



House of Commons
Energy and Climate Change
Committee

Fuel poverty in the private rented and off-grid sectors

Oral and written evidence

Wednesday 11 January and
Tuesday 7 February 2012

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The Energy and Climate Change Committee

The Energy and Climate Change Committee is appointed by the House of Commons to examine the expenditure, administration, and policy of the Department of Energy and Climate Change and associated public bodies.

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Oral evidence

Taken before the Energy and Climate Change Committee on Wednesday 11 January 2012

Members present:

Mr Tim Yeo (Chair)

Dan Byles
Barry Gardiner
Ian Lavery
Dr Phillip Lee
Albert Owen

Christopher Pincher
John Robertson
Sir Robert Smith
Dr Alan Whitehead

Examination of Witnesses

Witnesses: **Mary Starks**, Office of Fair Trading, **James MacBeth**, Office of Fair Trading, **Mark Askew**, Federation of Petroleum Suppliers, **David Todd**, Federation of Petroleum Suppliers, **Paul Blacklock**, Calor Gas, and **Rob Shuttleworth**, UKLPG, gave evidence.

Q1 Chair: Good morning, and welcome. Thank you for coming in. You will appreciate we are trying to get through quite a lot in one evidence session this morning because of the pressure of other inquiries. Can I ask people to have their phones—that is probably me. Sorry about that. I will make it silent. Well, can I ask other people to have their phones off? It will require a certain amount of discipline on our part in asking questions but I am afraid on your part as well in answering. I appreciate that we have one panel with three separate groups of witnesses and the OFT, in particular, have asked to emphasise their independence from any commercial groupings. That is understood and normal practice for this Committee. So don't feel that all of you have to answer every single question unless you particularly want to or unless we have particularly asked you to. So, off we go.

The OFT's findings were that there was no evidence of competition problems in the heating oil market, but we get continued evidence—and certainly I and other Members get a lot of anecdotal evidence—that there are, and I think the OFT continues to get complaints. Why do you think that people perceive a lack of competition in this market?

James MacBeth: Some people perceive a lack of competition in this market. The consumer research we have done suggests that 70% of people understand that they have a wide choice of suppliers, so to put it in context I think we are talking about the remainder. There might be a number of reasons for that. I think principally it partly stems from the way in which people interpret price as being indicative of the underlying competition in the market and that high prices for product, per se, mean that there is a lack of competition, which as we have explained in our written submission is not necessarily the case. To some extent, it may also reflect the way in which a proliferation of brands owned by some suppliers gives the impression that there are fewer businesses than there actually are in the marketplace.

Q2 Chair: Do you think the market is sufficiently transparent?

James MacBeth: I think partly because of the work we have done it is. It is certainly the case that if you want to find out who operates a particular brand you should be able to do so.

Chair: Do you want to comment on this?

David Todd: I think one of the things since the OFT started looking at it last December is that the actual price of oil, and especially kerosene, has continued to rise. Therefore, even though the effect of the report has come in, people are seeing a continued increase in price and a lot of that is down to the base oil cost.

Q3 Chair: Did the study consider affordability?

Mary Starks: We certainly looked at the relationship between the off-grid population and fuel poverty and we did some mapping of that relationship. We would think of affordability as having three elements: the cost of fuel, the amount of fuel needed to heat a home adequately and the income of the home owner. We focused very much on the first one of those limbs and really only on a part of that limb. So we focused on whether there were competition or consumer problems leading to higher prices, but our conclusion was that much of the price is driven by the international oil price.

Q4 Chair: Is it perhaps the case that, even if there is a reasonable element of competition across the market generally, there are still some pockets of consumers who don't seem to be able to benefit from that?

Mary Starks: Still pockets of consumers who—

Chair: There may be a reasonable element of competition across this market generally but there may be some consumers, whether it is for geographic or other reasons, who don't seem to benefit from the fact that competition exists.

Mary Starks: It is certainly the case that there are some pockets where there is a small number of suppliers, but we also looked at barriers to entry in those areas and I think, even where the population density will only support a small number of suppliers, we were not too worried that there were such high barriers to entry that there was no competitive constraint on those suppliers.

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Q5 Chair: So you don't see particular groups who may be vulnerable for some reason or other being blocked from taking advantage of competition?

Mary Starks: I don't think we have identified any problems of that nature that are specific to the heating oil market. Consumers in remote areas face problems accessing a range of services but I don't think there is anything particular about the heating oil market that gave us that kind of concern.

Q6 Dr Lee: What percentage share of a market can a business have that is acceptable to the OFT?

Mary Starks: That is not an easy question to answer with a single figure.

Q7 Dr Lee: Yes, but it is the only question worth asking, isn't it, to be honest? If the eastern region was served by Tesco and Tesco alone do you think their prices would stay the same?

Mary Starks: We obviously look at market shares when we are doing merger control, and in the heating oil sector there have been small areas of the country in recent mergers where we have required divestments to keep competition at their pre-existing level.

Q8 Dr Lee: Yes, but at what point do you require that, and what proportion of the marketplace can one heating oil supplier have that is acceptable to the OFT?

Mary Starks: We don't have a strict limit on how much of the market one single supplier can have. Once they get above a certain threshold, it depends how they behave, so abuse of dominance restrictions—

Q9 Dr Lee: What is that threshold?

Mary Starks: It is not a hard number. It might be of the order of 40% but it depends on the specific characteristics of the industry.

Q10 Dr Lee: When you investigate other industries, not necessarily energy, do you apply exactly the same threshold in other industries?

Mary Starks: No, it depends very much on the nature of the industry and the barriers to entry.

Q11 Dr Lee: Who makes that decision?

Mary Starks: We make the decision on what the competitive constraints are, so not just considering market share but also considering—

Q12 Dr Lee: But in view of the fact that energy is one of the biggest single expenditures for a family, you tolerate a higher percentage share of the companies in those industries, but in areas where there is transparently more competition you get slightly jumpy if it goes above 25% or above 30%. I don't quite follow why you accept a greater monopoly in an area that is so important to the annual family budget.

Mary Starks: The first thing I would say is, overall, we don't think the share of the largest company in the sector is anything approaching 40%.

Q13 Dr Lee: But in regional terms it is, isn't it?

Mary Starks: In regional terms in places it is.

Dr Lee: So practically it is.

Mary Starks: But the position of competition law in that situation is that, if there is consolidation through mergers, then we seek to not allow that to result in a significant lessening of competition. We require divestments, so that is how merger control works. In other areas, companies that have a large market share but do not abuse that market share are within the law.

Q14 Dr Lee: Just one final question. What you are saying is there is a business opportunity for everybody to enter the market and compete with these people who have more than a 40% share. Is that what you are saying?

Mary Starks: Yes.

Q15 Albert Owen: You have acknowledged that there are small pockets where there is not the access to the market that others have. What size is that pocket and how much more are they paying on average? That is the crux of the matter really. When you look at the petrol forecourts, where there isn't the competition, those areas, particularly on the periphery areas or rural, are paying more for their petrol at the pump. Is that the same with heating oil and with LPG?

Mary Starks: I think the evidence is that 97% of areas had a reasonable choice of suppliers, so in terms of number of postcodes we are talking about quite a small number.

Q16 Albert Owen: By postcode? Okay. So 3% of the postcodes don't have—

Mary Starks: No, sorry, 3% of the off-grid population.

James MacBeth: No, it is 3% of the population but analysed using postcode data.

Mary Starks: Yes.

Q17 Albert Owen: What was the trend there? They were predominantly rural areas or periphery areas?

James MacBeth: Predominantly, yes.

Q18 Albert Owen: So they are getting a raw deal?

James MacBeth: There are two factors at work, aren't there: one is if there is less competition you might expect the price to be slightly higher. The other one is if there are higher costs of supplying that area. You would normally expect those two effects to overlap. It is very difficult to identify what proportion of any difference in price that you see can be attributed to the differences between the two, which is why we did an analysis of barriers.

Q19 Albert Owen: No, I understand that, but I am concerned about your figures. When you say it is as low as 3% that is not the anecdotal evidence that constituency MPs are receiving. Almost the whole of my area is in that 3%, and I am sure many other MPs will say the same, so I am surprised that you are saying that. You haven't answered the second part; how much more are they paying. Could you identify that?

James MacBeth: Not on a case-by-case basis.

Albert Owen: What are the 3% paying more than the 97% on average?

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James MacBeth: Some of them might not be paying much more at all, of course. It will vary from case to case, but we have no figure for how much more on average they are paying, if anything.

Q20 Albert Owen: Do you think it is worth having a detailed inquiry into that?

Mary Starks: One of the tests for whether a further detailed inquiry is merited is what you might do about it if you found that. As James has said, the main difficulty with this question is unpicking how much it is about higher supply costs and how much it is about a lack of competition. From the evidence we had, it was not clear there was a case for further work.

Q21 Sir Robert Smith: I had better declare my interest as a shareholder in Shell and also as honorary vice-president of Energy Action Scotland, a fuel poverty charity. On that last point, how detailed was your investigation of the pricing?

Mary Starks: The pricing?

Sir Robert Smith: Yes.

Mary Starks: The investigation we carried out was a market study, which is a first phase investigation under the Enterprise Act. The kind of data that we have access to is data that people give us. So we had quite good data on locations of off-grid households, largely by knowing where the grid was and where the households were from the Government data. We don't have powers to request companies to provide us with information, so we weren't able to write to every single oil company in the country and require them to tell us how much they were charging customers.

Q22 Sir Robert Smith: So you don't have an actual picture of the experience of customers on the ground?

Mary Starks: No, sorry, we do. We also commissioned an extensive bit of consumer research, which was a combination of quantitative and qualitative research in all four nations on the experiences of customers and their perception of prices and quality of service. So, yes, we do have that. We have it from the consumer's side; we just don't have a vast bank of price data.

Q23 Sir Robert Smith: One of the issues I have come across is consumers on top-up schemes being charged possibly more than a consumer that phones up and asks, "Can I have a delivery today?" Did you have any evidence as to how the market is operating for people who have locked themselves into top-up schemes, especially because this will more likely be vulnerable, elderly people worried about losing supply?

Mary Starks: Bits and pieces.

James MacBeth: Yes. We do have some evidence about how that market is operating. The work we are doing with the industry on how it might operate going forward is something that is still the subject of negotiations between us and them. I would rather not say any more on that at this point in time, for the reasons set out at the beginning of the meeting. We might be able to write to you with a little bit more detail on that topic, if that might help.

Q24 Sir Robert Smith: In your view, do you think consumers get sufficient protection under existing consumer law?

Mary Starks: Our view was that on the major problems that came through in the evidence there is existing protection available under existing consumer law.

Q25 Sir Robert Smith: How is that law enforced?

Mary Starks: It is enforced through a combination of local authority trading standards and the OFT.

Q26 Sir Robert Smith: Are the trading standards up to resources to deal with the issues?

Mary Starks: I would say that trading standards have taken cases on these issues in this sector.

Q27 Sir Robert Smith: Is the industry doing much to get a standard of compliance with consumer law?

Mark Askew: Speaking for the trade association, the FPS members, we have a code of conduct in place, which requires them to act lawfully, and we have taken steps since the OFT report started to make sure that all of our members understand what those responsibilities are. My feeling is that they do but, just to underline the fact, the OFT produce a very useful website explaining all of the consumer law and how it applies in this case, so that is something we are promulgating. There are still areas of uncertainty. For example, spot buying is covered by the distance selling regulations and that is very clear. Things like top-ups and contracts are not as clear, so we are trying to find out what the legal position is in order that we can come out with a standard way that the industry deals with the consumers, so everybody knows how it works.

Q28 Sir Robert Smith: A code of conduct that says you should obey the law is a fairly minimalist code of conduct. Surely a code of conduct is one that tries to take it beyond just—

Mark Askew: But the point is that if anyone in our membership is found not to be doing that then, as a trade association, we can take the action that we can take against them, expulsion or whatever we need to do. We take a very serious view of people behaving in an irresponsible way and we hope to go beyond that with the—

Q29 Sir Robert Smith: On-grid customers get protection against disconnection if they are having problems paying bills and so on. Is there any read-across, so that customers off the grid for their heating fuel should have some of the same protections?

James MacBeth: You are quite right to identify that there is something of an anomaly between the protections that are afforded to on-grid customers and those that are off-grid. I think the point I would make is there is not necessarily a similar supply arrangement that makes the distinction meaningful as you move into the off-grid space, perhaps a little bit more so for LPG customers who may be in long-term contracts. But, for example, for spot purchases of heating oil, if a customer has used several different suppliers for their last few deliveries, a question

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would arise as to on whom the obligation to continue to supply was placed. So you are quite right, but I think there are challenges in terms of thinking about how something similar could be applied in the off-grid arena.

Q30 Sir Robert Smith: Finally, what was the problem with the mis-selling of microgeneration?

James MacBeth: There are a number of issues in the microgeneration space, which we are doing work on at the moment and we are keeping under review. Typically on the mis-selling side it has been around the provision of information and the accuracy of that information. Again, we can write with more detail if you would like that.

Q31 Christopher Pincher: Can I pick up on a point that Mr Askew made? You said that the FPS can expel recidivist members. Have you ever done that?

Mark Askew: I have been there for eight months so my knowledge is limited, but I am not aware of any in recent history that have been taken out of the association. Of course, not everyone is in the association but, of those members that we have, I am not aware of anyone being thrown out for misbehaving.

Q32 Christopher Pincher: Have there been any threats to throw anybody out, if you haven't thrown anybody out?

Mark Askew: I would have to check. I have been there a short time.

Q33 Christopher Pincher: It is a rather toothless threat if you don't expel anybody at all, isn't it?

Mark Askew: It is but, nevertheless, the threat is there and if the council so thought that people were behaving—

Christopher Pincher: The Queen can veto Acts of Parliament but it hasn't been done since 1713, and it is not likely to be done, so it is not a real threat, is it?

Chair: Perhaps you could write to us and let us know how often members have been expelled, not just in the last eight months but maybe the last 10 years. It would give us an idea of what sanction this actually implies.

Mark Askew: Certainly.

Q34 Chair: Going back to Mr Owen's point about whether the OFT could look more closely at the disadvantaged 3%, who I am sure are heavily represented in rural areas. I was a bit puzzled by the answer saying it was difficult to disentangle the effects of a rising market price worldwide and the extra costs, presumably, of delivering to people in rural areas. I would have thought that is the kind of information that anyone running a business would keep very accurately indeed. They would want to know precisely what their extra costs are. If you have a scattered population in a seat like mine—villages with houses that are not next to each other—it must be mostly a matter of the extra time taken by the driver of the tanker, presumably. Isn't that a pretty easy bit of data to find out?

Mary Starks: One of the difficulties we had was disentangling the commercial and the domestic operations. You drive your tanker up and then you fill some commercial orders and some domestic orders, so the return on the cost of capital of the tanker is split between those two halves of the business. It was very difficult, with the information that we had, to come up with a reliable estimate.

Chair: I would have thought that was exactly the sort of information that a well run business would have at their fingertips, so if there is obfuscation taking place, saying "It is difficult to disentangle this", I think that is a pretty weak argument.

Mary Starks: Perhaps I can leave it to the businesses to respond as to whether they have that information at their fingertips.

Chair: We might cover that in a moment, but my concern was that the OFT are saying, "We don't really want to do this because we can't actually find the answer out".

Mary Starks: Sorry, your concern is that—

Chair: You said that one reason why you might not undertake this work was because you didn't know what action you would take. Then you said one of the reasons you don't know what action you can take is because you can't get at the cost figures. I am suggesting with a bit more pressure you could get the cost figures. We might have a go ourselves at getting them but I think the OFT should also have a go.

Mary Starks: I think the cost of supplying to remote areas is something we are intending to do some more work on across a range of different sectors, so it is something we are planning to come back to.

Q35 Chair: When will that work start?

James MacBeth: It has begun—

Mary Starks: It has begun.

James MacBeth:—to all intents and purposes.

Mary Starks: Yes, it is underway.

Q36 Chair: Underway now. When will it be finished in that case?

James MacBeth: May.

Chair: April?

James MacBeth: May.

Q37 Albert Owen: So just on that, there is a further inquiry that you are looking at the greater detail; is that right?

Sir Robert Smith: Is that across more than just this sector?

James MacBeth: Yes, it will be.

Q38 Albert Owen: Can I move on to recommending price regulation, in that the report found no grounds for recommending price regulation to the off-grid sector. Why is price regulation inappropriate in this context?

Mary Starks: The classic case for price regulation—the textbook case—is where you have a natural monopoly and there is no possibility of competition to constrain prices, which is the situation you have with the electricity and gas networks. That is simply not the situation in heating oil, so from that very first-principles basis that was—

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Q39 Albert Owen: What impact do you think price regulation would have on the supply industry if it was to be brought in? Forget the textbook thing; if it was brought in, what would the impact be?

Mary Starks: If you think about the costs of the industry being mostly the crude oil price, then on top of that a bit of refining margin and then the gross margin that the heating oil distribution industry itself makes, and out of that comes the cost of delivery, billing and the rest of it, so this is the profit margin. You can only price regulate down to cost, so there is not much to squeeze relative to the total price. Also you would have to think about the impact on the industry itself, because the other difference between the heating oil industry and the big utilities is that it is a much more fragmented industry. There are a lot of small businesses.

Q40 Albert Owen: We will come on to the profit margins in a minute. In written evidence from Calor Gas, customers experienced only a small rise in prices in the winter of 2010–2011. How is this possible with the international prices and what lessons can be learned from Calor Gas that can be applied to other fuels?

Mary Starks: Is that a question for me or for Calor Gas?

Albert Owen: Anyone.

Paul Blacklock: The way we operate—and this is off the back of a lot of history in the marketplace and a lot of consumer research—consumers are obviously concerned about the absolute level of price but the thing that really disturbs them is when there are many price changes. Particularly where they are trying to budget for a winter period, they hate that uncertainty. So what we do, as a business, is we buy a good proportion of our gas forward so that we are able to offer the most stable price possible to consumers. The December you are talking about, it was the highest cost of gas we had ever seen in sterling terms. Not only was the cost of gas high in dollar terms, because all gas is bought in dollars at some stage, but the exchange rate was against us. We are contracted to supply our customers at a price and we cannot move that price without giving them prior notice, and so our customers—certainly during that December period and through that winter period—were able to benefit from stable pricing.

Q41 Albert Owen: On oil and heating why is there a different model? Why did customers see a bigger peak in their price?

David Todd: I think there are two reasons: firstly, oil price moves in a different way than the gas price. In our business, our gas price moves monthly, our oil price moves daily. I think the second thing is most distributors in the oil distribution side are relatively small companies and, with the exception of two members of the FPS, private companies. Therefore, unlike a company the size of Calor that can have the resources to look forward and buy forward in international markets, most of the small oil distributors, including ourselves, just do not have that capability. So we pick up oil basically on a daily price and sell it on in that daily price.

Q42 Albert Owen: There is no forward buying by some of the larger companies?

David Todd: I can't talk about larger companies. We are certainly not a small company; we are not the largest, but we certainly don't buy forward. We don't have the experience to do that.

Q43 Albert Owen: Going back to the OFT, do you think there is lessons to be learned here? Do you think there could be a more level playing field between oil prices and gas prices and that forward pricing can work?

Mary Starks: I certainly understand the comments made about consumer preferences for stable pricing. I think it is a matter for the industry and customers to work out what the right supply arrangements are. There is nothing preventing an oil company in this sector getting big enough to buy forward if the increase in price that that would require was something its customers were willing to pay to secure a price for six months, but as yet we are not seeing that.

Q44 Albert Owen: Comparing the winter of 2010–11 with this winter, what we found, again anecdotally, is that many people have bought throughout the year and kept the price of oil down. That has been the case, hasn't it? Would you agree with that?

David Todd: Yes.

Q45 Albert Owen: So if you are buying on a day-to-day basis, why are you able to sell it cheaper in summer months?

David Todd: It is twofold. Firstly, the price of oil always rises towards the end of the year. I think kerosene was up about 17% between January 2010 to January 2011. There is a demand thing and there is also the ability to keep your vehicles busy, and it comes back to supply and demand to a degree. This winter there has not been a demand and prices will tend to be flatter than when there is a demand and the resources for the industry are stretched.

Q46 Albert Owen: So it is not all to do with the external oil pricing?

David Todd: The majority of it is to do with the external oil pricing, yes.

Q47 Albert Owen: One final question I have. What is the average profit margin of LPG and heating oil? You mentioned tight margins. Could you tell us what the margins are?

Mark Askew: For the oil industry the typical profit return on turnover is about 2%.

