5	4	1	2	12
Local Authority	18	2		2	22
Other	2			2	4
Professional body	8	7	2	9	26
Third sector	5	5		1	11
Total organisations	44	37	5	22	108
% of organisations answering	**51%**	**43%**	**6%**		**100%**
Individuals	29	38	14	9	90
% of individuals answering	**36%**	**47%**	**17%**		**100%**
All respondents	73	75	19	31	198
% of all respondents	37%	38%	10%	16%	**100%**
% of all those answering	**44%**	**45%**	**11%**		**100%**

There was no clear balance of opinion at this question. Of those answering, 45% disagreed that 31 March 2022 is the right date by which all privately rented properties would need to meet the minimum standard, 44% agreed and 11% did not know. Overall, organisational respondents were more likely to agree than individuals (51% and 36% respectively), although again there was substantial variation in the level of support between different organisational groups.

As noted at the previous question, the Shelter Scotland report asked private tenants if they agreed with the dates for starting to apply the minimum standards of E (as at this question) and D (as at the next question). Of the 24 private tenants who answered this question, 14 thought the dates are too far away.

Around 150 respondents made a comment at Question 1.7 and these tended to reflect those already made at Questions 1.5 and 1.6, with variants on 'see above' being the second most frequent comment. The analysis presented below covers other issues raised.

Among respondents who agreed with the proposal comments included that this is adequate, fair, realistic, reasonable, sufficient or proportionate and is in line with timeframes given to social landlords. Some respondents also referred to their earlier suggestions that a higher minimum standard of band D should be implemented by this date, or that the standard should be raised to D after 2022. Others qualified their approval with references to there being: adequate contractor capacity; grants available; exceptions or different standards for certain property types; effective systems and processes must be in place; and resources available to local government to monitor compliance.

The most frequent reason given by respondents who did not agree was that 31 March 2022 is too soon. This suggestion was made by around 1 in 6 respondents. Other reasons, each given by a small number of respondents included:

- General opposition to any minimum standards.
- That exceptions for rural sector, older or hard to treat properties are required.
- That there should be no backstop date.
- That there should be a move straight to a minimum of band D, with a later backstop date of 2024 or 2025.

Around 1 in 7 respondents made suggestions for alternative backstop dates, ranging from immediately, to after 10 years or longer. The most frequently-suggested alternative dates were after 3 years from the start date actually applied, or after 5 years. Respondents making the latter point suggested 5 years would be fairer or more reasonable, or expressed concern about the availability of suitable contractors.

Several respondents also proposed that there should be measures to encourage early compliance. Examples given included discounts on assessments or work through advisory services such as Home Energy Scotland, in partnership with relevant stakeholders.

Need for further consideration of the position of long term tenants was highlighted by a number of predominantly Landlord respondents. It was argued that an exception should be made when a tenant does not give access or when works required at a backstop date would cause serious disruption to sitting tenants or require them to leave the property. It was suggested there should be a requirement for the tenant’s consent and that if a tenant would prefer not to have the disruption, they should be able to delay works until a future date or change of tenancy.

The method of proof of compliance was also raised, in particular whether a number of properties of identical construction would require individual EPCs at the backstop date or could be covered by a generic certificate for properties of the same construction.

Further comments on the backstop date included that good landlords will comply before 2022, and that the rules should also apply to unregistered landlords so that

all tenants benefit. It was also argued that, whatever decision is reached on deadlines, property owners need as much certainty as possible as to what will be expected of them, and when, in terms of energy performance of their properties.

Meeting the standard when there's a change in tenancy after 1 April 2019

Landlords already need to have a valid EPC available for a property offered for let when there is a change in tenancy. Under the Energy Performance of Building (Scotland) Regulations 2008 the EPC is valid for a period of up to 10 years, and must be lodged on the EPC register. There are existing mechanisms to enforce this requirement. From December 2017, there will be new tenancy agreements under the Private Housing (Tenancies) (Scotland) Act 2016 and it is proposed that the energy efficiency standard would apply where there is a new tenancy under these regulations. If the EPC assessment shows a Band F or G then the owner would need to take action to comply with the new standard.

The proposal is that the owner of a property in Band F or G would need to have a minimum standards assessment carried out and lodged on the register before the new tenancy begins. The assessment would identify the required improvements (usually to bring the property to an EPC Band E) which should be carried out within six months of the date of the minimum standards assessment. The owner would then have to provide proof that the property is compliant, for example through the production of a new EPC showing the required rating, or evidence that the measures identified in the assessment have been installed.

Question 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?

(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?

(c) Do you think that the owner should have to provide a post-improvement EPC to prove that the necessary improvements have been made?

Please explain your answers.

Table 9: Question 1.8a – Responses by type of respondent.

Type of respondent	Yes	No	Don't know	Not answered	Total
Organisations:					
Energy-related private sector	4	1			5
Landlord	10	12		6	28
Letting agents etc.	7	3		2	12
Local Authority	16	4	2		22
Other	1			3	4
Professional body	13	3	2	8	26
Third sector	9			2	11
Total organisations	60	23	4	21	108
% of organisations answering	**69%**	**26%**	**5%**		**100%**
Individuals	40	39	3	8	90
% of individuals answering	**49%**	**48%**	**4%**		**100%**
All respondents	100	62	7	29	198
% of all respondents	51%	31%	4%	15%	**100%**
% of all those answering	**59%**	**37%**	**4%**		**100%**

A majority of respondents, 59% of those answering the question, agreed that the owner should be required to carry out a minimum standards assessment before renting the property out. Overall, organisational respondents were more likely to agree than individuals (69% and 49% respectively). Among organisational respondents, landlords were the only group in which a majority did not agree.

The Shelter Scotland report asked private tenants if they thought the owner should have to carry out a minimum standards assessment before renting the property out. Of the 24 private tenants who answered this question, 22 thought they should and two said they should not.

Around 65 respondents commented specifically on Question 1.8a. Amongst those who agreed with the proposal, a number of respondents qualified their approval as being subject to: EPC methodology being improved; a cap on the landlord's contributions to the cost of the necessary works; the assessment cost being reasonable; and there being enough assessors to meet demand.

Other comments relating to EPCs and Minimum Standards Assessment (MSAs) included that:

- EPCs produced using early editions of RdSAP will be different to more recent versions and if the lodged version is prior to the current RdSAP 9.92 and

RdSAP conventions v9.x, then both a new EPC and an MSA should be required.

- If the EPC is current (as above) then an MSA could be produced from the lodged EPC data, although a site visit would still be needed for the assessor to make reasoned judgements on the applicability of measures for the property to comply with 'E', 'D' and higher banded energy efficiency scenarios.
- A framework, whereby a quality assured EPC can be created by the energy assessor, with suitable evidence from the home added to the original site visit, could ensure EPCs are updated correctly.

With respect to the MSA itself it was suggested that:

- An MSA can be tailored to the property to give an estimated cost for that property instead of using average costs. The MSA should give a clear indication of the work that would be required to reach a higher EPC rating.
- MSAs could be particularly useful for properties that are hard to treat.
- As well as energy efficiency, the assessment should focus on the repairing and tolerable standards.
- Take-up could be improved and impartiality enhanced if resources are made available to reduce (or eliminate) the cost to the landlord. A specific suggestion was that MSAs should be provided free of charge by the Energy Savings Trust. The importance of impartiality was emphasised.
- What happens if a property still does not achieve a band E rating, despite the works being carried out as recommended, must be set out.

It was also proposed that there should be a duty for the landlord to share the assessment with a potential new tenant so they are aware of the work that will need to be completed within the next 6 months and can consider this when deciding whether to go ahead with the lease. If measures set out in the MSA are not implemented, then an action plan could be sought leading to completion of the works within 4 months.

Comments made by respondents who did not agree with the requirement for an MSA included that:

- The EPC already incorporates suggested improvements and is sufficient of itself or could be accompanied by a condition report. It was also suggested that more emphasis should be placed on the building being wind and watertight.
- A minimum standards assessment should be incorporated into an improved EPC.
- An MSA should be optional if an appropriate EPC rating can be achieved without it. It was argued that where the cost of bringing an F or G rated

property up to band E is relatively low, an MSA would represent a significant proportion of the overall cost of improvement.

Flexibility was suggested with respect to the timing of an MSA, specifically that it should be permissible to have a survey carried out within a short period of the start of a tenancy. Reasons given for this view included a possible shortage of surveyors.

Other suggestions, made by smaller numbers of respondents, included that consideration should be given to how long the MSA would be valid. General concern about increased costs and the complexity of the process was also highlighted including a suggestion that EPCs are typically more expensive than the £30-60 quoted in the consultation paper. Where EPCs are still in date, it was argued any additional costs should be borne by the Scottish Government.

Question 8(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?

Table 10: Question 1.8b – Responses by type of respondent.

Type of respondent	Yes	No	Don't know	Not answered	Total
Organisations:					
Energy-related private sector	4			1	5
Landlord	8	11	1	8	28
Letting agents etc.	5	5		2	12
Local Authority	18	3		1	22
Other	1			3	4
Professional body	10	6	1	9	26
Third sector	7	1	1	2	11
Total organisations	53	26	3	26	108
% of organisations answering	**65%**	**32%**	**4%**		**100%**
Individuals	25	41	14	10	90
% of individuals answering	**31%**	**51%**	**18%**		**100%**
All respondents	78	67	17	36	198
% of all respondents	39%	34%	9%	18%	**100%**
% of all those answering	**48%**	**41%**	**10%**		**100%**

There was no clear balance of opinion at this question. Of those answering the question, 48% agreed that a period of six months from the date of the minimum standards assessment should be allowed to carry out the improvement identified by

the assessment. Overall, organisational respondents were more likely to agree than individuals (65% and 31% respectively). Within organisations, landlord and letting agent respondents were the only groups in which a majority did not agree.

The Shelter Scotland report asked private tenants if they thought it was reasonable to allow 6 months for the improvements to be carried out after the assessment. Of the 22 private tenants[3] who answered this question, 17 thought it was reasonable and five thought it was not. Their further comments included that councils carry out improvement works when a property is rented, and that the approach allows the tenant to continue living in the property.

Around 75 respondents commented specifically on Question 8.1b. Those who agreed often suggested that 6 months is reasonable, sufficient or fair. However, while some respondents expected 6 months to be the maximum allowed or cautioned that allowing extensions as a matter of course will encourage landlords to take extra time, others suggested that there should be discretion for a local authority to extend the period. Several respondents who agreed also commented that longer may be necessary, including that this should be up to 12 months to allow for issues around a tenant not providing access, or to allow work to be carried out during the summer. Other issues noted as potentially requiring flexibility included: communal works; complex operations such as installation of external wall insulation; and availability of tradespeople in rural areas.

Analysis of Home Energy Efficiency Programmes (HEEPS) loan scheme data was cited by respondents as having informed their view that 6 months is appropriate, reporting that where loans were provided to cover the upfront costs of improvement measures and their installation, 92% of recipients had measures installed and claimed their loan within 6 months, 96% in 7 months, and 98% in 8 months.

The issue of cost was also raised by respondents who noted their assumption that the MSA would not propose improvements for which the real costs to comply would exceed the maximum capital allowance for this duty (£5,000 for band E[4]), although also that only the landlord investment should apply in the case of an exception for excessive cost.

How these proposals align with the Private Housing (Tenancies) (Scotland) Act 2016 was also queried, and clarification sought on the consequence for the landlord of failure to comply within the 6-month period – including whether the new model tenancy includes grounds for a landlord ending a tenancy in such circumstances.

[3] Although the number of people answering the question is given as 24 as at other questions, the answers given sum to 22. It has been assumed therefore that 2 respondents said they did not know or did not answer this question.

[4] Excessive cost is one of the situations where the Scottish Government proposes landlords should not be penalised for not carrying out the full improvement identified by the minimum standards assessment. Views on a proposed cost cap of £5,000 for a property to achieve band E are sought at Question 1.22.

Concern regarding disruption to tenants was also noted, and it was suggested both that a landlord should be required to inform new tenants of the work to be done in the next six months, and that such work may entitle the tenant to claim a reduction on their rent. An additional suggestion was that tenants should be consulted on timing of work, with students taking exams being mentioned in particular.

Among respondents who did not agree with the proposal, the suggestion that 6 months is not sufficient was by far the most frequently-raised issue. Alternative times proposed included both longer than 6 months (suggested by around 1 in 4 respondents, and 12 months (1 in 6 respondents). Reasons given included tenants refusing access, winter weather conditions, availability of tradespeople, arranging finance, and securing statutory consents as well as the complex nature of some works.

A very much less common view among those who did not agree was that 6 months is too long.

Other reasons given for thinking the proposals unacceptable were that the work should be carried out while the property is empty, including because local authorities do not have the resources to follow up cases where the landlord does not complete the work in the time allowed.

Other comments on Question 1.8b included that where the property is mortgaged, the process should operate in a way that minimises the potential for disruption of the rental income stream that sustains the mortgage.

Question 8(c) - Do you think that the owner should have to provide a post-improvement EPC to prove that the necessary improvements have been made?

Table 11: Question 1.8c – Responses by type of respondent.

Type of respondent	Yes	No	Don't know	Not answered	Total
Organisations:					
Energy-related private sector	4			1	5
Landlord	8	12	1	7	28
Letting agents etc.	4	5	1	2	12
Local Authority	20	2			22
Other	2			2	4
Professional body	11	3	2	10	26
Third sector	9			2	11
Total organisations	58	22	4	24	108
% of organisations answering	**69%**	**26%**	**5%**		**100%**
Individuals	31	40	8	11	90
% of individuals answering	**39%**	**51%**	**10%**		**100%**
All respondents	89	62	12	35	198
% of all respondents	45%	31%	6%	18%	**100%**
% of all those answering	**55%**	**38%**	**7%**		**100%**

A majority of respondents, 55% of those answering the question, agreed that the owner should have to provide a post-improvement EPC to prove that the necessary improvements have been made. Overall, organisational respondents were more likely to agree than individuals (69% and 39% respectively). Within organisations, landlord and letting agent respondents were the only groups in which a majority did not agree.

Around 75 respondents commented specifically on Question 1.8c. Among those who agreed that a post-improvement EPC should be required, comments included that there must be independent verification that the required measures have been implemented and that an EPC is either a good option or the only suitable option. It was also noted that if the property has been upgraded the previous EPC rating will no longer be valid, that any marketing materials for the property will require a current EPC which must also be provided to a tenant at the start of a tenancy, and that there is now a requirement to provide a post-improvement EPC for all loans from Home Energy Scotland or following Warmer Homes Scotland works.

Local authority respondents were amongst those who commented on the need to minimise administrative costs or resources associated with monitoring compliance and it was suggested that searching the EPC register would be an effective option in this respect, placing a duty on the owner rather than expecting a local authority to proactively check up on improvements having been made.

Further benefits identified included that the EPCs will help to provide accurate data for energy databases such as Home Analytics, and to help to identify where improvements have been made and how future improvements can be delivered.

With regard to the additional cost to landlords associated with a post-improvement EPC, suggestions included that:

- This provides an incentive for landlords to improve properties before the initial assessment.
- The EPC should be included in the cost of the MSA with the same assessor returning after the works are completed, so that duplication and administration costs can be minimised.
- As an incentive for early compliance, improvements carried out within 3 months of the MSA could attract a free EPC.
- The cost of assessments could be included in the proposed cost cap on the amount a landlord has to spend to improve a property.

Other suggestions made regarding post-improvement EPC included that 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.

Finally, among those who agreed with the requirement, it was suggested that, if an EPC is not required, consideration should be given to use of alternative evidence that required improvements identified by an MSA have been implemented. The recommendation of the Each Home Counts Review were highlighted, with particular reference to the development of a Data Warehouse and an Information Hub which would allow consumers to access information on what measures have already been installed in their property.

Among respondents who did not agree that a post-improvement EPC should be required alternative suggestions made included:

- The EPC rating should be checked at the next renewal date.
- EPC providers should be able to reissue a revised certificate, at reduced cost, rather than carrying out a complete reassessment.
- The EPC certificate should be provided as part of the MSA process.
- It should be sufficient to provide proof that the improvements identified in the MSA have been installed. Evidence suggested as suitable included detailed quotes, matching invoices, and evidence these have been paid. This

approach was noted as consistent with recommendations for work required under an Electrical Installation Condition Report.

- Self-certification should be sufficient.
- A document from whoever carried out the upgrade work stating that it was done to the appropriate standard as detailed on the existing EPC. It was also suggested that installers could be licensed/registered to do this, although it was acknowledged that this would require policing.
- A new EPC should only be required when there is a change of tenancy.

As at many other questions, respondents also expressed doubt in the ability of the EPC to accurately reflect work carried out, and questioned what value a new certificate would have if this is not resolved.

Meeting the standard in all private rented properties by 31 March 2022 (the "backstop date")

It is proposed that all privately rented properties should meet the minimum standard by 31 March 2022, whether or not there has been a change in tenancy since 1 April 2019. If a property has an EPC rating of Band F or G, the owner would need to have a minimum standards assessment carried out and lodged by 30 September 2021 ("backstop assessment" date) and would then have 6 months - to 31 March 2022 - to make improvements identified as necessary to bring the property up to a rating of band E.

Question 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)?

(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?

(c) Do you think that the owner should have to provide a post-improvement EPC to prove that the necessary improvements have been made?

Please explain your answers.

Table 12: Question 1.9a – Responses by type of respondent.

Type of respondent	Yes	No	Don't know	Not answered	Total
Organisations:					
Energy-related private sector	3	1		1	5
Landlord	6	15	2	5	28
Letting agents etc.	5	4	1	2	12
Local Authority	15	6	1		22
Other	1			3	4
Professional body	10	6		10	26
Third sector	6	1		4	11
Total organisations	46	33	4	25	108
% of organisations answering	**55%**	**40%**	**5%**		**100%**
Individuals	33	42	6	9	90
% of individuals answering	**41%**	**52%**	**7%**		**100%**
All respondents	79	75	10	34	198
% of all respondents	40%	38%	5%	17%	**100%**
% of all those answering	**48%**	**46%**	**6%**		**100%**

There was no clear balance of opinion at this question. Of those answering, 48% agreed that the owner should be required to carry out a minimum standards assessment by 30 September 2021. However, 46% disagreed and 6% said they did not know. Overall, organisational respondents were more likely to agree than individuals (55% and 41% respectively). Within organisations, landlord and letting agent respondents were the only groups in which a majority did not agree.

The Shelter Scotland report asked private tenants if they thought the owner should have to carry out a minimum standards assessment before renting the property out. Of the 24 private tenants who answered this question, 22 thought they should and two said they should not.

Table 13: Question 1.9b – Responses by type of respondent.

Type of respondent	Yes	No	Don't know	Not answered	Total
Organisations:					
Energy-related private sector	4			1	5
Landlord	6	12	3	7	28
Letting agents etc.	6	4		2	12
Local Authority	17	4	1		22
Other	1			3	4
Professional body	11	5	1	9	26
Third sector	7			4	11
Total organisations	52	25	5	26	108
% of organisations answering	**63%**	**30%**	**6%**		**100%**
Individuals	28	42	10	10	90
% of individuals answering	**35%**	**53%**	**13%**		**100%**
All respondents	80	67	15	36	198
% of all respondents	40%	34%	8%	18%	**100%**
% of all those answering	**49%**	**41%**	**9%**		**100%**

As at Question 1.9a, there was no clear balance of opinion at Question 1.9b. Of those answering the question, 49% agreed that a period of six months should be allowed from the backstop assessment date to carry out the improvement identified by the minimum standards assessment. However, 41% disagreed and 9% said they did not know. Overall, organisational respondents were more likely to agree than individuals (63% and 35% respectively). Within organisations, landlords were the only group in which a majority did not agree.

The Shelter Scotland report asked private tenants if they thought it was reasonable to allow 6 months for the improvements to be carried out after the assessment. Of the 22 private tenants[5] who answered this question, 17 thought it was reasonable and five thought it was not.

[5] Although the number of people answering the question is given as 24 as at other questions, the answers given sum to 22. It has been assumed therefore that 2 respondents said they did not know or did not answer this question.

Table 14: Question 1.9c – Responses by type of respondent.

Type of respondent	Yes	No	Don't know	Not answered	Total
Organisations:					
Energy-related private sector	4			1	5
Landlord	6	14	1	7	28
Letting agents etc.	2	7	1	2	12
Local Authority	20	2			22
Other	2			2	4
Professional body	10	5	1	10	26
Third sector	8			3	11
Total organisations	52	28	3	25	108
% of organisations answering	**63%**	**34%**	**4%**		**100%**
Individuals	32	42	6	10	90
% of individuals answering	**40%**	**53%**	**8%**		**100%**
All respondents	84	70	9	35	198
% of all respondents	42%	35%	5%	18%	**100%**
% of all those answering	**52%**	**43%**	**6%**		**100%**

A small majority of those answering the question, 52%, agreed that the owner should have to provide a post-improvement EPC to prove that the necessary improvements have been made. Overall, organisational respondents were more likely to agree than individuals (63% and 40% respectively). Within organisations, landlord and letting agent respondents were the only groups in which a majority did not agree (20% and 29% respectively).

Around 150 respondents made a comment of some kind at Question 1.9 although a significant proportion of these referred to their answer at Question 8, or restated views expressed elsewhere in their response, including whether there should be a backstop date at all and whether the date should be set as 31 March 2022. The small number of additional comments to those made at Question 8 included:

- That if the owner has not done the work by 2022 it is likely that it is either too expensive, or that they are not going to do it, and there should be a provision to withdraw the property from the rental market at that point.
- As long as the owner has evidence that the property has an EPC of band E by 31 March 2022 then they should be considered to have complied with the requirements and an MSA should be optional. It was argued that introducing a requirement to have an MSA by 30 September 2021 adds an un-necessary level of bureaucracy and would be difficult to police and enforce.

- How meeting the standard by the ‘backstop date’ can be monitored was also questioned. Although it was noted that the Energy Savings Trust holds a record of dwellings rented to a new tenant after 1 December 2008, it was suggested that there may be landlords with a long-term tenant who do not obtain an EPC and do not do improvements. How will such landlords be policed?
- It was also suggested that the practical barriers to minimum standards assessments being carried out by this backstop date require careful consideration – particularly the need to train assessors. It was suggested that skills development should be considered alongside the ‘skills pipeline’ conversation within the design and development of SEEP. If significant resource is being directed through SEEP, this should align with and contribute to other important policies on which SEEP depends, including regulation of energy efficiency in the PRS.

