The Property Energy Professionals Association (PEPA) is the representative body for the Government appointed Accreditation Schemes for Energy Assessors. All six Accreditation Schemes are members of PEPA.

The Non-Domestic Private Rented Sector Minimum Energy Efficiency Standards Consultation Response

Q1 Do you have any evidence which can improve the Government's understanding of energy use in the non-domestic building stock?

Response 1 – Whilst the EPC is an excellent indication of the energy performance potential of a building at a point in time, it is not an indication of actual energy use, so EPC data is not, on its own, providing information on energy use, i.e. operational performance.

Response 2 – DEC data, published on https://www.gov.uk/government/statistical-data-sets/live-tables-on-energy-performance-of-buildings-certificates#epcs-for-non-domestic-properties does provide information on energy use, but primarily for public sector buildings. More recently this data has been enhanced by the use of DECs for ESOS compliance by some private sector organisations.

Response 3 – Companies using an ISO 50001 Energy Management System and to a lesser extent an ISO 14001 Environmental Management System regularly report on energy performance improvement. This data is not currently compiled anywhere but could be.

Wider uptake of the use of these standards in the Government Estate may also facilitate better understanding.

According to data published annually by ISO there are and just over 1,000 ISO 5001 and 11,000 ISO 14001 certificates issued by UKAS accredited Certification Bodies in the UK.

Q2 It has now been over a year since the minimum energy efficiency standards for the non-domestic private rented sector were introduced. What have been the positives and areas for improvement of their introduction?

Response 1 – A positive is that many EPCs have been reviewed and improvements made where required. It should be noted however that some replacement EPCs have demonstrated an improvement not because of conscious action to improve energy efficiency, but because the new assessment has swept up marginal improvements made in the intervening period and, in some cases, more effort has been made by the building owner to provide details because of the increased perceived value of an accurate EPC rating.

Bearing this in mind, there is a clear case to aim as high as possible, making the EPC B trajectory the preferred option.

Q3 Do you agree that 2030 is the appropriate date to set the future trajectory? Does this allow a long enough lead time for landlords and businesses to plan effectively, as well as providing the energy efficiency market with medium to long term certainty of demand?

Response 1 – The answer to all these questions is yes. Some retail developments will have undergone 2 refurbishments, the ideal time to implement improvements, in this time. The only danger with such a long period is that it will only be the larger investors in rental property that will use the time sensibly and meet the deadlines comfortably. The rest will leave it to the last minute and then complain that they don't have enough time. The ESOS experience, both phases, provides experiential evidence of this principle.

Response 2 – With such a long lead time you would need early compliance incentives and not just carrots. For example, it may be appropriate to borrow from the Section 63 regime in Scotland. Until EPC B (or C) is achieved, it may be prudent to expect landlords to have some basic energy management information in the form of DECs available for their tenants to motivate better use of energy using equipment. This may motivate earlier upgrading to avoid having to do it, and it may even encourage monitoring of operational energy data on an ongoing basis when the benefits are realised. This would be any easy win.

Response 3 - Whatever the trajectory, and however many milestones are adopted, Landlords should be incentivised, maybe with stamp duty reductions, Council Tax reductions or a modification to the HMRC rules on capital allowances, to go early.

Q4 To what extent do you think an EPC B trajectory provides sufficient certainty of demand to encourage suppliers in the energy efficiency market to grow, scale and innovate?

Response 1 – The market it not waiting for this initiative, there is plenty of demand elsewhere already, e.g. new build and non-PRS sectors where refurbishment or extension work usually includes energy performance improvements. It is worth noting that most of this work in existing buildings qualifies as building work and must comply with the requirements of Approved Document ADL2B which means using energy efficient solutions where practicable and economically feasible. It is also worth noting that economically feasible in this situation is taken to mean satisfying a 15-year payback. The 7-year payback test is only used with low or zero carbon technologies. There are also plenty of professionals able to identify the best solution for a particular building situation.

Q5 What do you think are the opportunities and challenges of the Government's preferred 2030 EPC B trajectory?

Response 1 – The opportunity is straightforward; the benefits of this proposal encourage the otherwise left behind private rented sector to take advantage of the benefits of energy efficiency improvements as identified in the consultation document.

Response 2 – The challenges are many:

- Ensuring that buildings requiring an EPC have one, (EPBR compliance).
- Dealing with the UK rental practice of tenant fit-out. (I understand that the use of an agreement to lease is a way of dealing with this).
- Getting the right improvement option to take into a payback assessment.

- "Gaming" of the payback calculation. It will be easy to get a "fail" for the payback test. If my boiler/lighting/cooling solution is oversized it will increase the capital cost with no associated increase in saving, so it is possible to keep oversizing until the test is failed.

