



## ***Action for Warm Homes***

**National Energy Action Northern Ireland's  
response to Department for Communities  
Private Rented Sector in Northern Ireland  
Proposals for Change**

**March 2017**

## About NEA

NEA is the national charity working to ensure affordable energy for disadvantaged consumers. NEA's strategic aims include influencing and increasing strategic action against fuel poverty; developing and progressing solutions to improve access to energy efficiency products, advice and fuel poverty related services in UK households and enhancing knowledge and understanding of energy efficiency and fuel poverty.

NEA seeks to meet these aims through a wide range of activities including policy analysis and development to inform our campaigning work, rational and constructive dialogue with decision-makers including regulatory and consumer protection bodies, relevant Government Departments, the energy industry, local and national government and develops practical initiatives to test and demonstrate the type of energy efficiency programmes required to deliver affordable warmth. NEA's educational and training initiatives have recently won the National Ashden Award which recognised the importance of improved knowledge and understanding of domestic energy efficiency among consumers and communities and their work to up skill the workforce across the energy industry.

## Overview of the response

The latest House Condition Survey showed that in 2011, 42% of all households in Northern Ireland were in fuel poverty. **49% of these households, the highest incidence, can be found within the Private Rented Sector (PRS).** This is one of the highest rates in Northern Europe and is significantly higher than England, Scotland and Wales.

The adverse health consequences of cold homes are well recognised and documented. The damage to physical and psychological health and welfare and the needless practical and financial pressure this places on the health service is the single most compelling issue in the fuel poverty debate.

The cold kills and in Northern Ireland last year (August 2014-July 2015), there were 870 excess winter deaths in Northern Ireland, the highest since 2009/10. The total number of deaths registered increased by 8%, winter deaths by 11% and non-winter deaths by 7%.

On average, 218 more deaths occurred each month between December 2014 and March 2015 than occurred in each of the remaining months of the year in question.

Poor housing standards are responsible for the impaired physical and psychological health of millions of UK households. The links between low indoor temperature and poor health have been well understood for many years. Cold homes increase the likelihood, repetition and the severity of respiratory and cardiovascular illnesses hence leading to increased excess winter death rates as outlined above. The links between dampness and mould growth on asthma and allergies are also well known and understood as well as the impact that a cold home has on poor mental health, low self-esteem, educational performance and social isolation.

Improved insulation and heating standards are seen as the most rational and sustainable means of mitigating heating price increases and ensuring affordable warmth.

The issues, outlined above, are without a doubt exacerbated in the PRS due to the size and scale of fuel poverty. Despite this, there continues to be a disappointing response from Government and a low penetration of energy efficiency interventions. This is not only due to historically low engagement with landlords, but also due to the policy development, including changes to the Department for Communities (DFC's) Affordable Warmth programme, which provides a split incentive whereby landlords are required to match fund the measures. The problem here being that landlords do not want, or cannot afford to pay for energy efficiency measures when tenants reap the warmth benefits, even though the measures do add value to the property. Equally the lack of enforcement of existing landlord regulations is also an impediment to improvements.

Also, it should be noted that after the previous two year fall in the price of oil, the price is steadily rising again; as evidenced by the Consumer Council since January 2016, when oil was at an all-time low, the price has increased by 60%.

There are still families struggling to fill the oil tank and it is therefore imperative that we do all we can to mitigate any upward pressures on bills.

We welcome the opportunity to respond to this review. Our comments and suggestions are hoped to be helpful and are made with the greatest respect. Where we have made no comment, it is simply due to the fact that we believe we do not have the expertise to do so and that others are best placed to make meaningful responses which can help guide the necessary actions.

## Summary points

- We are disappointed that progress in reviewing the fitness standard has been suspended and is unlikely to be implemented in time for the Private Rented Sector proposals
- We believe that the PRS should have a gold standard protection, especially in the light of the fact that increasing numbers of families and vulnerable people are, and are continuing, to rent privately.
- There should be clear lines of communication between Housing Benefit and the Private Rented Sector team within the Housing division around the ongoing issue of affordability
- There is a current lack of enforcement powers and consideration should be given to how landlord obligations are enforced and to imposing statutory time limits for dealing with requests for repairs.
- We endorse the introduction of legislation around Energy Performance Certificates (EPC) ratings and recommend that a working group is set up to explore the feasibility of how this will be taken forward.

## Supply

As outlined in the 2016 Programme for Government, the need for housing is outstripping the current availability and in the absence of new build in social housing, this will remain the case. There is a clear need for the initiatives suggested in the consultation document and we agree that any progress towards addressing the supply of quality housing can only be a good thing.