Minimum standards assessment

The assessment

Question 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.

Please explain your answers, and provide alternatives where applicable.

At Question 10, respondents were asked to give their views on each of 6 subjects. While some respondents indicated a clear position, other contributions were more nuanced or caveated by views expressed at other questions. As at other questions, a number of respondents expressed general opposition to the proposals.

Question 10(a) - That the assessment would use EPC methodology, since that is how we are proposing the standard is set.

Around 150 respondents answered Question 10a. A large number of respondents made only a short comment agreeing that EPC methodology should be used. Reasons given included that this makes sense and represents a consistent approach as the EPC system is already in use and understood. Others agreed but with qualifications, predominantly about aspects of the EPC methodology but also concerning other aspects of the proposals. Comments specifically on the EPC included that the system should be made more accurate or robust, with minimal assumptions made; be restricted to suitably trained and qualified assessors and regulated bodies to protect the consumer; and should produce a report in plain English, with clear practical recommendations and prioritised, cost-effective solutions, including sources of grant funding.

Many other respondents set out problems they saw with the existing EPC system, or highlighted aspects that need to be improved in an MSA process. The most frequently-stated opinions were that:

- The EPC system is not fit for purpose, flawed, unreliable or inaccurate, too reliant on the assessor's opinion and requires revision.
- It is not suitable for some building types particularly stone buildings, older properties or rural housing.
- Clearer more transparent guidance and detailed recommendations including a variety of options are required. Suggested improvements need to be realistic to implement.
- Creation of the new MSA is not necessary since the EPC could be used.

Other points made by smaller numbers of respondents included that EPCs are not good predictors of actual energy consumption and not sensitive to many factors that determine fuel poverty.

Some respondents made specific points about the way the EPC system handles both fuel costs, and the treatment of electricity and electrical heating. It was suggested fuel costs should not be included as many rural properties are off-gas grid and some properties may have pay-as-you-go electricity meters, both of which incur higher costs without affecting energy efficiency.

It was also suggested that an MSA should be advisory but not a requirement; that it should also include an assessment of property repairing standard compliance; and that specified improvements must guarantee the new EPC rating following the completion of the recommended works.

Question 10(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.

Around 130 respondents answered Question 1.10b. Respondents who indicated agreement sometimes made only brief comments including that this is the right approach, is reasonable and fair, will help landlords make informed decisions, and should encourage landlords to carry out the work.

Others agreed with the principle but also qualified their approval. Points made by these respondents, and others who didn't express a clear view on the proposal but raised similar issues included:

- Costs quoted in EPCs are often underestimated, do not include secondary work or can vary once on site. These must be realistic and must be reviewed regularly to ensure costs are accurate.
- The guidance and costs in an MSA must be property specific. The range in costs according to property type and location is so broad that average values have little meaning. Alternatively, it must be made clear to owners that

illustrated costs are representative, or the assessment should come with a disclaimer.

- With respect to both the above points it was suggested that the Scottish Government does not need to adhere to the present Product Characteristics Database File used to inform cost estimates but could devise its own set of 'book' prices for assumptions in the MSA.
- Different requirements for traditionally constructed buildings must be recognised and higher costs associated with work on rural properties should be acknowledged. It was suggested that even lowest cost work up to and beyond the proposed cost cap will not bring many such properties to band E.
- Assessors need to understand specific requirements for properties of different construction types so that their recommendations are practical and relevant. It was suggested that although Green Deal Assessors already have the skills and knowledge to do this, Domestic Energy Assessors would require additional training to cover circumstances when a potential measure is not appropriate.
- As well as the lowest cost, technically appropriate package of measures to bring the property up to standard, the assessment should also include information on alternative options to meet and exceed the current minimum standards. This could allow landlords to choose whether to carry out work to a higher standard in one go to minimise cost or disruption, rather than potentially having to make further improvements at a later date.

Other suggested content for the MSA included: lowest ongoing running costs and availability of technology in the area; the increase in rating expected from each recommended individual measure and an accurate cost for each measure; and possible combinations with renewables. It was also suggested that EPC methodology could be expanded, rather than creating a separate assessment.

With respect to RdSAP methodology it was suggested that this is only indicative, not all measures are well-modelled, and that this needs to be addressed. A further proposal was that if landlords spend £5,000 per banding but do not achieve the required level, this data should be fed into the assessment system to update the actual costs of the work. It was also argued that the EPC system is limited and cannot perform the function outlined in the question in a meaningful way. As a result, it was suggested that a more holistic assessment would be appropriate, accounting for the occupants as well as the property.

Question 1.10(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.

Around 130 respondents answered Question 1.10c. Views expressed often reflected those set out at Question 1.4.

Many respondents agreed with the question as phrased. Comments included that this would allow the landlord to make an informed decision about whether it would be preferable to make improvements to a higher standard in one go.

Other respondents agreed in principle, but with various qualifications. Some of the reservations expressed concerned issues also detailed elsewhere, such as setting realistic standards for hard to treat or listed buildings, while others related to the assessment itself including that it must be in a clear format, or that information should be set out for achieving bands E and D individually, but also for E then D. Some respondents also expressed reservations about the prospect of the minimum standard being set at band D.

A further group of respondents suggested alternatives to the phased approach proposed in the consultation paper, or the target levels set, with knock-on effects on the measures they thought should be presented in the assessment including:

- There should be a single minimum standard, set at band D rather than E. The assessment would therefore only require information on measures to achieve band D.
- The initial standard should be set at band D, but with the aim of the next target being band C. Measures for achieving bands D and C should therefore be included in the assessment.

Other general points made included views that there is no need for a separate assessment system beyond the EPC, that the EPC methodology is flawed or not suitable for some property types and locations, or that the proposals as a whole are unnecessary or will cause landlords to raise rent levels. It was also suggested that the Scottish Government should confirm that landlords are not able to pass costs of assessments on to tenants.

The potential for an increase in the minimum energy efficiency rating to band D was a source of concern to a number of respondents, who suggested that there should be no specified timescale for this, that it should be a target but not a requirement, or that it should not be considered at all at present. Respondents making the last point sometimes also expressed doubt about the ability of many properties even to achieve band E using the current assessment system.

Other points on the content of the assessment included:

- More expensive options could also be included where associated benefits might outweigh cost – for example if an item was quicker or less disruptive to install.
- Inclusion of measures to achieve bands E, D, and C (or the maximum possible) was also proposed as a means of encouraging owners to do more than the minimum at each stage. A further suggestion was a pilot that included measures to meet a “considerably more challenging standard” within the assessment to investigate how trigger points, such as a change of

tenancy, might be used to encourage deeper renovation of Scotland's housing stock.

- It was also suggested that the minimum standard could be set at band C with an eventual target that all homes reach B or A.

Finally, it was cautioned that providing information as set out in the consultation paper would constitute design advice, raising the issue of liability should future damage be caused.

Question 1.10(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.

Around 110 respondents answered Question 1.10d. Of these a substantial majority agreed with the proposal, with comments including that this is a necessary starting point, that it is not possible to identify whether improvements are required if an EPC assessment has not been carried out, and that it is essential in order to monitor the impact of the policy.

Other respondents suggested, as at earlier questions, that:

- The EPC system is not fit for purpose, particularly for some building types, and much be reformed first.
- Using the EPC system is preferable to creating a separate MSA.

Other comments at Question 1.10d included that:

- If the energy efficiency rating showed that the property met the required standard, this should stand as a valid EPC rating and should be lodged on the register.
- If the property met the required band E standard (and as suggested in the consultation paper) no further action would be necessary or, alternatively, that the MSA should continue to identify the works required to increase the rating to D.
- An EPC should be produced by an Energy Assessor. It is unclear how a calculation of a property's EPC score would be cheaper and quicker yet still be as accurate as carrying out an EPC survey.
- This may be confusing for small scale landlords.

Question 1.10(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.

Although around 90 respondents answered Question 1.10e, nearly 1 in 4 simply noted they had no opinion, or did not have sufficient technical knowledge to contribute further.

Among respondents who agreed with the proposal, reasons given include that this makes sense, is a positive or reasonable approach that allows for a more comprehensive and tailored assessment, or that the assessment should include as many measures as possible. Suggested additional measures included:

- District heating systems. This was the only measure suggested by multiple respondents.
- Smart grid based systems.
- Low carbon heating systems.
- Boiler make and model.
- Battery storage systems.
- Electric car charging points.
- Current condition.
- Repair and maintenance.
- Ingress of penetrating damp.
- Thickness of loft insulation.
- Radon.
- Flexibility in the system to address different building types, historic buildings, stone built properties, properties which are ‘hard to treat’ and/or in rural areas, and ground floor tenements.
- Flexibility in handling of occupancy levels in relation to heating/hot water requirements.
- Technology that is not currently within the EPC calculation methodology.
- Information which could link into other local or national programmes available either at the time of the EPC or in the future.
- Environmentally friendly recommendations and costs.
- Environmentally friendly materials compared against non-environmentally friendly materials.

Some respondents pointed to issues with the RdSAP system itself including that:

- Rather than using RdSAP, a better approach would be that improvement measures that can be modelled in full SAP version 9.92 could be employed (or another approved methodology).
- The RdSAP product characteristics database file (PCDF) needs to be updated on a regular basis and in a robust and transparent way but this is not being done. It was suggested a common methodology for collecting standardised data across the country is required, and that the costs of transport and working in remote areas also need to be taken into account.
- With respect to new measures, it was suggested that these should be agreed in consultation with appropriate technical experts from academia and the professional associations. Where a householder or assessor identifies an additional measure, this should be assessed independently. New measures should be tested and certified by appropriate 3rd party checks before being approved.

Question 1.10(f) - That the assessment would cost in the region of £120-£160.

Around 130 respondents answered Question 1.10f. Respondents who agreed with the estimated cost of an MSA sometimes made no further comment or suggested this seems fair, appropriate, reasonable, or not excessive, although it was also suggested that the market will dictate the price.

Otherwise the most frequently made comments were that the suggested cost of £120-£160:

- Is an underestimate. (Around 1 in 4 respondents.)
- Is too high. (Around 1 in 8 respondents.)
- Should be met by the Scottish Government. (Around 1 in 13 respondents.)

Many respondents who suggested that the cost is an underestimate reported experience of EPC costs significantly higher than the £30-50 quoted in the consultation paper. Several respondents cited local EPC prices of at least double the average figures mentioned by the consultation paper and others quoted £150 or more. Given this disparity, it was suggested that the actual cost of an MSA for some areas and property types is also likely to be significantly higher than the £120-£160 estimated.

Other respondents who suggested £120-£160 seems likely to be an underestimate did so because they thought the sum too low for the amount of work involved, particularly for large, older, more challenging or remote rural properties, although it was also suggested this is difficult to know until full details of the proposed format are available.

Some respondents who argued that the estimated cost is too high suggested that the price should be closer to that of an EPC. These respondents sometimes also

noted their experience of EPC prices as being in line with the average costs cited in the consultation paper.

A number of respondents suggested that the Scottish Government should either subsidise or cover cost of the MSA. Reasons given included that this would provide an impartial assessment, be a more positive method of improving housing stock, and provide landlords with an incentive to carry out suggested work but also, more typically, that the MSA is not necessary.

Other comments on MSA costs included:

- These may change over time. While some respondents suggested a possible reduction driven by market forces others noted the possibility of an increase if there are not enough assessors.
- There could be a fixed MSA fee or fee banding according to property size and value.
- The fee should be included in the proposed cap for improvement costs.
- The fee should be capped for 5 years or should be reduced as an incentive for early compliance.
- The fee should include a post-improvement EPC.
- It would be better to improve the EPC instead.

Respondents also made a number of points regarding the training of EPC assessors, including that this will be challenging within the timescales suggested in the consultation document and that insufficient people may want to train as it is likely to be a career with a limited lifespan.

Question 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?

Please explain your answer.

Table 15: Question 1.11 – Responses by type of respondent.

Type of respondent	Yes	No	Don't know	Not answered	Total
Organisations:					
Energy-related private sector	4	1			5
Landlord	7	11	4	6	28
Letting agents etc.	7	3		2	12
Local Authority	11	7	2	2	22
Other				4	4
Professional body	4	8	2	12	26
Third sector	6	3		2	11
Total organisations	39	33	8	28	108
% of organisations answering	**49%**	**41%**	**10%**		**100%**
Individuals	34	27	12	17	90
% of individuals answering	**47%**	**37%**	**16%**		**100%**
All respondents	73	60	20	45	198
% of all respondents	37%	30%	10%	23%	**100%**
% of all those answering	**48%**	**39%**	**13%**		**100%**

There was no clear balance of opinion at this question. Of those answering, 48% agreed that the assessment should only recommend a package of measures which improves both the energy efficiency and environmental impact scores of the property. However, 39% disagreed and 13% said they did not know. Overall, organisational and individual respondents showed a very similar level of agreement (49% and 47% respectively). Amongst organisational respondents, professional or representative body respondents and landlords were least likely to agree.

Around 110 respondents made a comment at Question 1.11. The answers given suggested that some respondents interpreted the question as asking whether there should be other measures in addition to those that improve energy efficiency and environmental impact scores. Others interpreted the question as asking whether measures that do not improve both scores should be excluded. Respondents sometimes also made comments that were apparently at odds with their answer to the quantitative question.

The majority of respondents who agreed made no further comment. Those who did explain their reasons for agreeing sometimes argued that the legislation needs to support the Scottish Government's climate change policy, or that meeting both objectives should allow access to a wider pool of funding for meeting multiple aims and will avoid possible contradictory policies. It was also suggested that there are few instances where improved energy efficiency and improved environmental impact scores do not go hand-in-hand and that, as stated in the consultation paper, only a relatively small number of properties would be affected. It was acknowledged that, for these properties, the lowest cost package of measures would not be considered appropriate.

Some respondents who otherwise agreed in principle suggested there should be recognition of circumstances where this is not appropriate. Specifically, an exception was proposed where the property has no fixed heating system, thereby permitting installation of mains gas where there is a very high risk of fuel poverty, even if this means a poorer environmental impact score. Where possible, it was suggested an exception policy could encourage use of low carbon heat technologies where appropriate instead of mains gas connections. The same exception was also suggested by one respondent who had disagreed.

Otherwise those who did not agree often expressed a view that energy efficiency should be the focus for this legislation. Their reasons for thinking this included that:

- Prioritising energy efficiency is the best way to provide affordable heating and address fuel poverty and there is potential for confusion if regulations apparently aiming to improve standards of energy efficiency exclude measures with positive outcomes for tenants, especially those who are vulnerable and/or in fuel poverty.
- If compliance is being based on energy efficiency, then the package of measures should recommend how this can best be achieved. Clarity is needed whether both energy efficiency and environmental impact are considered core purposes of this initiative.
- Limiting measures to those that improve both energy efficiency and environmental impact scores may be particularly limiting for hard to treat properties.
- This is likely to increase the cost of upgrading properties and will therefore result in more properties seeking a cost cap exception.
- Rented properties should only have to meet environmental objectives common to all property.

In addition, some respondents - including both those who had agreed and disagreed at the Yes/No question - argued there should be freedom for the landlord to choose from all the potential options available to them.

Suggestions as to how to proceed included that:

- The recommendations could include examples of best practice in complying with energy efficiency requirements and having the biggest impact on carbon emissions, to give the owner a choice.
- The assessment should explain which measures and possible combination of measures could improve both energy efficiency and environmental impact.
- The assessment should include measures suitable and feasible for the property to mitigate the environmental impact – such as renewable energy options, which might create an additional income for the landlord as well as be beneficial for the tenant.
- Financial or other incentives could be introduced to encourage packages that provide the best option for both running costs and low carbon emissions, where this is more expensive than other packages that meet the minimum standard.

It was also argued that both energy efficiency and environmental impact can be affected by the way the property is used by the tenant, and that advice to tenants should be provided or that an Occupancy Assessment should also be carried out. However, it was also suggested that only long-term tenants should be involved in any assessment given high rates of tenant turnover, and that the potential benefits of improvement measures should not be based on one tenant.

Minimum standards assessor

Question 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?

Table 16: Question 1.12 – Responses by type of respondent.

Type of respondent	Yes	No	Don't know	Not answered	Total
Organisations:					
Energy-related private sector	3	1		1	5
Landlord	9	9	4	6	28
Letting agents etc.	4	3	3	2	12
Local Authority	12	2	7	1	22
Other	1			3	4
Professional body	5	3	5	13	26
Third sector	8	1		2	11
Total organisations	42	19	19	28	108
% of organisations answering	**53%**	**24%**	**24%**		**100%**
Individuals	27	37	14	12	90
% of individuals answering	**35%**	**47%**	**18%**		**100%**
All respondents	69	56	33	40	198
% of all respondents	35%	28%	17%	20%	**100%**
% of all those answering	**44%**	**35%**	**21%**		**100%**

There was no clear balance of opinion at this question. Of those answering, 44% agreed that a new role of a minimum standards assessor is needed, 35% disagreed and 21% said they did not know. Overall, organisational respondents were more likely to agree than individuals (53% and 35% respectively) and amongst organisational respondents, landlords, letting agents and professional or representative body respondents were least likely to agree.

Around 130 respondents made an additional comment. Respondents who did not agree sometimes stated that they did not support, or were unclear of the benefits of, a new MSA, or that it should be an advisory service only. Others suggested that there is no need for a separate assessor role, or that the function could be carried out by existing EPC assessors (sometimes adding that additional training could be provided), or that professionals such as surveyors and architects can provide this service.

Some respondents who agreed also suggested that this could be an additional qualification for an EPC assessor, or that some EPC assessors already have the skills to provide property specific recommendations. Others noted that if the role is created it will require suitably qualified individuals with specialist knowledge, or pointed to the importance of regulation, accuracy and consistency. Respondents who agreed sometimes qualified this approval to the effect that the new assessor should also have better understanding of the issues associated with listed, hard to treat, off gas grid, rural, traditional buildings, or that the assessment should be financed by the Scottish Government.

Other respondents noted the importance of targeted, credible, impartial or independent advice. It was suggested both that assessors should not be linked with an industry which could supply recommended measures and that, to reduce any risks that assessors could be influenced by incentives to recommend particular measures, assessments should offer a range of options rather than specify a particular package. Other suggestions included: that leasing agents should be able to complete a course to train as an MSA assessor; that MSA assessors should be able to assess the full repairing standard including energy efficiency improvements; and that more information is needed before deciding whether a new role is needed.

A number of respondents made specific reference to the Green Deal Advisor (GDA) qualification, noting that the MSA assessor role would mirror this, or that GDAs would already be suitably trained for the MSA role while Domestic Energy Assessors would need upskilling. Problems associated with the Green Deal were also highlighted, including that individuals paid to achieve certification for a scheme that was withdrawn not long afterwards, and that the MSA role needs to have a long-term future. It was also suggested that the occupancy assessment element of the Green Deal report may be beyond the scope of the present policy.

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

Around 100 respondents made a comment at Question 12b. Answers often reflected issues that respondents had already identified as problems with the existing EPC system. The most frequently-raised issues were the need for better understanding or knowledge of:

- Construction and the built environment in general and of specific building types and construction methods in particular.
- Heating and ventilation.
- Insulation.
- Building health/condition.
- Planning, listed buildings and conservation areas.
- Construction and retrofitting costs and economics.

Other items suggested by fewer respondents included:

- Solid wall training from Historic Environment Scotland.
- Knowledge of the repairing standard.
- Understanding of PRS legislation relevant to registration of landlords.
- Knowledge of grants and funding.
- Understanding of any new software platform.

More generally, and reflecting the consultation paper, respondents suggested that the new assessor would need more comprehensive knowledge of the possible measures available in order to provide tailored recommendations on the most appropriate measures for a particular property.

Some respondents suggested professional qualifications or membership of professional bodies that could be appropriate for an MSA assessor including:

- Building surveying, including membership of Royal Institution of Chartered Surveyors (RICS).
- Architecture, including membership of Royal Institute of British Architecture (RIBA).
- Membership of the Chartered Institute of Building.
- Structural engineering.

However, it was also argued that, as the advice an MSA assessor can give will be limited to that which the SAP methodology can model, then the existing GDA qualification is sufficient. A Chartered Building Surveyor would be able to take this advice further, it was added, offering professionally indemnified advice on improvements that go beyond those only within the scope of SAP.

Several comments related to the tenant as well as the property: training in occupational behaviour and providing educational advice was suggested, as was training on interaction with (potentially vulnerable) tenants, including providing explanation of why the assessment is needed, and managing their needs and expectations from an assessment.

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

Around 90 respondents made a comment at Question 12c. Specific times suggested by respondents varied considerably, ranging from 6 months or less to 10 years or more. The most frequent suggestions were:

- One year. (Around 1 in 9 respondents.)
- Up to 2 years. (Around 1 in 11 respondents.)
- Between 3 and 5 years. (Around 1 in 11 respondents.)

Other respondents related their answer to the proposed implementation date of March 2019, including that the necessary steps might not, or cannot be in place in time. Respondents who had proposed setting a minimum of band D but delaying

implementation until 2021 suggested that this date could be achieved. It was also suggested that timely implementation will depend on working with existing providers.

Some respondents also identified elements of the process that would need time to put in place including developing the methodology and software required as well as development and delivery of training. It was suggested that the time needed for training would depend on the existing skill set of those involved and would be shorter for existing EPC assessors to upgrade. It was also suggested that being an MSA assessor needs to be marketed as an attractive role to get EPC assessors interested in retraining.

Further suggestions included:

- There should be a pilot phase.
- The Scottish Qualifications Authority could be asked to lead an update of the GDA qualification to create a qualification designed for the Scottish market.
- Construction professionals such as architects or surveyors are already available to advise building owners.
- It is important to learn lessons from recent efforts to provide training for letting agent regulation.

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

Around 110 respondents made a comment at Question 12d. The most frequently-made suggestions were that the register of assessors should be maintained by:

- The Scottish EPC registrar/The Energy Saving Trust/Home Energy Scotland.
- The Scottish Government.
- Local authorities, including building standards and landlord registration.
- Royal Institution of Chartered Surveyors/other professional body.
- Regulated Domestic Energy Assessor accreditation schemes.