Q48 Albert Owen: All right, and LPG?

Paul Blacklock: From Calor's point of view our profit is 10%, but I think that is after tax.

Q49 Barry Gardiner: Morning, gentlemen, and I am saying "gentlemen" because I am only going to ask those four at the end—sorry, Ms Starks. Can I just ask you a very simple question to start? Do you believe that your customers are any less deserving of fair

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treatment than mains gas or electricity customers? Mr Shuttleworth?

Rob Shuttleworth: I think our customers are deserving of fair treatment and I believe the member companies try and endeavour to do that.

Barry Gardiner: Thank you. Mr Blacklock?

Paul Blacklock: Of course, yes.

Barry Gardiner: Mr Askew?

Mark Askew: I would agree.

Barry Gardiner: Mr Todd?

David Todd: We wouldn't stay in business if we didn't treat our customers fairly.

Q50 Barry Gardiner: That is excellent. So, why is it then, given that you believe that they deserve the same fair treatment that mains gas supply and electricity customers have, that you are under no obligation to provide assistance or protection from disconnection to low income or vulnerable customers, nor are you obliged to take into account ability to pay when recovering debts, which of course are some of the very serious protections that are in place for mains gas supply and electricity customers? Why don't you offer those same protections to your customers, given that you have just told this Committee you believe your customers are no less deserving?

Paul Blacklock: I don't know that there is any evidence that we don't provide some protections and consideration for vulnerable customers. One of the difficulties we have is there is obviously a very specific definition for "vulnerable", and one of the problems we have as a business is accessing that information so that we can determine whether these customers are vulnerable in the terms that you are using.

Q51 Barry Gardiner: But these are supply licence conditions for mains gas companies and electricity providers, aren't they? You don't have those. Are you telling me that you would be happy to take them on?

Paul Blacklock: No, what I am saying is that at the moment we work very sensitively in terms of handling customer debt.

Q52 Barry Gardiner: With respect, you are saying, "We try and do these things" but you are not saying that you have these obligations. You don't have a responsibility to do that. Your customers may get it or they may not get it. That is the point, isn't it? What I am asking you is: are you happy to take that on?

Paul Blacklock: Without knowing the full details of it—

Q53 Barry Gardiner: You know what the supply licence conditions are for the mains gas. You don't know what those are?

Paul Blacklock: No.

Q54 Barry Gardiner: Is that not something that they should be talking about with you, Ms Starks and Mr MacBeth, the OFT?

Mary Starks: In terms of the evidence that was presented to us about problems with things like disconnections, there was not a high volume of complaints of that nature and so—

Q55 Barry Gardiner: So why is it that the FPS have said that they are working with the OFT towards developing self-regulation on this? Are you aware of that?

Mary Starks: Yes, absolutely.

Q56 Barry Gardiner: But that self-regulation doesn't cover this area, does it? It only covers clarifying the existing law.

Mary Starks: The majority of complaints that we received related to a different set of issues, quite a lot around transparency of pricing and the conditions under which prices can move and that is the area—

Barry Gardiner: But it is not about those safeguards that I was talking about, is it?

Mary Starks: No, but then neither were the complaints, so that is why.

Q57 Barry Gardiner: Yes. So, Mr Askew and Mr Todd, why has the FPS refused to sign up to the CAB charter on this? Why did you say, as the excuse for not signing up to the CAB charter on this, that you were already in negotiations with the OFT about self-regulation here when you knew perfectly well that those discussions didn't go to the heart of what I have just been talking about and that you have just agreed—that you should be providing equal benefit to mains suppliers?

Mark Askew: The reason we didn't sign up to the CAB charter is because we were in the process of rewriting our own revised code of conduct or regulatory framework.

Q58 Barry Gardiner: That code of conduct doesn't relate to the issues, does it?

Mark Askew: It is an area that we are looking to address in it. Yes, absolutely it is. But the reasons—

Q59 Barry Gardiner: Let me be absolutely clear on this then. You are looking to take on the very sort of protections that we have just discussed, protections to provide assistance or protection from disconnection to low income or vulnerable consumers, and the obligation to take into account ability to pay when recovering debts. Those specific areas are ones that you are currently considering in looking at your revised code of practice?

Mark Askew: Yes, because in my experience all of the distributors with which I discuss this matter do this anyway. From my understanding, the amount of people who are not given oil when they need it is remarkably low. The industry tries very hard. It has always had a large vulnerable customer base being predominantly in rural areas. It is an area of society with which we are used to dealing and we try to deal with sensitively.

Q60 Barry Gardiner: It is surprising then that you were not willing to sign up to the CAB charter given that you say you were already doing it. Why was that?

Mark Askew: Because essentially we didn't want two bits of paper to try and work to. What we wanted to do was try to incorporate, where we could, the important points into a single document for our members. We

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can only do that through discussion and consultation with them.

Q61 Barry Gardiner: When will that be produced? When is that code of practice going to be coming in?

Mark Askew: We are working on it now, so I would think—

Barry Gardiner: What is your timescale?

Mark Askew: We hope to get a final version to our membership by the end of this year.

Q62 Barry Gardiner: That then will be self-regulation, and we have heard about the self-regulation before from Mr Pincher. Let me just ask you, if you don't manage to do that and you don't manage to get the agreement of your members, would you agree that it is about time that you are brought into line and forced to do that by Government intervention?

Mark Askew: If it was felt this was a real improvement for the end user and it was imposed on us, of course the industry would apply it. I would argue whether—

Barry Gardiner: Good. You just told me that you wanted to be as fair to your customers as other people were to theirs, so presumably that is a yes?

Mark Askew: If it becomes a licence or a register requirement of course we would apply it. The only question I would ask is whether the end user would really benefit from it, given that it is a cost that would have to be passed on to all of the customers.

Q63 Barry Gardiner: What is the cost?

Mark Askew: The cost of providing oil to people who can't pay for it and the cost of covering maybe additional groups for extended payment periods, and all the rest, would have to be taken on somewhere. As an industry, we don't have the profit margin to absorb that sort of additional cost.

Q64 Barry Gardiner: 10% profit is not good enough?

Mark Askew: It is not 10% profit. It is 10% retail profit. It is 2% profit.

Q65 Barry Gardiner: These are obligations that mains suppliers have. They already do that and they have to do it in the same way, don't they?

Mark Askew: I suspect they are not working on a 2% profit margin.

Q66 Barry Gardiner: Actually, I think we have heard in this Committee that they were; we have been told at various stages.

Mark Askew: It is an area we are looking at and it is an area we have great sympathy for.

Q67 Barry Gardiner: When you have completed your code, would you be so kind as to send a copy to the Committee, and then we can look at that and see if it needs strengthening further?

Mark Askew: Of course, yes. We are consulting with the CAB and other consumer groups during the drafting of it.

Rob Shuttleworth: I think we should say for LPG that our customers are dealt with under contract from their suppliers and it is a different situation from oil. We have already been subject to a Competition Commission investigation. I have spoken to all the major companies before this session, and companies make every effort to deal with their vulnerable customers and they have the same issues as Paul Blacklock from Calor here, so it is actually finding out who those vulnerable customers are. One of the areas we should try and explore fruitfully is to see how we can work more closely with local authorities to ensure that the vulnerable customers can be identified locally. But we have separate contracts for each of our customers and we haven't gone down the same route of a code of conduct nor were we asked by Citizens Advice to do that.

Q68 Barry Gardiner: I note that one of the proposals is that you would then refer them to local authorities, as long as that doesn't become a shunting off of those customers to somebody else's care. It is all very well to work together, as long as that doesn't just become a referral process that pushes them away.

Rob Shuttleworth: No, not at all. I don't know if the Committee are aware of the Scottish Government's protocol for vulnerable customers, which they produced for this winter. I believe FPS have been working with them as well to try and implement that. It places responsibilities on both suppliers and on statutory authorities to deal with known customers, and also how to address those who they don't know about who say they are and then how do you deal with them. We think that is worthy of widening beyond the Scottish system into England and Wales.

Paul Blacklock: We had a meeting with DECC about a month ago to raise those issues and see if we couldn't have that extended, certainly across England, and we have raised the same issues within the Welsh Assembly as well to try to get that intelligence flow happening so that we can all work and deal with these issues.

Q69 Sir Robert Smith: Can I just clarify that. When the data sharing came about for mains suppliers you weren't included in that?

Rob Shuttleworth: No.

Q70 Sir Robert Smith: So that is maybe something to pursue with DECC. On the OFT, on the role of Ofgem, you talk about different markets but of course Ofgem puts conditions on retailers of electricity and gas, which is an unregulated price where there is competition. So, okay, the distribution and the transmission are natural monopolies and have to have regulated price control, but in the sense that Ofgem deals with energy users is there not still a logic for Ofgem to be looking at all energy suppliers?

Mary Starks: Ofgem's price control activity is restricted to the network's business, so it doesn't directly control the prices that the retailers can charge. It does issue those retailers with licences, and there are conditions in the licence around the sorts of things that have just been discussed about disconnection, but there is no actual price control for retail customers.

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Q71 Sir Robert Smith: Given your argument that Ofgem should not have a role because this is the market operating—

Mary Starks: I think that is why I was arguing it should not have a role in classic price control, RPI minus X kind of price control. In terms of whether its remit gets extended to cover the sorts of things being talked about, our evidence base does not suggest that there is an overwhelming amount of detriment arising in this area, so I think the case for regulation would need to balance quite carefully the costs and the benefits of extending it.

Sir Robert Smith: It is not a complete no?

Mary Starks: It is not a complete no. I don't think it is a daft question; I just don't think that the evidence presented to us made a clear case for that extension.

Q72 John Robertson: Could I ask you about this Scottish slant on dealing with vulnerable people. Could you explain a wee bit further on how the link between the companies and local government works?

Rob Shuttleworth: Yes. They have produced a protocol; it is a flowchart. I can send you a copy. I am sure they would be happy for me to do so, but you could speak directly to them. It identifies citizens known to the statutory authorities who might be vulnerable, customers of suppliers who are already known to be vulnerable through past experience, and then those who at a moment of shortage say they are vulnerable and in urgent need. I believe it was developed during the summer following last winter's issues, to make sure that those vulnerable customers can be addressed as a priority and sympathetically by the supply companies. It is a flowchart involving discourse between the various authorities to make sure that there is an action at the bottom of it.

Q73 John Robertson: At the end of the day somebody has to take ownership. Who takes the ownership?

Rob Shuttleworth: It is run by the Scottish—they have resilience forums around the country. There are eight of them, strategic co-ordinating groups, and they take responsibility for the operation in each of their areas, but it does identify at the bottom of the flowchart to say that will be a supplier responsibility or a local authority statutory authority responsibility.

Q74 John Robertson: How often is it used?

Rob Shuttleworth: I don't know how often it has been used this winter. It was developed for this winter and it has been a pretty mild winter so far.

David Todd: As Robert said, the flowchart has been developed to identify the three different areas of vulnerable people. The information is there. It hasn't been put into practice to this degree yet, from the point of view that it has just recently been published. The one I have in front of me is dated November 2011 and it is not yet a finished document from that point of view. The majority of oil distributors in the UK work very much on a regional basis and, with one or two notable exceptions, there are no national oil distributors. Therefore, in general they tend to be relatively small companies working in a local area, which is totally different from the large energy

suppliers. Therefore, they have a far better knowledge of who is likely to be vulnerable in their own customer base because of the years of history of trading with people. But there is always the instance where people are vulnerable but would be the last to actually tell their oil supplier, or whoever, that they are vulnerable. Through this framework it is hoped that this group of people, who are probably the suffering silent, are brought in via the local authorities or the strategic groupings in Scotland.

Q75 John Robertson: My problem with that is the ownership at the end of the day and who helps the vulnerable person. We don't have any evidence otherwise to show that it works or doesn't work. The ownership then is questionable as to who has it. Therefore the person—and this happens in a lot of other areas—goes to somebody, asks for help and they say, "Oh it's not my problem, it's somebody else's problem", and the somebody else says the same thing, and this person is getting taken back and forwards with nothing happening, which strikes me as being most advantageous to the companies and not the person. How does it work in the rest of the UK?

Paul Blacklock: There is nothing equivalent in the rest of the UK.

Q76 John Robertson: So a vulnerable person is highlighted to a company. What do they do about it, or do they highlight the person?

Paul Blacklock: I think it is worth going back to explaining why this initiative came about. In December 2010 we had gas, we had drivers, we had vehicles; we didn't have roads. That was the simple truth, but we had people that were claiming they were vulnerable and it was then a case that there was clearly no structure in terms of trying to help, work with local authorities to direct snowploughs, gritting crews, whatever, but also to get some verification that all this work was going to be done to help somebody that was in real need. The protocol we are talking about has been established to deal with that, but this—

Q77 John Robertson: Hang on a sec, are you telling me that this vulnerable person, whether it has been proven or not, doesn't get any help because nobody can prove there is no backup?

Paul Blacklock: No. It is a case of if we were in a situation—especially that December—where we had to make choices in terms of deliveries, we wanted to make sure that where we were prioritising we were prioritising for the right reasons.

Q78 John Robertson: You wanted somebody to tell you?

Paul Blacklock: To help, yes. We wanted someone—

John Robertson: In other words, you wanted somebody else to have the ownership and you are quite happy to do the work?

Paul Blacklock: No, this was about intelligence.

Chair: John, we need one more group of questions.

John Robertson: Sorry, I am not being very disciplined, Chairman.

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Q79 Ian Lavery: I think most of the questions I was looking to ask have basically been covered. But I would like to ask how do the companies actually engage with the consumers to help try and keep the costs down, and if there is anything more that could be done?

Paul Blacklock: There are two strands of work that we have done. We have done one big piece of work, which we do ourselves, where we actively support our customers. We have been looking at how much energy our customers have been using for heat over the past 10 years. I think it is interesting to see that the average customer is using 18% less heat now than they were 10 years ago. This is coming about from a mixture of better equipment, better insulation and probably with the higher energy prices people are more careful in terms of their use of energy, and we are certainly seeing a significant decline in our volumes. We have looked at natural gas as well and I think you will see that trend happening across the piece.

One of the things that we became aware of about three years ago was that there was a dearth of anything happening in this off-grid area, in terms of trying to help rural consumers in terms of energy efficiency. When you looked at schemes like CERT and CESP they bypassed off-grid rural areas almost completely. With CERT, the economies of scale were possibly not necessarily there for the big six companies to actively go into these areas and try to get work done. In the case of CESP, the rules of the CESP scheme make it almost impossible for projects to qualify under CESP in off-grid areas. So we established an alliance between ourselves, National Energy Action, and Action with Communities in Rural England because we wanted to get much more inside the problem to try and understand it in more depth.

We are almost at the end of the second year and the thing we are finding is that a lot of consumers have not been approached or addressed properly in terms of communication campaigns. If you look at simple things, like people changing electricity supplier, a lot of people in rural areas have never changed their electricity supplier because, whereas in London you are probably sick and tired of people knocking on your door and asking whether or not you would like to change, that has never happened in rural areas. So we have been finding a reasonable number of people who have never changed supplier.

We are also going through a number of village audits at the moment, where we take a whole village and we do a mixture of detailed energy audit assessments for six houses that are typical of the village. We then do a walk through the village to try and identify measures, because we want to take these away to a CERT or CESP provider for them to get these measures done. We worked through the rural community council because they are seen as a trusted independent. They issued questionnaires to everyone in the village and got them to fill out some detailed information in terms of income, what type of heating system they had, what benefits they were on and all the rest of it. Some of the early findings are that over 50% of the people responding fall into what are the priority and super priority groups under CERT and CESP and no one has ever been near them.

So we believe there is certainly more to be done and we are continuing to work with the likes of National Energy Action. We are working with Energy Action Scotland. There we are working in terms of housing associations, and that is where we have funded housing associations to do some audits. They have come up with a range of measures that need doing, but they can't qualify under CESP because the CESP rules don't allow. With the submissions that we are going to make for the Green Deal, we are making it absolutely clear that, obviously with the Green Deal and ECO coming along, it is critical that the design of those schemes is a bit more intelligent, in that they don't unwittingly exclude rural areas in terms of the help they can get.

Q80 Ian Lavery: I am not sure if that actually answered the question. It didn't address the question at all. I will ask another one. There seems to be a reluctance from the oil companies to co-operate with a lot of community groups, community groups in villages like you mention for example. In Humshaugh in Northumberland, not far from where I live—although not in my constituency—they have set up a community ventures company, whereby on a Monday morning they were phoning 10 oil suppliers asking them what the price was at that point in time and then they were highlighting that to the villagers, which was very helpful. It ranged from 50 pence per litre to 65 pence per litre. There was a reluctance then from the oil suppliers to respond to that. After a short while, only two suppliers out of 10 were prepared to give them any details whatsoever that would have helped these people. Why would there be a reluctance from the oil suppliers to give information that would help vulnerable people and would help the costs of the oil?

Mark Askew: David is an operator and he may be able to give you an operator's perspective. I think that there is a feeling in the industry that buying groups, which is the sort of thing you are talking about, are a bit of a mixed blessing for both the industry and the end users. An oil-buying group will have to benefit the company and the end user for it to work, and in many cases this just is not possible. The companies don't get—

Q81 Chair: Why does it have to benefit the company as well as the customers?

Mark Askew: Essentially, if people are buying oil in bulk, which is what a buying group does, then there will be a price reduction because most companies offer a reduction on larger volumes. This is okay. But, for example, if that buying group is widely dispersed geographically then the savings in costs for just the transport is nil, so the actual savings the buying group can make are quite small. If a buying group is six people in a cul-de-sac, say, then that is more advantageous to the oil distributor because he can send his truck to one place—

Q82 Ian Lavery: Who is it more advantageous to, the customer or the company?

Mark Askew: Both. If the company can save money on its transport cost, then the cost of the delivered oil

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is lower. If the company is saving no money on its transport costs, then they can't share that saving.

Q83 Ian Lavery: That is not the regular case, though, is it?

Mark Askew: Sorry?

Ian Lavery: It is not the case in the normal run of things. If you have a cul-de-sac of six people, it is not normally the case that that oil will then be cheaper because there are six customers there where the other ones might be widespread?

Mark Askew: Generally it would be.

Q84 Ian Lavery: You mentioned that these new buying groups are a mixed blessing. The one in Humshaugh has 70 members now and it was set up in November 2011. One member of the buying group used the price comparison, which I mentioned before, to have a look at how much he would have saved on his last delivery and it would have been more than £100. So to say it is a mixed blessing is strange, to say the least.

Mark Askew: There are savings to be made in buying groups, there is no doubt about that, and some of our members actively support them and some don't. But there is this assumption, I think, that if people join a buying group they can save loads of money and in many cases they can't. In some cases they can. It depends very particularly on the buying group and the supplier and lots of other factors, but a buying group will work best where both parties will derive some benefit from it, clearly.

Q85 Ian Lavery: Sorry to dwell on this point. Why is there a reluctance from oil companies to supply price comparisons, for example on a Monday morning, in one location? Why is there that reluctance?

Mark Askew: I don't know. Most of the distributors that I speak to have people phone up all the time and ask what the price is.

Q86 Ian Lavery: But a buying group like a consumer group, rather than individuals. They will deal with individuals but they might not deal with somebody who was trying to get a comparison for the whole of the village. That is the difference.

Mark Askew: It is probably because they don't feel that there is sufficient advantage in them supplying a group.

Q87 Chair: What they feel is their profits might be reduced by an element of greater buying power.

Mark Askew: No, not necessarily. It is because the margins they operate on are very tight and so they need to be very careful about how they—

Q88 Chair: Well, we will dispense with the handkerchief. The fact is here we have a market, which probably doesn't have perfect competition in some areas. Buying groups are slightly redressing the balance of power in favour of the consumer away from the supplier.

Mark Askew: That presupposes suppliers are making money hand over fist, and they aren't. As the OFT has said, the actual profit on the retail margin is very small and there is not a great deal that can be done about that with a lot of companies who are buying on the day they are distributing.

Barry Gardiner: It is not forcing people out of the market, though, because we have heard there is no problem with competition.

Q89 Albert Owen: One brief point that Mr Blacklock made, and I was very interested in, was about community surveys and what customers want in rural areas. The feedback that I get from my constituents in the rural areas is that they want gas mains and they want that choice. I know that is a difficult one for all of you to answer, but is that coming up in your surveys? I believe that more should be done to extend the gas mains.

Paul Blacklock: We wouldn't exist, or the vast majority of our business wouldn't exist, if the gas main was universal. There is probably only one country in Europe where you do have almost universality.