Response 3 - If exemptions required the involvement of an accredited energy assessor overseen by an approved body then government could have confidence that the "right improvement option" has been identified and minimise the chances of "gaming" the payback calculations.

Q6 We estimate that an EPC trajectory will only bring 42% of the non-domestic PRS stock into scope of the regulation. Are there any alternative approaches that could complement and EPC C trajectory that would guarantee the necessary action across the remaining stock to drive clean growth and deliver sufficient energy and carbon reductions?

Response 1 – In considering alternative approaches, it is worth remembering that achieving an optimum EPC rating whether B or C is only a starting point on the route to reducing carbon emissions. There is a strong history through the development of the thermal requirements of the Building Regulations (Part L) of insulation improvements failing to deliver the expected energy use reduction. It is now widely recognised that this is because people will always take the improved thermal comfort benefit, (warmer building, same fuel use), rather than the energy saving benefit, (same temperature building, less fuel use). This phenomenon will also occur with many of the EPC improvement projects, so although the EPC rating will improve, energy reduction will not necessarily be proportional. Added to this, other human behaviour also undermines a good EPC rating. The benefit of an efficient heating system is lost if people open window when the heating is on etc.

The conclusion to this train of thought is that whilst a good EPC rating is desirable it is only the starting point, and energy management principles need to be applied to deliver the potential carbon savings. Whilst this should be considered as the next step whether the EPC B or the EPC C trajectory is chosen, it would be beneficial to introduce the practice earlier.

So simultaneously carrot and stick, if EPC C is achieved, basic energy management practice should be adopted in the form of annual DECs and associated 7 yearly Advisory Reports. The use of DECs is discussed more comprehensively elsewhere in response to other questions but would encourage a reduction in energy costs (the carrot), but would incur some modest cost, (the stick).

Q7 Can you identify any issues regarding the current administration of the seven-year payback test that could be improved to support the goals that a tightened regulatory trajectory to 2030 aims to deliver?

Response 1 – The software tool used to produce most EPCs, iSBEM or its commercial derivatives are compliance tools not design tools, i.e. they will tell you which options give you the best EPC Rating, but not how to design it/size for optimum performance. Oversizing is a way of mitigating against passing the payback test. (See Q5 response 2).

Response 2 – Bearing in mind the difficulty in stopping "gaming", (See Q5 response 2), it might be worth considering using the same 15-year payback test applied by Approved Document ADL2B. The argument against objections to this is that if an organisation was doing the work in any other circumstance besides the MEES driver, the ADL2B test would be applied.

Response 3 – The whole 3 quotes idea is an over-simplification, possibly based on the domestic situation. In the non-domestic situation, you need to recognise that for larger buildings, particularly when innovative solutions are being considered, the first step is for design solutions to be considered. Until there is an agreed design there is nothing to quote against. A manufacturer/installer can only advise on the most energy efficient version of what they offer, which may not be the best solution for a given building.

Response 4 – If you are going to allow an exemption based on failing a 7-year payback test, you need to build in a periodic re-test. To illustrate this, consider the development of LED lighting. As a new product it was initially very expensive as manufacturers were recovering their development costs. Paybacks were typically over 10 years. Now, it has become so cheap that paybacks are often less than a year. So, an improvement that fails the test in 2021 might pass it in 2024 or 2027 etc.

Q8 Would a single backstop date in 2030 or phased milestones to 2030 be the more effective method for implementing the trajectory options? Does it depend on the trajectory option? If a single backstop were favoured by the Government, what type of financial and non-financial incentives could encourage landlords to install measures earlier than the 2030 deadline?

Response 1 – Although a single backstop makes a lot of sense, it is certainly most economic to do all improvement work at the same time, there are factors that mitigate against this. For example, an organisation deciding to go early and improving their building to EPC B in 2021 might then miss a lot of opportunities that develop through new techniques in the remaining 9 years. More importantly, there is a risk that a single 2030 deadline will lead to no action being taken until 2030 with all the delivery problems associated with that. If a single backstop was chosen, I think it would need to be tempered with the use of basic energy management drivers such as the DEC and Advisory report referred to in Q6 response 1. Specifically, from the implementation of the legislation, DECs and Ars would be required on all qualifying buildings until they have achieved the trajectory EPC. Once the benefits have been recognised, it is possible that organisation would continue to use DECs going forward. A future consultation could consider where to take energy management going forward.

Response 2 – phased milestones are a better option in terms of ensuring early engagement. Responsible landlord organisations may well undertake improvements beyond current trajectory requirements for the associated benefits. There is evidence of landlords aiming higher than EPC E already. The use of DECs could again be used to motivate reaching milestones early.