Other suggestions made by only one or a small number of respondents included:

- The Housing and Property Chamber – First Tier Tribunal (FTT) for Scotland website.
- National Registers of Scotland.
- Energy Action Scotland.
- Ofgem.
- COSLA.
- The Scottish and Northern Ireland Plumbing Employers' Federation.
- Housing associations.

Amongst respondents suggesting involvement of local authorities, reasons given included that this would ensure assessors have a good understanding of the local area, or that the system should only go live when the local authority has recorded a minimum number of assessors in the area. Respondents who suggested records should be held on a national register sometimes also suggested that local authorities should have access to the information.

Other general comments included that the register should be held by an impartial body or not for profit organisation. It was also suggested that the register should be monitored to ensure only qualified and competent assessors are listed, and that quality assurance is essential in creating confidence. Further information on how the process would work in the interests of the consumer was also requested.

Getting the work done

Sources of information

The consultation paper notes that private sector landlords and tenants can get free and impartial advice from Home Energy Scotland (HES) on energy saving, renewable energy and access to funding, including access to schemes provided by the UK Government.

Question 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?

Around 120 respondents made a comment at Question 13. General comments included that the importance of these services cannot be underestimated given the challenges associated with communicating to landlords and tenants, and that there needs to be more investment in consistent provision of advice across Scotland. It was also argued that if good quality information reached landlords and tenants it would encourage compliance rather than implementation relying on enforcement.

A number of respondents expressed generally positive views on existing provision including that it is sufficient, helpful and reasonable, an excellent source of advice and information, or that there is no evidence that landlords find it difficult to access advice in relation to property maintenance or tenancy management. A number of other sources of advice and information were also noted.

Other respondents had more negative views with comments including that existing provision is poor, limited, cumbersome, complex, potentially confusing or can be hard to navigate and that it is difficult to find advice or information. It was suggested HES is not resourced to provide locally-based advice and that resourcing of face-to-face advice is limited.

Although the range of advice and support provided for tenants was noted, it was also suggested that HES may be less effective for tenants or that, while information is provided, casework and advocacy services are less well developed. It was also

suggested that tenants are often unaware where to go for information and advice on energy saving, and reducing fuel costs.

A number of respondents suggested that existing advice should be evaluated to understand what works and what could be improved. It was suggested that Citizens Advice Scotland or Energy Action Scotland could be commissioned to conduct such a review, which should involve landlords and other stakeholders. Other suggestions included that the existing provision could be simplified.

It was also suggested that there is currently a marked difference in the quality of information provided by local authorities, resulting in varying knowledge and understanding of the rights and responsibilities of landlords and tenants. It was suggested that the guidance provided by Aberdeenshire might be adopted more widely. The possibility of providing information and links to relevant sites from the landlord registration website was suggested, as was the need for more work to make clear the penalties for non-registration of private sector rental property.

Several respondents suggested that there should be a central website, or an independent 'Information Hub' bringing together all information, advice and assistance for stakeholders.

Describing the format or content of advice and information they would like to see going forward, respondents' suggestions included that this should:

- Be simple, clear and easy to understand, and in plain English.
- Highlight benefits of energy efficiency improvements for both landlords and tenants.
- Include an online tool to allow landlords to assess the potential impact of proposed works on the EPC rating of their property.
- Include clear, concise information on assistance schemes for landlords.
- Include a quality control system for contractors.
- Include specific advice for tenants, including information in different formats for more vulnerable tenants and those whose first language is not English.

The importance of advice for tenants was highlighted by a number of respondents. It was suggested this should include:

- Greater awareness of the tenant's rights and of what can be expected in terms of the energy efficiency of a rented property.
- Support on better use of energy, including how this is affected by occupational behaviour and lifestyle.
- Ensuring tenants understand how to use existing and new equipment such as heating controls, timers, and ventilation systems.
- Face-to-face advice or advocacy services, especially for people who are vulnerable, on low incomes, or in extreme fuel poverty and who may not have

access to online services. It was also suggested that the new SEEP schemes should work closely with community-based and trusted organisations who are already embedded within communities.

Another theme common to several responses at Question 1.13 was the need to do more to promote the services that are available and, in particular, to raise awareness of recent and proposed changes in the sector. Specifically, it was suggested landlords may not be aware that a minimum band D energy efficiency rating could be required in the future.

The importance of including property letting and management agents in stakeholder engagement exercises was also suggested as was ensuring new requirements are communicated to Environmental Health, Trading Standards, Housing and Building Standards departments in local authorities, and also to organisations which provide tenant and consumer advice. Workshops for landlords were suggested as was more proactive communication with landlords via the landlord registration system.

Meeting the cost

Question 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?

Around 160 respondents answered Question 1.14. Around 4 in 5 of those answering the question indicated that one or more of the forms of support proposed could or should be provided. Of the three examples given in the question, grants were the most frequently mentioned form of support, followed by tax incentives, and then loans, although many respondents suggested all three should be available. Local authority respondents were particularly likely to have suggested grants should be available. Otherwise, there were no clear connections between respondent type and the form of support preferred.

Very much smaller numbers of respondents suggested that appropriate incentives are already available, that financial incentives are not the best way forward, or that public subsidies should not be used to support private landlords. A small number of individual respondents suggested that rather than being offered incentives, landlords who fail to comply with minimum energy standards should be penalised.

General points made by only one or a small number of respondents included:

- There should be a review of existing advice and support for landlords.
- Any incentive schemes should be simple and easy to use. All existing schemes should be signposted.
- Grants or loans should be delivered through a single funding scheme or ring fenced Private Sector Housing Grant Budget.

- There should be long-term consistency rather than time-limited initiatives or, alternatively, that initiatives should be used to encourage early compliance.
- Assistance should extend to all PRS landlords, including those operating as sole traders. It was also suggested there could be a separate classification for landlords who only own one property.
- All types of private tenancy should be treated equally.
- Financial support is important for improvements to buildings with mixed ownership and a common approach to funding is needed for whole tenements or blocks of flats.
- It should be possible to use local tradesmen rather than being restricted to an approved list.
- There could be incentives for low carbon heating.

Grants

Around 1 in 8 respondents suggested that grants should be targeted to certain types of property. Specific suggestions included that which is:

- The least energy efficient.
- The costliest to improve.
- Hard to treat.
- Rural.
- Older.
- Stone built.

In terms of particular measures that might attract support, respondents highlighted external wall and solid wall insulation.

It was also suggested both that grants should be targeted on tenants in most need and that eligibility for grants should be expanded to tenants on low incomes. Respondents raising this possibility also suggested that this could be on the basis of guarantees of limited rent increases or restrictions on the landlord's ability to sell the property for a specified period.

With regard to the level of grant that might be provided suggestions included 50-75%, 75-90% and 100%. Specific suggestions of conditions that might be set included:

- Minimum 50% grant provided that the property is kept in the rented sector for a minimum of 5 years from date of completion of works.
- Match funding.
- Grants be based on the profit yielded by an individual property, rather than the financial status of the owner.

Further suggestions included that grants should be extended to cover secondary works.

Several respondents made comments on the HEEPS Area Based Scheme including that:

- This should be open to empty homes which are being prepared to be rented in the private sector.
- It is important that ease of access is maintained as far as possible to encourage parties to access assistance.

It was also suggested that it would be helpful to have funding specifically for high impact high cost measures such as external wall insulation, for which there could be a HEEPS budget.

Tax incentives

With respect to the tax regime, several respondents suggested particular schemes or allowances including that:

- The Landlord's Energy Saving Allowance (LESA) should be reintroduced. Some respondents also proposed the previous limit of £1500 per dwelling should be increased to £5000, or the relevant cost cap.
- Recent cuts to tax relief for residential landlords should be reversed.
- Investment in band D or higher improvement measures should offer landlords a taxable benefit on earnings for the year of installation. This should only be available until the end of March 2022.
- There should be time-limited relief for properties in bands F and G, in line with that for maintenance and repairs, up to the level of the cost cap.

It was also suggested that, for tax purposes in general, expenditure on improved energy efficiency measures should:

- Be offset against income.
- Be treated as repairs.
- Not be treated as a capital item where tax relief is only applied at the point of sale.
- Reduce capital gains tax or inheritance tax liability on let property.

It was also observed that tax concessions assume that a rental business is profitable, and for a loss-making business such concessions would be irrelevant.

With respect to VAT comments included:

- This should be 0% for energy efficiency measures, and that this should extend to secondary costs such as redecoration or removal expenses.

- The rate of 5% charged on ‘energy saving products’ such as insulation should be extended to double glazed windows which currently attract the full rate of 20%.

Although a small number of respondents suggested that Council Tax relief might be appropriate, others noted that this is a local tax and that any proposals around incentives should be determined by local authorities, or argued it is not suitable as it is a benefit to the tenant rather than the landlord.

Loans

A number of respondents commented on the poor take up of previous loan schemes, including the Green Deal, where it was argued landlords were deterred by complexity or poor returns. The case for interest free loans was often made, with fewer respondents suggesting that low interest rates should apply. Payback terms aligned with rental value were also suggested.

Respondents also referred to examples of loans schemes they considered to have been effective including: Home Energy Scotland loans; and the HEEPS cashback scheme. With respect to the latter it was suggested this would perform better with a higher cashback amount than that currently on offer.

Other suggestions

Other proposed measures included:

- Providing free MSAs or EPCs.
- A boiler scrappage scheme.
- Direct funding for apprenticeships in relevant trades, or training grants for installers.
- Mortgage providers should be encouraged to consider energy performance ratings when setting lending policies. This could incentivise the purchase of more efficient homes and encourage sellers to upgrade before sale.
- A cash incentive for landlords to access finance from their existing mortgage provider to pay for the cost of the measures and their installation.
- Incentives should be tied in with work to bring long term empty homes back into use.

Skills and consumer protection

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

Around 140 respondents answered Question 1.15. The most frequently made points were that:

- The measures proposed have the potential to stimulate local supply chains.

- There is likely to be a shortage of qualified tradespeople with the problem being particularly acute in rural areas. Experience of difficulties encountered when trying to obtain an Electrical Installation Condition Report was cited by several respondents.
- Increased costs and poorer quality work are likely outcomes of the predicted shortages.
- To smooth demand, the proposed timescales should be extended.

In contrast, a very much smaller number of respondents predicted minimal impact, pointing to the relatively small number of properties that will be affected or that local contractors may not be given the opportunity to carry out the work. Others expected that local supply chains would cope with demand where both landlords and suppliers are given sufficient notice and that the phased approach proposed should minimise impact.

Other issues relating to local supply chains, but raised by much smaller numbers of respondents included:

- There may be shortages of supply of some materials and of specialists in work on historic or listed buildings.
- Demand for tradespeople is likely to be particularly high at the backstop date, so early compliance should be incentivised to smooth this demand.

A number of respondents commented on the requirement that contractors carrying out work financed by Government-funded grants or loans must have PAS2030 accreditation. It was argued that if the cost of obtaining this accreditation outweighs the potential benefits for small suppliers, much of the work will be done by large national chains and potential benefits to the local economy will be lost. Respondents expressed contrasting views – both that PAS2030 is not needed to meet appropriate standards of work and that standards can be kept high by requirement for PAS2030. Several respondents suggested it should be possible to obtain grant funding while using local contractors or, where they exist, a landlord's own workforce.

It was argued that the Scottish Government must ensure adequate capacity exists before implementing the proposed regulations and this requires work to raise awareness. With respect to development of local supply chains it suggested that this is an important way of ensuring communities benefit from the expected job creation, and that Community Benefit Requirements outlined in guidance under the Procurement Reform (Scotland) Act 2014 apply to public procurement. Specifically, it was suggested that in order to invest, local contractors need:

- Long term certainty of government support and consistent policy.
- A skills development strategy including training, apprenticeships and work with schools and colleges to promote this area as an attractive career with good job prospects.

In terms of the scale of the opportunities available it was noted that Regulation of Energy Efficiency in Private Sector Homes (REEPS) analysis provides necessary information on the numbers of properties affected, types of properties, and how many are in each local authority area – all of which will help the industry to plan for the future. In addition to a SEEP Skills Development Strategy it was suggested that assistance for small rural firms should include support meeting accreditation requirements, and that contracts should be awarded on the basis of understanding of the best practice approach for the property type in the local context.

Question 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? Please explain your answer.

Table 17: Question 1.16 – Responses by type of respondent.

Type of respondent	Yes	No	Don't know	Not answered	Total
Organisations:					
Energy-related private sector	2	1	1	1	5
Landlord	18	4		6	28
Letting agents etc.	8	2		2	12
Local Authority	18	1	3		22
Other	1			3	4
Professional body	16	1		9	26
Third sector	6		1	4	11
Total organisations	69	9	5	25	108
% of organisations answering	**83%**	**11%**	**6%**		**100%**
Individuals	72	5	4	9	90
% of individuals answering	**89%**	**6%**	**5%**		**100%**
All respondents	141	14	9	34	198
% of all respondents	71%	7%	5%	17%	**100%**
% of all those answering	**86%**	**9%**	**5%**		**100%**

A majority of respondents, 86% of those answering the question, agreed that it would be helpful for assessors and installers to have a traditional buildings qualification, 9% disagreed and 5% said they did not know. Overall, individual respondents were more likely to agree than organisations (89% and 83% respectively).

Around 140 respondents made an additional comment. Some respondents who agreed thought an additional qualification would be useful or helpful while others argued it is vital or essential. Many suggested specialist knowledge and experience are necessary to avoid inappropriate or damaging measures being advised for traditional buildings, potentially impacting the physical structure of the building and the health of the occupants.

The question asked whether it would be useful for assessors and installers to have a traditional buildings qualification, and some respondents who agreed that it would did not distinguish between the two roles. Those who did were much more likely to suggest a qualification for assessors rather than installers.

Several respondents suggested such an additional qualification should be optional rather than a mandatory requirement for all assessors while others also highlighted the importance of experience. Other suggestions included that rather than a separate qualification the appropriate training could instead be incorporated in the training for EPC assessors with an optional enhanced training element provided in relation to pre-1919 buildings.

Other points included:

- It is important that both landlords and tenants have confidence in an assessor's ability.
- It would also be appropriate to encourage commissioning bodies to encourage their staff to seek similar qualifications.
- Requiring additional training could have implications for the size of the initial pool of qualified MSA assessors and for assessment fees. The number of assessors with such qualifications should be monitored to assess whether it meets demand from landlords with this type of property, and to ensure unfair premiums are not being charged.

It was also argued that the EPC software must be adapted to work properly with older buildings.

With respect to the possible nature of an additional qualification suggestions included an energy efficiency and traditional building skills programme developed by Historic Environment Scotland.

Comments on an additional qualification for installers included that this is desirable because:

- If correct materials are not applied properly, the results will be sub-optimal even if the measures specified by the assessor are suitable.
- The perceived level of skill and workmanship seen in staff from some large companies working on grant-funded energy improvement projects may give cause for concern.

However, doubt was expressed as to the willingness of contractors to participate in training courses and as to what the qualification should be. It was also suggested that landlords who employ their own tradespeople should be able to self-certify their employees as competent.

Those who disagreed with the idea of an additional qualification for either assessors or installers suggested that this is not necessary, or will further increase costs, and that the relevant skills are already covered in Domestic Energy Assessor training. As an alternative, a website presenting options for such properties was suggested.

Question 1.17 - Do you think there are additional consumer protection safeguards the Scottish Government should consider for the private rented sector? Please explain your answer.

Table 18: Question 1.17 – Responses by type of respondent.

Type of respondent	Yes	No	Don't know	Not answered	Total
Organisations:					
Energy-related private sector	3	2			5
Landlord	7	7	4	10	28
Letting agents etc.	2	6	2	2	12
Local Authority	12	4	5	1	22
Other	1			3	4
Professional body	6	2	4	14	26
Third sector	3	1	1	6	11
Total organisations	34	22	16	36	108
% of organisations answering	**47%**	**31%**	**22%**		**100%**
Individuals	27	35	17	11	90
% of individuals answering	**34%**	**44%**	**22%**		**100%**
All respondents	61	57	33	47	198
% of all respondents	31%	29%	17%	24%	**100%**
% of all those answering	**40%**	**38%**	**22%**		**100%**

Views were mixed at this question, although the largest proportion of respondents (40% of those answering the question), agreed that there are additional consumer protection safeguards the Scottish Government should consider for the PRS. However, 38% disagreed and 22% said they did not know. Overall, organisational respondents were more likely to agree than individuals (47% and 34%

respectively). Amongst organisational respondents, a majority agreed in all groups except landlords and letting agents.

Around 115 respondents made an additional comment. Several respondents set their comments in the context of consumer protection for the wider SEEP programme arguing that such measures should apply irrespective of whether work is being carried out in the owner-occupied or private rented sectors. In the PRS, it was noted that both a landlord who commissions an assessment or improvement work and the tenant who may be directly affected by it are consumers, and it was suggested that:

- Landlords must be protected from unfair trading and poor-quality installation work.
- Tenants should understand their rights when a landlord undertakes improvements to a property.

It was also argued that the PRS does not require special protection but should be subject to general consumer protection measures as set out in the Each Home Counts review[6], or that recommendations in the review should be drawn upon.

Protection for landlords

The assessment

With respect to the assessor it was suggested:

- If assessors are employed by, affiliated to, or have agreements with companies who provide the improvement measures, then there is potential for conflict of interests and procedures need to be in place to ensure impartiality and integrity.
- Any improvement advice carries with it a design liability and should only be provided by construction professionals with suitable Professional Indemnity Insurance.

Comments on the Minimum Standards report included:

- This should be quality assured.
- If recommended works are carried out, landlords will need assurances that the improved rating will be achieved.
- There should be an appeals process for landlords who dispute results of the assessment or the recommendations.

[6] An Independent review of consumer advice and protection related to home energy efficiency and renewable energy measures, chaired by Peter Bonfield. The report is available at https://www.gov.uk/government/publications/each-home-counts-review-of-consumer-advice-protection-standards-and-enforcement-for-energy-efficiency-and-renewable-energy.

Installation

A number of comments made related to the installation process, and ways in which landlords might be protected against contractors who fail to carry out the work properly or charge excessive prices. However, differing views were expressed as to how this can best be achieved. Several respondents proposed some means of quality control, while others argued for a landlord's freedom to choose their own preferred contractor without restrictions.

Suggestions for enforceable standards included:

- An approved register of installers.
- Installers should be registered/accredited with appropriate professional bodies. Several respondents highlighted such schemes associated with their own industries – glazing, insulation and plumbing.
- Central accreditation should be required where grant funding is sought. Respondents making this argument sometimes noted concerns from Trading Standards Scotland that when grants are available poor-quality operators often present themselves as Government-backed, and frequently target the vulnerable.
- There should be a rigorous vetting procedure for installers involving checks against Trading Standards and Police intelligence systems in order to tackle rogue traders who may target vulnerable customers and harm the SEEP brand.

Alternatively - and restating an argument made at Question 1.15 - it was suggested that landlords should be able to use the companies or tradesmen they choose and not be restricted to an approved list based on an accreditation scheme, which penalises small local companies.

Further suggestions included:

- A Government-backed guarantee to cover costs if inappropriate or poorly executed works.
- The Energy Saving Trust should be in a position to highlight companies who undertake substandard work.
- Approved contractors should not be allowed to subcontract the work.
- There should also be a rating on the various products to show how they affect the environment.

Protection for tenants

Respondents who agreed that additional consumer protection safeguards should be considered sometimes also commented on protection for tenants, including that safeguards must be in place in the event that landlords fail to meet the minimum standard or that tenants must be able to seek redress against any adverse impacts they may suffer as a result of energy efficiency measures taken by their landlords. Other more general comments included that existing legislation should be enforced

more robustly but must be balanced against creating an attractive market in which landlords can invest. Respondents also expressed differing views regarding the balance between the rights of landlords and tenants under current or proposed legislation.

Many comments from respondents who thought no further consumer protection to be necessary apparently related to PRS regulation in general. Views included that existing provisions are adequate, and that the sector is already highly regulated. It was also noted that tenants can take their landlord to the FTT, and that the new private tenancy regime provides sufficient safeguards.

What happens if the property doesn't meet the standard?

Question 1.18 - Do you think that local authorities should be responsible for enforcing the standard? If not, why not, and what alternative would you suggest?

Table 19: Question 1.18 – Responses by type of respondent.

Type of respondent	Yes	No	Don't know	Not answered	Total
Organisations:					
Energy-related private sector	4		1		5
Landlord	12	6	1	9	28
Letting agents etc.	7	2	1	2	12
Local Authority	16	3	3		22
Other	1			3	4
Professional body	11	2	3	10	26
Third sector	6	1	1	3	11
Total organisations	57	14	10	27	108
% of organisations answering	**70%**	**17%**	**12%**		**100%**
Individuals	40	25	16	9	90
% of individuals answering	**49%**	**31%**	**20%**		**100%**
All respondents	97	39	26	36	198
% of all respondents	49%	20%	13%	18%	**100%**
% of all those answering	**60%**	**24%**	**16%**		**100%**

A majority of respondents, 60% of those answering the question, agreed that local authorities should be responsible for enforcing the standard, 24% disagreed and 16% said they did not know. Overall, organisational respondents were more likely to agree than individuals (70% and 49% respectively).

Around 110 respondents made an additional comment. Respondents who agreed often pointed to local authorities having an understanding of local issues and being the sensible choice given their existing enforcement role within the PRS. However, the most frequent point, made by around 2 in 5 respondents irrespective of their answer to the Yes/No question, was that local authorities need to be provided with additional resources to take on this additional work, or that they lack the capacity to do it at present. It was also suggested that there would need to be a consistent approach across local authorities and that the Scottish Government should issue guidance to ensure this.

A small number of respondents referred to the existing Landlord Registration scheme as a potential route for local authority enforcement of minimum energy efficiency standards, or that there could be opportunities to build on existing processes or to join up enforcement activities. It was also suggested, however, that proactive monitoring of the energy efficiency standard is apparently at odds with 'light touch' guidance for local authorities with respect to landlord registration and that it would not be a simple process to add energy efficiency regulation to the existing system.

Around 1 in 10 respondents suggested an alternative approach, that the repairing standard should be amended to include the minimum energy efficiency requirement, and that enforcement or redress should then be via the Housing and Property Chamber of the FTT. It was suggested local authority officers could utilise third party reporting to refer a case to the FTT where they become aware that a landlord has failed to comply or where a tenant feels unable to do so themselves. The FTT can then issue an enforcement order or rent penalty notice. A small number of respondents who accepted that there are reasons not to use the repairing standard as a route for enforcement at present suggested consideration should be given to taking this approach at a later date, possibly through the forthcoming Warm Homes Bill.