Q90 Albert Owen: But you do acknowledge that people are raising it?

Paul Blacklock: Oh no, customers want it, but essentially the gas mains expansion stopped with the privatisation of the gas industry. Before that you had a Government-owned utility whose investment strategy was they were almost investing for their grandchildren and there was a social aspect in terms of expanding, but that has disappeared.

Chair: I think we are going to have to end it there. Thank you very much for coming in. It has been very illuminating from our point of view and we are very grateful for your time.

Examination of Witnesses

Witnesses: **Lauren Langton**, Co-ordinator, Allen Valleys Oil Buying Co-operative, and **Mike Murray**, Co-ordinator, North Tyne Fuel Oil Buying Group, gave evidence.

Q91 Chair: Good morning, thank you very much for coming in. We appreciate you coming in at short notice. Mr Murray, I gather you have come back from your holiday early for this purpose so we are very grateful for that. As you know, we are severely time limited. We have 20 minutes for your session. We are a few minutes late but we will preserve the 20 minutes.

You have heard the previous evidence. Can you tell me, is it your impression that a buying group should exist to help companies as well as customers?

Mike Murray: We are a mixed blessing. We don't exist to help the supply companies. We exist to help people in remote, very sparsely populated rural areas where the oil companies have made a lot of money over the last decades by charging inordinately high prices.

Q92 Chair: So the motive for setting up the buying group was simply to try and redress that balance, to get a better deal for your customers?

Mike Murray: Absolutely, in a village of 200 people.

Chair: I think that was our impression as well.

Mike Murray: I have given the gentleman my card and I am happy to discuss buying groups with him.

Q93 Chair: Could you tell us what reaction you have had from the companies when you do this? Have you encountered some obstacles?

Mike Murray: We started off by trying to deal with the company we had bought from as individuals. They were reluctant to deal with us because we were only three or four people. We then dealt for, I guess, two years with a company that is now part of the big Irish conglomerate. For the last 15 months we have dealt with an independently based company and they are very happy to deal with us. From their quotes over 15 months, they seem to be keen to keep our business because the groups have expanded. We are now several groups in Northumberland and we can place orders for 50,000 litres a month in the heating season. If you are an oil supply company, you would like to be able to supply a regular volume from September to April, and they can. They have told us that they are happy to deal with us because, in a sense, we reduce the administration for them. We alert our members to the orders, we collate the orders and we give a single order to the delivery company, which will then contact the individual companies, take payment and arrange delivery.

Q94 Chair: So from that point of view there is a benefit to the supplier?

Mike Murray: Absolutely. One particular company has had our business for 15 months. We see from their quotes that they are keen to keep that business. They have taken new customers on at the expense of their competitors.

Q95 Chair: Have you been able to analyse what savings you have achieved for your members,

compared with what would have been if you had gone on under the old system?

Mike Murray: We see a range of quotes. Since September last year we have seen a range of quotes for heating oil, and the difference between the high quote and the low quote can be as much as 5 pence per litre. We know that the people who pay the most are those who pay for 500 litres of heating oil at a time. We think anyone buying 500 litres as a member of a group will pay up to 10 pence a litre less than if they buy themselves. I can't give you hard figures, but that is way it looks from the quotations we have had for several years.

Q96 Chair: Has there been any difficulty in getting information from the oil companies in order to be able to compare prices?

Mike Murray: We have not had any difficulty getting prices. I know what has happened in Humshaugh and I know why some of the oil companies have declined to supply a price to the price comparison site. That was because they never received any orders from it. Once a month we ask five or six companies for a quote for heating oil, red diesel and white diesel and we have a price quote the next day.

Lauren Langton: Can I just say that I started ordering for my group in September. When I rang round the different companies it was very clear that they were not interested in dealing with me. To begin with, I asked for a price as an individual, "Can you give me a price for 500 litres of kerosene? Okay, thank you. Now, if I was ordering a group order and I was going to order 15,000 litres can you give me a price?" Some of them were very, "There is no difference. We could knock 0.02 p off or something like that" and I found this incredible. It got a little bit better because I became a bit more confident at being quite blunt. But it became apparent very quickly that we only had a few real competitors, and that has stayed the same. Although I conducted the exercise this week on Monday, and on the morning I wanted to place the order two oil suppliers rang me for the first time saying, "Please can we quote for your order? We'd be very pleased to quote for your order". I had delight in telling one particular lady that she had been quoting for my order since September and it didn't seem to make any difference.

Q97 Dr Lee: I wandered into your village shop, which I think is why you are here today, because I was up in Hexham and I noticed this sign and what you had done. So thank you for coming down. At what size did you find that they started listening? How big did you have to become? In my own constituency in Berkshire, I have an area that has heating oil usage. Hopefully they are listening to this and they will say, "Well, how big do you have to be to be able to do what you've done, in terms of volume?"

Mike Murray: We started off as three families buying together, not in Humshaugh but further west at the far end of the North Tyne valley. We were three families and I guess we bought 2,000 litres. Now in our group

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we are 75 members. We can order up to 50,000 litres a month. I guess that if an oil supply company thinks it can sell a tanker of fuel it is happy. What the oil supply companies want to do is have a tanker leave the depot in the morning full and come back in the evening empty. They don't want to carry fuel back to the depot. If they can plan their delivery route so that they can load a tanker, drop off to 10, 15 people and go back empty, then they are happy, then they will do business with us.

Dr Lee: So how much is that? Sorry I don't know.

Mike Murray: It depends.

Lauren Langton: It is surprising—the tankers are quite small. Some are only 10,000 litres and it is a full tanker. So quite quickly it can become advantageous for the oil suppliers. I did put in my evidence that quote that one of the oil suppliers gave me. This was in the early days and I don't think they would get away with it if they said it to me now, but they did specifically say, "The trouble with dealing with an oil group is that it ties up a tanker all day"—*[Laughter.]* I am sorry, that is quoted word-for-word what that person said to me.

Mike Murray: I have had exactly the same. The—

Lauren Langton: Then—sorry, Mike—I didn't have an answer, I was so astounded. But it was very early on in my experience and I just took the comment. If someone had said that to me this week I would have delighted in giving them a proper answer. Isn't that ridiculous? Who do they think they are dealing with? I know I am an ordinary member of the public, but that is a ridiculous comment to make.

Mike Murray: The tankers vary in size from 9,500 to 10,000 up to 16,000 or 18,000. They are not the sort of tankers that deliver fuel to urban supermarkets. You get four-wheel tankers, you get six-wheel tankers, but generally in our area you don't get anything carrying more than 16,000 or 18,000 litres.

Q98 Chair: Sorry to ask such a basic question. When you see a tanker full of petrol at a petrol station, how many litres would that carry?

Mike Murray: You don't. You don't see a tanker full of petrol. The tankers normally have three or four compartments and a tanker can load with different fuels. In our area the tankers that we most usually see are 16,000 to 18,000 litres.

Q99 Chair: But what is the capacity? We have all been behind some damn great tanker in a country lane. How many litres would that have on it, the biggest ones?

Mike Murray: The biggest ones you see on a country lane are 16,000 to 18,000 litres.

Chair: Okay, on a motorway; sorry, I should have said?

Mike Murray: On a motorway, double or treble, I guess.

Chair: It sounds an incredibly small amount to me. When I consider you put about 60 litres in an ordinary car every time you fill it up.

Mike Murray: Yes.

Q100 Sir Robert Smith: I just wondered in your experience whether you had come across any evidence

that there are local monopolies where vulnerable customers would have difficulty getting a good quote?

Mike Murray: In our area several supply companies belong to an Irish conglomerate. We haven't bought from them for the past 15 months because they haven't been competitive on price. We know of people who have hard choices, who can either buy heating oil at a particular time in the winter or have a summer holiday. I know of a family that wanted to join the North Tyne group and they couldn't because they couldn't afford to order 500 litres. In a sense, we are the wrong people to tell you about vulnerable customers. The people who know most about vulnerable customers are likely to be, in our case, the West Northumberland Citizens Advice Bureau. They have done a different type of work to what we do. They have looked at fuel poverty. We look at fuel supply: they look at fuel poverty.

Lauren Langton: The National Energy Action are looking at it as well.

Mike Murray: I am a member of a new leader group in the North of England, in West Northumberland and the Northumberland Uplands, and we are likely to look at fuel poverty. But it is tough for us because we will have to try to work out who the players are, who we work with, what we can do with them.

Q101 Chair: Nevertheless, if the effect of your work is to reduce the price that many customers are paying, that potentially helps fuel poverty.

Lauren Langton: Yes, absolutely.

Mike Murray: Potentially.

Lauren Langton: It does, and the pattern with the ordering in my group—I have about 130 members now in the Allen Valleys' one—what I have seen is that people will order around that bottom minimum level of 500 litres, because they know they are still getting a good price, and so they can spread their orders out, maybe two or three. I have many old people in my group so it does definitely help.

Q102 Sir Robert Smith: Do you have any view on the debate about whether there is a role for Ofgem as it looks at the consumer from electricity and mains gas?

Lauren Langton: What, you mean whether the oil supplies—

Sir Robert Smith: Yes, the supply market would—

Lauren Langton: Yes, definitely. I can't see why there isn't an equivalent of Ofgem or Ofwat. They all have one. Why doesn't the oil have one? I can't believe some of the comments earlier around things like the code of practice. Personally, I am struggling with the concept of taking a year to revamp a code of practice. Maybe I could help? I am looking for a job. I was made redundant earlier on in the year. But I find that a little bit odd.

Q103 Albert Owen: What do you think of the OFT report and its outcomes? We have just heard evidence from those in the audience there behind, but what do you think of the OFT's report and the comments that they made today?

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Mike Murray: I thought I would like to tap them on the shoulder and say they would be welcome to come to our area. I haven't read any of their work, I will be perfectly frank. I haven't read their reports. We are volunteers, we run oil groups—

Q104 Albert Owen: But do you interpret their conclusions to be that everything is hunky dory in rural areas?

Lauren Langton: It does appear to sound like that, the fact that there is this top-up scheme business. Again, in my evidence that is why I have said those are the people that are paying the most. The people that have this signal thing and it tells one oil company that they are running low on oil, so when the oil company's supply is ready they will deliver with no telling of the price, nothing like that. Those people are paying a lot more. There is a 13 pence to 14 pence difference to what you can get with us. That is ridiculous. This business about paying a direct debit to that company, in the old days with electric you used to build up lots of credit with them and then they used to send you a cheque back when you asked for it. I think it is slightly better nowadays. With the oil direct debit scheme, I had one person saying that they tried to increase their direct debit because they knew they were hundreds of pounds in debt and the company didn't do it, kept forgetting to do it, something kept happening. So when they wanted to join my group they said, "I'm going to have to pay several hundred pounds off that before I can start your group". That is ridiculous, isn't it? Surely that has to be monitored.

Q105 Albert Owen: Mr Murray, you said that you were responsible for supply and coming together. You said the CAB is looking at fuel poverty. Do you think the local authority should have a role in looking at this because social deprivation, vulnerability, is something that they have responsibility for? Have you worked with them? Have you had any dialogue with them?

Mike Murray: I have worked a little bit with CAB in West Northumberland. I am in touch with Community Action Northumberland. Our local ward councillor knows perfectly well what we are doing. All our parish councils know what we are doing. I haven't spoken to Northumberland County Council.

Q106 Albert Owen: My question is: should Government, at whatever level, be doing more to help the people that you are now helping?

Mike Murray: You could make a good case.

Albert Owen: No, I am asking you.

Lauren Langton: It seems to me a bit odd that you have people in the community like us that are volunteering to do this sort of thing. When I started doing this exercise earlier on last year, to see whether it was worthwhile doing it in Allendale, I rang CAB, I rang Community Action Northumberland, and everyone was like, "Oh that sounds a good idea. Let us know how it goes". I was way ahead of the—

Dan Byles: Can I just say if Government became involved and was doing what you are doing they wouldn't do as good a job.

Mike Murray: Sorry.

Dan Byles: I think if Government was involved doing what you are doing you would probably find it would take twice as long, be twice as bureaucratic and they wouldn't do as good a job.

Lauren Langton: Yes, but they surely must have muscle somewhere. I just think for me to be doing it as a volunteer—

Q107 Albert Owen: My point is, you have no confidence in the OFT's reports so do you think that Government should take some direct action?

Lauren Langton: Yes, I do.

Q108 Sir Robert Smith: What sort of time commitment is it to make this work?

Mike Murray: I guess I can spend two or three days a month doing it.

Lauren Langton: It was the order day on Monday and I spent basically all day doing it. You are dealing with new members coming on board, registering them, making phone calls to the people who don't have email, which I am very keen to do because obviously that is probably a very big vulnerable group, dealing with the oil suppliers, waiting for prices to come back. It is quite a big thing, and that is doing it without any publicity.

Q109 Sir Robert Smith: Do you have any logistical problems? If someone says they want an order, is there an obligation on them to make sure that when the delivery turns up they don't ring up and say, "I've changed my mind" or anything?

Lauren Langton: I haven't had any experience of people changing their mind. It is such a serious thing for people. I have had no issues with people paying, with that sort of thing. It is a huge thing having heating oil.

Mike Murray: I haven't had any problems like that of the type you refer to. What you have to remember is that the oil company is paid in advance. It may be paid a day or two, it may be paid a week ahead of delivery. So they have every incentive to deliver and if you have paid for your oil you have every incentive to accept the delivery.

Q110 Ian Lavery: Just a very brief point and I think you do a fantastic job, by the way. In terms of price comparisons, you mentioned 15 months ago and I forget the literage you mentioned. What price per litre do you think you saved over the last 15 months compared to what people were paying before that? Just a ballpark figure.

Mike Murray: I think on any order group members can save 10 pence a litre on heating oil by buying in the group. We order heating oil for village halls and we order heating oil for small business. We order red diesel for farmers. So these are also savings in—

Ian Lavery: So it is significant?

Lauren Langton: It is significant, yes.

Mike Murray: I can save myself 10 pence a litre buying as a member of the group I co-ordinate.

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Chair: It is a very refreshing set of answers from you both and very interesting. I am sure this is something that we might try and give wider visibility to, because it seems to me that a lot of parts of the country might

benefit from exactly what you have been doing. So thank you very much for coming in. Sorry we have no more time, but you will have made a difference to our conclusions I am sure.

Examination of Witnesses

Witnesses: **Ron Campbell**, National Energy Action (NEA), and **William Baker**, Consumer Focus, gave evidence.

Q111 Chair: Good morning, you will have heard the previous evidence and will be aware we are under a severe time constraint. We have about 20 minutes or so to try and get through some issues with you. Thank you for coming in.

Could I begin by asking what you think of the OFT finding that there are no competition problems in this market?

William Baker: Consumer Focus did also look into off-grid markets. Obviously our expertise has been very much in gas and electricity, and we commissioned some consultants to investigate some of the issues to get an independent opinion. In terms of price regulation, we didn't think there was a strong case—and certainly this was the view of the research we Commissioned. Prices did pretty closely reflect wholesale oil prices. Certainly there is potential through things like buying co-operatives, and I certainly agree a lot more could be done to promote those. But in terms of formal price regulation we agreed with OFT on that score.

We did feel perhaps there could have been some stronger recommendations around vulnerable consumers and the sort of self-regulatory type of initiatives that have been discussed. Obviously we work quite closely with CAB, and the CAB charter was something that we felt would have been very worthwhile supporting. Our understanding is that certainly some suppliers have very good practices and do quite a lot to support their consumers, but there is no guarantee that that is uniform across the industry. So that is what we would have liked to have seen strengthened a bit.

I have a couple of other comments, though. We shouldn't see it entirely as a negative comparison. There are some aspects of the oil and LPG industries that are more positive than gas and electricity. For instance, with gas and electricity you almost pay a penalty if you are a loyal consumer—if you don't know what the best prices are for those who switch, and so on. So I think there is more of a culture of looking after loyal oil and LPG consumers and there isn't the same variation in prices according to how you pay. We see these massive differences in prices for gas and electricity if you are able to pay by online and direct debit. You don't see that quite substantial variation within LPG and oil.

Q112 Sir Robert Smith: Can you clarify that because there is a perception that if you are in a top-up scheme you are taken for granted a bit and pay quite a high price for your oil, as opposed to someone who phones up and says, "What is the price today and can I have a delivery?"

William Baker: Yes, our understanding was a lot of people did compare. There is one thing I forgot to mention as well. In Northern Ireland there is quite a different sort of market, and there were some pretty awful stories about people who are dependent on having to buy litre cans and so on, and I think that was one part of the market. A lot of the OFT study probably focused on the mainland.

Ron Campbell: In fairness, the OFT didn't conclude that there wasn't a problem with the market. They did conclude on the other hand that it wasn't the market structure itself that was the problem. They did also insist that targeted assistance to the most vulnerable households is more appropriate than measures addressed at the markets more widely, as the markets appear to be working well in many respects. So obviously they are cognisant of the fact that there is a big problem of fuel poverty and financial disadvantage, and all sorts of associated areas of disadvantage among rural consumers.

This was something that Mr Gardiner touched on, the subject of consumer protection, if I could just say a few words about that. We have regulation in the mains gas and electricity industries because of the perfectly correct perception that services that are essential for the health and welfare of individuals are too important to be left entirely to markets. That is our general take on any such service—that, where possible, there should be some form of regulatory oversight. We do concur with the OFT conclusion that this kind of fragmented, disparate and rather complicated market may not be amenable to regulation in the same way, but nevertheless we would wish to see some form of intervention and oversight in these markets too. Again, this probably comes back to the point that Mr Gardiner was making about providing similar levels of service to those required under licence conditions for mains gas and electricity suppliers. I think they probably should be subject to a much more stringent code of practice and it should be a code of practice that all the suppliers are signed up to, and that is agreed and endorsed by a range of agencies, including Consumer Focus, the Office of Fair Trading and Citizens Advice.

Q113 Sir Robert Smith: Ofgem is expert in the consumer experience of buying energy in the vast bulk of the country. Could there not be a role for them in ensuring that the consumers' interests are properly protected when it comes to off-grid supplies of heating fuel? Not as a regulator, because they don't regulate the price of electricity and gas, apart from in the distribution and transmission side, but the generation

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and the retail is all unregulated price, and the consumer protection and the role—

Ron Campbell: Yes. I think the experience and advice and guidance of Ofgem would be invaluable. I am sure you are right—there is no reason why they shouldn't, except they are so closely associated with the electricity and gas industries. Ofgem have revised and refined all sorts of areas of customer protection over the years and they could certainly have a role. As you say it wouldn't be regulatory, per se.

Q114 Barry Gardiner: Fuel Poverty Action Group have suggested that it makes little sense to only have 25% of the resources of the Energy Company Obligation devoted to the alleviation of fuel poverty and to have 75% of it, in their words, “used to subsidise expensive measures on behalf of able to pay households”. Do you agree with that?

Ron Campbell: No. NEA is in total disagreement with that. We are in agreement with the Fuel Poverty Advisory Group and any number of likeminded or campaigning organisations that, for a number of reasons, this is unacceptable. We were regularly reassured during the year preceding the Energy Act, that the resources available for fuel poverty programmes would be significantly increased as a consequence of the Energy Company Obligation. Despite these assurances it transpires that available resources will be much, much lower than has been the case in recent years—

Q115 Barry Gardiner: Sorry, Mr Campbell, I don't wish to interrupt you. But when I actually asked you, “Do you agree with that?”, I was asking whether you agree with Fuel Poverty Advisory Group, and you said “No”, but from what you are now saying it seems that you were disagreeing with the actual position of ECO. Can I just ask you to clarify?

Ron Campbell: To clarify, NEA takes the view that 100% of ECO resources should be expended on fuel poverty programmes.

Barry Gardiner: That is a very clear clarification. Thank you.

William Baker: Consumer Focus has the same position as well.

Q116 Barry Gardiner: Exactly the same position. Let me ask you this then, you think the affordable warmth target should be increased. Do you accept that by focusing ECO entirely on tackling fuel poverty that that would have an impact on the carbon reduction target, which is the other part of the Energy Company Obligation here?

William Baker: The basic problem is that too much is being asked of ECO. It is being seen as a programme to tackle fuel poverty and to replace Warm Front. It is also very much expected to kick start the solid wall insulation industry, and it is also expected to underpin Green Deal finance for measures that don't meet the golden rule. I don't think it is sufficient to meet all of those three policy objectives. Having said that, we do have ideas about how you could release more resources. For instance, if the carbon part of ECO is entirely devoted to lower income consumers—if it were to focus, say, on social housing

through area-based type approaches and, for instance, low income private sector housing in adjacent areas, which would make it amenable for that area-based approach, given that social housing is in a very good position to achieve economies of scale to gear up to install solid wall insulation on a large scale—I think you would still see quite significant carbon savings. There are plenty of fuel-poor houses—I think it is about 1.9 million in England alone who live in solid wall homes—which would enable it to achieve both fuel poverty and carbon objectives.