Response 3 – Other more direct ways of incentivising financial involve working with the many manufacturers that offer free installation in return for a share of the savings. (Similar to the Green Deal concept but without the red tape and widely available in the energy efficiency market). Tax incentives are also an option.

Q9 Are there any reasons why any of the current exemptions will be less effective under a tightened trajectory?

Response 1 – No, exemptions will be no less effective. On the whole question of exemption effectiveness, MEES is still relatively young, but there is a realistic expectation, particularly in the more professional non-domestic market, that tenant organisations will begin to see exempt properties as undesirable. It will become well known that they are likely to be more expensive to

run and probably less comfortable to work in. They are also more likely to be subject to the disruption of an improvement project if or when the exemption expires.

It is important to be aware that any de-valuation of a property due to poor marketability in the rental sector will cost the investor considerably more than the cost of improving the EPC rating regardless of the payback period based on bill reductions.

Q10 Are there any ways in which the market can overcome situations where the tenant has fit-out requirements and is willing to fund the improvement of the building at the start of the tenancy?

Response 1 – The Agreement for Lease is currently being used effectively in this situation.

Q11 Are there any unique challenges that the tightened trajectory will pose to SMEs or any individual sector?

Response 1 – There are no unique challenges. The free up-front manufacturer schemes referred to in Q9 response 3 are available to organisation of all sizes. Smaller business may actually have an advantage over larger organisations as typically occupying smaller buildings they will have simpler, more domestic style solutions available without the associated upfront design costs.

Q12 At this stage we welcome views on how the Government could most effectively improve enforcement of minimum energy efficiency standards under an EPC B or C trajectory?

Response 1 – The current enforcement is by Trading Standards Departments. There is concern that that this is not the most effective route. Trading Standards Departments have a lot of areas to cover, many around health and safety issues, so it is natural for them to prioritise these over energy efficiency matters. The Environment Agency have shown themselves to be very effective in enforcing the ESOS Regulations and they may be a more natural choice for MEES enforcement.

Response 2 – Response 1 assumes regulation as the solution to the carbon reduction problem, but a more effective strategy would be three pronged: Regulation, motivation, education. So, enforcement would also be improved if there were a financial motivation and if something like a best practice programme could be developed, using successful case studies, to educate property investors about the benefits of an energy performance improvement programme.

Q13 As illustrative examples, do the costs, bill savings and private payback periods that our modelling assumes for these building types approximate your experience?

Response 1 – This is difficult to say without knowing what is being replaced and how the building is used. It is important to understand that because the EPC rating is calculated on an assumed building occupancy pattern there is often little correlation between EPC rating improvement and bill reduction.

Q14 The table lists the costs and benefits we have identified as a result of the proposals. Are there any impacts relevant to your sector or organisation/business (e.g. SME, Civil society organisations) that are missing? If so, can you provide us with any supporting evidence.

Response 1 – The table covers the costs and benefits quite well but there is one serious benefit for landlords/investors that you are missing. The Non-domestic private rented sector is dominated by investors such as pension funds and the value of their assets is their primary consideration. MEES

regulations have made the EPC rating a factor in valuing the property as in the extreme case of a poor rating preventing letting, the asset value will collapse (a dis-benefit). Conversely a good rating offering a secure letting future will enhance the value of the asset.

Q15 We understand that there are natural void periods when leasing a property, due to finding a tenant and refurbishing a building. Is there any evidence to suggest the proposals are likely to increase void periods and by how long? Please provide as much detail as you can.

Response 1 – This is not likely to be a significant problem as most refurbishment work will actively, or passively, in simply complying with Building Regulation minimum requirements, involve energy performance improvements. The optimum time is when other work is being done.

Q16 Under both trajectory options, landlords of buildings below EPC B or C will be required to invest money up front to improve the energy efficiency of their building. If you are a landlord, what are the key factors that would determine the pass on cost to the tenant, and the length of time under which you would seek a return on your investment? We anticipate key factors could include investment cost, bill savings delivered by the measure, payback period of the measure, lifetime of the measure, maintenance cost and market forces. If you are not a landlord, we also welcome any evidence you could provide.

Response 1 – As most non-domestic private rented sector property is a straightforward investment vehicle it would be realistic to expect landlords to try to recover full costs as quickly as the market will bear. The cost benefits are mainly to the tenants after all. If there is any means of encouraging the take up of the "manufacturer/supplier upfront funding in return for a share of the saving" schemes, or contract energy management arrangements, this will reduce the need for landlords to pass on any cost. This would not be a re-introduction of a non-domestic Green Deal scheme.

Q17 Is there a possibility that under certain types of lease arrangements (for example green leases) the costs of improvements might be shared between landlords and tenants?

Response 1 – Yes this is also a possibility.