Other suggestions, made by only one or a small number of respondents, included that:

- Potential or perceived conflicts of interest between local authority enforcement and revenue generation activities that might undermine landlord trust must be avoided.
- The Scottish Government should consider alternative means of enforcing compliance either directly or through an agency.
- Enforcement could be outsourced to alternative organisations or professionals including: the National House Building Council; the Carbon Trust; the Scottish Association of Landlords; or to Chartered Surveyors.
- The role of letting agents should be considered further. Reference was made to obligations set out in the new code of practice for letting agents that require an agent who knows their client is not meeting legal obligations as a landlord to inform the appropriate authorities.

- There should be ongoing opportunities for engagement between local authorities and landlords before enforcement is considered. A pilot project providing Private Landlord Support Officers in two council areas was cited as a possible model.

Question 1.19 - Do you think that the penalty for not complying with the standard should be a civil fine against the owner? If not, why not, and what alternative would you suggest?

Table 20: Question 1.19 – Responses by type of respondent.

Type of respondent	Yes	No	Don't know	Not answered	Total
Organisations:					
Energy-related private sector	4		1		5
Landlord	7	8	2	11	28
Letting agents etc.	5	4	1	2	12
Local Authority	11	6	4	1	22
Other				4	4
Professional body	10	4	1	11	26
Third sector	3	2		6	11
Total organisations	40	24	9	35	108
% of organisations answering	**55%**	**33%**	**12%**		**100%**
Individuals	21	41	18	10	90
% of individuals answering	**26%**	**51%**	**23%**		**100%**
All respondents	61	65	27	45	198
% of all respondents	31%	33%	14%	23%	**100%**
% of all those answering	**40%**	**42%**	**18%**		**100%**

Views were mixed at this question. The largest proportion of respondents, 42% of those answering the question, did not think that the penalty for not complying with the standard should be a civil fine against the owner. However, 40% thought it should and 18% said they did not know. Overall, individual respondents were more likely to disagree than organisational respondents (51% and 33% respectively). Amongst organisational respondents, landlords were the only group in which more respondents disagreed than agreed.

The Shelter Scotland report asked private tenants if they thought fines are the appropriate penalty. Of the 19 tenants who answered the question, nine said they are, three said they are not and two said they did not know. A further five tenants suggested there should be another approach. In their further comments, some

agreed that removing a landlord's registration might be an appropriate measure. Others commented on the possibility of rent-free windows for tenants until works are completed.

Around 100 respondents made an additional comment. Respondents who did not agree gave a variety of reasons – from not believing there should be minimum energy standards or related fines, to not considering the proposed penalties to be sufficient.

Some respondents argued that the Scottish Government should set standards at achievable levels, should allow a longer time frame for implementation of standards, or should seek to incentivise compliance rather than imposing fines. It was also suggested that there should be a procedure for reviewing the circumstances of individual cases, including the improvement measures that have been implemented and the affordability of compliance before penalties are imposed. The procedure when a landlord is in financial difficulties was also queried: it was noted that a mortgage lender repossessing property would not expect to be responsible for fines levied against a borrower.

Many respondents suggested that rent penalty notices would be preferable to fines sometimes making related points about the desirability of using established enforcement procedures available under the repairing standard. It was noted that referral to the Housing and Property Chamber of the FTT could result in a Repairing Standard Enforcement Order being issued, and that failure to comply with this would be a criminal offence which could lead to prosecution, and revocation of a landlord's registration status.

It was also argued that civil fines are expensive to enforce and cases can take a long time to come to Court. Further, respondents questioned what would happen to the proceeds of fines including a suggestion there could be resentment if a local authority appears to be making money from fines.

Respondents also questioned what is expected to happen if the fine is not paid, or if it is paid but the landlord still fails to comply with the minimum energy standard. It was noted that levels of fines proposed fall well below the £5,000 expenditure cap and it was argued that such fines could be accepted as a cost of doing business.

Other suggestions made by respondents who did not agree that the penalty should be a civil fine included:

- Suspend or remove landlords from the Landlord Registration register.
- Reduce Local Housing Allowance in line with the EPC rating.
- Increase council tax on the property, and ensure this is not passed on to the tenant.
- In the case of agricultural tenancies there should be a trigger for Right to Buy under the Land Reform Act 2016.

Respondents who agreed that civil fines would be appropriate often made limited further comment. Points raised included:

- Fines should be a last resort and there should be a notification / grace period before fines are imposed. There should be circumstances where there is flexibility.
- Rent penalty notices or a rent cap could also be imposed, and landlord registration revoked.
- There should be consistency with penalties under the repairing standard.
- Consideration could be given to fining letting agents as well as landlords.

Question 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?

Please explain your answer.

Table 21: Question 1.20 – Responses by type of respondent.

Type of respondent	Yes	No	Don't know	Not answered	Total
Organisations:					
Energy-related private sector	3	1		1	5
Landlord	5	10	3	10	28
Letting agents etc.	4	3	2	3	12
Local Authority	8	5	6	3	22
Other	1			3	4
Professional body	8	4	3	11	26
Third sector	3	3		5	11
Total organisations	32	26	14	36	108
% of organisations answering	**44%**	**36%**	**19%**		**100%**
Individuals	15	58	9	8	90
% of individuals answering	**18%**	**71%**	**11%**		**100%**
All respondents	47	84	23	44	198
% of all respondents	24%	42%	12%	22%	**100%**
% of all those answering	**31%**	**55%**	**15%**		**100%**

A majority of respondents, 55% of those answering the question, did not think that the proposed fines are appropriate and proportionate. However, 31% thought they were and 15% said they did not know. Overall, individual respondents were more likely to disagree than organisational respondents (71% and 36% respectively). Amongst organisational respondents, landlords were the only group in which more respondents disagreed than agreed.

As noted at the previous question, the Shelter Scotland report asked private tenants if they thought the proposed fines were appropriate and proportionate. Of the 24 private tenants who answered this question, 10 thought they were, 12 thought they were not and two tenants said they did not know.

Around 130 respondents made an additional comment. The issues raised most frequently were:

- 6 months is too short a period for the landlord to carry out the work. It was sometimes suggested that 12 months would be more appropriate.
- The proposed levels of fines are too high.
- The proposed levels of fines are potentially lower than the cost of carrying out work and may be too low to incentivise compliance.
- Fines could or should be related to rent levels rather than being at a flat rate.
- Rent penalty notices would be preferable to fines.

The suggestion that fines are too high was made exclusively by respondents who had said they did not think the proposed fines appropriate or proportionate. The other points listed above were made by respondents irrespective of their answer to the Yes/No question.

Small numbers of respondents also made specific comments on the relative levels of the two proposed penalties including:

- The fine for failing to have an MSA should be £1,000 and for not doing the work £3,000.
- Both fines should be £500, or both should be the same.
- The proposals indicate that someone who has a MSA carried out but does not then carry out the work will be fined £1,000, while someone who does not get an MSA carried out or do any work will be fined £500. This does not seem reasonable.
- The MSA should not be compulsory, so no fine should be attached. The fine for failing to bring the property up to the required standard should be higher.

Alternative suggestions on the level of fines included:

- Fines could be scaled according to number of properties a landlord has so that a larger business faces larger fines.
- Fines could be related to the cost of work required.

- The fines proposed are set too low to cover court action to recover unpaid fines and should be seen in the context of the resources needed for a local authority to pursue action against an owner.

Clarification was sought on what it expected to happen next, as it was suggested there is nothing in the consultation paper to explain whether these are one-off fines or what action is expected on repeat offenders. Suggestions included:

- There should be a daily rate for the period of non-compliance.
- The fine should be £100 per month of non-compliance.
- There could be provision for repeat fines to be levied at 6 to 12-month intervals or on an annual basis.
- If continued non-compliance is harming the occupant, there should be a provision to allow a local authority to instruct the works and recover costs through the civil courts.
- Ultimately, repeat offenders could be removed from the Landlord Registration register and so would not be able rent out property.

At Question 1.21 the consultation paper asks about exceptions where a longer timeframe should be allowed for compliance. The proposal is that it should be open to the local authority to give the owner longer to carry out the required improvements if:

- There are legal reasons why the work cannot take place. Examples given were where a sitting tenant refuses to grant permission to carry out the work or assessment, or where there are protected species that cannot be disturbed.
- A property will be part of an agreed local authority led area based scheme which will bring the property up to the required standard but will not complete within the 6-month period.
- There is evidence of a lack of capacity in the local workforce to carry out the assessment in time, or to complete the work within six months of the minimum standards assessment.

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

Around 125 respondents answered Question 1.21. General comments, collectively made by around 1 in 6 respondents, included that the proposals seem to be sensible, reasonable, practical or appropriate. Flexibility or discretion on the part of the enforcing body was welcomed by many respondents, and this sometimes extended to a view that each case should be assessed on its own merit.

It was also suggested, however, that there must be consistency of application across local authorities, and it was noted that the degree of discretion proposed creates uncertainty for local authorities, requiring that clear statutory guidance should be in place. The importance of enforcement was also highlighted, as was adequate funding for the enforcing authority.

Proposed reasons

Many respondents who commented specifically on the proposed reasons given in the consultation paper expressed their agreement, including that these are fair, reasonable, obvious or valid, and enforceable. It was, however, suggested they should take greater account of the potential challenges faced in remote rural areas.

Legal reasons

Sitting tenant refuses to give access

This provision was welcomed by several respondents although further comments illustrated differing views including:

- There should be a sensible deadline.
- An extension of a further 6 months could be appropriate.
- The extension should be extended until the tenant leaves.

Other respondents suggested a tenant would not be able to refuse reasonable access if energy efficiency requirements were brought under the repairing standard and enforced by the FTT.

Other points made regarding discretion to allow longer time related to tenants included that extra time might be required if a sitting tenant needs to find alternative accommodation, and that work should not be required while a tenant is not paying rent or is under eviction for non-payment.

Protected species cannot be disturbed

The inclusion of protected species attracted very few comments, but was welcomed.

Property will be part of a local authority led area based scheme

There were few comments on area based schemes other than that this provision is reasonable, or welcome.

It was also suggested that where a landlord has a programme of works to improve their housing stock which can be evidenced to the local authority, this should be considered a qualifying scheme.

Lack of capacity

Opinions were somewhat divided on inclusion of lack of capacity. Several respondents suggested this is not a reasonable excuse given the lead time for the regulations while others who agreed with its inclusion also noted agreement with the expectation in the consultation paper that this will not be problem in view of the lead time. It was also suggested that lack of capacity may be difficult to prove or that it should only be permitted as a reason for allowing additional time if an agreed mechanism for evidencing it is agreed nationally. Further points included that:

- What is meant by “local” should be defined.
- PAS2030 accreditation may be an issue, potentially limiting the number of approved installers.
- Both that rurality could be cited as a barrier, but also that additional time should only be allowed in rural areas that already have these issues or for properties that require specific skills or products which are in short supply.
- This should be limited to measures that have been independently verified as being technically difficult to install in six months.

Evidence required

To minimise pressure on local authorities it was suggested that the onus should be on the landlord to provide evidence. Comments on such evidence were sometimes general in nature – such as that it should include the assessor’s report, be in writing and independent or be verified by an independent body. It was also suggested that in all cases, the landlord should provide detailed information on how the issue will be overcome so a reasonable timetable for the upgrade can be agreed.

The importance of ensuring consistency between local authorities was also noted and guidance on typical exception scenarios and the standard of evidence to be retained was requested.

Legal reasons

<u>Sitting tenant refuses to give access</u>

Suggestions included:

- Evidence relating to the activities undertaken by the owner to gain permission for the assessment to be carried out or the work to be carried out.
- Evidence that the tenant refuses to grant permission to carry out the work or the assessment. Preferably a signed letter from the tenant.
- Documentary evidence showing attempts to gain entry and paperwork from Housing & Property Chamber showing Right of Entry procedure has been applied for.

Protected species cannot be disturbed

Suggestions included:

- A report from a specialist on protected species confirming presence and when/if it is likely work could commence. It was suggested this report could impose significant additional costs on rural landlords and might be difficult to obtain quickly.
- Confirmation from Scottish Natural Heritage that a protected species is present and cannot be disturbed, including when improvements might be able to be made and how improvements can be made.

Property will be part of a local authority led area based scheme

Suggestions included:

- Confirmation from the local authority that an agreed area based scheme will cover the relevant property.
- Confirmation of the timescales associated with the scheme.
- Confirmation that the owner has agreed to be part of the scheme.

Limited capacity

Several respondents acknowledged that this could be difficult. Although it was sometimes suggested evidence could be in the form of letters from suppliers or contractors who have been approached for quotations it was also observed that builders are unlikely to respond to requests to confirm in writing that they are too busy to carry out work. Evidence of attempting to achieve a number of quotes was suggested or providing correspondence from assessors/contractors confirming the earliest date that they can carry out an assessment or start work.

Other situations such as the completion of condition works

There was support for other situations qualifying for an extension, although it was suggested that the list should be kept to a minimum to reduce the administrative burden on local authorities.

With respect to completion of condition works, most respondents who commented supported these being included. However, an alternative view was also expressed, that the lead in period is sufficient to allow for these to be planned and completed, with an exception made for unforeseen condition issues found when implementing energy efficiency measures.

Respondents also suggested other situations that they thought should attract discretion to allow more than 6 months to complete works required to bring their property up to the minimum standard. These included:

- Work on listed buildings.
- Work subject to planning constraints or building warrants or in conservation areas.

- Common works in buildings with multiple owners.
- Cost - including allowing the landlord time to raise funds.
- Weather conditions/time of year.
- Work on non-traditional properties.
- Measures that have been independently verified as bringing the property up to a much higher standard (B or A).
- Special tenancy regimes where the tenant may be responsible for carrying out work.
- Where the property would be devalued by the works by more than 5%. This abeyance mirrors that which is in force in England and Wales.
- Where there is an acute shortage of private rented accommodation, to the extent that there is a localised pressure on homelessness and these regulations risk making homes obsolete.

Question 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

(d) The proposal that this would remain valid for a period of not more than 5 years?

Around 120 respondents answered Question 1.22. A number of respondents indicated broad agreement with the proposals, sometimes making little further comment. Others answered each part of the question separately.

General comments at Question 1.22 included that:

- The approach taken in relaxing standards in specific circumstances, rather than granting exemptions is welcome or, alternatively, that there should be complete exemptions in some cases. Small but equivalent numbers of respondents made these points.
- The onus should be on the landlord to provide evidence in support of a request for an exception.
- Where an exception is granted it is important that other measures specified in the MSA are still carried out.
- Uniform application of exceptions policies across local authorities will be important and definitive guidance will be needed. Sampling of cases between local authority areas was suggested as a mean of monitoring consistency.

- Local authorities will need appropriate resources to manage the exceptions policy.

Other general suggestions included that terms such as ‘technical’ or ‘excessive cost’ should be defined and that there should be an appeals/ arbitration mechanism. From the perspective of a landlord it was suggested these exceptions provides a good safety net which should be made clear from outset, while it was argued that prospective tenants should be provided with information on exceptions that might apply to a particular building and prevent improvements, so they can make an informed choice.

Technical reasons

Respondents often agreed that there are technical reasons why a landlord should not be penalised for failing to carry out the full improvements identified in the MSA. Very few disagreed, arguing that if a property cannot be brought to a suitable standard it should not be available for rent. Other respondents noted that the MSA should only specify technical measures that are appropriate to the property, or that any technical difficulties should be outlined in the report.

Relatively few additional points were made with respect to technical reasons. Suggestions included:

- Technical reasons rarely pose an insurmountable barrier.
- If it becomes evident that a recommended measure is not suitable there should be a mechanism for this to be reassessed. All possible options should be exhausted before an exception is sought.
- With respect to the example of bats used in the consultation paper it was suggested that advice from the Bat Conservation Trust suggests this is an issue about timing, rather than a change in the standard.

Legal reasons

In many cases respondents who agreed with the technical reasons for exceptions also agreed with the legal grounds proposed.

With respect to the example of communal works given in the consultation paper, several respondents agreed this to be appropriate, and that the landlord should not have to proceed unless all other owners agree, or unless the local authority is willing to exercise its powers to pay the missing shares for non-consenting owners. It was also suggested, however, that there should not be an exception if measures could be enforced using powers under the Tenements (Scotland) Act.

Otherwise comments on legal reasons largely referred to listed buildings and planning consents, including:

- Work with Historic Environment Scotland should seek to minimise listed building consents for energy improvement works, and to ensure that local

authority planning departments are taking note of the latest guidance from Historic Environment Scotland.

- It should not be necessary to produce evidence of a failed planning application if the proposed work is clearly in breach of planning policy.
- Listed status should not be used as excuse for doing nothing.

Excessive cost reasons

The Shelter Scotland report asked if the proposed cost cap was reasonable. Of the 23 private tenants who answered the question, 14 said it seemed reasonable and four said it was expecting landlords to pay too much. Five tenants said landlords should have to pay more to improve the property.

Otherwise, although there was a significant level of agreement with the excessive cost reasons set out in the consultation paper, several respondents disagreed and this was the exception that attracted the highest level of comment. General remarks included that since additional funding may be available, owners should be required to explore funding options before applying for exception, that the Scottish Government should develop a mechanism to ensure impartial quotes for the cost of improvements are received, or that a cost cap should only be allowed if the rent is capped, with the postcode average minus 10% suggested.

<u>Level of the cost cap</u>

A number of respondents questioned the figures for estimated costs presented in paragraph 105 of the consultation paper, sometimes casting doubt on the modelling involved. It was suggested that:

- £1,100 is a significant underestimate of the cost to bring a property up to band E, particularly for rural property.
- There only being 200 properties that would require more than £5,000 to bring them up to band E is also an underestimate, not credible, and should be revisited. Respondents sometimes cited findings from their own surveys to support their views.

Other suggestions on the level of the cost cap included that rather than being set at a flat rate of £5,000 the cap should be based on rental value, property value, the size of a landlord's organisation, or a percentage of the annual Local Housing Allowance rate.

Other points on the cost cap included:

- Poor quality property may need work above £5,000. The landlord should do work up to £5,000 then be allowed additional time to bring the property up to band E.
- The cap should relate to the cost the owner is expected to pay and should be in addition to any grant funding.
- Whatever the level of the cap there should be adequate financial support.

- The £5,000 cap is too high, and £3,000 is more appropriate taking into account ancillary costs and loss of rental income.
- Allowance should be made for previous investment in the energy efficiency of the property made prior to introduction of the regulations. It was suggested that expenditure after the date when the consultation paper was published should count towards the cost cap.

There was uncertainty as to whether:

- The intention is that a landlord could be expected to spend £5,000 every 5 years?
- The landlord is expected to spend £5,000 before the exception is granted?

What can be included

The consultation paper proposes that cost of the energy efficiency measures identified by the assessment, and the cost of the MSA itself should be included in the cost cap, but not the cost of gaining planning permission or any incidental work such as redecorating or condition works. Several respondents disagreed with this, arguing that all costs directly associated with installing energy efficiency measures should be included, including redecoration if this would not otherwise be required, and that planning application fees should also be allowed.

It was also suggested that the cost cap should include VAT.

5-year validity

Respondents who commented on proposal that the exception should apply for 5 years often agreed. However, it was also observed that 5 years is a long time for a tenant to live in a substandard property.

Alternative suggestions, each made by only one or a very small number of respondents) included:

- 1 year.
- 3 years, which would be more appropriate if enforcement is linked to the Landlord Registration system.
- 5 years, with the option to grant a further 5 years.
- 7 or 8 years: it was suggested little will change particularly where age and construction type are factors, and that a longer period would also reduce the administrative load on local authorities.
- 10 years, which would be in line with the length of the EPC.
- A discretionary period, reviewed depending on circumstances.
- An indefinite period, for example for listed buildings.

Question 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?

Around 110 respondents answered Question 1.23 although several respondents simply expressed a view that this is a matter for local authorities. Others suggested that the question cannot be answered until details of the regulatory regime are established or that further consideration should be given to enforcement through the Housing and Property Chamber of the FTT, rather than developing a new enforcement mechanism via local authorities.

In terms of the processes that will need to be in place, it was suggested these should be developed as best practice rather than being prescribed, and that local authorities should have the flexibility to implement them in the way that best suits their existing structures. Development of standardised processes and a national database were also suggested as a means of saving time and resources for individual local authorities, and creating a consistent approach for landlords.

Other suggestions included that local authorities could or should have: a new compliance department; access to assessors with training in traditional buildings to provide oversight; a panel to assess cases individually; a forum to work with landlords; and publicity for the scheme and provision of information and advice services. It was also suggested that if the policy is to be successful, enforcement is necessary.

Whatever the processes adopted the avoidance of any real or perceived conflict between local authority enforcement and income generation was urged.

Normal compliance

As a general point, it was noted that the processes adopted will depend on whether self-certification is envisaged.

It was suggested that the existing Landlord Registration system could be modified to record normal compliance with examples given including a field requesting the EPC rating or a requirement to declare compliance with the EPC and the repairing standard for all properties rented. It was also noted that if the Landlord Registration system is used, it will be important to consider how properties are dealt with that are exempt from landlord registration, but still require an EPC and MSA.

With respect to determining when there is a change of tenancy, it was noted that:

- Local authorities are not currently notified of this.
- Although it may be possible to extract this information from changes in council tax records, the Landlord Registration system is not integrated with the Council Tax system and local authorities would require information sharing protocols to access information such as council tax or safe deposit scheme records.

Checks on properties being marketed for rent with an EPC of below E were also suggested as a means of identifying non-compliant properties.

It was also noted that, in the event of non-compliance, processes to decide on and impose fines, and also to review these decisions would be required. Where fines were not paid, systems to take court action to recover unpaid fines would also be needed.

Monitoring extended periods for compliance

It was suggested that local authorities would require a database to record properties that have been allowed an extended period for compliance. Several respondents agreed with the suggestion in the consultation paper that the EPC register could be modified to include a field showing that a property is compliant.

Where an exception is nearing the end of the extended period, there would need to be a mechanism in place to trigger activity by the local authority.

Monitoring situations where not all of the improvements are made

Suggestions were essentially as for extended periods.