We should always remember that Warm Front, when it was at its height, was estimated to be the third most effective programme at reducing carbon, even though that wasn't its primary objective.

Q117 Barry Gardiner: Thank you, Mr Baker. That is very helpful. I just want to try and restate it for absolute clarity. You are suggesting to the Committee that, as presently configured, the Energy Company Obligation is not doing enough to address fuel poverty, but that it could do considerably more to address fuel poverty and also, at the same time, go a very long way to meeting the carbon reduction commitments if it focused on such things as solid wall installation in those 1.9 million homes that are fuel poor and poorly insulated, and therefore achieve a much better outcome for the fuel poor but also observe the carbon reduction commitments. Is that correct?

William Baker: Yes.

Barry Gardiner: Thank you very much.

Ron Campbell: Could I just make a point on that?

Barry Gardiner: Please, I was just going to ask you if you wanted to add something.

Ron Campbell: Yes. We are not absolutely certain about the ratio, the 3:1 ratio, the split between affordable warmth and the carbon reduction aspiration. We are entirely committed to the view that all of these resources should be expended on fuel poverty. This is a view that is endorsed by a wide range of organisations, including the Committee on Energy and Climate Change, which recognises in the first instance that, for better or worse, levies on energy bills are regressive, that fuel-poor households would be paying for extremely expensive measures from which they didn't benefit, and that a rational and coherent way of galvanising the solid wall insulation market, which is a big element of this part of ECO, would be to carry out such works on behalf of fuel-poor households.

Barry Gardiner: Thank you very much, that is extremely helpful.

Q118 Ian Lavery: Just touching on the Green Deal and the ECO in off-grid areas, Consumer Focus have suggested that the households in urban areas rather than rural areas will benefit more from the ECO, can you explain why you believe that to be the case?

William Baker: Yes, basically the way DECC envisages ECO running is that it is seen as a market-based mechanism, it wants the restrictions that are placed on suppliers kept to a minimum as to how they meet their targets. So, in effect, suppliers are incentivised to try and meet their carbon targets as

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cost effectively as possible and as cheaply as possible. With that sort of context, it is much cheaper for companies to install large numbers of installations in urban areas. It is more expensive to deliver ECO in rural areas, in more dispersed settlement patterns with higher travel costs and so on. The only way to try and overcome the tendency for it to mainly go into urban areas is either through Government direction, through some sort of restrictions, or through mechanisms like putting extra uplifts on measures that were installed in rural areas or remote rural areas.

Q119 Ian Lavery: You think that redesigning the ECO proposals, at this point in time, could benefit both the rural and urban communities?

William Baker: Since all consumers are paying for it, it seems only fair that there should be a reasonable equitable distribution between urban and rural areas and across the different countries.

Q120 Ian Lavery: I think Consumer Focus have suggested that, in addition to the Green Deal and the ECO, there should be another scheme introduced to combat the problems that we have just been discussing. How do you think that would work and where do you see the funding coming from for like a third sort of scheme?

William Baker: I think what we would very much like to see happen is a scheme that complements Green Deal and ECO. We don't want to see something that duplicates their objectives, so it should work with Green Deal and ECO. What we are proposing is that ETS proceeds are used to fund the scheme particularly when the auctions of ETS are ramped up quite considerably in 2013. We are also seeing the carbon floor price come in, which in effect will mean you will have a fairly predictable and stable income stream because of the carbon floor price underpinning the Emissions Trading Scheme. However, what we understand it is going to mean for consumers is it will add about £50 per year to the average electricity bill by 2020, which of course will mean upward pressure on fuel poverty in itself. So we are proposing that the funds that will start coming through the ETS are recycled into the national energy efficiency scheme that we would like to see take place.

What would seem to make sense—and evidence from all over Europe shows—is that supplier obligation schemes work quite well for low cost, large scale volume installations, but they don't work well for the more expensive, more innovative type technical solutions and those are the sort of things a complementary scheme should focus on. So it would be on renewable heat type initiatives, solid wall insulation in off-gas areas, and for the households that Green Deal or ECO won't be able to help.

In effect, you can see a parallel in Scotland with something like the Energy Assistance Package where they have brought together a publicly funded scheme with the CERT scheme. So the CERT does all the easy bit, the low-cost lofts and cavities, and the public funds pay for the more expensive stuff, and that does include things like heat pumps.

Q121 Chair: I have to leave the meeting so Sir Robert is going to take over the chair for the final few minutes.

Sir Robert Smith: If we could follow up on the integration of Green Deal finance and feed-in tariff for renewable heat, whether there is a way of bringing the packages together that could advantage people off-grid.

William Baker: Yes. Obviously people can take out a Green Deal for renewable heat. There is nothing within proposals that prevent that. That is where you might be able to see where RHI kicks in. In a sense, it is using that future revenue stream that one might expect to get from the renewable heat tariff. The upfront installation costs of renewable heat measures is a big issue for lower income consumers, and what has prevented a lot of lower income consumers taking advantage of the feed-in tariff system is obviously paying those upfront installation costs. That is obviously where the Green Deal and ECO could come into play. But it needs to be thought through in terms of what the implications for the subsidy level are. In effect, you are having two types of subsidy going into a home. So it could mean that you would have a predictable income stream from the RHI and the tariff that is provided, and if it is used to accompany an ECO contribution towards paying the cost, together it could make that viable for the low-income consumer.

Ron Campbell: My understanding is that measures that are funded through Green Deal won't be able to benefit from the feed-in tariff or the RHI. In fact, householders installing these measures and using Green Deal will, in effect, surrender entitlement to either of these subsidies. We have spent a long time making the case—a fairly in-depth case—of how the Green Deal is not relevant to our client group to a great extent anyway. The Government recognised and accepted these arguments that the Green Deal was not an appropriate mechanism or system for fuel-poor households. In our priorities, everything comes down to how the ECO is structured and what level of resources are available through ECO and how these are implemented. So, for better or worse, we feel that the Green Deal is certainly marginal to our client group.

Q122 Sir Robert Smith: What is your view on the real potential of heat pumps in off-grid?

Ron Campbell: I am not a technocrat but I know quite a few. NEA has done a considerable amount of work on examining this particular technology and we certainly wouldn't like to give the impression—by the way, this is specifically air source heat pumps we are talking about as the viable version of that technology—that this is some kind of technological panacea for fuel poverty, or for any particular energy-related problem. We do have very strong positive findings from a whole range of evaluation work that has been carried out. The technical people tell me that their findings are, yes, the technology is extremely beneficial in properties with small heat loads. They can achieve low running costs; there can be significant reductions in carbon emissions; installation and maintenance are both straightforward; and of course there are subsidiary benefits because

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these measures can be implemented in properties that lack access to gas, you don't need a flue and you don't need ventilation. So in very general terms, but without an official seal of approval, yes, heat pumps are a strong possibility.

William Baker: As Ron said, it is very dependent on the energy efficiency of your building and the ability to keep the heat in. They only make sense if they are installed alongside some fairly extensive insulation measures. There have been horror stories where they have been installed in leaky buildings and have cost an absolute fortune to run. There have also been problems in terms of people knowing how to control them. They are a very different type of heating system to your standard gas boiler or whatever.

Consumer Focus Scotland is just about to publish some research on heat pumps in housing associations in Scotland. In the initial stages there were a lot of problems, but they have started to redress those now and, providing those caveats are met—it might mean solid wall insulation for instance, and a lot of tenant education about how to use them—they can provide a very effective solution. You have to think, basically, what are the fundamental problems with oil and LPG? They are very expensive fuels and so we have to look at what other potential alternatives there are to oil and LPG in off-grid areas. So heat pumps certainly could potentially be one of those, as could biomass boilers as well. With respect to low income off-grid, it does suggest that you are going to need some form of additional support to make them viable. I think DECC is suggesting that they don't in fact favour that and we would probably disagree.

Q123 Dan Byles: Just very briefly because I think we all have to get away, don't we, but anyway I have to go in a few moments. There are currently 1.3 million homes in gas postcodes but not connected. What is the problem? Are they all potentially connectable or are there practical reasons why some of these are not connected?

William Baker: Yes, for instance high rise is a classic example where it would not be realistic. That is what we were able to glean from the English House Condition Survey where it is more difficult, and you can get much better data in Scotland where they actually provide you with exactly what the distance is from the gas network and so on, but certainly a significant number of those could be connected.

Q124 Dan Byles: Do you have a feel for what proportion of those are potentially connectable?

William Baker: No, not at the moment. But what I thought was even more startling was the fact that there are 500,000 households who have a gas supply going to their homes and don't have gas heating. You would have thought that those are some very easy low hanging fruit that you could—

Q125 Dan Byles: Do you have a feel for why that is and, again, what the problem is there?

William Baker: I think there are certain issues with, for example, private landlords who don't want to pay the annual gas inspection costs. That could be one factor, and also the expense of putting units in. It would certainly seem if you were able to identify those households—and there is also an issue of finding out where they are—they would be a group that we could do in a fairly quick win.

Q126 Dan Byles: Who pays for a home to be connected to the grid?

William Baker: I think there is a certain formula. It is seen as viable up to a certain amount. I can't remember the exact amount. Ofgem does have a scheme, through the price control system with the large gas distribution networks, to connect deprived communities, and so on. Part of the way they work is obviously not just connecting to the network, it is also being able to install a heating system and put in energy efficiency measures. So it is basically putting together those packages. For instance, Warm Front was quite an important element of that scheme and the cut to Warm Front does actually undermine that scheme to quite an extent. So that is partly how it is done. In effect, it is the consumer who pays the actual connection costs under that particular scheme but it is only the schemes that are seen as viable anyway.

Q127 Dan Byles: Finally, Consumer Focus has argued for Government-facilitated community partnerships, could you just very briefly because we are short of time—

William Baker: It is just building on what exists at the moment and providing more help with doing the legal and financial aspects. In effect, that is how the Ofgem scheme works and we are just proposing that is built on and expanded.

Sir Robert Smith: Thanks very much, and thank you for your evidence. It has been most helpful. We will certainly be pondering what is a very difficult situation for those not on the gas grid.

Tuesday 7 February 2012

Members present:

Mr Tim Yeo (Chair)

Ian Lavery
Albert Owen
Christopher Pincher

Laura Sandys
Sir Robert Smith
Dr Alan Whitehead

Examination of Witnesses

Witnesses: **David Timms**, Friends of the Earth, **Jenny Holland**, Association for the Conservation of Energy, and **Teresa Perchard**, Citizens Advice, gave evidence.

Q128 Chair: Good morning. Welcome to this meeting of the Committee. Thank you for coming in. As we are a few minutes late, I shall crack straight on without any formalities.

Would you like to tell us to what extent the housing health and safety rating system is actually enforced by local authorities?

Jenny Holland: Thank you, Chair. I will lead off on this, if I may. It has been noted for many years now, most recently in a report by the Select Committee on Environment, Food and Rural Affairs in 2009, that the enforcement by local authorities of their duties under the housing health and safety rating system is not as proactive as many would like to see. There is common consensus that there are a number of reasons for that, which I can enumerate, if you would like me to.

First and foremost, what local authority environmental health officers would tell you is that there is insufficient resource for them to use their powers proactively. More and more, they are resorting to using their powers reactively—in other words, merely responding to complaints, rather than using their powers under section 3 of the Housing Act 2004 actively to review the quality of the housing stock in their area.

There are a number of other issues that local authority officers would tell you about if they were here to do so. First of all, there is a lack of clarity as to how to assess the category 1 hazard of excess cold. A lot of them, de facto, use an EPC rating of F or G to signify a category 1 hazard of excess cold, but there is lack of clear guidance as to whether that should be their criterion. One of the things that we are asking for is that guidance should be issued forthwith by the Secretary of State to local authorities clarifying that, in every instance, an F or G rating signifies a category 1 hazard of excess cold.

There are a number of other issues, including lack of appropriate software systems for recording data; complexity in terms of the amount of paperwork and bureaucracy that is required; a lack of political support, often at local level, and also they would say at national level; and inconsistent and confusing rulings by residential property tribunals. Last but not least, in the CSR at the end of 2010, funding was removed for private sector renewal works. It had been in existence for many decades, but came to an end in April 2011. That was a mechanism whereby local authorities could bring landlords to the table with an offer of private sector renewal funding and engage them in that manner with HHSRS. Clearly, that is

something that can no longer take place. So, there are a number of issues not necessarily at all relating to the desire of local authority officers to treat this matter seriously that mean that they are not able to do so as actively as they would like.

Teresa Perchard: I might add, from the Citizens Advice perspective, there are also the tenants' thoughts. The HHSRS is a potentially very powerful tool for tackling inadequate properties on a number of fronts, not just cold, especially if we are looking at tackling fuel poverty and substandard housing resulting in fuel poverty. This is a very powerful tool, but tenants fear to make trouble. We have highlighted in our submission to the Committee a number of examples of people who are cold or living in damp, mouldy accommodation and have involved the local authority, which has duties in this area, and have subsequently been evicted by their landlord, who needed no cause to evict them. That kind of thing means that tenants fear to complain. That is part of it—how can we protect tenants who simply want something done about very poor quality accommodation?

Q129 Chair: Looking at landlords, Consumer Focus suggested that local authorities could hold a register of landlords. Would that be helpful, do you think?

Teresa Perchard: We at Citizens Advice have always supported various proposals for creating registers of landlords, for a number of reasons. It would certainly assist local authorities and tenants to have some information about the market and to pool information. So, yes, we think it would be beneficial. I think colleagues do, too.

Jenny Holland: Absolutely. If I may come in on that, reputable landlords' associations—I know there are representatives behind me who are going to be talking in the next session—would say that they are well placed, as indeed they are, to promulgate information to their members. Clearly, their members are identifiable as a group of landlords, but the Law Commission estimates that only 2.2% of private landlords are members of a professional body. The Department of Energy and Climate Change says that it is a little higher—3.3%—but these are very small numbers.

We would say that a landlord's register, far from being something to fear on the part of reputable landlords, is a mechanism that can work in a number of ways, as a means whereby landlords can be made better aware of their existing rights and responsibilities. That

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includes their entitlement to the landlord's energy saving allowance. It will include, of course, also making them aware of the minimum standard when it comes into force. It is also a mechanism that enables local authorities better to make contact with the landlords in their area, and ultimately to enforce things such as the minimum standard when it comes in.

We would say that there is something that can be done in the regulations—the secondary legislation that will follow from the Energy Act 2011—which would be a very light-touch mechanism, but which would be really useful for local authorities. In other words, the tenure of a property should be listed on the energy performance certificate, and also the name and address of the landlord, with the intention, as spelt out by Greg Barker in the Energy Bill proceedings, of enabling local authorities to have access to the EPC register. That would be a means whereby they would in one place have really useful information, which would enable them both to carry out their duties and to inform landlords better of what their rights and responsibilities are.

Mr Timms: We also want to see a minimum level of non-compliance to the minimum standard, and a minimum level of enforcement. The impact assessment shows that DECC expects that landlords will act in anticipation of the regulations coming in. If landlords are not able to get clear information from a reliable source about what those regulations are and what their duties are under them, they are likely to sit on their hands until they can get that information.

It would seem that we need some form of trustworthy, reliable source of information. If we are relying on bits of post being put through the door of property it is incumbent on tenants to pass them on to the landlord—or they might not pass them on. A reliable source of information would be extremely desirable, because it would mean that we were more likely to reach a position of needing a minimum level of enforcement when the regulations come into force.

Teresa Perchard: I would underline that. In the context of having that standard for 2018, and knowing the high proportion of private rented sector property in bands F and G, it is clear that some work will need to be done to help landlords to understand, to support them and to highlight the help that may be available to them and their tenants to improve the standard of property. A register or registers, if they are local, could assist enormously with that education and information.

Q130 Chair: Would it be helpful if landlords had to disclose EPCs to local authorities?

Mr Timms: My understanding is that they will have to, and that the EPC database will be publicly available. All we are suggesting is that the landlord's contact address should be recorded in addition to the address of the property. That might not have to be made publicly available, but, as a minimum, it should be available to the local authority to aid information and enforcement.

Jenny Holland: As I said, Greg Barker repeatedly made it clear during the Committee stage of the Energy Bill proceedings that it was his and the

Government's intention to make the EPC register available to local authorities. Once the information is recorded in the manner that we have suggested, by definition, local authorities will be able to gain access to it.

Q131 Chair: If we had a landlord rating system, in practice, would tenants actually use it?

Mr Timms: What sort of rating system would you imagine?

Chair: One that would tell them whether landlords were reputable or what their record had been.

Teresa Perchard: That would depend on who put it together and how it was promoted. This is certainly something that Consumer Focus, the organisation that you have mentioned—some of its evidence in this area is very helpful, particularly on EPCs—has been promoting the idea of rating landlords so that prospective tenants have information from existing or past tenants about how that landlord might treat them. There are lots of other private sector market rating schemes—they operate widely and are used by consumers, so why not for the private rented sector too?

Mr Timms: It also depends on which part of the market you are looking at. There are local authorities that have accreditation schemes, with varying levels of membership in different authorities. If you are looking at the bottom end of the market, where you have people on housing benefit who are, perhaps, very vulnerable, I doubt very much whether a landlord accreditation scheme would provide enormous empowerment. If you are looking at the top end, it could be useful, but we are considering those who are in fuel poverty, and I don't think such a scheme would be a significant answer to their circumstances.

Q132 Laura Sandys: You really would like to toughen up the current proposals, wouldn't you? In some of your proposals, you want to bring forward the introduction of the minimum standards to 2016. You have also collectively talked about raising the standard to band D. You also believe that there is a loophole in the measures funding the green deal and ECO. Could you expand on those?

Mr Timms: If I can deal with the start date and the trajectory to higher levels. When we originally came together—40 civil society organisations—to campaign for the minimum standard of energy efficiency in the rented sector, we did that around the date of 2016. We saw that as the one consistent with the Government's legal duty to end fuel poverty by 2016 under the Warm Homes and Energy Conservation Act 2000. When we are talking about F or G-rated private rented sector properties, 42% of the households in them are estimated to be in fuel poverty, so to have a measure to tackle fuel poverty coming in two years after the legal deadline by which the Government have to end fuel poverty seems irrational.

The Government do not really have an evidence base for their decision to go to 2018. Originally, when the Energy Bill came into Parliament, it contained two measures on the private rented sector. The first was for local authorities to issue improvement notices, and the second was for tenants to be able to demand

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energy efficiency improvements. Both of those were down to come in in 2015.

Later, as the Bill went through Parliament, the Government delayed by a year the measures for tenants to make requests, and when they brought in the minimum standard, they went for 2018. The only reason offered for that when Greg Barker was questioned in Committee was that it gave enough time for the overwhelming majority of PRS properties to have had one iteration of turnover of tenants—he said between 80% and 90%. We went back to the English Housing Survey and found out that, by 2016, over 80% of those properties would have also turned over, so the key piece of evidence offered applies equally to 2016 as it does to 2018. When the impact assessment for the Energy Act 2011 came out, it turned out that the Government had not looked at any evidence whatever for 2016 as a start date. They had simply gone for 2018. One of the things that we would really love the Committee to do is to look at some of the evidence base for that. Obviously, we have all submitted evidence calling for the 2016 start date.

In terms of toughening the minimum standard over time, we were very pleased that Greg Barker said that the legislation allowed for this to happen and that he imagined it would be necessary. We certainly would very much welcome that. Our view is that it would be better to set the next tightening in law as soon as possible, because that would reduce the costs to landlords and the cost of the regulations. If a landlord is able to say, “I can improve my property up to band E” or, “I can do the additional measures and go all the way to band D”, the latter means we are not having additional void periods and repeated visits to the property, so the overall cost of the regulations will be cheaper.

We will start to hard-wire into the system the idea of going into whole-house retrofits. It has obviously been a bit of a holy grail for those of us when talking about energy efficiency improvements and fuel poverty reduction, to go for fuel poverty proofing of properties. Giving landlords the maximum transparency and certainty about the regulations will encourage them to do that. It is also worth noting the numbers of fuel poor who can be helped by this. Consumer Focus did some modelling early on in the campaign and showed that the minimum energy efficiency standard, which took out of the system F and G ratings, could take 150,000 households out of fuel poverty. It also showed that if you increased that standard so that E, F and G were taken out of the system, you would take 300,000 households out of fuel poverty. So there is a massive prize to be gained in terms of the impact on fuel poverty.