## Affordability

The proposals include legislation to limit rent increases to no more than once a year and the document provides a number of options. Figures show the average (median) rent per week for the private rented sector in Northern Ireland in 2014-15 was £94, £38 below the UK average (£132) and lower than England (£138), Scotland (£114) and Wales (£114).<sup>1</sup>

A high proportion of the private rented sector tenants are in receipt of housing benefit (currently at 55%). Low income is one of the main factors that lead to fuel poverty and it is therefore vital those on low incomes have adequate assistance for rent and rates. Whilst the Housing Benefit legislation and policy falls under the Welfare Reform framework, it should still be recognised that landlords are not required to adhere to the market value rent set out by Local Housing Allowance. Single room rent is now applicable for single claimants aged 35 or under which restricts them to HMOs. The Housing Benefit, Local Housing Allowance, and discretionary housing payments all fall within the remit of the Department for Communities; therefore it would seem practical for the Departments to collaborate around this issue. In real terms the amount awarded, based on local reference rent, does not always reflect that actually charged, therefore the tenant can be in a position of having to pay a shortfall to meet the housing costs thus diminishing their income.

This shortfall top up affects tenants' budgets around essential household expenses, in particular, food and fuel. The Department is in an unenviable position of balancing the tenants' needs with matching the realistic expectations from the landlords' necessary rental costs, and this will be an ongoing problem. The Welfare Mitigations are not long term and there will be problems when these funds end for private tenants. This will lead to those worse off having no option but to rent poorer standard properties, or face housing debt and

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<sup>1</sup> <https://www.communities-ni.gov.uk/sites/default/files/publications/communities/ni-housing-stats-15-16-full-copy.pdf>

fuel poverty. Shortfall is a significant issue and this will be an ongoing consequence of the Welfare Reform agenda.

## **Security of tenure**

### **Mandatory terms | Notice to quit | Fast track eviction**

We anticipate that the proposals for legislation around mandatory terms in a tenancy agreement will assist those tenants in relation to repairing obligations.

We believe that it is appropriate to extend the notice to quit period for those who have been living in the property for less than 5 years. At a minimum, we should harmonise the notice to quit timelines with the UK and Republic of Ireland.

We have no objection to the addition of fast track eviction on the understanding that there will still be safeguards in place to prevent unlawful evictions and a robust mediation mechanism.

## **Tenancy Management**

### **Training for landlords | Landlord advice | Tenant pack | Landlord registration | Regulatory framework for letting agents**

As outlined in the document, a number of landlords are accidental and as such could not expect to be aware of their roles and responsibilities, or that of tenants. In the light of the fact that the sector is on an upward growth trajectory, we commend the addition of the pilot landlord advice service delivered by Housing Rights, and we recommend that this is mainstreamed.

As referenced in the consultation, letting agents play a major part in the renting process and as such should be subject to the appropriate regulation to protect tenants. We are pleased to see this included in the proposals and agree with the ban on letting fees and the introduction of a regulatory framework.

## **Landlord Registration Regulations**

8.2% of PRS properties were deemed to be defective in 2011 as compared with 1.5% for social housing and 3.2% for owner occupiers. This means that the PRS continues to be the poorest relative and when market forces fail to address this; it is incumbent on Government to

intervene. The most effective way to do this is through regulation. It is also vital that the capital costs of the energy efficiency improvement are not passed through to the tenant and indeed other aspects of this review should consider how the Department can use regulation to enforce this. A fitness declaration at the point of registration is the best way to remove substandard dwellings; however, until the current fitness test is improved there will still be an unacceptably high level of energy inefficient homes being let.

### **Tenants' Pack**

A tenants pack would be highly useful and assist in preventing subsequent disputes at a later stage, however, the practicalities around distributing hard copies may need to be explored further. Due to ongoing changes to legislation, packs may require updating to remain accurate. An online version may be preferable with an alternative for those without access to the internet.

We believe that the amendment to the Landlord Registration Scheme is a good start but feel that more could be done with the registration to improve the Private Rented Sector (PRS). Other aspects could be factored into the scheme around quality of property, energy performance details which are detailed in the next section. We also note that there still remains a number of Landlords not registered, and it would be useful to hear from the Department about how they plan to tackle, target and ensure registration for those currently non-compliant.

### **Property Standards**

Smoke and carbon monoxide alarms | Energy performance certificates | Unfit properties subject to rent control

### **Safety measures**

The housing fitness standard needs a root and branch overhaul. We recommend that the GB Housing Health and Safety Rating System (HHSRS) is adopted in the first instance. Other jurisdictions have gone further such as Scotland, with mandatory checks on electrical appliances undertaken by landlords every five years. We believe that this standard should also be adopted in Northern Ireland. In 2013-14 nearly half of Northern Ireland's electrical fires were caused by products including dishwashers, cookers and fridge freezers. These appliances are in the main provided by landlords in the Private Rented Sector.

Campaigners for electrical safety tell us that just like gas safety regulations, electrical installations and appliances should be safety checked by a competent person every five years. We believe this seems prudent and should not put prohibitive costs onto landlords.

We would also call for an annual safety inspection of oil fired boilers, similar to that which is carried by Gas Safe for gas fired appliances in the rented sector.

### **Energy Performance Certificates**

Energy Efficiency in the private rented sector is addressed in this section, and the suggested options include imposing a mandatory EPC rating (still to be determined). The document notes that the legislation in England and Wales will prevent most F and G properties being made available for renting.