What implications would this have for local authorities?

Many respondents identified increased cost or funding implications for local authorities, often suggesting additional resources will be required, including for additional staff and IT systems. Respondents sometimes also suggested this might also have implications for resources available for other local authority services. One Professional Body respondent called for enforcement by local authorities to be fully funded by the Scottish Government arguing that the regulations cannot be implemented properly without being fully resourced, both for administering enforcement and also for any resulting court action.

Local authority respondents sometimes noted the current landlord registration teams monitor rented properties on a light touch basis and are staffed accordingly. It was also suggested that staff currently administering these systems will not be familiar with energy or building technology issues. Almost all local authority respondents stated that additional resources would be required.

Question 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.

Around 95 respondents answered Question 1.24. The most frequently suggested opportunities involved:

- Alignment with or enforcement of the repairing standard.
- Landlord registration.

House in Multiple Occupation (HMO) licencing was also mentioned, but by a much smaller number of respondents.

References to the repairing standard sometimes repeated earlier calls that this should be amended to incorporate energy efficiency requirements, allowing enforcement via the FTT. It was also suggested that local authority inspections associated with the minimum energy standard will give the opportunity to flag up failures to meet the repairing standard, allowing for third party reporting or that repair issues will otherwise come to light through enforcement of minimum energy standards and would avoid the property requiring two sets of work.

It was also suggested that if funding and staffing for greater enforcement and monitoring were addressed then the PRS as a whole will benefit but also that there is a risk that the resources required to monitor the energy efficiency standard will mean all other enforcement activity will reduce significantly.

Local authority respondents sometimes described elements of their current enforcement practice, both noting opportunities presented to combine these with action on enforcement of minimum energy efficiency standards and highlighting the increased workload that could result from a requirement to verify all properties. Comments sometimes illustrated a point made by other respondents, that local authorities work in slightly different ways.

With reference to linking enforcement to the landlord registration system it was suggested that a review would be needed if the current light-touch enforcement regime was changed in favour of a more proactive approach. Such a shift to a more proactive approach was encouraged by other respondents. It was also suggested that at the point of registration and re-registration landlords could be required to provide confirmation, and ideally evidence, that their properties are up to standard in several areas. The Electrical Installation Condition Report, Gas Safety Certificate and EPC/MSA for each property were suggested. This could be combined with inspection activity targeted where a landlord has failed to produce all the required documentation or on a random sample of properties, or fines could be imposed if all documents were not in place.

It was also suggested that enforcement of minimum efficiency standards should be embedded within the key statutory, regulatory and strategic drivers for the sector and that where there are set criteria for compliance with an agreed standard, local

authorities should evidence how they are delivering upon this, and their key approaches should be set out as part of service priorities and measured through reported performance.

Raising the standard to an EPC D from 2022

The consultation paper explains the Scottish Government's intention that the minimum energy standard would be raised to an energy efficiency rating of band D at the point of rental from 1 April 2022, and that this would apply to all privately rented properties by 31 March 2025.

Question 1.25 - Do you think that we should set out now the minimum energy efficiency standard after 2022? Please explain your answer.

Table 22: Question 1.25 – Responses by type of respondent.

Type of respondent	Yes	No	Don't know	Not answered	Total
Organisations:					
Energy-related private sector	5				5
Landlord	8	12	2	6	28
Letting agents etc.	3	6		3	12
Local Authority	19	1	2		22
Other				4	4
Professional body	8	3	1	14	26
Third sector	7	1		3	11
Total organisations	50	23	5	30	108
% of organisations answering	**64%**	**29%**	**6%**		**100%**
Individuals	37	29	8	16	90
% of individuals answering	**50%**	**39%**	**11%**		**100%**
All respondents	87	52	13	46	198
% of all respondents	44%	26%	7%	23%	**100%**
% of all those answering	**57%**	**34%**	**9%**		**100%**

A majority of respondents, 57% of those answering the question, thought that the minimum energy efficiency standard after 2022 should be set out now. However, 34% thought it should not and 9% said they did not know. Overall, organisational respondents were more likely to agree than individuals (64% and 50% respectively) although a majority of landlord and letting agent respondents did not.

Around 125 respondents made an additional comment. Respondents who agreed often suggested that:

- Landlords need to be made aware that band E is only the first step and the eventual target is band D.
- Landlords should be provided with information to allow them to plan ahead, including deciding whether it is more economical to make all required improvements to achieve band D in one go.

It was also suggested that it might be desirable to look still further ahead, including setting out the Scottish Government's final target.

Other benefits identified for the proposed approach included that if landlords are encouraged to go straight to band D it will remove an enforcement step for local authorities and reduce disturbance for tenants.

Respondents who did not agree were most likely to argue that the effect of setting a minimum of band E should be evaluated before deciding on future measures. It was suggested that how successful the policy has been in reducing fuel poverty, the effect on supply, and the level of grant funding used should be reviewed before proceeding further.

Other respondents argued that achieving band E will be hard enough and there should be no attempt to go beyond this, or that it would be better to set a single goal rather than having a phased approach.

Several respondents argued that while it is desirable to set a clear goal for the sector, there is also a risk that targets might need to change in the light of external factors, such as developments in understanding of climate change or changed political priorities. It was also suggested that new technologies may become available. Making a provision for the Scottish Government to review targets at a later date was proposed.

Question 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? Please explain your answer.

Table 23: Question 1.26 – Responses by type of respondent.

Type of respondent	Yes	No	Don't know	Not answered	Total
Organisations:					
Energy-related private sector	3	1		1	5
Landlord	4	15	2	7	28
Letting agents etc.	1	7	1	3	12
Local Authority	12	4	3	3	22
Other				4	4
Professional body	4	9	2	11	26
Third sector	4	3		4	11
Total organisations	28	39	8	33	108
% of organisations answering	**37%**	**52%**	**11%**		**100%**
Individuals	21	43	9	17	90
% of individuals answering	**29%**	**59%**	**12%**		**100%**
All respondents	49	82	17	50	198
% of all respondents	25%	41%	9%	25%	**100%**
% of all those answering	**33%**	**55%**	**11%**		**100%**

A majority of respondents, 55% of those answering the question, did not agree 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. However, 33% did agree and 11% said they did not know. Overall, organisational respondents were more likely to agree than individuals (37% and 29% respectively). A majority of landlord letting agent and professional body respondents did not agree.

The Shelter Scotland report asked private tenants if they agreed with the dates for starting to apply the minimum standards of E (as at this question) and D (as at the next question. Of the 24 private tenants who answered this question, 14 thought the dates are too far away. Nine thought the proposed dates were fine and one tenant thought the proposed dates were too soon.

Around 120 respondents made a further comment. Respondents who agreed sometimes suggested the proposals are reasonable or logical and would give landlords sufficient time to plan for the necessary work. It was also suggested that the 3-year cycle would be particularly appropriate if enforcement is linked to the

landlord registration system. Others who agreed qualified their approval as being subject to revision to EPC methodology, to there being exceptions for technical or legal difficulties, or to there being no intention to move beyond band D.

Commenting on the relationship between the PRS and other sectors of the housing market, respondents both suggested the move to band D will close the gap with the social rented sector, and also that requiring owner-occupiers to reach band E would have a greater effect than asking the private sector to achieve band D.

Irrespective of their answer to the Yes/No question respondents also proposed specific alternative targets and time frames, often reflecting answers given at earlier questions. Suggestions, each made by only one or a very small number of respondents, included:

- Band D should be set as the minimum standard for new tenancies from 1 April 2021, without an interim of band E.
- Band D should be introduced from April 2019 with backstop after 3 years.
- Band D should be introduced from 2021 without an interim of band E, with a backstop date of 2024.
- Band D should be introduced for new tenancies from 2019 and for all properties from 2025.
- The backstop date for band E should be 31 March 2021, and for band D, 31 March 2024.
- The backstop date for band D should be 31 March 2026.
- The standard should be raised to C or B rather than D.
- There should be a single target and only one set of compliance dates.

Amongst respondents who did not agree with the measures proposed in the consultation paper, the most frequently made comments were:

- This is too soon. Suggestions for an appropriate delay ranged from 1-2 years to 10 years.
- The Scottish Government should concentrate on achieving band E and then review implementation.
- There should be no attempt to raise the standard above E.
- Band D is unrealistic especially for older property.
- Availability of housing stock in the PRS will be reduced.

Several respondents commented specifically on the difficulty of achieving band D for property off gas grid, arguing that EPC methodology must be reformed. Other issues raised included concerns about the availability of skilled labour, given the Scottish Government’s estimates of the number of properties involved.

A much smaller number of respondents argued that the minimum standard should be higher than D or achieved earlier or should be same as for social landlords.

Finally, the details around implementation were queried:

- The need for separate change of tenancy and backstop dates for the second phase of legislation was questioned, and March 2023 or March 2024 suggested as the date for compliance.
- It was also suggested there may be potential for overlap and confusion with the Band E compliance backstop date and the point of rental post 1 April 2022, resulting in repeat assessments and works being required in quick succession. Setting 31 March 2025 as the date for Band D compliance was suggested.

Question 1.27 - When increasing the standard to EPC D, we propose that the cost cap will be £5000 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.

Around 145 respondents answered Question 1.27. Respondents who indicated agreement with the proposed caps sometimes suggested the figures are fair, reasonable, realistic or appropriate. It was also noted that anyone bringing property to the rental market after 2022 should be aware of the requirements. It was also suggested that the level of the cap should be reviewed in the light of increased costs of materials or labour and an annual review, in line with the Consumer Price Index was proposed.

The estimated cost of improvement works presented in the consultation paper were considered to be too low by several respondents. It was sometimes concluded that, in terms of achieving the intended improvements, the cost cap would be too low.

A number of respondents argued there should be no cost cap. It was suggested that: the only exceptions to the standards should be on technical or legal grounds; landlords are involved in commercial activity and are maintaining an asset even if not making a profit; and that there are few industries where being unable to the afford cost of regulation results in reduction of required standards.

Many respondents expressed a view that that the proposed caps are too high especially in rural areas. It was suggested that the required investment will not make commercial sense for some landlords, or that, in some cases, a landlord will be left with no profit for several years. As a result, it was predicted that property will be withdrawn from the private rental market or that rental prices will be driven up. Lower level caps, and specific caps for rural property were suggested.

Many other points raised with respect to the level of the cost cap and what it should include were essentially the same as those made at Question 1.22, primarily that:

- A flat-rate cost cap is unfair, particularly for small properties in rural locations, and that the cap should be related to factors specific to the property including value, size, location, and rental income.
- The costs of secondary works and VAT should be included.

Several respondents raised issues relating to grant funding:

- That grants or loans should be available to support landlords.
- That the cap should be the amount the landlord is expected to pay and should not include grant funding that may be available.
- That grants should be available to ensure that properties requiring more than £5,000 of spending are upgraded, for the benefit of tenants.
- That clarification is required as to whether it is intended that the cap should include or exclude grant funding.

Other points on cost caps included:

- There could be a risk of partial completion of works or piecemeal implementation of measures. The importance of a “whole house” approach to improving energy efficiency was highlighted.
- The disproportionate effect on rural estates, which are likely to have a large proportion of affected properties should be considered.
- Consideration should be given to how long a substandard property should be allowed to remain in the sector. While long term exceptions for historic and listed properties may be appropriate, other hard to treat properties should not remain in the sector or unimproved indefinitely.

Question 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?

Around 115 respondents answered Question 1.28. Around 1 in 3 respondents argued that a property which has an exception at band E should automatically be excepted at band D, including that a property that cannot meet band E will not meet band D. It was suggested that to insist on a further MSA would be a waste of money.

Around 1 in 4 respondents stated general agreement with the proposals, or specified agreement that the exceptions should stay the same as for band E, or that a property should not be excepted automatically at band D because it was excepted at Band E.

Reasons given for not allowing an automatic exception at band D included that:

- A measure that was too expensive in 2019 would not necessarily be so in 2022.
- The additional spend expected before exception at band D means a property excepted from E shouldn't automatically be excepted from meeting D.
- The measures required for reaching a higher standard may be different and the reasons for the original exception may no longer be applicable.

Other respondents suggested that whether the exception should be extended automatically would depend on reason it was given originally. It was observed that exceptions on technical grounds or because of a property's listed building status are unlikely to change.

Raising the minimum standard beyond EPC D

The consultation paper explains that the Scottish Government's view is that there would be challenges in proposing a mandatory target beyond D as a minimum standard – both for cost and technical reasons, but also in terms of how this would fit with the longer-term priorities of the Climate Change Plan. It is proposed that any increase in the standard beyond band D should be considered once there is further information on the longer-term proposals for heat supply in the next Climate Change Plan, and once further work has been done to understand the feasibility of the measures needed to reach these standards. Policy decisions regarding long-term heat decarbonisation are not expected to be made by the UK Government until the next parliament i.e. from 2020.

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

Around 125 respondents answered Question 1.29. The most frequently identified benefits were:

- To tenants in terms of lower energy bills, and a reduction in fuel poverty.
- Reduced carbon emissions.

Other benefits identified, although by fewer respondents were:

- Bringing energy efficiency standards in the PRS into line with the social rented sector.
- Providing certainty to the supply chain.
- Improvements to health of tenants.
- Helping owners to plan for the future.
- Benefits from low/zero carbon technologies.

It was also suggested there could be benefits to landlords in terms of increased value of the property, and to the nation in improvements to the quality of housing

stock and wider socio-economic benefits such as improved educational outcomes or reduced spending on public services.

However, other respondents suggested they saw no benefits, or that achieving band C for many properties is impractical or not possible. Predicted adverse consequences were a reduced supply of rental property and increased rent levels.

It was also noted that the nature of the EPC process means that money saved per pound invested gets significantly less for each band moved upward. It was suggested that while moving the PRS to a minimum of band D would be a considerable achievement, requiring the installation of very expensive measures to move to higher bands, with the effect of raising rent levels to fund the investment, could penalise tenants.

Question 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.

Around 110 respondents answered Question 1.30, although several simply referred to their answer at the previous question.

A number of respondents made general points to the effect that they did not agree with the challenges set out in the consultation paper, or considered it is necessary to raise the level to C to meet climate change targets and address fuel poverty. It was also suggested that, since the consultation paper notes that average costs (and benefits) of improvements beyond D are not yet available, it would be desirable for that further research to be undertaken to inform ongoing policy development. Respondents also restated opposition to a move above band D, or suggested that consumer behaviour/habits should be addressed, or that other building sectors or industries should be tackled first.

Other new challenges

On the specific question of new challenges, many respondents gave answers that echoed those at previous questions particularly with respect to costs, technical issues and challenges particularly for older and/or rural properties, and potential loss of rented property from the sector. Other points made included

- The measures required to achieve band C will often mean a property has to be vacant.
- Special provisions may be necessary for mixed ownership tenements.

- Withdrawal of small landlords may mean the sector is dominated by larger professional operators who can make economies of scale. This may reduce competition in terms of rent pricing.

How challenges could be addressed

Provision of grant funding or other incentives was the most frequent suggestion for meeting challenges associated with a move beyond band D. Other ideas included:

- A later backstop date for band D.
- A review of implementation after band D.
- SEEP should communicate clearly to the public that C is a 'good' standard, an aspiration and future destination.
- SEEP could promote the use of Building Passports which provide a tailored pathway for deep renovation in existing homes.
- More could be done to remove current uncertainties about the future heat energy mix by giving indicative milestones for the likely mix of heat pumps, district and communal heating, biomass, and electric.
- Work to improve EPC methodology and assessment quality should continue, including adjustments to recognise the value of low carbon heating.
- Create a role to manage larger scale works. This could include advice with tendering, supervising, possible decanting etc., but would also increase the costs of any potential works.
- There should be greater investment in renewables.
- Mains water and gas should be brought to rural communities.

Assessing impact

Question 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).

Around 125 respondents answered Question 1.31. Potential positive impacts for business were largely identified as being for firms supplying or installing energy efficiency measures. Reduced energy bills and improved living standards for tenants were also identified as a positive outcome.

Several respondents suggested that, for landlords, there could be benefits in improved property condition and value, lower turnover of tenants and reduced void periods, and the enhanced reputation of the PRS. Other respondents, however, cited evidence that energy efficiency is not currently well reflected in property values.

A possible benefit to mixed-tenure housing was also noted. It was suggested that landlords of private rented properties have sometimes delayed improvements sought by other owners (whether social landlords or private owners) and that application of the regulations could help to resolve this.

Potential negative impacts for business were both more numerous, and were identified by larger numbers of respondents. Those most frequently suggested were:

- Landlords will withdraw property from the private rental market for economic reasons. It was suggested this may be particularly pronounced in rural areas and for smaller landlords.
- Increased rental prices, particularly in rural areas. It was suggested that this could result both from landlords increasing prices to recoup their investment, and from reduced supply of property in the rental market. The potential impact on availability of affordable housing, particularly in rural areas was highlighted. Several respondents suggested that rent increases should be monitored.

Increased costs to landlords were also highlighted as was a view, also expressed at earlier questions, that the modelling employed in the consultation paper significantly underestimates the cost of improvements, which will be higher in rural areas. One respondent questioned a suggestion in the BRIA that those with a portfolio of properties may make savings, arguing this to be particularly inaccurate for those with rural portfolios where costs will be significantly higher.

The particular effects of increased costs for small landlords were also noted.

It was also suggested that costs to landlords as a result of the present legislation should not be seen in isolation, but as part of the recent series of reforms in the PRS, and also in the light of changes to tax relief.

Other potential negative consequences, but identified by fewer respondents included:

- Costs to local authorities, both for enforcement of the regulations and for consumer protection issues, for example concerning mis-selling.
- Poor quality installation, if owners prioritise price over quality of work.
- House prices could be adversely affected if large volumes of rental property are put on the market. Local communities could also suffer if property is left empty.
- Effects could be particularly severe in areas already suffering an economic downturn and falling rental incomes. The oil industry in Aberdeen was referenced.
- There could be increased demand for social housing if the private sector contracts.

- Landlords may remove property from the residential market for use as holiday lets. It was also suggested that the regulations should extend to holiday rental properties for this reason.
- Landlords may reduce spend on non-essential items not related to energy performance.
- There could be reduced demand for the services of property management companies, in line with reduced volumes of rental property.

Question 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.

Around 50 respondents answer Question 1.32. A small number of respondents suggested they had not identified any impacts.

Many of those who identified positive impacts pointed to the benefits of improved energy efficiency and reduced heating costs for all tenants, including those with protected characteristics. It was also noted that fuel poverty may disproportionately affect people with some protected characteristics.

Higher rental payments were noted as having the potential to negatively affect people with protected characteristics including having potential to force older tenants into social housing. It was also suggested that households, including older people or people with a disability, may find it difficult to deal with disruption during improvement works. Installation of inappropriate insulation or lack of proper ventilation were also highlighted as creating potential health risks to tenants, with a suggestion of adverse consequences for the health of older or vulnerable people.

A health impact assessment on the Regulation of Energy Efficiency in Private Sector Homes (REEPS) was also advocated.

Question 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.

Around 40 respondents answered Question 1.33. Most respondents considered the proposed changes would have positive impacts for all tenants and for children, including for children living in households affected by fuel poverty. Respondents also highlighted a Scottish Fuel Poverty Working Group report stating that small children are among those most at risk from the ill-effects of living in a cold home

and it was suggested that children living in warmer homes are less likely to develop health issues.

Potential benefits suggested included that family income not spent on heating might be redirected to improved nutrition or more physical activity and that children may do better at school.

Around 1 in 6 respondents identified potential negative impacts including that any increased rent levels may leave lower disposable incomes for families with children, and that loss of property from the PRS may adversely affect families with children, including families seeking affordable housing or families waiting for temporary accommodation. It was also suggested that households with children may be disproportionately disturbed by improvement works, with additional impact for schooling if families have to relocate to find alternative accommodation.

Attention was also drawn to the Welsh Government's Wellbeing of Future Generations Act. This was reported to place a duty on public bodies to consider the impact of decisions on future generations, and to require them to undertake 'sustainable development', setting out how they will meet Wales' wellbeing goals and taking all reasonable steps to deliver these. The Scottish Government was encouraged to adopt similar principles.

Reviewing the standard

It is proposed that information from the Scottish House Condition Survey, the EPC register and feedback from local authorities on the rates of compliance and the reasons for non-compliance or exceptions will be used to monitor the implementation of new energy efficiency standards. This information, along with the outcome of any monitoring and review processes within SEEP, will be used to review the implementation of the standard at the E and D levels to identify if there are any improvements that could be made to the process, and to consider whether the standard should be raised further in future. Any decision to raise the standard after 2025 would be taken within the context of this monitoring and review process.

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

Around 60 respondents answered Question 1.34, although sometimes simply to record that they agreed with the frameworks proposed or had no suggestions.

With respect to the conduct of the review suggestions included:

- There should be clear delineations between policy makers and delivery bodies, and this should include the incorporation of independent professional scrutiny and oversight in the design and delivery of policies and schemes.
- A private agency should be set up.
- The review should not be carried out by local authority or Scottish Government employees.

Comments on the information to be reviewed included:

- It may be appropriate to consider some boosting of the samples in the Scottish Housing Condition Survey, particularly in rural areas.
- It may be necessary to set a standard baseline nationally using Scottish Housing Condition Survey Data.
- An EPC register used as part of the monitoring and compliance framework must be kept up to date.
- Local authorities should provide annual reports using a common template. A format similar to the ARC[7] for social housing was suggested, as was inclusion of the local authority's efforts to promote compliance and enforcement actions taken.
- Feedback and suggestions from tenants, tenants' groups and residents' associations should be included in a structured way, and there should be input from industry and landlords' representatives.
- Collated statistical returns from various agencies, such as the NHS, local authorities, housing associations, fuel and energy providers, schools and support agencies could be included.

With regard to what the review should assess suggestions included:

- All aspects of the policy and within 3 years of introduction.
- Technical performance of measures installed, to ensure these are appropriate to the buildings in which they have been installed.
- Impact on traditional buildings and rural areas.
- Impacts on householders.
- Compliance costs and wider impacts such as rent increases, and particularly the impact on rents at the lower end of the market.