Jenny Holland: Would you like me to say a little bit about our perception of the loophole that exists in the legislation?

Laura Sandys: Yes.

Jenny Holland: On the face of the legislation, there is merely a requirement for landlords to make relevant energy efficiency improvements. Those relevant energy efficiency improvements are defined as ones that can be made at no up-front cost under the green deal and/or the ECO, or by other means that the landlord might choose. We were assured in Committee

and by the civil servants and, indeed, in the Energy Act impact assessment that the intention of the Government was that those properties, by means of those energy efficiency improvements, would be raised to band E. But, because there is no requirement on the face of the legislation for that minimum standard to be reached, we are extremely concerned and have enunciated our concerns repeatedly during the passage of the Bill that this will frankly lead to an administrative and enforcement nightmare whereby some F and G-rated properties will, in fact, be legal because landlords have done everything that they can under the green deal and/or ECO, whereas others won't be.

We have repeatedly pressed the civil servants for information as to how they see this happening in practice. Tenants will not know, when they go along to a lettings agent or to an individual landlord, whether or not a particular F or G-rated property is legal, because the landlord has done everything to could to it, or whether it's not. Landlords will not know exactly what they have to do to meet the so-called minimum standard.

I feel particularly sorry for local authorities. Instead of just being able to go to a lettings agent and say, “You have an F or G-rated property in your window, you are not allowed to do that,” and in come the trading standard officers, they will be forced by means that are wholly unclear at the moment to try to determine in any given case whether an F or G-rated property is legal or not. Enormous amounts of local authority resource will be deployed to try to find a way through that minefield. We see that as something that will jeopardise the success of the minimum standard and of the legislation as a whole, which we all obviously want to see.

Q133 Laura Sandys: How would you close that?

Jenny Holland: It is very simple. We tried to have an amendment that would have done that passed both in Committee and on Report stage. It merely says that those relevant energy efficiency improvements that I have described should, in every case, bring the property up to at least a band E. Clearly, if those improvements—in some cases, this will be true—can take a property higher than a band E, so much the better.

Now, the amendment would have to be done through secondary legislation, but it can easily be done through that. If that is made clear, the enormous administrative and enforcement nightmare, which sadly we envisage because of the loophole, can be completely obviated.

Q134 Laura Sandys: In my constituency, there is a ward where there is 84% privately rented properties. They are very beautiful and high-quality buildings, and very difficult to insulate. Do you see that there are going to be pockets of the country that will be blighted, in a sense, where it would be very difficult to sell or rent, and we could end up in a situation where we have empty streets that do not qualify?

Jenny Holland: No. One of the reasons why we are clear that the secondary legislation should contain the kind of amendment that I have described is because

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we in the campaign coalition have commissioned research on the cost of bringing properties out of F and G ratings. Such costs have anecdotally been considerably exaggerated. We found that 37% of those properties could be improved for less than £900, with things such as cavity wall and loft insulation and draught proofing.

Q135 Laura Sandys: What about Regency buildings? We are talking about really hard-to-treat buildings.

Jenny Holland: The research showed that only 5% of F and G-rated properties—I would imagine that the ones you describe might fall into that category—would cost more than £7,500 to bring up to an E rating. In the case of that 5%, it will generally be by means of the normal measures, such as cavity wall and loft insulation, and perhaps also by a combination of solid wall insulation, fuel switching and solar water heating. Solid wall insulation, as the Committee knows, is the main measure that will be treated by the energy company obligation that is currently proposed. So a combination of the green deal for the so-called normal measures—cavity wall and loft insulation and so on—and the ECO for solid wall insulation will cover, in almost all instances, the kinds of measures required. Therefore, the problem of blighting that you describe will, in almost all instances, not happen, because of the kinds of cost issues that I have outlined.

Mr Timms: The only occasion where we have accepted right from the outset that there would need to be some kind of exemption is listed buildings, where you cannot make those improvements. Where those improvements can be made, as Jenny said, they are considerably cheaper than some might imagine. They are also exactly the kind of properties that ECO is supposed to be there to help pay for. The landlords, where there is solid wall needed, will not even have to pay for it themselves.

Q136 Albert Owen: Moving on, Mr Timms, your organisation and other respondents who gave evidence have suggested that the Government should continue to provide taxpayer-funded energy efficiency programmes beyond 2013 when the Warm Front scheme comes to an end. Why do you say that?

Mr Timms: Well, that is really a stark assessment of where we are in the trajectory of fuel poverty. There are at least 5.5 million households in fuel poverty in the UK. It is imagined that ECO will pick up the heavy lifting from Warm Front, but we simply do not see that ECO is anywhere near the scale that is necessary. You are losing Warm Front, so, for the first time in, I think, 30 years, there will be no centrally funded energy efficiency grants available for low-income households in the UK.

Teresa Perchard: In England.

Mr Timms: In England. You are trying to replace it with ECO. ECO is almost exactly the same size as CERT. CERT is currently £1.3 billion, yet only 25% of ECO will be ring-fenced for the fuel poor. The Government have said that they would like as much of the carbon element of it as possible to go to the fuel poor, but there is absolutely no guarantee of that.

At the moment, all we know is that about £330 million a year will be available to those in fuel poverty and we see that as being completely inadequate to the task. The problem is that, like CERT, ECO will go as a levy on people's energy bills and it is estimated that that is about £50 a year. It is not an option, therefore, to simply turn the handle and keep cranking up the size of ECO until it reaches 5.5 million households and brings them out of fuel poverty. A lot of us have come to the conclusion that we have to see additional financing. When we are talking about tackling fuel poverty, this is something that should be at the front of the demands for Government spending. We are talking about large levels of excess winter deaths and connections with public health problems. It is estimated that the NHS spends about £1 billion a year treating the illnesses that are caused by cold housing. We have said—I think that ACE and others are supporting this—that we should look at the revenues that are available from the European Emissions Trading Scheme and the carbon floor price, which the Treasury estimates will be worth £3.5 billion annually by 2015–16, as additional revenue which should be recycled and re-spent into helping cut fuel poverty and energy bills in vulnerable households.

Q137 Albert Owen: Would anybody else like to comment on that?

Teresa Perchard: Our primary concern is people's ability to pay. Levies on bills are paid by people irrespective of their income, but not all the people who have contributed will necessarily benefit. Our concern is about fairness. If there is no scheme to provide tax-funded grants, as there currently is, there will be some households that are in need, on very low incomes, who are net contributors to the fund. There is a real risk of that. That is our perspective on it.

Q138 Albert Owen: Do you want to add anything?

Jenny Holland: No, not really. The only thing I would say is that I completely agree with Dave that it is not an option, because of the regressive nature of ECO, to just increase the pot exponentially, because that will just increase the regressive nature of the scheme. Just as a final point on that, the Fuel Poverty Advisory Group and we—all of us—have been saying for some time that the way in which the costs should be passed on to consumer bills should be on a per consumption basis, not on a strict per capita basis, so that there is some connection between the amount of energy used and the way in which the levy is recouped from consumers.

Q139 Albert Owen: There are two points that National Energy Action has argued. First, it argues that it is wrong in principle for taxpayer's money to be spent on improving business assets—the assets of private landlords. Secondly, it argues that it is wrong in principle that tenants should be expected to pay for improvements that often do not meet the minimum home standards. How do you respond to those two points?

Mr Timms: In principle, the default position is that landlords should really be paying for the improvement of their own properties, but we cannot stick to that in

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all circumstances. If we look at those landlords who are required to install solid wall insulation, we are asking a landlord to do something that they would not be rewarded for in terms of the market rent of the property. Unfortunately, energy efficiency does not pay for itself in terms of the rent that landlords are able to get for those properties. What we are asking a landlord to do is to pay for something that is really quite expensive that they will not get back in the value of that property when they sell it or when they rent it. We are saying that we want landlords to put in solid wall insulation because there is an overriding environmental and social objective. Therefore, it seems fair to me that the state should contribute towards that—in this case we are looking at ECO, which means other bill payers. Cavity wall and loft insulation should not be subsidised by the state in the owner-occupier sector and able-to-pay sector; they should be mandatory anyway. The argument therefore is much less strong. However, when we are talking about a choice between either subsidising it or having households that are in fuel poverty with all the connected ill-health effects, I would rather see the money spent on insulating properties and bringing households out of fuel poverty because that is my primary concern.

What is interesting about the green deal is that it is not clear whether landlords will be keen to take out green deals. On paper, one would think that landlords would be very excited about this because, technically, it allows them to transfer the cost of improving their property on to the tenant through their energy bills. The quid pro quo of that is that tenants would be better off because their energy bills are lower. DECC's consumer insight surveys, which it released with the Green Deal consultation, make very interesting reading. What they show is that tenants do not see what is in it for them because, effectively, they are swapping one bill for another. Landlords are worried that they will find that their properties are hard to rent.

Teresa Perchard: There is a business case for taxpayers investing in their business. First, they are an increasingly important part of our housing supply. As a sector, it has grown. We know that the private rented sector is disproportionately of poor standard and has a higher proportion of people in fuel poverty. The cost to the NHS of dealing with winter-related diseases due to cold homes is nearly £1 billion. There is also the cost of providing care and support to people who are living in cold homes. The taxpayer would save from the investment. In principle, businesses should be investing in business, but there is a public interest in improving the health and well-being of the tenants. There is also a wider public interest in reducing some of the costs to the health sector.

Q140 Albert Owen: If I could just move on to Ms Holland. Your organisation has proposed increasing the landlords' energy savings allowance. What is the rationale for that?

Jenny Holland: We would say that there is a very clear rationale for this. Some would say, "Why do we need to continue with the landlords' energy savings allowance after the introduction of the green deal? Won't the green deal do everything for landlords that

LESA currently does?" There is a rationale for keeping LESA in place. There are two very specific reasons. There will be cases where the green deal is impossible for landlords to gain access to, and principally in situations where consent is impossible to obtain, either from the tenant or in large blocks of flats for instance, from a landlord: if you are a leaseholder and you are renting out your property, then you will probably need to get consent from your freeholder. So in large blocks of flats, there may be pretty nightmarish consent situations whereby, potentially, one or two withholdings of consent will scupper green deal activities throughout a whole block. In those circumstances there has to be an alternative incentive for landlords to make energy efficiency improvements, and in those circumstances the landlord's energy saving allowance continues to have a key role.

Second, even in situations in which the landlord can gain access to the green deal, and potentially the ECO as well, for solid wall insulation, LESA can be used to ensure deeper retrofits in those properties—for instance, with the introduction of double glazing and other kinds of technologies such as solar water heating or whatever. So we are saying there will be situations in which it can be used as a top-up. Clearly, it would be wholly wrong for a tax break to be given to landlords for measures where there is no up-front cost to the landlord, because of the green deal and the ECO, but there are very specific situations in which we think that it can be a useful addition.

We would say that it ought to continue and that the current level ought to be raised from £1,500 to £3,500, which is the sum that would mean that about three quarters of F and G-rated properties could be brought to band E. That is a significant sum of money. We would also say that because levels of take-up have historically been extremely low—0.2% the last time it was counted—the Treasury ought to do more to promote the existence of the LESA. At the last count only about 4% of private landlords were aware, and only 0.2% took it up. So we think there is a job of work to be done on the part of the Treasury, perhaps through mechanisms such as the landlord's register, of which we have already spoken, to make information better available.

So we think there should be more availability of information about it. An increase in the rate would make it more attractive in the circumstances that I have outlined.

Q141 Sir Robert Smith: I remind the Committee of my entries in the Register of Members' Financial Interests. I own property that I rent out in Aberdeenshire and I am a shareholder in Shell, an oil and gas company. Also, I am honorary Vice-President of Energy Action Scotland, a fuel poverty charity.

On the energy performance certificates and their use, do any of you think that there is any reason why houses in multiple occupancy should not be included?

Mr Timms: There is an excuse for why they should not be included, but I do not think there is any reason why they should not be included. This is something that has really only come to light—certainly to my attention—as we got towards the end of the

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proceedings of the Energy Bill. I wish that I had picked up on it earlier. Obviously, EPCs are not required on HMOs. The previous Government consulted on this issue just before the general election. They consulted on whether HMOs should have an EPC, and 94% of the respondents in that CLG consultation said yes, they should, but then it was decided that it would not go ahead.

We have since discovered that if you look at the way the Energy Act is drafted, it says that the minimum standard will apply to properties where there is an Energy Performance Certificate, so if HMOs do not get an EPC, the minimum standard will not apply to them at all—they will simply be excluded. My understanding is that there are about 300,000 HMOs in England. The reason this is possible is because they do not count as a dwelling under the European Energy Performance of Buildings Directive. In correspondence to me, CLG officials have said that there is no plan to include them to count as a dwelling. The EPC regulations came in in 2007. Any HMO that was created before 2007 will have been letting out individual bedsits, each of which does not require an EPC, so the entire property never gets let out as a property that requires an EPC until it is sold. Not only will those properties never have to meet the minimum standard because they will never get an EPC, but the people looking to rent those bedsits will not be able to have the information on the EPC or, presumably, to use the tenants requests legislation to ask for a Green Deal, because they will not be able to have the information from the EPC.

Q142 Sir Robert Smith: So both of you share the concern?

Jenny Holland: Very much so.

Sir Robert Smith: Without the information, tenants will not be able to know whether they are getting an expensive-to-heat or cheap-to-heat property.

Mr Timms: I do not think that that was a deliberate omission by DECC when it drafted the relevant section in the Energy Act. I think it was just a mistake, which needs to be put right quite urgently.

Q143 Sir Robert Smith: Have you gone as far as to work out how it could be put right legislatively? Does it require secondary legislation powers?

Mr Timms: Because EPCs will be governed by the energy performance regulations, they are done directly from European legislation. I am sure that others will understand this much better than I do, but because it is a European directive, there is no need for primary legislation, and it can go straight into regulations. So you have the regulations on the energy performance of buildings, and changes can be made to that quite easily to require an EPC on HMOs.

My understanding is that it would be quite difficult to require each individual bedsit to have an EPC, but what you could do is, when the first one of those is rented out, require an EPC for the entire property. The conversation that I had with the Property and Energy Professionals Association suggested that that is technically possible.

Q144 Sir Robert Smith: Once you have a certificate, would you apply the minimum standard to the whole property rather than to the individual units?

Mr Timms: Yes. I think you would have to, because the EPC would give the entire property an energy rating. It would only be fair, therefore, to apply it to the entire property.

Q145 Sir Robert Smith: Something came up earlier. If you have a block of flats with solid walls, and some are rented and some are owner-occupied, and you cannot get agreement from all the owners to treat the property, does that mean that all the rented ones become no longer lettable, and it all becomes owner-occupied?

Mr Timms: Jenny has been grappling with this quite a lot.

Jenny Holland: Yes. Grappling is the word, but I wouldn't say terribly successfully. In a previous incarnation, I was—well, I still remain—a trained lawyer. There are more grey hairs on my head as a result of this grappling than there were before.

The situation is extremely thorny, and there are no easy answers as to what might happen in those situations. Obviously, there is a mechanism whereby reasonable exemptions can be put into secondary legislation, and I would say that this is probably ripe territory for investigation.

Q146 Sir Robert Smith: It is a bigger issue than just this issue, because there is the whole issue of the efficiency of trying to treat properties. I still remember with despair semi-detached households in the warm homes week, where they were putting a chain down the cavity to make sure the neighbour did not get any insulation. The efficiency of doing the whole property would have been greater.

Mr Timms: The questions that arise are bigger than just dealing with the private rented sector, because they arise in terms of the relationship between leaseholders and freeholders, where even those leaseholders would be generally considered to be owner-occupiers. Once you start making some of those leaseholders landlords in their own right and subletting, it becomes more complicated. It then becomes even more complicated when you try to use the Green Deal, because you have to get consent not only upwards from the freeholder, but downwards from all the bill payers.

That points to some of the limitations of the green deal where it applies to the private rented sector. The pay-as-you-save mechanism was originally conceived for individual households and the owner-occupied sector. There is a danger of turning it into a silver bullet, where you start to try to lever it into situations where the issue of consent from bill payers and from upwards to freeholders makes it very complicated. Hence, we come back to Jenny's point about why it is important to provide some form of financial incentive mechanism for those situations in which this kind of complexity proves impossible.

I would like to add one thing that occurred to me about consent from bill payers. I am worried that when the Government get round to writing the regulations—they have signalled this in the impact

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assessment—they should not produce a situation in which, if a tenant refuses a green deal, the landlord does not have to meet the minimum standard. If the tenant refuses, the minimum standard should still have to be met. That is important.

Q147 Dr Whitehead: What is the reality of retaliatory evictions in relation to people, in general, wishing to make energy improvements to their property and also to how the green deal might be affected by this?

Teresa Perchard: This is an issue that we come across regularly in citizens advice bureaux. We give advice to many people in the private rented sector. As we have highlighted in the submission, we regularly come across cases in which people have asked their landlord to improve their property, sometimes seeking to use help from a grant scheme like Warm Front or its predecessors, but sometimes because it is damp and mouldy. They can end up being evicted for no reason. Some might have had a long tenure—in one case in our submission, someone was in a property for many years, with no debts. The tenant had finally taken action to try to get the landlord to improve the property and had involved the local authority, which issued an improvement notice. Lo and behold, the tenant was evicted. We see this a lot on our front line. What we do not see so much are the people who have thought about it but decided not to take action, because they do not want to make trouble.

There are very limited large-scale survey data on this. One of the challenges we have had with successive Governments has been arguing for action. About 10 years ago, the English house condition survey found that a quarter of tenants were unhappy with repairs undertaken by landlords, but few of them did much about it. If they did not complain to the landlord, it was because they did not want to make trouble, and some feared that they would be evicted. In local housing markets where there is a very limited accommodation supply, you can understand why people do not want to make trouble. They may decide to move on and try to find somewhere else rather than try to get something done about it.

It seems a real pity to us that we have the 2018 and 2016 standards, but no protection for tenants who might be threatened with eviction because they have taken action to try to get the property to meet the legal standard. There is such protection for tenants whose landlords have not protected their deposits, but not when the issue is to bring the property up to a minimum standard in law. We are disappointed that there is no protection there. If there were a big push to get the private rented sector particularly to improve standards up to 2016 or 2018, we might see more threatened evictions as a result. Who will take action to protect the tenants? “Anxious” is what I would say.

Q148 Dr Whitehead: Could the provisions in the Housing Act 2004 be extended to give that sort of protection to tenants? In particular, the green deal might create a problem in that landlords might be encouraged to put rents up, even though the tenant has, effectively, underwritten the improvements. Could the provisions protect such tenants?

Teresa Perchard: I would have thought that if there were a will to bring about such protection, it could be achieved through a number of pieces of legislation. It is a pity it was not in the Energy Act, because it was bolted into the legislation on tenants’ deposits. We would welcome the protection coming through any piece of legislation, but if you would find it helpful to have a view from us or some suggestions, we would be happy to write to you, highlighting where it could most simply be implemented.

Jenny Holland: Can I just come in on the back of that? Several attempts were made during the passage of the Energy Act to include a provision on the face of the Bill, as it then was, giving tenants protection from retaliatory eviction in the circumstances that have been described. Unfortunately, those attempts were not successful, but all is not lost, because there would be a means whereby it could be done in secondary legislation flowing from the Energy Act. The regulations simply could include some sort of provision whereby the Secretary of State gave protection to tenants making a request under the regulations. Again, I can send chapter and verse on that after this sitting if that would be helpful.

It has, of course, been pointed out to us by reputable landlords’ associations that they would not want to see a situation coming into being where unscrupulous tenants use that protection to afford them protection in circumstances where perhaps they were otherwise in breach of their tenancy agreement for non-payment of rent, antisocial behaviour or whatever it might be. My view is that that kind of situation could quite adequately be covered by making the protection from retaliatory eviction not come into being in circumstances where the tenant had already been in breach of the tenancy agreement or where the tenant had breached the tenancy agreement after the protection period had started. My legal skills are a little bit rusty, but I am sure that it is not beyond the wit of DECC lawyers to come up with something along those lines, which would protect tenants in the way that Teresa wants to see, but would also deal with the legitimate concerns of landlords that unscrupulous tenants might use that protection in ways that were not appropriate.