This proposal will be subject to a regulatory impact assessment to determine the number of properties below an E rating and what the cost would be to make the necessary improvements. It is therefore likely that further consultation will need to be carried out, including the criteria for exemptions from this requirement. We have already outlined in our previous response that funding has decreased for private tenants under the Affordable Warmth Scheme.

The Energy Performance certificate is an assessment tool based on a set of assumptions about a property. Most recently we have been made aware of circumstances where the EPC has grossly overestimated the energy performance of the households; assuming there was cavity wall insulation installed, when in fact there was not, one might assume that this should have been picked up by building control, but it seems that this is not the case. We therefore believe that EPCs can sometimes be misleading and we need to be assured that they are a robust means of measuring energy efficiency within a property.

We therefore recommend that the Department set up a working group with relevant stakeholders to understand how they can ensure that practices and processes are put in place to provide more accurate EPCs.

### **Unfit properties subject to rent control**

The house condition survey found a clear correlation between the private rented sector and disrepair and the age of the house and disrepair. The survey also found a linkage in houses occupied with low income householders having a higher rate of disrepair.

It seems iniquitous that anyone should be living in a property unfit for habitation. If however the proposed rent control mechanism is a useful tool to rectify or improve housing, it should of course be extended regardless of age of property. This change could have consequences for Councils and therefore the Department should establish mechanisms to ensure that this process is managed in a pragmatic manner.

### **Dispute Resolution**

It would seem prudent to find alternative routes to resolving disputes rather than proceeding directly to court.

### **Damp and mould growth**

Whilst not specifically addressed in this consultation, we feel that any future proposals should deal with the issues of damp and mould growth caused by condensation. A 2012<sup>2</sup> working paper 'The Necessities of Life in Northern Ireland' on poverty and social exclusion was published to establish public perceptions of what constitutes the basic necessities of life. The paper surveyed a sample of respondents and asked them to define items and activities which they deemed necessary. Results showed a damp free home and adequate warmth were the highest necessities at 92%.

Damp and mould growth affects many houses in Northern Ireland and it is difficult to obtain recent data on the estimated number of homes that are affected given that condensation alone does not constitute unfitness. The problem around condensation is further complicated due to the causes. Many factors contribute to condensation including inefficient heating and insulation or issues around the fabric of the dwelling for example ample ventilation or excess moisture. As a result many cases of condensation could be deemed to be behavioural without further recourse for the tenant. Coupled with this NEA has dealt with many householders who admit to switching off their heating due to affordability issues or indeed self-disconnecting. This can exacerbate the situation and leave the householder in a cycle of low income, living in a cold damp home as a result.

Under the current fitness legislation, the Environmental Health Departments are unable to serve any notice upon the landlord if the damp is determined as condensation. In the worst cases, the walls can be badly affected by mould growth causing the householders to continuously breathe harmful spores. NEA carried out two local based initiatives within two

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<sup>2</sup> [http://www.poverty.ac.uk/system/files/attachments/WP%20Analysis%20No.1%20-%20Kelly%20et%20al%20May2012\\_0.pdf](http://www.poverty.ac.uk/system/files/attachments/WP%20Analysis%20No.1%20-%20Kelly%20et%20al%20May2012_0.pdf)

areas of Belfast in 2014 and 2015. Both areas had high incidences of damp and mould growth and a number of houses required treatment and retrofit measures.

We are therefore disappointed that the progress of the Northern Ireland fitness standard has been suspended as fitness is one of the most significant issues within the private rented sector.

We recommend a more robust procedure for tenants to obtain advice and assistance around damp and condensation including a third party intermediary to determine the cause of condensation.

## **Conclusion**

Private tenancies currently make up 17% of the housing sector and the Northern Ireland House Condition Survey 2011 reports that 49% of householders in privately rented and others+housing were in fuel poverty. This is clearly a significant problem and one that can be mitigated with significant investment in energy efficiency. While income support measures and any downward pressure on energy prices will still play an important role in tackling fuel poverty, the results are temporary and a clear focus with housing should be on **improving energy efficiency** the cheapest unit of energy being the one the householder does not need to use!

We believe the statutory Affordable Warmth Scheme will not make inroads in tackling the problem due to the match funding issue, and we need data and information from the Department for Communities (DfC) to monitor this and understand the current uptake. If, as we suspect, the uptake is low, DfC should ascertain why and respond with an appropriate policy change. This will call for joined up working within DfC across the PRS and the Fuel Poverty team. We believe that there should be ongoing interdepartmental working to this end. While this may be a short term response there will still remain a broader issue with fuel poverty in the PRS with the need for a major strategic approach.

We believe that the energy efficiency minimum standards required in England and Wales should be adopted in Northern Ireland. The introduction of such a policy will also help to tackle fuel poverty by dealing with the most inefficient properties of low income households. This policy should also complement the existing fuel poverty programmes such as DfC's Affordable Warmth Scheme and the Utility Regulators Northern Ireland Sustainable Energy Programme.

In conclusion, energy efficiency interventions need to be upfront and central to any strategic response to improving housing and housing conditions making the Private Rented Sector fit for the 21<sup>st</sup> Century, and we look forward to working with the Department in any way to progress this.

**Response submitted on behalf of NEA NI by:**

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