Other suggestions included that dedicated software for monitoring properties, available to local authorities or other monitoring agencies, would help to ensure monitoring is consistent and would assist with any review of standards. Likewise, it was suggested the creation of national compliance/exceptions registers could reduce reporting requirements for local authorities. It was also suggested that the landlord registration system could be used to gather detailed, up to date information on criteria such as tenure, rent and length of tenancy which could be used to detect changes to the supply of rented housing.

[7] The ARC or Annual Return on the Charter is submitted to the Scottish Housing Regulator and gathers a range of financial and performance information about social landlords and measures landlord performance against the Scottish Social Housing Charter**.**

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

Around 60 respondents made additional comments at Question 1.35. A number of these comments raised issues which have already been covered elsewhere in the analysis of Part 1 of the consultation. Only issues which have not already been covered are included here.

Closer alignment of SEEP and the Climate Challenge Fund (CCF) was proposed. It was suggested that SEEP should work with existing community based organisations, particularly CCF projects, and that longer-term funding for such projects should also be considered.

It was observed that links between PRS and owner-occupied housing are not considered as part of the present consultation, so the potential impacts of these changes for local housing systems in terms of tenure supply and housing options are not explored. The Scottish Government's forthcoming consultation with owner-occupiers on improving energy efficiency was also noted, and it was suggested that a long-term strategy covering all tenures should be developed.

The issue of 'rogue landlords' was raised by a local authority respondent who noted that if they do not comply and do not provide safe accommodation for their tenants at present, this is unlikely to change as a result of the proposed regulations.

The ability of local authorities to process exceptions in a timely manner was raised as a concern, potentially resulting in landlords being unable to let their properties for protracted periods. It was suggested that landlords should be permitted to let their property without meeting the legislation if they have submitted a valid exception application and have not received a decision from the local authority within 2 weeks.

The issue of capped gas meters was raised by a respondent who suggested that whether a meter is capped and the type of meter in a property should be recorded on the EPC, and that more should be done to get such caps removed.

It was suggested that, as well as the risk that external insulation applied to solid walls may exacerbate problems of damp and condensation, potential fire risks should also be taken into account.

It was requested that communications regarding the new minimum energy requirements should be sent directly to landlords, rather than through letting agents, who the landlords may otherwise see as being to blame for additional costs.

Finally, several respondents highlighted recent research by Shelter Scotland on behalf of the Existing Homes Alliance that recorded views of private tenants on the proposed regulations. It was reported that while 79% of private tenants wish their home was more energy efficient, and 91% favour regulation of energy efficiency in

the private sector, 60% of tenants said they would not feel confident asking their landlord to make changes to improve energy efficiency. It was suggested tenants fear eviction, rent increases or other reprisals.

Part 2: Condition of Private Rented Housing in Scotland

Summary findings

This summary gives an overview of some of the key themes to emerge from the analysis of responses to Part 2 consultation and also sets out the overall balance of opinion at some of the key questions asked.

Overall themes

- Overall, there was relatively strong support for a number of the proposals, with a majority of respondents agreeing at 14 out of the 22 questions asked.
- Support tended to be strongest in relation to the proposals covering overall property condition and the safety of kitchens, access and common areas, the water supply and heating systems. However, there was sometimes less support for the specific approaches being suggested.
- There tended to be much less support for minimum standards for food storage or requirements to provide white goods or floor coverings. These types of issues tended to be seen as going beyond what is reasonable for a condition standard.
- There was broad support for the proposed timescales for introducing a standard and the approach to allowing exceptions to the standard.

Scope of the repairing standard

Views were mixed as to whether agricultural tenancies, rented crofts and small landholdings should be covered by the repairing standard (45% of those answering the question thought they should not, 40% thought they should). A majority of respondents, 64% of those answering the question, thought that the Scottish Government needs to clarify whether holiday lets should be subject to the repairing standard.

Proposals around harmonising housing standards

A majority of respondents, 87% of those answering the question, agreed that the tolerable standard (the basic minimum standard for all housing) should be made a part of the repairing standard for private rented sector properties. Further comments included that any property should meet a safe, habitable standard if it is to be let. It was also suggested that a single, clear standard would be the preferred and most straightforward option.

An alternative perspective was that it is not clear how many of the proposals, for example those around food storage, relate to disrepair and property condition and that some of the proposed timescales are inappropriate for some properties. There was also a concern that the cumulative effect and additional cost burden

of the proposals could affect business viability in some cases.

Proposals around safety

A clear majority (70% or more of those answering) agreed that there should be a minimum standard for safe kitchens, including that private rented housing should be free of lead pipes from the boundary stopcock to the kitchen tap. A clear majority also agreed with the proposals that private rented housing should meet a minimum standard for safe access and safe use of common facilities provided with the tenancy and should meet a minimum standard for safe and secure common doors. A majority (64% of those answering) thought that electrical installations in private rented housing should be fitted with residual current devices, while 66% of those answering agreed that the standard should be amended to include a specific reference to safety of heating systems using other fuels in addition to gas and electricity.

Respondents were more evenly divided on the other safety-related proposals. A small majority (55% of those answering) agreed that private rented housing should have a fixed heating system, while 53% of those answering thought that the repairing standard should include a duty around risk assessment of the supply and annual water quality testing where there is a private water supply.

More respondents disagreed with there being a minimum standard for food storage space than agreed (48% and 44% respectively). A small majority (52% of those answering) did not think capacity for a fridge/freezer storage should be a requirement and a clear majority (88% of those answering) did not think that private landlords should be required to provide cookers, fridges and freezers.

Views were mixed as to whether asbestos surveys should be carried out in private rented housing (48% thought they should not and 41% thought they should). A majority (66% of those answering) did not think that baths and bidets in private rented housing should be fitted with thermostatic mixing valves.

Further comments tended to be made by those who disagreed with one or more of the safety-related proposals and included that a one-size-fits-all approach is likely to be problematic. There were associated comments that the Scottish Government should provide evidence that such measures are necessary before implementing changes to the repairing standard and that there should be exceptions for some types of property, and particularly older, traditional properties.

However, it was also suggested that any exceptions must be laid out in a clear, concise format and that the onus should be on the landlord to prove that any exception is appropriate. Some respondents thought that there should be no exceptions.

Timing, costs and enforcement

The Scottish Government thinks that the costs associated with the proposals will be relatively low provided that sufficient lead in time is allowed. However, they think there will be some exceptions - for example, it could be costly for landlords of agricultural tenancies to bring them up to the existing repairing standard.

A clear majority of respondents thought that there should be a lead-in time of at least 5 years for landlords to comply with any changes to the repairing standard and that rules on exceptional circumstances should be revised to ensure situations such as technically infeasible work, unreasonable costs and withheld consents are covered (83% and 82% of those answering respectively).

On the timing of proposed measures, suggestions included that a longer lead-in time is required to enable landlords to plan for implementation – particularly for those with rural and agricultural properties. An alternative perspective was that the proposed 5-year lead-in time should be shortened, particularly for urgent items such as residual current devices.

With regard to whether different lead-in times for different measures would cause any issues, the most commonly-raised difficulty was the potential to cause confusion for tenants and landlords. It was suggested that any confusion could increase the risks of landlords inadvertently failing to comply. Specific difficulties identified for tenants included extended and on-going disruption associated with undertaking the required works. A number of respondents also suggested that staged lead-in times will provide challenges for the local authorities responsible for enforcement.

Views were mixed as to whether the timetabling of any changes should be linked to wider government milestones on climate change (43% thought it should not and 33% thought it should).

A majority of respondents, 56% of those answering, thought the current enforcement routes via the housing tribunal are appropriate for the proposed new measures in the repairing standard.

Comments about enforcement of the proposed measures included that consistency of enforcement across local authority areas will be important and that the proposals will have a potentially significant impact on resourcing requirements for enforcement agencies. More “proactive” enforcement including random checks, and more enforcement of “rogue” landlords was seen as important.

Economic, regulatory and equalities impact

Comments tended to divide into one of two positions. One viewpoint was that the proposals will have a positive impact on health and wellbeing and that raising the basic standard of repair will benefit all private tenants, including those with protected characteristics. The other perspective was that there could be a

negative impact if landlords leave the sector or increase rent charges as a result of the changes.

Many of the other comments focused specifically on potential economic impacts. Generally positive comments included that, in the longer term, the health and economic impacts of investing in improving the quality of private rented homes are likely to outweigh any short-term costs. It was also suggested that the proposals could provide opportunities for a range of building and other trades who would be involved in delivering any improvements required.

In terms of potential negative impacts, the most frequently made suggestions were increased costs to landlords, with increased rental prices to offset those additional costs or as a result of reducing supply, particularly in rural areas. Other concerns included that the estimated costs set out in the consultation paper fall far short of the likely sums involved.

The remainder of this chapter sets out a question-by-question analysis for Part 2 of the consultation.

Proposals for changes to the repairing standard

The tolerable standard is the basic minimum standard for all housing in Scotland. It is a condemnatory standard - any house that is below tolerable standard (BTS) is not acceptable as living accommodation. Few houses fall below this standard - the most recent estimate is 5% of private rented homes were BTS in 2015, and these should not be being used for living accommodation. The repairing standard does not include the tolerable standard, although there is a considerable degree of overlap with elements that are required. The proposal is that the tolerable standard should be made a part of the repairing standard so that it is clear that a private landlord should ensure that a house for rent must meet the most basic threshold of fitness for human habitation and to provide tenants with a right to apply for assistance to the First-Tier Tribunal (Housing and Property Chamber).

Question 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? Please explain your answer.

Table 24: Question 2.1 – Responses by type of respondent

Type of respondent	Yes	No	Don't know	Not answered	Total
Organisations:					
Energy-related private sector	1			4	5
Landlord	17	1	1	9	28
Letting agents etc.	9	1		2	12
Local Authority	22				22
Other	2			2	4
Professional body	12			14	26
Third sector	6			5	11
Total organisations	69	2	1	36	108
% of organisations answering	**96%**	**3%**	**1%**		**100%**
Individuals	63	10	6	11	90
% of individuals answering	**80%**	**13%**	**8%**		**100%**
All respondents	132	12	7	47	198
% of all respondents	67%	6%	4%	24%	**100%**
% of all those answering	**87%**	**8%**	**5%**		**100%**

A majority of respondents, 87% of those answering the question, thought that ensuring a house complies with the tolerable standard should be part of a private landlord's duties under the repairing standard. A very substantial majority of organisational respondents agreed - 96% of those answering the question.

There were around 90 further comments at Question 2.1. A small number of these were general observations or statements on condition standards in the PRS. Points raised included that:

- There is a danger that the Scottish Government has lost sight of the purpose of the repairing standard. It is not clear how many of the proposals, such as food storage, relate to disrepair and property condition.
- With so many timescales it is unclear what needs to be done and by when. Some of the timescales are also inappropriate for many properties. It can also be argued that if Scottish Government is happy to wait 5, 10 or 12 years for these elements then they cannot be considered critical to the habitability of homes.

- As with the proposed energy efficiency standards, the cumulative effect and additional cost burden of the proposals could impact business viability in some cases and might mean some landlords of generally acceptable properties consider exiting the sector.

Some of the comments which were specific to the question, and particularly those made by respondents who had agreed, were brief and simply stated that they agreed, and that any property should meet a safe, habitable standard if it is to be let. It was also suggested that a single, clear standard would be the preferred and most straightforward option, or that if there are two standards and they are not aligned, then the “higher” standard should apply.

A number of respondents, including those who had agreed and disagreed suggested that a property that meets the conditions of the repairing standard should in any case comply with the tolerable standard and *vice versa*, particularly if many of the additional measures proposed in this consultation are introduced. It was also suggested that many of the elements listed under the repairing standard, for example in relation to asbestos or water quality, are already a requirement.

Other comments, in each case made by a small number of those who had agreed, included:

- Minimum energy efficiency standards should form part of the repairing standard.
- If communal work is required or work which impacts on common areas this should only be done if carried out co-operatively with all owners.
- Landlords should be given sufficient time to make any changes required.
- Meeting the standard should be a requirement for an agent to take on a property.

There were also a small number of comments about enforcing the standard(s). They included:

- Local authorities should still have the power to close properties which do not meet the tolerable standard.
- More effective enforcement of current standards by local authorities would be welcome. Also, further detail and clarification as to how the repairing standard would be enforced was sought.

Question 2.2 - Do you think that private rented housing should meet a minimum standard for safe kitchens?

Table 25: Question 2.2 – Responses by type of respondent

Type of respondent	Yes	No	Don't know	Not answered	Total
Organisations:					
Energy-related private sector	1			4	5
Landlord	11	6	2	9	28
Letting agents etc.	6	4		2	12
Local Authority	20	1		1	22
Other	1			3	4
Professional body	10	1	1	14	26
Third sector	3			8	11
Total organisations	52	12	3	41	108
% of organisations answering	**78%**	**18%**	**4%**		**100%**
Individuals	58	18	3	11	90
% of individuals answering	**73%**	**23%**	**4%**		**100%**
All respondents	110	30	6	52	198
% of all respondents	56%	15%	3%	26%	**100%**
% of all those answering	**75%**	**21%**	**4%**		**100%**

A majority of respondents, 75% of those answering the question, thought that private rented housing should meet a minimum standard for safe kitchens.

Although there was no specific opportunity to comment, one point was raised at another question. This was that it is arguable that the requirement in the tolerable standard for "satisfactory facilities for the cooking of food within the house" is the same thing worded differently.

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

There were around 100 comments at Question 2.3. Of these, around 1 in 10 respondents stated that the standard should not be introduced. Others, around 1 in 6, suggested there should be no exceptions. Further comments included that the tolerable standard is a basic level measuring satisfactory housing, and the bar should not be allowed to go any lower in the PRS.

Further comments, made primarily by those who disagreed with there being a minimum standard, included:

- Further details on the proposals are required, including evidence around the age, condition and size of properties in the PRS. It was suggested that the Scottish Government should provide evidence that such measures are necessary.
- The definitions provided need to be clarified and extended and any subjectivity needs to be eliminated. Checks are required around how any proposals would interact with other legislation, for example that governing electrical safety.
- A one-size-fits-all approach is likely to be problematic, particularly for landlords with older properties.
- The Scottish Government would need to introduce minimum building standards to all new private housing, and anything which pre-dates the introduction of this standard would not need to comply.

Otherwise, both those who had agreed and those who disagreed suggested possible exceptions. These sometimes referred to types of properties which should be excepted, with suggestions including:

- Older, traditional properties, including tenement flats and/or those with galley or compact kitchens.
- Where the space or layout mean it is not possible to comply, or complying would incur significant cost and/or require major works. It was suggested that an exception for older buildings needing major structural work would mean that a large number of properties would be excepted.
- Properties built before 1920.
- Listed buildings or properties in a conservation area.
- Student flats with integral kitchens.
- Bedsits or one-bedroom flats, in particular those with single or dual occupancy or where there are no children living in the property.
- Properties which are let unfurnished, including without white goods.
- Where the tenant has provided the kitchen or parts of the kitchen.

Other comments made about possible exceptions included that:

- The requirement should only apply when the kitchen is being replaced.
- While exceptions may be required, they should extend to only a very small number of properties. Specifically, exceptions should not be allowed where the landlord has remodelled the property.
- Any exceptions must be laid out in a clear, concise format that is easily understood by all landlords.

- The onus should be on a landlord to demonstrate that their property would meet any test for exemption.
- Consideration should be given to consistency with Building Standards Regulations and the Scottish Housing Quality Standard.

Question 2.4 - Do you think that private rented housing should have a minimum standard for food storage space?

Table 26: Question 2.4 – Responses by type of respondent

Type of respondent	Yes	No	Don't know	Not answered	Total
Organisations:					
Energy-related private sector	1			4	5
Landlord	7	8	4	9	28
Letting agents etc.	3	6	1	2	12
Local Authority	18	4			22
Other	1			3	4
Professional body	6	5	1	14	26
Third sector	2	1		8	11
Total organisations	38	24	6	40	108
% of organisations answering	**56%**	**35%**	**9%**		**100%**
Individuals	26	47	6	11	90
% of individuals answering	**33%**	**59%**	**8%**		**100%**
All respondents	64	71	12	51	198
% of all respondents	32%	36%	6%	26%	**100%**
% of all those answering	**44%**	**48%**	**8%**		**100%**

Views were mixed at this question although the largest proportion of respondents, 48% of those answering the question, thought that private rented housing should not have a minimum standard for food storage space. Of the remaining respondents, 44% thought there should be a minimum standard and 8% did not know. A majority of individual respondents (59% of those answering the question), thought there should not be a minimum standard while a majority of organisational respondents (56% of those answering the question), thought there should. However, slightly more landlord and letting agent respondents thought there should not be a standard than thought there should.

Although there was no specific opportunity to comment, one point raised at another question was that this approach would require developing a robust definition of

‘food storage space’ but that this would be likely to be a complex and expensive exercise.

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

A number of respondents simply referred back to comments they had made at Question 2.3. A number of others had disagreed at Question 2.4 and restated that opposition. Other comments made by those who disagreed with the introduction of a minimum standard included:

- All properties are different and some properties and kitchens are small. It may not be possible or cost effective to meet any standard and this could result in properties being withdrawn from the private rented market.
- The Scottish Government should provide evidence that such measures are necessary before implementing burdensome changes to the repairing standard.
- It should be left to the prospective tenant to judge whether the storage facilities are sufficient for their needs. If they are not, they simply would not choose to rent the property.
- This is not a priority for many tenants and does not warrant a change to the repairing standard.
- The Scottish Government would need to introduce minimum building standards to all new private housing, and anything which predates the introduction of this standard would not need to comply.

A number of those who agreed with there being a minimum standard thought that there should be no exceptions.

Those who did think there should be exceptions sometimes suggested that these should be based on the reasonableness of adaptations being made to the property. In particular, it was suggested that physical constraints in terms of the structure or layout may mean any requirement cannot be met. Around 1 in 6 of those commenting at this question raised this concern. Excessive cost was also considered to be a consideration for a small number of respondents. A small number of others noted their agreement with the suggestions set out in the consultation paper.

Otherwise, both those who had agreed and those who disagreed suggested possible exceptions. These referred to types of properties which should be excepted, with suggestions including:

- Bedsits and one-bedroom flats.
- Some converted tenements.
- Listed buildings or buildings in conservation areas.

- Properties built before 1920.

Finally, it was suggested that any standard should take account of the size of the property and the number of expected inhabitants.

Question 2.6 - Do you think that private rented housing should have a fixed heating system?

Table 27: Question 2.6 – Responses by type of respondent

Type of respondent	Yes	No	Don't know	Not answered	Total
Organisations:					
Energy-related private sector	2			3	5
Landlord	6	12		10	28
Letting agents etc.	6	4		2	12
Local Authority	18	1	3		22
Other	1			3	4
Professional body	6	3	1	16	26
Third sector	4	1		6	11
Total organisations	43	21	4	40	108
% of organisations answering	**63%**	**31%**	**6%**		**100%**
Individuals	38	38	3	11	90
% of individuals answering	**48%**	**48%**	**4%**		**100%**
All respondents	81	59	7	51	198
% of all respondents	41%	30%	4%	26%	**100%**
% of all those answering	**55%**	**40%**	**5%**		**100%**

A small majority, 55% of those answering the question, thought that private rented housing should have a fixed heating system. A majority of organisational respondents thought it should (63% of those answering the question), although the majority of landlord respondents thought it should not. Individual respondents were evenly divided on this issue, with 48% of those answering the question thinking it should, and 48% thinking it should not.

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

There were around 90 comments at Question 2.7. A number of respondents used Question 2.7 to explain their reasons for disagreeing with the requirement for a fixed heating system. Specific points made included:

- There is no need for a separate item since the heating system and the efficiency of the system will be reflected in the minimum standards for energy efficiency which are being introduced for the repairing standard.
- Care is needed to avoid duplication and potential conflict between legislation relating to the tolerable standard and repairing standard, and energy efficiency proposals set out in Part One of the consultation.
- The proposals do not include sufficient detail on the definition of a 'fixed heating system'.
- Requiring properties to have a fixed heating system will remove choice for tenants.
- Installation of a fixed heating system may not be possible in some circumstances.
- Installation of a fixed heating system does not necessarily deliver an improvement in energy efficiency, and modern portable appliances may be more cost-effective in some circumstances.
- The cost of compliance could be prohibitive for some landlords, particularly for those with older properties. The requirement may cause some landlords to withdraw their properties from the sector rather than undertake the required works.

Amongst those who agreed with the requirement for a fixed heating system, some thought that no exceptions should be permitted. Associated comments included that all properties should have an effective heating system and a suggestion that installation of a fixed heating system should be feasible for any property that meets the tolerable standard.

A number of those who agreed with the requirement for fixed heating systems, and some of those who disagreed, suggested exceptions which would be needed. Specific exceptions suggested by respondents were:

- Highly energy efficient properties where it can be demonstrated that they have a satisfactory heating system. It was suggested that compliance with the EPC standard could form the basis for this exception, for example properties with an EPC rating above a minimum threshold (suggestions including C or D) or specific design examples such as Passivhaus.
- Properties where there are physical or technical difficulties around installation of a fixed heating system, and/or where installation of a fixed system is not economically feasible. Respondents suggested specific factors such as property age (e.g. pre-1920 build dates) or being a listed building or in a conservation area. Barriers to accessing fuel for a fixed heating system, where an increase on the load on private cables would be required and smaller properties where the proposed heating electrical loading is limited were also suggested.
- Where the tenant is satisfied with the existing heating system and/or declines the option of a fixed system.

- Based on Houses in Multiple Occupation (HMO) requirements for heating systems to be capable of maintaining a minimum temperature based on minimum outdoor air temperatures.
- Properties let out on a repairing agreement.

A small number of respondents also suggested there needs to be a clear definition of 'fixed heating system', and this definition needs to be sufficiently flexible to allow for future innovation. A specific suggestion was that the definition of a fixed heating system should allow for solid fuel stoves.

Question 2.8 - Do you think that private rented housing should be free of lead pipes from the boundary stopcock to the kitchen tap?

Table 28: Question 2.8 – Responses by type of respondent

Type of respondent	Yes	No	Don't know	Not answered	Total
Organisations:					
Energy-related private sector	1			4	5
Landlord	12	5	2	9	28
Letting agents etc.	5	5		2	12
Local Authority	21		1		22
Other	1			3	4
Professional body	8	2	1	15	26
Third sector	3			8	11
Total organisations	51	12	4	41	108
% of organisations answering	**76%**	**18%**	**6%**		**100%**
Individuals	53	16	7	14	90
% of individuals answering	**70%**	**21%**	**9%**		**100%**
All respondents	104	28	11	55	198
% of all respondents	53%	14%	6%	28%	**100%**
% of all those answering	**73%**	**20%**	**8%**		**100%**

A majority of respondents, 73% of those answering the question, thought that private rented housing should be free of lead pipes from the boundary stopcock to the kitchen tap.