It is not just Citizens Advice, which has demonstrated instances of retaliatory eviction or a fear of retaliatory eviction. Last summer, the Chartered Institute of Environmental Health, the professional body representing environmental health officers, did a survey of its members, looking at instances of retaliatory eviction or threats of retaliatory eviction where HHSRS powers had been invoked. Its members came back with some extremely disturbing tales of retaliatory eviction or the threat thereof in circumstances where these powers had been invoked. In a couple of local authorities, as many as half of the cases that they came back to us with resulted in retaliatory eviction. Clearly, as Teresa says, there is not much data but as far as we are concerned, the case is very well made that tenants are evicted in circumstances where they complain about repairs or the maintenance of the property, and very much fear retaliatory eviction. That then prevents them from

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making complaints or requests that they might otherwise feel would be legitimate.

Mr Timms: Can I just add a point, which is in DECC's impact assessment for the Energy Act 2011, which it actually wrote while the Bill was proceeding through the House? It accepts that the take-up of the tenants request measures will be limited by the fact that "tenants may not want to risk losing their tenancy by confronting the landlord". DECC themselves in its own impact assessment is accepting that its own legislation on tenants making requests will be limited by the fact that tenants do not want to make these requests because they are scared of losing their homes. It seems strange to me that DECC are accepting it itself in its own impact assessment, which was not available to us in the latter stages of the Bill going through the House, which is a shame. It then did not accept the case, which seems to me a moral one, that if you are bringing in a piece of legislation which encourages tenants to make demands of their landlords for energy efficiency, you should give them the protection that they deserve if that brings about some form of retaliatory consequence. That seems to be only fair. It is a real shame that that was not included.

Q149 Ian Lavery: The education for both the landlords and the tenants is far from desirable at this moment in time. For example, very few tenants in the private-rented sector are aware of what their rights are. What would your view be on tenants considering and choosing where to live because of an EPC rating, or does that not even come into their consideration?

Teresa Perchard: One of the best bits of research on this recently was a report, again by Consumer Focus, called "As easy as EPC?" which explored the extent to which people took any notice of the EPC and if they took any action on improving the energy efficiency. Only one in five people who were looking to buy and rent said that the EPC had any influence on their choice of property. It is not a big driver. The other elements in the research looked at how easy they were to understand, because the consumer cannot tell from the EPC what difference any one of the bands would make to the amount that their energy bill would be.

Consumer Focus has therefore recommended a number of ways that the EPC information could be made more accessible and useful to consumers, so that it achieves part of its intended purpose, which is to help people make choices. As bills rise, the possible costs of their energy bill will obviously be much more in the fronts of their minds. Supply, rent, deposit, location and décor—all of those things—will be very overriding for tenants who are shopping around, particularly if they have an opportunity to shop around. The Consumer Focus research shows that a lot more can be done to build on the EPC framework to educate and inform, so that consumers can see what the difference is between the different bands in monetary terms.

Q150 Ian Lavery: How best do you think that that can be achieved? How can the tenants be better

educated on the EPC and good energy efficiency generally?

Teresa Perchard: One of the things that Consumer Focus said was very confusing was that people are presented with two bar charts. There is an environmental impact chart as well. The key thing is that the information is not telling you what your bill might be or what the average bill might actually be. It is income, budget and household budget: it needs to be expressed to people in those ways, so that they can see what the difference would be. There are some very practical suggestions that Consumer Focus has made, which is the best piece of research I have seen on how to improve things for the consumer.

Mr Timms: In addition to how that information is presented, the most important thing is that it is seen and is got into the hands of tenants. Obviously, there are parts of the market where demand is very high and supply is perhaps short. Even with that information, they will not be able to use it to pick a different property, but we should certainly get it into their hands if at all possible. Again, this is very much governed by how we implement the Energy Performance of Buildings Directive, which was recently recast. The recast directive has to be implemented. What this should do is require the energy rating of a property that is available for rent to be displayed on all commercial advertising materials and adverts. That is what it should do if it is implemented properly. If all ads had the energy rating, that would make an enormous difference. It should also require that the Energy Performance Certificate be shown to the prospective tenant. Previously, the regulations have simply said that the Energy Performance Certificate should be made available on request. Obviously, tenants don't ask for them—they don't know they exist. The regulations should have said that it is a duty of the landlord or the landlord's agent actively to show the certificate to the tenant. Once tenants are in the practice of seeing them, they will start to notice strongly if they are absent and they will start to pay attention to them.

Local authorities also have a duty, because local authority trading standards, I think, is charged with enforcing Energy Performance Certificates. From talking to tenants' rights groups, I understand that local authorities are just not chasing landlords to find out whether there are absent Energy Performance Certificates. There has been a very small number of prosecutions, if any. I will go away and check that and maybe get someone to send a note to the Committee about the level of prosecution and enforcement on EPCs. I certainly don't think it would do any harm for a few cases to be known of where prosecutions were brought when EPCs were not provided. I do think that would have a disproportionate effect on their availability.

Teresa Perchard: I think you need to address two things: making sure that people have them, but also making sure that they make some sense to the consumers.

Q151 Ian Lavery: To make sure that they can understand them.

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Teresa Perchard: Yes, absolutely, and to be meaningful. The Consumer Focus research shows that instead of these things, where available, operating to help people be active consumers, shopping around for a warmer, cheaper-to-run home, they just go into a pile, because people cannot figure out what they mean. They need to be developed so that they are meaningful as well widely available.

Q152 Ian Lavery: There is a huge responsibility on landlords. Do you believe that they need more education in energy efficiency savings, fuel poverty and the various funding streams that may be available? It is reported that about 63% of private landlords have no relevant experience at all, and that in itself causes a huge problem. Even if they received the education on the scheme that was just mentioned, how difficult or easy would it be to disseminate that information to the tenants?

Jenny Holland: This is precisely where the landlords register that we were advocating earlier would come in. As I said, we do not see this as a threat to the vast majority of reputable landlords. On the contrary, we see it as a means whereby, once they have been identified, they can be told about all the existing schemes that will be of benefit to them. The landlord's energy saving allowance is the one that immediately springs to mind. They can be told about the upcoming green deal and ECO, and their responsibilities under the upcoming minimum standard. It is absolutely the case that at the moment we rely on the landlords associations to disseminate information to their members but again, as I said, about 3% of all private landlords are members of a professional association, so a huge number of landlords are potentially wholly unaware of what their rights and responsibilities are. That is a gap we think should be plugged by the early introduction of a local landlords register—as soon as possible.

Q153 Ian Lavery: Turning briefly to the boiler scrappage scheme, which was heralded as a

tremendous success by the Residential Landlords Association, what lessons can be learned from initiatives such as that?

Jenny Holland: It was extremely popular.

Ian Lavery: That was simply because it was directly marketed by the PRS anyway.

Mr Timms: We strongly supported that. It is one of those interesting cases, because, from memory, a scrappage subsidy of about £400 was available. It fits, certainly in my head, with innovative forms of subsidy that get a disproportionate response. People are not economically rational—thank God—and they respond in interesting ways. We are still learning about what kinds of subsidies and incentives get a strong response. The other one that springs to mind is council tax rebates. Early on, when we had the old Energy Efficiency Commitment, a number of energy companies offered a reduction in the cost of cavity wall and loft insulation, but it was not particularly taken up. However, when British Gas clubbed together with Braintree council in Essex to give £100 rebate in council tax, which was lower than the discount they had been offering, it flew off the shelves. I think boiler scrappage schemes did seem to capture people's attention in that way and get a disproportionate response.

I know that DECC is very keen to get ideas for how it can spend this not particularly enormous £200 million that it has managed to get out of the Treasury to promote the green deal. Some of the learning that went on with schemes such as boiler scrappage—I know that some people have been keen to promote single glazing scrappage, and stamp duty or council tax rebates—should be put together and considered as a whole. We think that boiler scrappage was probably a very good success.

Chair: Good. We have some more witnesses to see, so we will have to call it there. Thank you very much for your time and contributions.

Examination of Witnesses

Witnesses: **Dave Princep**, Residential Landlords Association, **Robert Taylor**, National Private Tenants Organisation, **Sue Walker**, London Borough of Newham, and **Tony Jemmott**, London Borough of Haringey, gave evidence.

Q154 Chair: Good morning and welcome. I think you have heard the previous evidence. As we are up against a slight time deadline, I will skip the formal introductions if that is acceptable to you.

First, can I ask why, generally, you think that enforcing the HHSRS encounters such difficulties?

Mr Jemmott: I am an enforcement officer with the London Borough of Haringey, and I have worked quite a lot on the English House Condition Survey for many years—since it came in—and have done a lot of work on the HHSRS.

One of the issues with the weighting system, particularly in terms of energy, is the excess cold hazard—the assessment of the hazard, in every respect, that the officers need to do. That, although

not lengthy, especially for officers who are quite used to doing it, means that for every dwelling they encounter, they need to come back and work through that with a mathematical formula.

One of the issues is that we have no minimum standards. Although we have continuing worked examples, through the HHSRS guidance, it is often difficult for officers to determine how far to go in asking for measures to be taken. For example, the guidance talks about the ideal for a property in 2012. Is it double glazing, or is it the boilers, for example? The latter is quite easy, with condensing boilers and so on, but for us to ask for double glazing in pretty much every property is not on. This relates to where the property is and whether the building is listed.

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Cost is a factor, although it is not necessarily meant to be. But where we are dealing with vulnerable families who are either in fuel poverty or close to it, being comfortable in the whole house is an issue. The excess cold measure deals with people—the vulnerable ages—over 60. In the private rented sector we deal with lots of families who are unemployed and have children. They are home for quite a lot of the time, and the children themselves suffer many health effects. We would like to see a system that makes clear what we can ask for in trying to bring properties up to a reasonable standard.

Q155 Chair: So would you like more guidance in that case?

Mr Jemmott: There is guidance there, but the standards we are meant to reach—there is no stat rating within the standards—are not included in the HHSRS, so when we talk about bringing properties up to at least an E or a D, there is no stat in the guidance.

Q156 Chair: Has your neighbourhood improvement zone been helpful in trying to achieve better outcomes?

Mr Jemmott: Within Newham, we have a neighbourhood improvement zone in which we have selective licensing of all the properties within the private rented sector. We have about 257 properties within that area, and there are about 600 dwellings altogether. That privately rented number fluctuates a little. The zone itself is not intended to deal with energy efficiency; it is to do with antisocial behaviour and some of the behaviours within that zone. Because we have a register of properties and details of landlords and tenants, we have been able to use that to target some of the projects we have. Within Newham, Sue has used energy schemes to target that.

Sue Walker: I am the manager of the domestic energy efficiency team in Newham. We were very interested in the idea of having a neighbourhood improvement zone that would enable us effectively to have a register of landlords when we come to do energy efficiency schemes. It is very often a big problem. Obviously, with the private rented sector you need the consent of landlords. If they are absentee landlords or difficult to trace, it can be a real problem to implement schemes on the ground. It just so happens that we have recently got some funding to run an energy efficiency scheme, and we are currently running it in that pilot area. It started before Christmas and it will run until the end of March. It is a good test of whether having this register in place will enable us to have a greater take-up of this sort of scheme than we normally have.

Q157 Chair: So it's a bit early to judge the outcome yet.

Sue Walker: That's right, yes. Unfortunately, we have not had one full month yet.

Q158 Chair: What do you think about this reputational regulation, if you have landlord rating systems? Would that make life better for tenants? Would that make it easier for them to judge what was going on?

Mr Jemmott: It ought to do so. That's to do with the landlord and probably goes back to management. As for fuel efficiency and fuel poverty, an important aspect is the building itself and the rating of that building. We have within the selective licensing zones the landlords themselves, and we also have accreditation. We are linked to the London landlord accreditation scheme. Within the last scheme—if I may call it that—we have about 450 accredited landlords, but within the Newham bond scheme we have about 1,200. That is a big difference.

Through the bond scheme, we give incentives to landlords to offer properties to the borough to help us with our housing supply. So we have more there, and we have the London accreditation scheme, which provides training. That is the unique difference in the London scheme. Landlords need to go on a one-day training course to be accredited. Many of the other schemes do not have that—they are purely a register. Landlords provide names and details, and there is no requirement to have access to training and knowledge that would allow them to manage their properties better, or to get advice on some of the schemes and payback arrangements and so on. That is something I hope all our landlords will have.

In Newham, we have a large private rented sector. We have a minimum of 35,000 properties in the PRS, which is about one third of our overall stock, and that number is growing. If we look at the number that are accredited in either scheme and the number of properties that we have—not that the number of properties equates to the number of landlords, because landlords have different portfolios—we still need to reach an awful lot of landlords who operate in our area.

Q159 Albert Owen: Mr Princep, we have heard suggestions that landlords are not interested in the green deal. Is that your opinion?

Mr Princep: The problem is that like a lot of the population, landlords have not heard an awful lot about it. Certainly, I do talk for landlords and I also train landlords. When you explain it to them, they are a bit bemused. Some of them think that it is too good to be true. I cannot say that they are any less interested than the general public. Until we see the final set-up for the green deal, it is difficult to say what interest landlords will have.

Q160 Albert Owen: I am sure that your organisation is involved in the consultation. Is it not your responsibility to pass it on?

Mr Princep: Well, yes, we have passed it on to our landlords. Some of the landlords came back with their comments and experiences of the green deal, but there is still quite a lot of uncertainty around how it will operate and the procedures that will have to be followed through. At the moment, we have certainly run a lot of articles and given information to our members and there is interest there. Until we know what the final layout will be, it is difficult to say what the take-up will be.

Q161 Albert Owen: But they have an idea.

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Mr Princep: Yes, they have an idea. Certainly, a lot of them have an idea of what is involved.

Q162 Albert Owen: So, their concern is over the minimum standard. They want to know what the minimum standard is so they have a benchmark to work to. Is that what you are saying?

Mr Princep: That is a major concern. At the moment, they know that enforcement provisions are going to come forward at some time up to 2018, but they do not know what will be required of them. Certainly, the idea that landlords will go out and carry out works without knowing what the final enforcement provisions will be is a little unrealistic. Landlords like to know what they have to provide before they go and spend money or carry out works, in case the goalpost changes when the regulations are put before Parliament. We would definitely urge certainty. We concur with Friends of the Earth and ACE that we need certainty about what the provisions will be. This will also make it a lot easier to inform landlords and to get their interest in it as well. If they know that by a certain date they will have to do X, Y and Z, they will take a lot more interest. At the moment they know that at some date in the future, something is going to happen.

Q163 Albert Owen: Has the RLA done a survey or any research into what proportion of properties is hard to let and how much it would cost to bring those properties up to the E rating?

Mr Princep: No, we haven't done that. Obviously, quite a lot of research has been carried out. The Energy Saving Trust has done quite a lot of research, as have other organisations. The Energy Saving Trust showed that for 80% of the properties, the cost was a few thousand pounds. For 20% of them, the costs were liable to be quite substantial.

Q164 Albert Owen: What would you consider to be quite substantial? What figures are you taking from the Energy Saving Trust?

Mr Princep: I would think anything over £5,000 is quite substantial.

Q165 Albert Owen: And you think that 20% of properties would be hard to treat?

Mr Princep: I think that that was the figure. It has been a while since I have read the Energy Saving Trust report. Certainly, for some properties, it will be £8,000 or more to get them up to the required standard.

Q166 Albert Owen: Okay. You quoted the Friends of the Earth and ACE in the previous session. They are suggesting that minimum energy efficiency standards should be introduced in 2016 rather than in 2018. The time scale they are talking about is two years. At least we would have the certainty. Do you think that that is enough time for landlords to meet those minimum standards?

Mr Princep: The problem is that there is so much uncertainty and so little information out there.

Q167 Albert Owen: Accepting that there is great uncertainty, is the RLA aware of what the minimum standards are?

Mr Princep: Yes, but the landlords themselves are not aware so much. They have obviously read the articles and are aware that this is coming, but the general public do not know what the green deal will entail. Neither does anybody until the Government come back with their final proposals. As for the community energy saving programme, which is fully funded by the Government, the lead-in time has slipped. They anticipated that they would have most of the schemes operating much earlier than they actually came into existence. There is still a shortage of schemes. It is a brand new scheme. Industry is not set up yet to operate it at its full level. So it is going to be a long time before it is publicised and the Government decide what is going to be put in place.

Q168 Albert Owen: But with respect, landlords do understand about energy efficiency. Many of them do. They know what the E rating relates to. They know roughly what basic things they have to do, don't they?

Mr Princep: Yes. Some of them do.

Q169 Albert Owen: If the minimum standards are to get up to the rating of E, could it be done by 2016?

Mr Princep: I don't think that the industry could do it in that length of time. Certainly, not in four years. It is too short a period of time.

Q170 Albert Owen: Okay. Again, Friends of the Earth and other witnesses have been telling us that they want the minimum standards to be toughened over time. Do you think that, once there is that certainty, there can be general improvements up efficiency rating D?

Mr Princep: That is a decision that will have to be made about the whole housing stock.

Q171 Albert Owen: I am just asking your opinion for this sitting. It is helpful that we get the opinions of everybody. You are quoting other people. I want to know what your opinion is.

Mr Princep: A balance has to be made between what is affordable and what would be the ideal. The ideal would be for everybody to have an A-rated building. I don't think that anybody would disagree with that, but it is the cost and the length of time that that could take.

Q172 Albert Owen: I am talking about the lower end now. I am talking about going to E ratings and up to D ratings. Do you think that that is practical? I accept that A-rating is way beyond the scale that everybody can achieve, but I am asking you, as a representative of landlords, whether that is achievable.

Mr Princep: I think for some properties it would be but, for others, it wouldn't. Certainly for the hard-to-treat properties where there are peculiarities of construction, or for properties that are in a conservation area or off-gas, it will be difficult. In some cases, we have had landlords approach us saying that they are having trouble meeting the E rating at

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the moment. To then put it into a D would mean that that property basically could not be rented out.

Q173 Albert Owen: So what could be done in the hard-to-treat properties to meet those standards? What are you expecting from the green deal for that?

Mr Princep: We are hoping, obviously, to raise awareness and certainly to raise awareness among tenants, so that tenants start looking and asking landlords to carry out work. If there were a demand from tenants, landlords would carry out the improvements voluntarily. It is just that there is very little interest among tenants in energy efficiency unfortunately, and the awareness of EPCs is very poor. If we could get the tenants driving the market, that would make it much easier to raise standards. But at the moment there is very little interest from tenants in energy efficiency. The introduction of EPCs with the home information packs was unfortunate because it was just swamped by the publicity around the home information pack. A lot of landlords thought initially, when the home information pack went, that the EPCs were going. It is only now that they realise that that is not the case.

Q174 Ian Lavery: What role do you believe there is for local authorities in promoting the green deal in the private rented sector? I put that question to the representative of Newham.

Sue Walker: Obviously, it depends on the role that the local authority eventually decides it is going to perform in the green deal. We, like most councils at the moment, are looking at all the options. There are basically three options: full involvement, which would be becoming a provider yourself; partnership perhaps with a utility or, thirdly, the lesser option of just general promotion. How you actually promote the green deal to private sector tenants would depend on which role you decide on. Basically, whichever model you decide on, you still will have an awful lot of work to do in persuading those tenants.

If you look at it from the perspective of a green deal provider, it would have to make a considerable up-front investment before it makes its first visit. There will be great commercial pressure to make very quick returns. We fear, rather like with the CERT schemes that have been ongoing for a number of years now, that it is much easier to make that sort of return on larger semi-detached or even detached owner-occupied properties in the suburbs, where the jobs and profits are larger, and the residents are more credit-worthy and less likely to be in fuel debt. There are also greater opportunities for cross-selling. Quite a lot of potential providers are hoping that they might make some extra money by selling other products while they are in there for the green deal. There are a lot of reasons why a provider will not look at the typical inner-city private sector tenant, and I could go on with quite a few.

If you then go to the perspective of the private sector tenant, there are a lot of reasons why they might not be keen on the green deal. Fear of retaliatory eviction and an increase in rent have been mentioned. Also, it should not be forgotten that most private sector tenants probably live in flats, and so you are bound to

encounter all the problems with flats that we have talked about earlier.

I could go on ad nauseam, but I will just say that there is a lot of work to be done in drawing private sector tenants into the green deal, particularly because we are in a very challenging environment in the rental market. Our private sector tenants are mainly vulnerable, and many are fuel-poor. They are very loath to take on the landlord, as has been discussed.

Q175 Ian Lavery: You just mentioned that you are concerned that green deal providers may overlook traditional hard-to-reach areas such as Newham and how difficult getting this improvement will be. If it can be achieved, what can we do to try to alleviate this problem?

Mr Jemmott: We talked earlier about the bottom end. We say that 95% of landlords are good and 5% are not so good. We think that in Newham, we have difficult-to-engage landlords and tenants. We have done landlord surveys—we did one in 2009, and the response was 6%. We are currently doing a landlord licensing consultation, and the response is much better than that, thank goodness!

Our tenants are also very difficult to reach. One of the problems with the green deal is getting the message to them, giving their details to energy providers and getting them to respond to requests and pass on information to absentee landlords. Many tenants do not know who their landlords are, and many are on benefits. We often have to consult the benefits database to get some details.

One of the problems that people have is making contact and trying to ascertain who the relevant people are—the leaseholders and freeholders. If many are flatted, we have freeholder issues. We also have HMOs—not an awful lot of the large HMOs, but an awful lot of two-storey HMOs. They fall outside the mandatory HMO licensing, so unless we bring in a more discretionary licensing scheme, such as additional licensing, it will be difficult to capture their details. One of the big problems is engaging and reaching the people whom we need to reach.

Q176 Ian Lavery: Can I ask Mr Taylor what appetite he believes there is for tenants to enter into a deal with the green deal? Are, for example, tenants scrambling to seek permission from landlords to enter into a deal with the green deal?

Mr Taylor: I suspect not. Where we, the Camden Federation of Private Tenants, are based, is a high-demand area. The problem is that, given the imbalance in supply and demand, people are scared. If people are scared, they will not be sticking their heads above the parapet to demand even the most basic things, such as repairs. If you take the green deal as another level away, I suspect that the way it is constructed means that it is not going to work for lots of tenants. It seems very complicated, and there is an issue about explaining—you get it added on to your bill, but you save bills.

The green deal is a good opportunity to address fuel poverty and energy efficiency, but sadly, given where a lot of private tenants are at, and the state of the market at the moment—it is not a tenants' market—I

suspect that tenants do not have the confidence to demand things of their landlords. Their main priority is to keep a roof over their head and to keep a decent or minimal relationship with their landlord rather than making big demands.

Also, as several people have pointed out, the ground issue of retaliatory eviction is always there. People are very scared. Someone came to us the other day who was living in a property with an illegal gas supply, which was installed by the landlord instead of a proper installer. It was an HMO set-up, and with everything the tenant told me about this, the warning lights started to flash. I said to her, "Given that you've contacted us, I assume that you want us to make a referral to environmental health. Can I have your details?" She refused to give them to me. I asked her why, and she said, "I am scared that if the landlord"—who actually lived in the property—"found out that I was the person who alerted environmental health to the problems with the flat, I would be evicted from my home."

Given that she was a 49-year-old female tenant on a low income, I think she was worried about where she was going to live. Let's be perfectly honest, a lot of flat shares in London are not aimed at 49-year-old females; they are aimed at people in their 20s and 30s. There is an issue for people of a certain age and income. What kind of housing in the private rented sector is there for them at the moment in high-demand, high-rent areas? We are getting a sense of an increasing level of fear out there.

We should not ignore the role of letting agents. The figures show that over 60% of transactions are conducted by letting agents, not landlords. In terms of promoting the green deal and being able to explain it to landlords, for me, if they are not professional enough to understand it, are they professional enough to be providing something as key to people's lives as housing? One of the problems that bedevil the private rented sector is that, essentially, it is a cottage industry full of amateurs who really do not know what they are doing. They are just looking to make some money out of it. They don't understand their obligations and responsibilities and what is required to provide a professional housing management service to people.

Therefore, given the increased role of letting agents, in the calculations, we should not forget them and their ability, presumably, to educate landlords. Unfortunately, a lot of letting agents are not up to the required standard because, let's be honest, they are not very professional, they are quite amateurish and they are in it, essentially, to make money rather than to provide a service. But theoretically, there is a key role for them to play in the process, so we need to talk about tenants, landlords and letting agents too, because they are key in the private rented sector.

Q177 Ian Lavery: That is very interesting. Will local authorities face any difficulties in enforcing the minimum EPC standards?

Mr Jemmott: I think they will. One of the difficulties will be that the enforcement itself is done by trading standards and there is some concern about how much enforcement they actually do at present. I would be concerned about that. A lot of these inspections of the

private rented sector are done by environmental health or private sector housing officers. In many instances, that service is delivered separately from trading standards. They are perhaps not even under the same directorate, so we have some disconnect in the area of enforcement. There are two teams responsible for different aspects of inspecting and passing on the information and the enforcement. The priorities may be different. That is certainly one of the things: who does the enforcement, who is the responsible person? Another is whether trading standards people see themselves primarily as being interested in the private rented sector, fuel poverty, the people living there and socio-economic issues, or whether they have other priorities in the commercial sector.

Sue Walker: My concern is the increased call on environmental health's resources at a time of local authority cuts and at a time when the private rented sector, certainly in Newham, is increasing all the time. That 35% figure is, by now, probably a conservative figure. It is probably larger than that.

Mr Jemmott: It is 42%.

Sue Walker: With the universal housing benefit changes imminent, it is likely that there will be a growth in HMOs, which the rented sector will increasingly represent. There will be HMOs for people aged between 16 and 24. It will be an increasingly complex and time-consuming role. It is difficult to have the green deal coming in when there are all these changes in the sector at the same time.

Q178 Ian Lavery: Lastly, would it present any enforcement difficulties if F and G rated properties could still be legal if the landlord carried out all available measures under the green deal and the ECO?

Mr Jemmott: It certainly would for us. We have guidance in our accommodation standards. I know lots of other authorities have standards for private rented accommodation that they try to get their landlords to reach. In our standards, we ask for a D. That is just guidance. We have already said that HHSRS does not set a rating, but it talks about the ideal. Property must meet the ideal. We still think that tenants will make complaints to us, and they do. They may say that there is no double glazing or that the property is draughty. There is a limit to how much you can ask the landlord to do, and avoid the landlord justifiably appealing to the RPT and then having to defend why you have asked for additional measures, or measures beyond what would take it up to the average for that property in the HHSRS. Do we want an A, B or C banding in the HHSRS, or do we want to bring everything up to the national average? That in itself is probably not aspirational enough, and if we do not want to have to make repeat visits to a property or have repeat complaints from that tenant, we would want to do something that is quite sustainable. While we are treating that property, we would not want to have to go back within the next five or 10 years. Under the old system, we would bring a property up to standard and not have to go back. We used to talk about a 10-year life. If we just did the bare minimum, we would have to go back and that would require additional resources.

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Q179 Christopher Pincher: Continuing the theme of the green deal with regard to responsibilities of tenants, National Energy Action has said, “It is wrong in principle that tenants should be expected to pay for improvements which do no more than meet the basic minimum decent homes standard.” Obviously, under the green deal, tenants will be expected, as everyone will be expected, to gain something from their energy bills. I just wondered whether you agreed with that NEA sentiment. Shall we start with you, Mr Taylor?

Mr Taylor: On the whole, I do. Tenants are already paying their rent for a service to be provided—a housing service—and we need to see it in that context. It seems a bit odd to me that they are then being asked to reach further into their pockets, in very difficult financial times, to pay for things that landlords should pay for. For me, if you are not able to rent out a property at decent standards, I would say, don’t be a landlord—get out of the private rented sector. Housing is one of the fundamentals of life. There is a responsibility on people who decide to provide housing for people, whether you are a social or a private landlord, to provide properties of a good standard for people to live in.

In London particularly, rents are high enough as it is. People question what they actually get for the very high rents they pay in certain parts of London, particularly in Camden. People tell me how much rent they pay, and then you go and see the property and you think, “My God, someone’s being ripped off quite badly.” So I agree with the principle, but how do we address the problem? If we were to say that all landlords are going to have to contribute, would we get any progress on this very important issue? I suspect not. It is a far from ideal arrangement, but if it does get the energy efficiency improvements then in a sense it is something that needs to happen—albeit reluctantly for us, because I maintain the point that we are already paying the landlord for a service.

When you talk about EPCs, it is just loads of letters. I have had the misfortune of living in an F-rated property for six months, and I can tell you that it was the coldest six months I have ever spent in my life. I would never wish that on anybody. I have experienced the reality of what it is like to live in a very cold property. When the environmental health officer came round after I complained, the first thing he said to me was, “Blimey, it’s cold in here, isn’t it?” And he kept repeating that throughout the visit. At the end of the visit—this was during the winter—he said, “Excuse me, I’m going outside to warm up, because this property is so cold.” For me to talk about A, B, C, D, E, F—what does it actually mean? I can convey my personal experience of what it means to live in an F-rated property, and I would not wish for anybody in this room or anywhere else to live in an F-rated property.

I am particularly concerned about older private tenants and people with families. Some of our older private tenant members say to me, “In a cold winter I literally spend my whole time fully clothed in bed, because my property is so cold.” It just strikes me that in 2012, people are living in those conditions. It therefore comes back to the point that, yes, I would rather tenants not pay this, but if this mechanism enables

more homes to be made more acceptable, energy efficient and comfortable for people, then maybe it is a road we need to go down, in the absence of any other options on the table.

Q180 Christopher Pincher: So, Mr Princep, F stands for freezing. Do you think that tenants should have to pay?

Mr Princep: We certainly have some sympathy with that attitude, but obviously it is important to remember that if a landlord is operating as a business and there are extra costs, in some way or other the tenant will pay, whether through the fuel bill or increased rent. Ultimately, if that business is to continue, the landlord has to make a profit. But we do have a little sympathy with that approach, and certainly we would like to see the option for the landlord, with certain tax systems, to pay for the works themselves. We think there is going to be a relatively high percentage of landlords who will be willing to self-fund it, instead of it being put on the tenant’s bill.

Research last year showed that 25% of landlords were making no profit or were actually making a loss. A report we commissioned from Professor Ball at Reading university showed that a lot of the headline figures for returns from the rental market in practice just aren’t there. A decision has to be made about how the tenant pays for the improvements: whether they pay, ultimately, through increased rent or through the fuel bill. But we think that some landlords will be willing to carry out the works themselves, which will benefit them, because any savings on the fuel bill will be in their pocket instead of being taken up by the green deal charges.

Q181 Christopher Pincher: We will come on to that. What you both seem to be saying is that in actuality, tenants will pay but they should not have to pay. So I suppose the question is: who should pay?

Mr Princep: The tenants will have to pay one way or another.

Q182 Christopher Pincher: The question is not who will, but who should. Whom do you think should pay for improvements to privately rented properties to bring them up to a decent homes standard?

Mr Princep: If additional expense is being paid, and it is a business, either the business goes out of operation and the landlord leaves the market, or the tenants—the customer—will have to pay for the improvements, ultimately. It is a fact of business life that ultimately, the tenant will have to pay.

Mr Jemmott: I see this from two fronts; I am also a member of the Chartered Institute of Environmental Health. If we take enforcement action, the notice is served on the person responsible—clearly, that is the landlord. We do not have a choice in that because it is a statutory requirement.

Within Newham, a significant proportion of our tenants are paid through the local housing allowance, and even of tenants placed within Newham from other local authorities. Given the cost of renting that they would have to pay in Newham compared with the cost of renting in central London, those tenants are exported further east to us, and we send them further

down, where rents are even cheaper. In effect, they are being paid from the public purse. A lot of this is Government and public money being recycled. I know that it is a tenant's rate, but in the end the public are also investing, and we think the landlord should use some of that investment to improve the properties.

We know that some of the rents are paid by the LHA. Under landlord licensing, if a property is licensable but is not licensed, we can—and we do—recover the money through rent repayment orders. We have done that successfully at the RPT. That is where one piece of legislation allows public money to be clawed back. I think the landlord is pretty much forced to carry out those improvements, for the reasons I have given.

Q183 Christopher Pincher: Mr Princep, you said earlier that the RLA, one of the premier trade associations for landlords, has proposed some innovative solutions to the low take-up of LESA. What is the rationale for your new proposals, and why do you think they are going to work?

Mr Princep: As has been mentioned, the take-up of LESA has been very poor, partly because its publicity has been poor. A survey by ARLA has showed that some 50% of accountants were not aware of its existence, which is a little concerning. However, we also think that a lot of landlords are not bothering to claim it, and they are just making up the allowance through their income. When they put loft insulation in, they do not look at it as an improvement but as a repair, and it is taken out that way. So I think that quite a lot more energy efficiency work is taking place in the market than LESA is necessarily showing. Certainly, the English House Condition Survey shows that the private rented sector is improving at the greatest rate of all the sectors, such as the social sector and the owner-occupied sector. So there is movement.

Q184 Christopher Pincher: Is that movement planned or piecemeal? The sense I seem to get—forgive me for repeating, Mr Taylor—is that he said that you are a cottage industry populated by amateurs. Is it the case that many landlords out there who are not associated with the RLA or the NLA know nothing about the opportunities available to them to get grants? If so, how is changing LESA going to do to alter that?

Mr Princep: I think there are a lot of landlords who do not know what is required or what the law says. Certainly, that is why we encourage landlords to become members of landlords associations and to become accredited. We would strongly urge accreditation as being a way of improving the sector. Going back to the landlord's energy saving allowance, what we are looking for is increasing the amount and the extent it can be claimed against. At the moment it is limited to £1,500 only for insulation. We would like to see that increased to basically cover the cost of any green deal works and extend it to cover plant like boilers and central heating equipment so that the improvements can be made, the landlord can pay for them and get tax relief from the exercise of improving their property. As I said earlier, the benefit of that is that any savings then go directly to the tenant instead

of the tenant having to take them up through the Green Deal.

Q185 Christopher Pincher: I see that point, but if you are going to claim tax relief, you still have to claim it. It is not simply given to you because the HMRC knows that you have a right to it, so I still don't understand what it is that landlords will do differently because they have a capital allowance programme available to them rather than a LESA insulation funding allowance. It sounds to me that what you are saying is that it is really to do with money available, rather than the process by which landlords can make claims.

Mr Princep: Obviously, the fact that there will be compulsion on the sector will increase landlords' interest in energy efficiency works—that is, those who are not already interested. It is important to remember that the general research the Energy Saving Trust carried out a few years ago on interest in energy efficiency showed that landlords were more interested in it than tenants, and certainly a lot more interested than agents. In research that looked at carrying out ancillary improvements related to energy efficiency, landlords were more willing to spend more money on refurbishments to carry out energy improvement works than owner-occupiers. There was quite a significant difference between landlords and those in the owner-occupied sector who were less likely or less willing to carry out energy improvement works when they carried out ancillary works than the landlord. So there is quite a will among landlords to carry it out and quite a lot of interest in energy efficiency. It is just that we need to make sure that the mechanisms are there for them to do so.

Q186 Christopher Pincher: And yet when Newham carried out a survey of its private landlords, only 6% responded. I don't know what that survey was about, but it suggests there is a lack of engagement on the part of landlords. Something needs to be done about that. What was the survey about?

Mr Jemmott: We just wanted a landlord survey. Questions included: how many properties do you let within the borough? Most of our landlords let fewer than three properties. We are looking at landlords who are either opportunistic or perhaps might have had a property left to them and are letting it—that sort of thing. A lot of them are not necessarily in the market as portfolio landlords. We know that. They may not be letting the property for the long term, so they are not investing any time or self-training in it. It is those people we need to reach and give advice about the industry. That survey was carried out by a research company called Quest, so it was an externally commissioned survey. Within our borough-wide licensing consultation—we have an opinion search company to do that—we asked how many of those landlords belong to a landlord group. We have some stats from that which will tell us how many of them belong to the RLA or SLA and so on.

Q187 Christopher Pincher: Is that information shared with the RLA and SLA?

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Mr Jemmott: That document will come out as a public document later this month.

Mr Princep: A 6% return for landlords is not that unusual. Certainly a lot of surveys are carried out generally where 6% is not considered to be particularly unfavourable. We have to recognise that, at the moment, Newham is looking at the selective licensing of all of its landlords, so landlords in that borough may well be reluctant to have any communication with that authority. I do not think 6% is necessarily that unusual. Certainly that fares better than a lot of correspondence when it comes to looking at private rented sector tenants—getting responses from private rented sector tenants is very difficult.

Q188 Christopher Pincher: It sounds to me as though a lot of landlords just don't care.

Mr Princep: No, I don't say that they don't care. I don't think that is the case at all. They probably did not particularly want to reply to a consultation document that they could see possibly being used against them at some time. Also, a lot of landlords are very concerned about their relationship with local authorities. A lot of local authorities have changed their attitude towards landlords recently. Some of them have very good relationships, but there is certainly a history of local authorities being dead against landlords whatever, and there is a bit of mistrust on the part of landlords against local authorities. That is often misplaced. As I say, that attitude is changing, but that view exists.

Chair: I am going to have to ask Sir Robert to take over the Chair for the last few minutes.

In the temporary absence of the Chair, Sir Robert Smith was called to the Chair for the remainder of the meeting.

Q189 Sir Robert Smith: I just wondered whether any of the panel disagree with the idea that houses in multiple occupancy should also have energy performance certificates.

Mr Princep: I must admit that was one of the things that the group that I chair, which is looking at the green deal, recommended should be introduced—that HMOs should have EPCs. My understanding is that you do not need an EPC if you rent out the property, but you do need an EPC if you sell the HMO. One of the issues about the EPC generation software is that it is not designed for properties that are in multiple occupation. It is designed for a standard dwelling with one bathroom, one kitchen, bedrooms and lounges, not properties with several bathrooms, several kitchens and a mixture of shared kitchens and individual kitchens. So the results generated would not be reliable and could be challenged, because some major assumptions would have to be made about the layout of the property. But in principle we do not disagree at all with that idea because we think that the EPC is really a key to driving energy efficiency in the sector and that if we can get every tenant to start looking at their EPC, the tenants themselves will demand improvements and point out to landlords and agents that improvements need to be done at the property. That will drive improvements in the sector.

Q190 Sir Robert Smith: Is there any disagreement about that?

Sue Walker: We agree.

Mr Jemmott: Yes, we agree, but there will be issues. Obviously, it depends on the definition of an HMO. The 2004 Act goes into about three pages on the definition of an HMO. Certainly in terms of section 257 HMOs, it is not a problem. In terms of bedsit-type HMOs, perhaps there is a problem. You might have to consider the whole house as the dwelling, rather than the individual ones. Obviously, if there is a top-floor flat with a loft, that will probably have a different rating from a flat in the middle that has walls on either side and is better insulated.

The other point is that you would need to get into perhaps not all but a substantial number of the dwellings if you were to do a whole-house survey. That is a problem we find when we inspect HMOs. If you are going to do a risk assessment on HMOs and you are looking at fire, for example, you need to get into most of the properties to risk-assess the properties for the fire risk. In terms of energy efficiency, generally, for bedsit types, you will find that there is a communal heating system anyway. The landlord will provide space for that. There may not be individual key meters or whatever. Again, if you are talking about the whole property, it certainly can be done.

Sue Walker: There would also be the issue of resources; we touched on that earlier. I am talking about the growth in HMOs and the growth in the private rented sector as a whole.

Q191 Sir Robert Smith: Mr Princep, in your answer, did you suggest that the system of making energy performance certificates may need to be more sophisticated?

Mr Princep: Yes, I think it does. My understanding is that the domestic software that is used for generating most houses' EPC is not that suited to HMOs. The commercial software that is used for commercial premises—shops and offices—is possibly more suitable for generating an EPC for an HMO, but more research needs to be done on that.

Q192 Sir Robert Smith: Mr Taylor, do you have a view on HMOs?

Mr Taylor: It seems odd to me that what is often one of the worst areas of the private rented sector, HMOs, would be excluded on the basis that there are some technical issues. We can send people to the moon, but we cannot resolve issues to do with energy performance certificates in HMOs. I find that rather strange.

One thing that is often said about the private rented sector is that it is complicated. Well, for me, why add to that complication? Let us simplify it and make the EPC apply to every property in the private rented sector. It simplifies things. If certain areas are excluded for technical reasons, that just adds to the confusion and complication that people go on about all the time as being a problem of the private rented sector.

Q193 Sir Robert Smith: As you say, when it comes to selling an HMO, you would have to get a certificate

anyway, so there is going to have to be a way of doing it, and it might as well be done for the rented as it is for—

Mr Princep: I think there is just the uncertainty about the scoring, but yes, we support that idea.

Q194 Ian Lavery: The possibility of being evicted from your property for asking for energy-efficiency improvements is obviously a major concern. Mr Taylor explained earlier about the 49-year-old lady who would not report for fear of retaliatory eviction, as I think it is called. How real is the threat of retaliatory eviction?