Although there was no specific opportunity to comment, a small number of comments were made at other questions. A respondent who had disagreed suggested that the amount of lead absorbed by the water in the pipe between the boundary stopcock and the kitchen is minimal but the work required to replace this

section of pipework would often be very extensive. They felt it is not reasonable to expect landlords to carry out major works and that this provision should not be introduced unless there is evidence that a significant number of PRS properties have a high lead content in the drinking water. Other comments included that regular water tests offer a better and sufficient approach.

Question 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?

Table 29: Question 2.9 – Responses by type of respondent

Type of respondent	Yes	No	Don't know	Not answered	Total
Organisations:					
Energy-related private sector	1			4	5
Landlord	8	8	2	10	28
Letting agents etc.	3	5	2	2	12
Local Authority	19	2	1		22
Other	1			3	4
Professional body	4	2	3	17	26
Third sector	3			8	11
Total organisations	39	17	8	44	108
% of organisations answering	**61%**	**27%**	**13%**		**100%**
Individuals	38	33	5	14	90
% of individuals answering	**50%**	**43%**	**7%**		**100%**
All respondents	77	50	13	58	198
% of all respondents	39%	25%	7%	29%	**100%**
% of all those answering	**55%**	**36%**	**9%**		**100%**

A small majority of respondents, 55% of those answering the question, thought that, if it is not possible to establish whether or not there are any lead pipes from the boundary stopcock to the kitchen tap, a water quality test should be carried out before the tenancy commences. Although the majority of organisational respondents agreed (61% of those answering the question), landlord respondents were evenly divided and more letting agent respondents disagreed than agreed.

Although there was no specific opportunity to comment, a small number of comments were made at other questions, all by respondents who did not think a water test should be required before a tenancy commences. Reasons were similar to points raised at the previous question and included:

- The amount of lead absorbed by the water in the pipe between the boundary stopcock and the kitchen is minimal.
- No statistics have been given on the extent of the problem of lead content in kitchen drinking water in order to justify the introduction of this requirement.
- As water is tested regularly on private supplies this test should suffice.
- Start of tenancy checks would be an unreasonable cost. A water test being required every 10 years would be a more reasonable alternative.

Question 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?

Table 29: Question 2.10 – Responses by type of respondent

Type of respondent	Yes	No	Don't know	Not answered	Total
Organisations:					
Energy-related private sector	1			4	5
Landlord	11	4	3	10	28
Letting agents etc.	6	3	1	2	12
Local Authority	20		2		22
Other	1			3	4
Professional body	9	3		14	26
Third sector	2		1	8	11
Total organisations	50	10	7	41	108
% of organisations answering	**75%**	**15%**	**10%**		**100%**
Individuals	53	19	3	15	90
% of individuals answering	**71%**	**25%**	**4%**		**100%**
All respondents	103	29	10	56	198
% of all respondents	52%	15%	5%	28%	**100%**
% of all those answering	**73%**	**20%**	**7%**		**100%**

A majority of respondents, 73% of those answering the question, thought that private rented housing should meet a minimum standard for (a) safe access and (b) safe use of common facilities provided with the tenancy.

Although there was no specific opportunity to comment, a small number of comments were made at other questions. They included that:

- The consultation document does not set out any evidence that this is a problem that needs tackling.
- The tolerable standard includes “satisfactory access to all external doors and outbuildings”. This could be extended to include all common areas.

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

There were around 70 comments at Question 2.11. A majority of those providing comment had agreed at Question 2.10 with proposals for private rented housing to meet a minimum standard for safe access and safe use of common facilities, but some had disagreed and explained their reasons. Points made by these respondents included:

- The proposals are disproportionate and impose excessive regulation on the sector. This could discourage landlords from entering or remaining in the sector.
- The Housing (Scotland) Act 2006 - sections 13 (1)(b) and 15 (1) – already places a duty on landlords to maintain common elements.
- Landlords may not have full control over common facilities in some circumstances and might not be in a position to carry out the proposed requirements.
- Major works may be required to meet the proposed requirements, for example in relation to removing all lead from common piping.
- Water quality should be ensured by legislation relating to environmental health, rather than placing a requirement on landlords.

A number of those who agreed with there being minimum standards stated that no exceptions should be permitted. Further comments included that safe access and use of common facilities are significant elements of a tenancy and should not be subject to exceptions, and that private tenants should be afforded the same rights provided to social tenants by the Scottish Housing Quality Standard. It was also suggested that any exceptions that are permitted should place an onus on landlords to demonstrate clear grounds for them being required.

Other comments included that any requirements need to take account of the significant variety of property types and arrangements in relation to common facilities. It was also suggested that exceptions should be consistent with provisions set out in the Scottish Housing Quality Standard, and that consideration should be given to an approach to cases where common facilities are shared with owner-occupied properties to which minimum standards would not apply. It was suggested that meeting any requirements may present significant challenges if there are disputes between responsible parties, and that local authorities may have a role in these circumstances. It was also suggested that a clear definition is required of what is ‘safe’ in relation to access and use of common facilities.

Specific exceptions suggested included:

- Where landlords do not have full control over common facilities, particularly in mixed tenure blocks. This would include cases where other parties refuse to undertake necessary works to ensure safe access to and use of common facilities, and landlords are able to demonstrate this.
- Properties where it is impractical for landlords to meet requirements, for example properties with unusual arrangements in relation to common parts such as those in rural areas, properties sharing access with working farms, properties in multi-storey blocks, older property types, and historic or listed buildings. This could include where the cost of compliance is prohibitive.
- Where common repairing rights prohibit landlords from meeting the requirement.
- Where communal or on-street bins are provided by the local authority.

Question 2.12 - Do you think that private rented housing should meet a minimum standard for safe and secure common doors?

Table 30: Question 2.12 – Responses by type of respondent

Type of respondent	Yes	No	Don't know	Not answered	Total
Organisations:					
Energy-related private sector	1			4	5
Landlord	10	3	4	11	28
Letting agents etc.	7	2	1	2	12
Local Authority	19	1	1	1	22
Other	1			3	4
Professional body	11	2		13	26
Third sector	3			8	11
Total organisations	52	8	6	42	108
% of organisations answering	**79%**	**12%**	**9%**		**100%**
Individuals	48	19	9	14	90
% of individuals answering	**63%**	**25%**	**12%**		**100%**
All respondents	100	27	15	56	198
% of all respondents	51%	14%	8%	28%	**100%**
% of all those answering	**70%**	**19%**	**11%**		**100%**

A majority of respondents, 70% of those answering the question, thought that private rented housing should meet a minimum standard for safe and secure

common doors. Organisational respondents were more likely to agree than individual respondents (79% and 63% of those answering respectively).

Although there was no specific opportunity to comment, a small number of comments were made at other questions.

A respondent who had agreed thought that, where this requires communal works to be carried out which require the consent of other owners, the landlord should not have to proceed unless all other owners agree or unless the local authority is willing to exercise its powers to pay the missing shares for non-consenting owners. Another made their support conditional on there being a long enough lead-in time for regulations.

Question 2.13 - Do you think that baths and bidets in private rented housing should be fitted with thermostatic mixing valves (or similar measures)?

Table 31: Question 2.13 – Responses by type of respondent

Type of respondent	Yes	No	Don't know	Not answered	Total
Organisations:					
Energy-related private sector	1			4	5
Landlord	2	14	2	10	28
Letting agents etc.		8	2	2	12
Local Authority	9	8	5		22
Other	1			3	4
Professional body	5	5	2	14	26
Third sector	2		1	8	11
Total organisations	20	35	12	41	108
% of organisations answering	**30%**	**52%**	**18%**		**100%**
Individuals	16	61	2	11	90
% of individuals answering	**20%**	**77%**	**3%**		**100%**
All respondents	36	96	14	52	198
% of all respondents	18%	48%	7%	26%	**100%**
% of all those answering	**25%**	**66%**	**10%**		**100%**

A majority of respondents, 66% of those answering the question, did not think that baths and bidets in private rented housing should be fitted with thermostatic mixing valves (or similar measures). Among the organisational respondents, letting agent and landlord respondents were particularly likely to disagree. Local authority

respondents were the only group in which a majority agreed, with professional body respondents evenly divided.

Although there was no specific opportunity to comment, a small number of comments were made at other questions.

A respondent who had disagreed suggested this measure is not necessary as it is almost always possible to control the water temperature centrally at the boiler or immersion heater. They also suggested that no statistics have been given in the consultation on the extent of the problem of scalding in the PRS in order to justify the introduction of this requirement.

A respondent who had agreed cautioned that in some cases thermostatic mixing valves may be inappropriate for a tenant, for example if a physical impairment makes them difficult to use. They suggested that in such a case this should be documented in the assessment report and accounted for when evaluating whether or not the property has met the standard.

Question 2.14 - Do you think that electrical installations in private rented housing should be fitted with residual current devices?

Table 32: Question 2.14 – Responses by type of respondent

Type of respondent	Yes	No	Don't know	Not answered	Total
Organisations:					
Energy-related private sector	1			4	5
Landlord	10	7	2	9	28
Letting agents etc.	6	4		2	12
Local Authority	20		2		22
Other	1			3	4
Professional body	8	2	1	15	26
Third sector	3			8	11
Total organisations	49	13	5	41	108
% of organisations answering	**73%**	**19%**	**7%**		**100%**
Individuals	43	24	9	14	90
% of individuals answering	**57%**	**32%**	**12%**		**100%**
All respondents	92	37	14	55	198
% of all respondents	46%	19%	7%	28%	**100%**
% of all those answering	**64%**	**26%**	**10%**		**100%**

A majority of respondents, 64% of those answering the question, thought that electrical installations in private rented housing should be fitted with residual current devices. Organisational respondents were more likely to agree than individual respondents (73% and 57% respectively).

Although there was no specific opportunity to comment, a small number of comments were made at other questions. They included that any requirement should only apply as part of the current inspection regime or if considered necessary by an electrician carrying out an Electrical Installation Condition Report. It was also suggested that residual current devices on their own do not necessarily represent a safety improvement.

A specific issue was raised about there being situations where a residual current device cannot be retrospectively installed easily to give the desired level of protection. It was suggested any guidance should reflect these realities.

Question 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?

Table 33: Question 2.15 – Responses by type of respondent

Type of respondent	Yes	No	Don't know	Not answered	Total
Organisations:					
Energy-related private sector			1	4	5
Landlord	3	15	2	8	28
Letting agents etc.	1	9		2	12
Local Authority	16	3	3		22
Other	1			3	4
Professional body	7	3	1	15	26
Third sector	3			8	11
Total organisations	31	30	7	40	108
% of organisations answering	**46%**	**44%**	**10%**		**100%**
Individuals	30	41	8	11	90
% of individuals answering	**38%**	**52%**	**10%**		**100%**
All respondents	61	71	15	51	198
% of all respondents	31%	36%	8%	26%	**100%**
% of all those answering	**41%**	**48%**	**10%**		**100%**

Views were mixed at this question although the largest proportion of respondents, 48% of those answering the question, thought that asbestos surveys should not be carried out in private rented housing. Of the remaining respondents, 41% thought they should and 10% did not know. A majority of individual respondents thought they should not be carried out, as did the majority of landlord and letting agent respondents.

Although there was no specific opportunity to comment, a small number of comments were made at other questions. Comments included:

- Asbestos surveys should only be required to be carried out when significant repair and/or upgrade works are being carried out, at which point an appropriate expert contractor should be used.
- If the presence of asbestos is suspected, and required works would be likely to disturb the material, an assessment must be carried out. If there is no risk of disturbance an assessment should be unnecessary.
- If any new requirements are introduced, they should only apply to properties constructed before the year 2000.

Question 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?

Table 34: Question 2.16 – Responses by type of respondent

Type of respondent	Yes	No	Don't know	Not answered	Total
Organisations:					
Energy-related private sector	1			4	5
Landlord	9	9	1	9	28
Letting agents etc.	3	6	1	2	12
Local Authority	18	1	2	1	22
Other	1			3	4
Professional body	10	2	1	13	26
Third sector	2		1	8	11
Total organisations	44	18	6	40	108
% of organisations answering	**65%**	**26%**	**9%**		**100%**
Individuals	33	35	9	13	90
% of individuals answering	**43%**	**45%**	**12%**		**100%**
All respondents	77	53	15	53	198
% of all respondents	39%	27%	8%	27%	**100%**
% of all those answering	**53%**	**37%**	**10%**		**100%**

A small majority of respondents, 53% of those answering the question, thought 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. However, more individual respondents thought it should not be amended than that it should (45% and 43% respectively with 12% saying they did not know). The majority of letting agents also did not think the standard should be amended while landlords were evenly divided on this issue.

Question 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)?

Table 35: Question 2.17 – Responses by type of respondent

Type of respondent	Yes	No	Don't know	Not answered	Total
Organisations:					
Energy-related private sector	1			4	5
Landlord	8	11	1	8	28
Letting agents etc.	4	6		2	12
Local Authority	17	5			22
Other	1			3	4
Professional body	7	4		15	26
Third sector	3			8	11
Total organisations	41	26	1	40	108
% of organisations answering	**60%**	**38%**	**1%**		**100%**
Individuals	25	50	3	12	90
% of individuals answering	**32%**	**64%**	**4%**		**100%**
All respondents	66	76	4	52	198
% of all respondents	33%	38%	2%	26%	**100%**
% of all those answering	**45%**	**52%**	**3%**		**100%**

A small majority of respondents, 52% of those answering the question, thought that the repairing standard should not be amended to include capacity for a fridge/freezer in order to ensure people are able to store food (option 1). The majority of individual respondents and the majority of letting agents and landlords did not agree. However, the majority of all organisational respondents, 60% of those answering the question, did think the repairing standard should be amended.

Although there was no specific opportunity to comment, a comment was made at another question. A respondent who had agreed suggested that the amendment should only require there to be space for a freestanding fridge/freezer within 10 metres of the kitchen sink and that the space should be for an appliance 50cm wide x 85cm high.

Question 2.18 - Do you think that private landlords should be required to provide cookers, fridges and freezers (option 2)?

Table 36: Question 2.18 – Responses by type of respondent

Type of respondent	Yes	No	Don't know	Not answered	Total
Organisations:					
Energy-related private sector		1		4	5
Landlord		20		8	28
Letting agents etc.	2	8		2	12
Local Authority	5	17			22
Other			1	3	4
Professional body		13		13	26
Third sector	1	2		8	11
Total organisations	8	61	1	38	108
% of organisations answering	**11%**	**87%**	**1%**		**100%**
Individuals	6	70	3	11	90
% of individuals answering	**8%**	**89%**	**4%**		**100%**
All respondents	14	131	4	49	198
% of all respondents	7%	66%	2%	25%	**100%**
% of all those answering	**9%**	**88%**	**3%**		**100%**

A majority of respondents, 88% of those answering the question, did not think that private landlords should be required to provide cookers, fridges and freezers (option 2). There were no respondent groups in which the majority agreed with this option.

Although there was no specific opportunity to comment, a small number of comments were made at other questions. They included that the negative impact of introducing this requirement would be disproportionate to the need. Another respondent who did not think this option should be a requirement, commented that many tenants have their own appliances and do not want the landlord to provide them. It was also suggested that many landlords will spend as little as they can on appliances and the system should not deter tenants from choosing to invest more.

Question 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?

Table 37: Question 2.19 – Responses by type of respondent

Type of respondent	Yes	No	Don't know	Not answered	Total
Organisations:					
Energy-related private sector	1			4	5
Landlord	9	8	2	9	28
Letting agents etc.	7	3		2	12
Local Authority	22				22
Other	1			3	4
Professional body	11			15	26
Third sector	6			5	11
Total organisations	57	11	2	38	108
% of organisations answering	**81%**	**16%**	**3%**		**100%**
Individuals	41	28	9	12	90
% of individuals answering	**53%**	**36%**	**12%**		**100%**
All respondents	98	39	11	50	198
% of all respondents	49%	20%	6%	25%	**100%**
% of all those answering	**66%**	**26%**	**7%**		**100%**

A majority of respondents, 66% of those answering the question, thought 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. Organisational respondents were more likely to agree than individual respondents (81% and 53% respectively).

Although there was no specific opportunity to comment, a small number of comments were made at other questions. These comments included that, in the interest of consumer confidence, all systems should be certified safe, by installers accredited to install them.

However, a respondent who had agreed suggested the amendment should only apply for heating systems supplying heat to more than one room and not for stand-alone appliances such as an open fire or solid fuel stove.

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

Table 38: Question 2.20 – Responses by type of respondent

Type of respondent	Yes	No	Don't know	Not answered	Total
Organisations:					
Energy-related private sector		1		4	5
Landlord	3	14	2	9	28
Letting agents etc.	1	9		2	12
Local Authority	4	13	4	1	22
Other	1			3	4
Professional body	3	8	2	13	26
Third sector	1	2	1	7	11
Total organisations	13	47	9	39	108
% of organisations answering	**19%**	**68%**	**13%**		**100%**
Individuals	23	47	9	11	90
% of individuals answering	**29%**	**59%**	**11%**		**100%**
All respondents	36	94	18	50	198
% of all respondents	18%	47%	9%	25%	**100%**
% of all those answering	**24%**	**64%**	**12%**		**100%**

A majority of respondents, 64% of those answering the question, thought that the repairing standard should not be amended to include flooring materials to reduce sound transmitted to other homes. Organisational respondents were more likely to disagree than individual respondents (68% and 59% respectively).

Although there was no specific opportunity to comment, a small number of comments were made at other questions. They included that:

- The level of resources required for local authorities to regulate, monitor and enforce this provision would not be proportionate to the need.
- Difficulties were created when similar policies were adopted in Edinburgh.
- This requirement could be amended to address both sound and thermal improvements.

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

There were around 60 comments at Question 2.21. A majority of those providing comment had indicated at Question 2.20 that they did not think that the repairing standard should include flooring materials to reduce sound transmission to other homes. Specific points made by these respondents included:

- The repairing standard should relate to the safety of the home rather than minimum comfort levels.
- The proposals would lead to excessive regulation and could result in landlords removing properties from the sector. Use of flooring materials to reduce sound transmission should be encouraged through guidance and codes of practice but should not be mandatory.
- There are regulations and procedures in place to deal with sound transmission and noise complaints. Respondents referred to sound insulation standards included under Building Standards (Scotland) Regulations, legislation to deal with noise nuisance, and procedures for dealing with noise complaints.
- Noise levels will depend on building design and how individuals behave. Relative to these factors, measures around flooring material will have little impact.
- Soft floor coverings typically require more frequent replacement, leading to increased costs for landlords.
- Any requirement would be difficult for local authorities to enforce.

Several respondents suggested amendment or further clarification of the proposals. This included requests for further detail on the technical aspects, including what is considered as excessive noise and the extent of flexibility to allow for circumstances where floor coverings would have limited benefit. Some suggested that the requirement should only apply where there is evidence of excessive noise transmission and/or previous noise complaints, and that an exception should apply where neighbours provide a statement that they are satisfied with existing noise insulation. It was also suggested that the proposed amendment to the repairing standard provides an opportunity to also include thermal insulation to private rented properties, and that landlords should not be permitted to apply for any exemption where flooring materials would improve thermal insulation.

A number of those who agreed that the repairing standard should include flooring materials to reduce sound transmission, simply stated that no other measures should be considered to reduce sound transmission. However, other measures were suggested, including because of a suggested need to tackle the issue of noise in older and flatted properties. There was also reference to difficulties for enforcement agencies in dealing with noise complaints related to poor insulation.

Specific measures proposed were:

- A requirement for a minimum percentage of the floor area to be carpeted.
- Guidance for landlords and tenants on practical measures to reduce sound transmission.
- Landlords should be encouraged to consider improvements to reduce noise transmission when making other improvement works.
- Use of insulation grants to improve sound insulation.
- Installations of underfloor insulation and deafening material. Insulation of any wall mountings for audio-visual equipment, double glazing of windows and provision of door dampeners.
- Including clauses in tenancy agreements relating to noise transmission.
- Regulation related to keeping of animals.

Finally, it was suggested that to ensure equity, any requirements should apply to all tenures, including the owner-occupied sector.

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

There were around 55 comments at Question 2.22. Around half of those providing comment indicated that they did not think anything else should be added to the repairing standard. Further points raised included that the repairing standard should remain focused on its core aims and that it would be unfair to impose a higher standard on the PRS than applies to social housing.

There were a small number of suggestions for changes to the repairing standard, including:

- Replacing the requirement for landlords to have regard to building regulations and statutory guidance on provision for detecting fire and carbon monoxide, with a specific statement of requirements for landlords.
- Relaxing statutory guidance on smoke/heat detection to allow installation of interlinked detectors powered by sealed 10-year batteries.

There was also a range of suggestions for additions to the repairing standard, including:

- Including the minimum energy efficiency standard as part of the repairing standard, as set out in Part One of the consultation.
- Improved insulation standards for new-build properties.
- Provision of an Electrical Installation Condition Report or Gas Safety Certificate as mandatory under the repairing standard.
- Measures to address specific risks and elements of disrepair including:
    - Internal air quality, including adequate ventilation.

    - Control of condensation and mould where this is not as a result of penetrating dampness.
    - Provision of fire doors to the front entrances to individual flats within blocks.
    - Ensuring external cladding and insulation is fire resistant.
    - Mandatory legionella risk assessment.
    - Testing of smoke alarms.
    - Residual current devices for electrical equipment.
    - Radon testing.
    - Low sill heights to windows.
    - Areas of vulnerable glazing.
    - Blind cords.
    - Hazards in gardens including terracing, ponds, structures such as greenhouses.
    - Recording power meter types to log change from credit to pay as you go.
- Ensuring that furnished flats come equipped with white goods.

Other suggestions focused on delivery or enforcement and included:

- Subsidies for installation of improved materials to older properties.
- Better guidance on landlords' responsibilities, including common repairs responsibilities, and water supply responsibilities. Ensuring effective enforcement of regulations and standards. This included a suggestion that failure to comply is made a criminal offence.
- Provisions to hold tenants responsible for damage.
- Stronger terms in tenancy agreements to ensure prompt access to complete required works.

Extending the repairing standard

Question 2.23 - Do you think that agricultural tenancies, rented crofts and small landholdings should be subject to the repairing standard?

Table 39: Question 2.23 – Responses by type of respondent

Type of respondent	Yes	No	Don't know	Not answered	Total
Organisations:					
Energy-related private sector	1			4	5
Landlord		18	1	9	28
Letting agents etc.	3	7	1	1	12
Local Authority	17	2	3		22
Other				4	4
Professional body	6	2	1	17	26
Third sector	6			5	11
Total organisations	33	29	6	40	108
% of organisations answering	**49%**	**43%**	**9%**		**100%**
Individuals	26	37	17	10	90
% of individuals answering	**33%**	**46%**	**21%**		**100%**
All respondents	59	66	23	50	198
% of all respondents	30%	33%	12%	25%	**100%**
% of all those answering	**40%**	**45%**	**16%**		**100%**

Views were mixed at this question although the largest proportion of respondents, 45% of those answering the question, thought that agricultural tenancies, rented crofts and small landholdings should not be subject to the repairing standard. Of the remaining respondents, 40% thought they should and 16% did not know. Local authority, professional body and third sector respondents were the only groups in which the majority agreed.

Although there was no specific opportunity to comment, a small number of substantive comments were made at other questions. There were two very distinctive positions, very much in line with comments made at Question 1.1.

Those who had agreed suggested there is no justification for a double standard to apply, particularly if a lower standard applies to those properties that are most expensive to heat. A specific suggestion was that agricultural tenants should be made eligible to receive funding support from Home Energy Scotland.

Respondents who did not think agricultural tenancies, rented crofts and small landholdings should be subject to the repairing standard suggested that there are significant difficulties, both from a financial and legal perspective, in applying the Repairing Standard to these properties. These need to be considered carefully. In particular, it was suggested that residential properties which form part of the fixed equipment of an agricultural holding, a croft or a small land holding are covered by separate legislation and to require landlords and tenants to refer to two sets of legislation would be complex and unworkable.

Question 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?

Table 40: Question 2.24 – Responses by type of respondent

Type of respondent	Yes	No	Don't know	Not answered	Total
Organisations:					
Energy-related private sector	1			4	5
Landlord	9	8	2	9	28
Letting agents etc.	8	3		1	12
Local Authority	20	2			22
Other	1			3	4
Professional body	11	2		13	26
Third sector	6			5	11
Total organisations	56	15	2	35	108
% of organisations answering	**77%**	**21%**	**3%**		**100%**
Individuals	41	28	9	12	90
% of individuals answering	**53%**	**36%**	**12%**		**100%**
All respondents	97	43	11	47	198
% of all respondents	49%	22%	6%	24%	**100%**
% of all those answering	**64%**	**28%**	**7%**		**100%**

A majority of respondents, 64% of those answering the question, thought that the Scottish Government needs to clarify whether holiday lets (or certain types of holiday lets) should be subject to the repairing standard. Organisational respondents were more likely to agree than individual respondents (77% and 53% respectively).

Although there was no specific opportunity to comment, a small number of comments were made at other questions. These included that the current definition

of houses to which the repairing standard applies is sufficiently wide to include holiday lets but that, in any case, it should not apply to them.

An alternative perspective was that the repairing standard should apply to all holiday lets and that this would mean there is no incentive to change rental properties to holiday lets.

Timing, costs and enforcement

The Scottish Government thinks that the costs associated with the proposals will be relatively low, in comparison to on-going liabilities for repairs and maintenance, provided that sufficient lead in time is allowed. However, they think there will be some exceptions - for example, it could be costly for landlords of agricultural tenancies to bring them up to the existing repairing standard. They also consider that it may be appropriate to have different timescales for different elements, provided that this is not unduly complex.

Question 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?

Table 41: Question 2.25 – Responses by type of respondent

Type of respondent	Yes	No	Don't know	Not answered	Total
Organisations:					
Energy-related private sector	1			4	5
Landlord	17	1	1	9	28
Letting agents etc.	10			2	12
Local Authority	18	2	1	1	22
Other		1		3	4
Professional body	12	1		13	26
Third sector	2	1		8	11
Total organisations	60	6	2	40	108
% of organisations answering	**88%**	**9%**	**3%**		**100%**
Individuals	63	13	5	9	90
% of individuals answering	**78%**	**16%**	**6%**		**100%**
All respondents	123	19	7	49	198
% of all respondents	62%	10%	4%	25%	**100%**
% of all those answering	**83%**	**13%**	**5%**		**100%**

A majority of respondents, 83% of those answering the question, thought that there should be a lead-in time of at least 5 years for landlords to comply with any

changes to the repairing standard. Organisational respondents were more likely to agree than individual respondents (88% and 78% respectively).

Question 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.

There were around 85 comments at Question 2.26. A large majority of those - commenting had agreed with a lead-in time of at least 5 years for landlords to comply with any changes to the repairing standard at the previous question.

A number of respondents highlighted potential difficulties associated with different lead-in times. Some suggested that 5 years is in any case sufficient time for landlords to implement proposals, including for example ensuring finances are in place.

The most commonly raised difficulty was the potential for staged lead-in times to cause confusion for tenants and landlords. It was suggested that this confusion could also increase the risks of landlords inadvertently failing to comply with specific measures. This was seen as particularly likely given the extent of recent and forthcoming change within the PRS, including the Part One proposals with a two-stage lead in to EPC band E and band D. Linking implementation timescales with other forthcoming changes, including the introduction of the measures set out in Part One, was also suggested.

Specific difficulties for tenants which respondents associated with staged lead-in times were:

- Extended and on-going disruption associated with undertaking the required works.
- Delays to implementation will disadvantage tenants in poor quality accommodation and would appear to put the business interests of landlords ahead of tenants' access to a safe and good quality home.

Specific difficulties for landlords that respondents associated with staged lead-in times were:

- It will be more efficient and potentially more cost effective to implement all elements at one time, rather than returning to properties over a period of time. This could include providing flexibility to undertake works between tenancies to minimise disruption.
- The potential for properties to be removed from the sector if they are not upgraded promptly.

A number of respondents also suggested that staged lead-in times will provide challenges for the local authorities responsible for enforcement.

However, others favoured staged lead-in times and suggested that this would not lead to significant difficulties for tenants or landlords. Other comments included:

- Staged lead-in times would allow landlords to focus on the most significant measures in the short term, including safety critical measures.
- They would allow landlords to better manage cost implications over a period of time.
- Landlords and tenants have experience of new standards and requirements being introduced and should not have significant difficulty with staged lead-in times.
- Clear communication with landlords and tenants should mitigate against the potential for confusion associated with different lead-in times.

Question 2.27 - Do you think that the timetable for changes should be linked to wider government milestones on climate change?

Table 42: Question 2.27 – Responses by type of respondent

Type of respondent	Yes	No	Don't know	Not answered	Total
Organisations:					
Energy-related private sector	1			4	5
Landlord	3	6	8	11	28
Letting agents etc.	3	4	3	2	12
Local Authority	10	5	6	1	22
Other				4	4
Professional body	6	5	1	14	26
Third sector	4	1	1	5	11
Total organisations	27	21	19	41	108
% of organisations answering	**40%**	**31%**	**28%**		**100%**
Individuals	20	41	16	13	90
% of individuals answering	**26%**	**53%**	**21%**		**100%**
All respondents	47	62	35	54	198
% of all respondents	24%	31%	18%	27%	**100%**
% of all those answering	**33%**	**43%**	**24%**		**100%**

Views were mixed at this question although the largest proportion of respondents, 43% of those answering the question, thought that the timetable for changes should not be linked to wider government milestones on climate change. Of the remaining respondents, 33% thought they should and 24% did not know. The majority of

organisational respondents (40% of those answering the question), did think there should be a link although the majority of landlord and letting agent respondents did not.

Although there was no specific opportunity to comment, a small number of comments were made at other questions. Comments included:

- Changes in technologies, climate etc. may mean different decisions will be made 10 years from now.
- The timetable should also be linked to milestones related to the eradication of fuel poverty.

Question 2.28 - Are the current enforcement routes via the housing tribunal appropriate for the proposed new measures in the repairing standard?

Table 43: Question 2.28 – Responses by type of respondent

Type of respondent	Yes	No	Don't know	Not answered	Total
Organisations:					
Energy-related private sector			1	4	5
Landlord	10	1	7	10	28
Letting agents etc.	7	2	1	2	12
Local Authority	18	3	1		22
Other	1			3	4
Professional body	10		2	14	26
Third sector	2	1		8	11
Total organisations	48	7	12	41	108
% of organisations answering	**72%**	**10%**	**18%**		**100%**
Individuals	30	13	30	17	90
% of individuals answering	**41%**	**18%**	**41%**		**100%**
All respondents	78	20	42	58	198
% of all respondents	39%	10%	21%	29%	**100%**
% of all those answering	**56%**	**14%**	**30%**		**100%**

A majority of respondents, 56% of those answering the question, thought the current enforcement routes via the housing tribunal appropriate for the proposed new measures in the repairing standard. However, the views of individual respondents were more mixed with 41% agreeing, 18% disagreeing and 41% not knowing.

Although there was no specific opportunity to comment, a small number of comments were made at other questions. It was suggested that enforcement will be key and that the effectiveness of the Housing Tribunal should be kept under review and alternatives looked at if the system is not working.

Another respondent noted that they strongly believe there needs to be a clear route through which tenants can require landlords to bring properties up to standard, should they fail an element of the repairing standard. It was suggested that should include meaningful and clear legal rights backed up by a well-functioning dispute resolution system. The respondent felt that the current arrangements do not deliver these requirements and that necessary changes include making the repairing standard an implied term.

Question 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?

Table 44: Question 2.29 – Responses by type of respondent

Type of respondent	Yes	No	Don't know	Not answered	Total
Organisations:					
Energy-related private sector			1	4	5
Landlord	16	1	1	10	28
Letting agents etc.	8	1	1	2	12
Local Authority	18		3	1	22
Other	1			3	4
Professional body	14			12	26
Third sector	1		1	9	11
Total organisations	58	2	7	41	108
% of organisations answering	**87%**	**3%**	**10%**		**100%**
Individuals	59	9	8	14	90
% of individuals answering	**78%**	**12%**	**11%**		**100%**
All respondents	117	11	15	55	198
% of all respondents	59%	6%	8%	28%	**100%**
% of all those answering	**82%**	**8%**	**10%**		**100%**

A majority of respondents, 82% of those answering the question, thought 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. Organisational respondents were more likely to agree that individual respondents (87% and 78% respectively).

Although there was no specific opportunity to comment, a small number of comments were made at other questions.

Respondents who agreed made suggestions as to how the rules should be revised. They included that:

- Any exceptions should have a very restricted scope. In many cases objections on technical grounds may be without sufficient merit.
- There should be an exemption on communal works where the landlord is unable to get consent to proceed from all other owners unless the local authority is willing to exercise its powers to pay the missing shares for non-consenting owners.
- A cost-cap should be put in place that places a time-limited exception to ensure that properties requiring more work are not left vacant as a financial decision on behalf of the landlord. The cap should be lower for Band F and G properties (and later E properties) that will also have to undergo work to meet new energy efficiency minimum standards.

Question 2.30 - Do you have any other views on the measures proposed in relation to: (a) costs (b) timing (c) enforcement?

There were around 65 comments at Question 2.30, with respondents raising a range points relating to cost, timing and enforcement.

In relation to the cost implications of the proposed measures, respondents made the following points:

- Proposed measures have potentially significant cost implications for landlords. These could lead to a reduction in properties available for rent, and/or to increased rent levels. The impact of proposals is likely to be particularly significant for those in rural areas where costs are likely to be higher and rent levels are typically lower.
- The consultation under-estimates the likely cost of implementing proposed measures, and does not recognise the costs associated with other recent and forthcoming changes in the PRS.
- Financial assistance should be made available to landlords to support implementation of proposals, reflecting for example the value of potential health benefits associated with some measures.
- A planned approach to implementation will be important for landlords managing costs and should include clear information for landlords on available financial assistance.

In relation to the timing of proposed measures, respondents made the following points:

- Some discretion should be permitted in the timing of improvement works, including for example where planned works have to be delayed due to faults or issues arising.
- A simplified approach to lead-in times would be preferable, including alignment with target dates for other regulation such as energy efficiency proposals set out in the first part of the consultation.
- The proposed requirement for fixed heating systems will have a positive impact on some EPC ratings and should be introduced in advance of proposed energy efficiency requirements.
- The proposed timetable is ambitious for the range of proposals, and a longer lead-in time is required to enable landlords to plan for implementation – particularly for those with rural and agricultural properties.
- The proposed 5-year lead-in time should be shortened, particularly for urgent items such as residual current devices.
- The earliest date for the most urgent measures should be 2023.

In relation to enforcement of the proposed measures, respondents sometimes referred to the central role of local authorities. Comments included that consistency of enforcement across local authority areas will be important and that the proposals will have a potentially significant impact on resourcing requirements for enforcement agencies. This included reference to the introduction of the repairing standard and third-party referrals having already had an impact on local authority resources.

More “proactive” enforcement including random checks, and more enforcement of “rogue” landlords was seen as important. Other comments related to enforcement approaches and routes, and included:

- The FTT has a central role to play.
- Links should be made to landlord registration and the fit and proper person test.
- Consideration could be given to the role of letting agents in enforcing standards.
- There could be a third-party right of referral for local authorities.
- There could be an option to use rent penalty notices.
- It will be important to engage with landlords, including through the provision of information and advice.

A number of enforcement-related challenges were also identified. These included:

- The proposed changes to Private Water Supplies legislation may apply to private rented properties, which could effectively introduce two regulatory

regimes for the sector – the repairing standard should include reference to this.

- Ensuring compliance and dealing with non-compliance is likely to be a particular challenge in mixed tenure blocks.
- There is a need to deal with tenants' reluctance to report non-compliance, including where there are concerns about retaliatory eviction.
- The use of Council Tax records to determine tenancy change is likely to be unlawful, and account should be taken of this limitation on enforcement powers.

Assessing impact

Question 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.

Many of the comments at this question focused on the potential economic impacts and raised very similar issues to those made regarding the energy efficiency proposals at Question 1.31. Generally positive comments included that in the longer term the health and economic impacts of investing in improving the quality of private rented homes are likely to outweigh any short-term costs.

The most-frequently identified positive economic impact was that that the proposals could provide opportunities for a range of building and other trades who would be involved in delivering any improvements required. Specific comments included that there would be an increase in renewable heating, insulation and other related business activity; that the proposals could lead to job creation and retention; and that they could help stimulate the local supply chain and local businesses.

Other positive economic impacts identified included less fuel poverty.

In terms of potential negative impacts, the most frequently suggested were:

- Increased costs to landlords. It was suggested that the proposals will potentially have significant cost implications for some properties and landlords.
- Increased rental prices to offset additional costs or as a result of limited supply, particularly in rural areas. It was suggested that the proposals will put greatest pressure on landlords who currently charge the lowest rents and that monitoring of rent levels will be required.
- Loss of capacity in the PRS. Landlords will withdraw from the private rental market. Specific suggestions included that landlords with rural properties may be particularly likely to leave the market or that older landlords may be likely to disinvest.

Other less frequently-made comments included:

- If many properties come onto the market as a result of the proposals, house prices could be driven down.
- The types of works required could risk disturbance to tenants and some of the works may only be possible when a property is empty.
- The apparent suggestion that landlords providing white goods, fitting thermostatic mixers, installing carpets, etc. will “safeguard their investment” is questionable.
- The partial Business and Regulatory Impact Assessment is inadequate or inaccurate. Particular concerns included that there is little consideration of the relative impact on rural and urban housing or that costs will vary based on the size, structure and location of the property. It was also suggested that the costs set out fall far short of the likely sums involved.

There were diverging comments about whether the proposal could or should affect agricultural tenancies under the Agricultural Holdings (Scotland) Act 1991. One view was that all residential leases should be brought under the same repairing standard. It was suggested that to not do so could create problems with referrals to the FTT for breaches in the repairing standard. Associated suggestions were that guidance could be issued by the Land Court/Tenant Farming Commissioner that:

- Breaches of the repairing standard/minimum energy efficiency standard would be classed as “landlord in persistent breach” and would be accepted as a trigger of tenant right to buy.
- Improvements made to bring properties in line with the standards set out in the legislation should be discounted entirely from rent reviews.

An alternative perspective was that including agricultural tenancies without the law being changed to allow landlords to recover some costs will make tenancies which are currently only marginally viable, unviable. It was suggested that it is not reasonable to ask landlords to carry out upgrading work without being able to recover costs through higher rental charges.

Finally, there was a small number of comments around regulation and particularly about the possible impact of the proposals on local authorities. These included that:

- The impact of the proposals will fall disproportionately on decent landlords unless landlords who do not comply are pursued actively. It was suggested that if it local authorities are not properly resourced to fulfil their obligations then it will be unfair on landlords who are meeting their responsibilities.
- Further amendments to the Repairing Standard may increase the level of resources required to carry out property inspections.
- There will be costs to local authorities associated with training required.

Question 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.

Only 20 respondents made a comment at Question 2.32 and a small number of these comments simply stated that they anticipated no impact.

Otherwise, comments tended to divide into one of two positions. One viewpoint was that the proposals will have a positive impact on health and wellbeing and that raising the basic standard of repair will benefit all private tenants, including those with protected characteristics. Specific reference was made to benefiting older people and children.

The other perspective was that there could be a negative impact if landlords leave the sector or increase rent charges as a result of the changes. It was suggested that the PRS is already unaffordable for some and this has a knock-on effect of increasing pressure for social housing.

It was also suggested that better evidence is needed to support the statement in the Equalities Impact Assessment that “We do not consider that any groups with protected characteristics will be disproportionately affected by the proposed changes to the repairing standard”, and that careful consideration should be given to how enforcement is targeted and resourced. A specific equalities proofing exercise, carried out with relevant at-risk groups and their representatives was suggested.

Question 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 from groups or charities that work with young people.

Only 20 respondents made a comment at Question 2.33 and again a small number of these comments simply stated that they anticipated no impact.

As in relation to the Equality Impact Assessment, other comments suggested that the proposals will have a positive impact on health and wellbeing, including that of children or that children could be adversely affected if fewer properties are available or families are faced with higher rental payments. Specific points included:

- A potential decrease in private rented properties could mean increased waiting times for temporary accommodation and/or affordable housing for families with children.

- Children will benefit if improved standards mean families remain in the same property for longer.
- Many of the proposals will reduce risk of harm to children, for example the introduction of thermostatic mixer valves should reduce the risk of scalding. Improving food safety will help protect children.
- Warmer, safer homes could mean family income is re-directed toward healthier living options such as nutrition and exercise. Also, children may be less likely to develop health issues or suffer from a lack of concentration meaning that there are benefits to the Health and Education systems.

Annex 1 - Organisations responding to the consultation

Aberdalgie & Forteviot Farming Partnership
Aberdeen City Council
Aberdeenshire Council
Angus Council
Annandale Estates
Argyll & Bute Council
ARLA Propertymark
Ashmore and Strone Estate Ltd
Association for the Conservation of Energy(ACE)
Association of Scotland's Self-Caterers
Association of Local Authority Chief Housing Officers
Balbirnie Home Farms
Ballogie Estate Enterprises
Belvoir Lettings Dundee
BMF Group
Bowlts Chartered Surveyors
Brahan Farms Ltd
Brodies LLP
Buccleuch Estates Limited
Built Environment Forum Scotland
Calor Gas Ltd
Cambusmore Estate Trust
Cawdor Estate
Central Association of Agricultural Valuers (CAAV) Scottish Agricultural Arbiters and Valuers Association (SAAVA)
Changeworks
Chartered Institute of Housing Scotland
City of Edinburgh Council - Officer Response
Consumer Futures Unit, Citizens Advice Scotland
COSLA
Council of Mortgage Lenders/UK Finance
Crisis
Dalhousie Estates
Drummuir Estate
Dumfries and Galloway Council
Dundee City Council

Dunecht Estates
Dunninald Estate
Dupplin Estate
E.ON UK plc
East Ayrshire Council
East Ayrshire Council Trading Standards Service
East Lothian Council
East Renfrewshire Council
Edinburgh University Students' Association
Edradynate Limited
Elmhurst Energy
Energy Action Scotland
Energy Saving Trust
Existing Homes Alliance Scotland
Falkirk Council
Fife Council
Forbes Property
Galbraith
Glasgow City Council
Glass and Glazing Federation (GGF)
Glen Tanar Estate
Haddo Estate
Highlands & Islands Housing Associations Affordable Warmth Group
Historic Environment Scotland
Historic Houses Association Scotland
Invercauld Estate
Inverclyde Council
Letscotland
Local Energy Action Plan (LEAP)
Lothian Estates
Moray Estates Development Company Limited
National Insulation Association
National Landlords Association
Nationwide Building Society
NFU Scotland
North Ayrshire Council
North Lanarkshire Council

R H Gladstone and co
Renfrewshire Council
Royal Institution of Chartered Surveyors
Savills (UK) Limited
Savills on behalf of Aberdeen Endowments Trust
Scarf
Scottish & Northern Ireland Plumbing Employers' Federation (SNIPEF)
Scottish Association of Landlords & Council of Letting Agents
Scottish Borders Council
Scottish Federation of Housing Associations
Scottish Futures Trust
Scottish Land & Estates
Scottish Property Federation
Scottish Tourism Alliance
Scottish Traditional Building Forum
SELECT (Electrical Contractors Association of Scotland)
Shelter Scotland
Simply Let
SME Professional
Solar Trade Association Scotland
South Ayrshire Council
South Lanarkshire Council
Southesk Estates
Stonehouse Lettings
Stroma Certification Ltd
The Gannochy Trust
The James Gray Nicol Trust
The National Trust for Scotland
The Royal Environmental Health Institute of Scotland
The Royal Incorporation of Architects in Scotland
Thornton Estates
Torwoodlee & Buckholm Estates Co Ltd
Turcan Connell
V1 Surveys
West Lothian Council
WWF Scotland

social research

The views expressed in this report are those of the researcher and do not necessarily represent those of the Scottish Government or Scottish Ministers.

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