Mr Taylor: It is extremely real. As an experienced housing professional, I have been a victim of retaliatory eviction. When I lived in a F-rated property for six months, the agent, who was a member of the London landlord accreditation scheme, issued me with an illegal notice to quit within the first two months of my occupying the property. The agent said to me, “We know this is illegal but the landlord has asked us to do it, so that’s why we have issued you with this document.” That was in direct response both to the fact that I was complaining about how cold the property was, literally on the second day that I had moved in there, and the fact that I had called the environmental health officers round to come and have a look at the property. The landlord was also invited to be there as well, so they obviously knew what I was doing. Our relationship was terminated after six months by using the break clause in the tenancy agreement.

To be perfectly honest with you, I was glad to be out of that kind of place, but I know retaliatory eviction exists. As I say, I have been a victim of it myself. Four organisations make up the National Private Tenants Organisation and we hear from tenants all the time saying that this is an issue for them. For me, if you feel that you have to leave your home because you are not able to get repairs and other requests from the landlord, in a sense you are evicting yourself from that property. I would include people who decide to get the hell out of a property and move somewhere else, which again is one of the perennial problems of the private rented sector. That is why problems never get resolved, because people would rather move on than continually bang their heads against the wall trying to get things from landlords.

Everybody you speak to with some experience of the private rented sector will say that it is a mixed bag of experiences at the very best, and I can concur with that, having been a private tenant for a very long time. It is probably not so much of an issue in low-demand areas, where landlords have to do much more work to get tenants, but in very high-demand areas like Camden, where agents and landlords do not have to work particularly hard to get tenants, there is a trigger-happy tendency at the moment. If in doubt, get rid of your tenants, because it is also a good opportunity to get more tenants in and get higher rents from them.

For me, retaliatory eviction is a big, big issue. Unless we start to address the issue of the weakness of tenants’ rights and section 21 notices, where tenants can be evicted without the landlord having to offer any reason, we would say that a private tenant

theoretically is only ever two months away from losing the roof over their head. Unless we address the wider issues of the lack of security of tenure in the private rented sector, tenants will never be able to act as consumers, or drivers of change. People are saying, “Why aren’t tenants driving this process?” They are not, because they are in a fundamentally weak position.

You see all the documentaries—“Dispatches”, “Panorama”—about the problems of the private rented sector, but they give the impression that the only people in that sector who have problems are housing benefit claimants. Our experience indicates that private tenants across the board have problems with their landlord. Whether it is an old or young person, a student, someone who is unemployed and claiming housing benefit or someone who is working, a whole range of people come to us and say that they are having problems with their landlords.

A member of our management committee is a professional lobbyist in Westminster. She is a very articulate, well-educated professional. She told me that she’d had to move eight times in five years because of various problems with agents and landlords. We would say very clearly that the problems of the private rented sector are not limited to niche parts, although that is where the main problems are; the problems cut right across the sector. We would argue that any kind of tenants—working, old, young, whatever—can have problems in the private rented sector. On that basis, it needs to be urgently attended to.

Q195 Ian Lavery: Thanks for that. I understand and accept what you are saying about your personal circumstances. I feel very sorry for you, by the way. What hard evidence is there that this is widespread?

Mr Taylor: Landlords organisations continually raise the issue of the kind of evidence, but I have seen reports produced by Citizens Advice that show evidence. I suggest that if you go to any organisation that is giving housing advice, it would probably be able to give you evidence. As I said, the four organisations that make up the National Private Tenants Organisation—two are in London, the other two are in the northern parts of the country—have evidence that this is a problem.

If people are leaving—which I see as a form of retaliatory eviction—as opposed to being evicted, because they are not getting anywhere with the agents or landlord, it is not going to be recorded. That is one of the problems in the private rented sector. Rather than people necessarily reporting problems, they just put them down to a bad experience and hope that they will have a decent landlord or agent in the next place where they end up, and that they will be living in a decent property.

There is an issue with recording these things, but from the evidence I have seen, from my personal experience, and given that the market is skewed at the moment towards landlords, not tenants, I appreciate and understand that retaliatory eviction is a problem. The exact scale of it remains to be determined, but organisations like us and the advice organisations say that we probably see the tip of the iceberg, because a

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lot of the problems are not recorded and brought to our attention. That is not to say that it is not going on, because it is.

Q196 Ian Lavery: So are there any steps that the Government or local authorities could put in place to protect these tenants?

Mr Princep: The Chartered Institute of Environmental Health research was mentioned. ACE said that it showed that 50% of people who complained to one authority were evicted. That was not what the research showed; it said that almost 50% of the people who complained to that local authority dropped their complaints because of fear of eviction. It turned out that in its letter, the local authority told the tenant, “You risk losing your property if we take enforcement action,” which was a little short-sighted.

Local authorities can do a lot to make it clear to criminal landlords who evict tenants that if they serve notice on them, they will continue to enforce that notice even if the current tenant leaves. Some authorities drop the enforcement if the current tenant leaves, which is wrong. It gives the wrong message to the criminal landlords and it is wrong in law. They must make it clear to the tenant and landlord that if they take enforcement action, they will follow it through, irrespective of which tenant is there.

Mr Jemmott: Again, the question was about the hard evidence around this issue. We heard earlier about the impact assessment on energy efficiency, and we are looking at the evidence leading to that. Apart from the impact assessment, we do not really have anything else. We do know about retaliatory evictions, and we have the evidence that was provided by the Rugg report—that is still out there in terms of section 21, and so on.

We also know about figures that came out at the end of last year for claims for possession in the county courts—genuine claims, not illegal ones where landlords basically just wanted the properties back—and Newham had the second highest number in London. We know that we have a high incidence of claims in any event. We also do what we call PIE returns to the DCLG, and we need to give numbers. When we inspect properties or respond to complaints from tenants, we then answer a question about whether our efforts or intervention have prevented eviction. That is another return that we can look at for further evidence.

We have looked at how many cases were reported to our housing choices team to date, from April to now. Last week, 68 tenants walked in and said, “My landlord has evicted me.” That is the sort of thing you get at 2 o’clock on a Saturday morning, and it is reported to the police because no one knows what to do. Such things are grossly under-reported in any event, and in those cases we need mechanisms for injunctions, reinstatement, and for the case to be taken up. In the past two or three months we have had two successful prosecutions at Stratford magistrates court for illegal evictions, with heavy penalties and compensation given to the former tenants. Those were criminal matters. It is very difficult to bring civil matters because local solicitors will not actually take them due to problems with legal aid and so on. There

are a lot of problems in dealing with evictions when they take place.

Another big problem is that this is not only about the eviction itself—the person is already out—but about the harassment that takes place. Not only will there be evictions, but tenants will be harassed while they are within the property. At the moment, we can resort only to the Protection from Eviction Act 1977, because no secondary legislation is available in the Energy Act 2011 to deal with such matters.

Q197 Ian Lavery: I am very conscious of the time, but I want to ask a brief question and I am sure that the response will be brief. Are there any lessons to be learned from regulatory measures in other countries on such matters?

Mr Taylor: In terms of tenancies?

Ian Lavery: In terms of protecting the tenants.

Mr Taylor: If you look at other European countries, you see a different private rented sector at work. There are still lots of small-scale landlords, but the system seems to work more effectively. That is because there is more intervention by the state, and much more regulation. I am afraid that you must have those kinds of things to end up with a high-quality private rented sector, and that is why we should not ever give up on the private rented sector.

The LSE did a study recently that looked at different private rented sectors in America, Germany, Switzerland and the UK, and it did a comparative exercise. Shelter has done an analysis of that, and points to how the private rented sector operates in other countries. It is by no means inevitable that we have the kind of private rented sector that exists in the UK. It is not a lost cause, and we need to take a good hard look at some of the issues involved. It is about striking a balance between the rights of tenants and the rights of landlords, but we and the National Private Tenants Organisation would argue that at the moment the system is too heavily skewed in favour of landlords. An imbalance exists that leads to all the problems to which we, and previous witnesses, have alluded. It is by no means inevitable that we carry on with the kind of private rented sector we have at the moment. If we look overseas to some of the other models, I think that we will get some very good ideas about the way things can be improved, and we will end up with a high-quality private rented sector that is fit for purpose as a major housing provider for now and the future.

Mr Princep: I think the RLA is very supportive of taking enforcement action against people who carry out illegal evictions, and it is unfortunate that some authorities will not take harassment cases because they don’t have the resources. On the issue of retaliatory eviction, the English housing survey of 2009–10 showed that only 3.5% of all tenancies were ended outside an agreement or because the landlord wanted to take their properties back. Only 3.5% of tenants were actually evicted by their landlords.

A private landlord survey of the same year showed that 13% of landlords were seriously affected by rent arrears, 10% were seriously affected by damage done by tenants, and 7% were affected by antisocial behaviour. The 3.5% of tenancies that were ended

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includes the 13% of tenants who were in rent arrears. Those numbers are random samples of housing across England, and only 3.5% of all tenancies were ended by anything other than an agreement between the landlord and the tenant. That 3.5% will include those who have been evicted due to non-payment of rent, damage to the property or the harassment of neighbours in that area.

Sir Robert Smith: Time is against us. I thank all four witnesses for helping us to take forward this issue, which is of growing importance. We will consider further how to take forward the evidence that you have provided. Thank you.

Written evidence

Written evidence submitted by Calor Gas Ltd

This submission focuses on the off-grid sector and addresses three of the questions posed:

- To what extent is fuel poverty in rural areas driven by a lack of access to the gas grid and to what extent are other factors (such as housing condition and income levels) responsible?
- How could DECC's policies for tackling fuel poverty among off-grid consumers be improved?
- Given that the OFT found no evidence of a competition problem in the heating oil market, what (if anything) can be done to prevent a repeat of the situation in December 2010 when households were faced with high energy costs during a spell of particularly cold weather?

1. OFF GAS GRID FUEL POVERTY OVERVIEW

1.1 Fuel poverty in rural areas is caused by a number of complex and inter-linked factors and is often misunderstood by Central Government.

1.2 There is a discernible lack of both credible independent information and formal assistance schemes relevant to householders in off-gas grid Britain. To date CERT, CESP and Warm Front have not been particularly effective in reaching rural off gas grid areas.

1.3 Rural fuel poverty does not always neatly align with social poverty as is generally the case in urban areas, but is more closely associated with the quality of housing stock and/or the household demographic.

1.4 It is difficult to engage successfully with rural communities which are often sparsely located, with community boundaries which do not always adhere to Government statistical geographic output areas. Furthermore, owing to the often isolated physical location of rural households, or their reluctance to admit there is a problem, area based deprivation indicators do not easily identify rural fuel poverty.

1.5 Local knowledge is vital in determining where and how to effectively focus activity.

1.6 Working directly at a local level and applying bespoke solutions to fit specific community and householder needs, rather than applying a one-size-fits-all approach, provides the most effective assistance to those most in need.

1.7 Some "low hanging fruit" do exist in terms of low cost practical solutions which can be applied in spite of the challenges that rural housing and demographics present.

1.8 A holistic approach is vital which encompasses social as well as technical solutions.

1.9 Electricity switching and benefit uptake are lower in rural areas than in urban, leading to lower disposable incomes:

- 1.9.1 In contrast with urban areas, many rural households have never changed their electricity supplier and as such are on unnecessarily expensive tariffs.
- 1.9.2 Benefit uptake in rural areas is often lower than in urban areas with rural people either not being aware of their entitlement or perceiving a stigma to be attached to claiming benefits.

1.10 Simple educational initiatives around benefits and energy options can make a real difference increasing household disposable income and reducing fuel bills.

1.11 Simple, low cost energy efficiency measures can be undertaken which can make a real difference to rural fuel poverty, such as improving draught-proofing, managing energy demand and usage more effectively, and installing simple insulation measures such as loft insulation where appropriate.

1.12 Properly educating residents about appropriate rural energy efficiency measures is vital in ensuring that if/when capital works are undertaken, the correct choices for the house type, energy option, and lifestyle, are being made.

1.13 The market for LPG in off grid areas is acknowledged as open and competitive. Calor LPG users are protected from sharp spikes in home heating costs as a result of forward buying by Calor affording less volatile bills than for oil.

1.14 The recent advent of LPG micro combined heat and power (mCHP) boilers offers the prospect of driving down household fuel bills, in contrast to many other greener technology solutions. mCHP can simultaneously deliver all of the heat and up to 80% of the home's electricity, as well as cutting total household energy bills by 25% and carbon emissions by up to 50%.¹

2. ABOUT CALOR GAS LTD

2.1 Calor Gas Ltd is an experienced, specialist provider of energy to off-grid rural communities. Calor began operating in 1935 with the aim of bringing clean, efficient and modern energy solutions to homes and businesses

¹ Independent study by Oxera (2009) based on fuel cell mCHP.

across Great Britain. 2010 marked the Company's 75th year, and Calor continues to play a vital role in meeting rural energy requirements, supplying bulk and bottled LPG (Liquefied Petroleum Gas) to homes and businesses located off the mains gas grid 365 days a year. As Britain's leading supplier of domestic LPG, Calor has developed an excellent understanding of the unique energy challenges that rural householders face.

2.2 Calor supports Government efforts to tackle rural fuel poverty. As an energy provider Calor takes its responsibilities very seriously and wants rural property owners to have a strong voice in the fuel poverty and energy efficiency debate—and the same opportunity to reduce their fuel costs (and carbon emissions) as exists in urban on-grid areas.

3. FUEL POVERTY IN RURAL ENGLAND

To what extent is fuel poverty in rural areas driven by a lack of access to the gas grid and to what extent are other factors (such as housing condition and income levels) responsible?

3.1 Around 2 million English homes, comprising 4.6 million people, do not have access to the mains gas grid and of these households around a quarter are estimated to be fuel poor. Fuel poverty is a problem across Great Britain, but particularly in rural areas. The DCLG English House Condition Survey (updated November 2008) concluded that there are nearly three times as many households in fuel poverty in rural areas and that the numbers are increasing compared to urban areas. However, in spite of this, rural areas, and particularly those located off the mains gas grid, have seen little dedicated support or activity to alleviate the problem.

3.2 To ascertain the extent and distribution of the problem of fuel poverty in off-mains gas England, working with the CRC and Centre for Sustainable Energy (CSE) Calor undertook a mapping exercise using data taken from the English Housing Condition Survey 2007. This was modelled by the CSE to Lower Super Output Area and cross-matched at this geographic output level with Calor's Non Mains Gas database. Only 100% non-mains gas LSOA's were mapped. The mapping demonstrated that fuel poverty exists to a certain extent across all English regions, with particularly high concentrations within the East, North East and East Midlands and North West regions. Similar mapping exercises were undertaken for Wales and Scotland. (See Appendix)

3.3 The fuel poverty status of a household depends on the interaction of three factors:

- Income.
- Energy cost.
- Energy consumption.

3.4 The first two factors are inextricably linked to the nature of living in the countryside.

3.5 The 2010 manifesto of the Rural Services Network (of which Calor is a member) stated that, "At present, people who work in rural areas earn significantly less than those living in urban centres. On average, the discrepancy between earnings is over £7,000 per year".² Furthermore, the rural population contains around twice the percentage of retired people than the general population. Under-occupancy is also a problem in rural areas—retired couples or older single people with fixed incomes may choose to remain in the large family home, but cannot afford to heat the space adequately. They are often unable or unwilling to downsize and stay within the same community. Private rented housing/tied accommodation is often problematic in rural areas— anecdotal information collected through the FREE initiative suggests that people in private rented accommodation are worried that if their properties are improved the landlords will increase the rents. Tenants may save on fuel costs but face higher rent costs. There are also issues where tenants are unwilling to complain about their heating for fear of losing their home. Benefit uptake is also an issue in rural areas. Local authorities have expressed concern that take up of benefits in rural areas is lower than would be expected—either because people are not aware of what they are entitled to claim or they are reluctant to be means-tested. As part of the FREE initiative 100 rural households were surveyed about their energy consumption, housing type, and financial and social status. The results confirmed that 20% of respondents would welcome a benefit check as it appeared that they were not in receipt of all benefits they were entitled to. Finally, the lack of electricity switching is also a problem—switching rates for electricity supplier are far lower in rural areas than in urban areas, with the consequence that many rural households are on expensive tariffs and paying more than they could be for their electricity. These issues are related to a much wider debate in rural areas about access to many kinds of information, advice and services. Furthermore, the RSN has called on the Government to recognise that rural deprivation is often masked within areas of apparent rural affluence, indicating that the rural fuel poor may not be immediately or easily identified, and therefore overlooked by current Government schemes.

3.6 It is widely acknowledged that delivering products and services in rural areas is inevitably more expensive than in urban areas—in fact RSN research suggests that the additional costs for delivering rural services can be "as much as 90% higher".³ In relation to cost, natural gas tends to be unavailable in rural areas and inherently more expensive alternatives such as oil or LPG need to be used. The most popular heating fuels for rural homes are heating oil (c 55%) and to a lesser extent electricity (c 28%), solid fuel (c 10%) and LPG (c 7%).

² The Rural Services Manifesto 2010 and Beyond, p 13.

³ Ibid, p 10.

3.7 The third major contributing factor to fuel poverty—energy consumption—is driven largely by the energy efficiency of the dwelling. Off-gas grid communities, by their very nature, often comprise a collection of relatively isolated buildings located over a wide geographical area. Rural standing buildings tend to be older and possibly stone-built, very often with solid floors and walls. Such properties are classed as hard to treat and traditional cost effective energy efficiency measures, such as cavity wall and loft insulation, cannot easily be employed. In addition many rural homes are listed buildings and/or in designated Conservation areas—therefore subject to planning restrictions which can restrict and sometimes negate the installation of energy efficiency measures. Suitable energy efficiency measures are often expensive. Electrically-based low carbon energy options are limited by the high CO₂ emission levels and restricted capacity of electricity in Britain; much of the electricity in rural areas is only single phase, limiting the power available for electric powered heating systems such as heat pumps.

4. EXISTING ENERGY EFFICIENCY SCHEMES

How could DECC's policies for tackling fuel poverty among off-grid consumers be improved?

4.1 Rural households face pressure to contribute to the Government's fuel poverty and carbon reduction targets, but with no realistic plan or support specifically developed for the countryside. Similarly, Government funded fuel poverty and energy efficiency assistance programmes have traditionally been neither aimed at, nor able to reach, the majority of rural homes:

4.2 CESP (*Community Energy Saving Programme*):

4.2.1 CESP is a community-based partnership involving Local Authorities and energy suppliers, has also traditionally not been effective for rural communities. CESP targets households across the UK, in areas of low income, to improve energy efficiency standards, and reduce fuel bills. CESP is funded by an obligation on energy suppliers and electricity generators who, through the scheme, must meet an overall carbon emissions reduction target of 19.25 million tonnes of carbon dioxide (MtCO₂). CESP promotes a “whole house” approach ie a package of energy efficiency measures best suited to the individual property. The programme is delivered through the development of community-based partnerships between Local Authorities (LAs), community groups and energy companies, via a house-by-house, street-by-street approach. CESP eligibility depends on the housing stock and residents falling within a CESP qualifying area (Data Zone) and being within qualifying levels of the Index of Multiple Deprivation (IMD).

4.2.2 Accordingly, CESP delivery areas have been overwhelmingly urban as very few rural areas fit both criteria. Unlike urban areas where social deprivation exists in relatively small areas at a relatively large scale, the social and financial demographic of rural communities means that concentrated incidence of deprivation are rare, or the isolated areas of deprivation are “averaged out” by small incidences of affluence. Additionally, the house-by-house, street-by-street characteristic of CESP delivery is not well-suited to the dispersed nature of rural communities.

4.2.3 *CESP—Failing Rural Off Gas Grid Communities—a Scottish case study:*

Around 35% of Scottish households lack access to the mains gas network. The most popular heating fuels are heating oil and electricity, and to a lesser extent LPG. There is a larger proportion of solid fuel users (ie wood and coal) than the UK average. Scotland has a high number of homes that can be classed as hard to treat, where traditional and cost effective energy efficiency measures, such as cavity wall and loft insulation cannot be deployed. About one third of homes have solid walls or are of a construction whereby the cavity wall cannot be treated, while 25% of homes do not have a loft such as tower blocks and tenement properties. Fuel poverty is an issue across all of off-mains gas Scotland, with fuel poverty levels significantly higher than those in England. Worst hit are the Western Isles with over 40% of households experiencing fuel poverty. The Orkney Islands and large areas of Western Scotland are also particularly affected.

However, many rural fuel poor households find that they are fall outside the scope of available grant programmes, such as CERT, CESP, Warm Front and the Scottish Government's Energy Assistance Package, due to their personal circumstances, house type or location, or that the grant level is not sufficient to enable the necessary improvements to the fabric of the home to be made.

Calor Gas, in partnership with Scottish Power, is currently in the process of identifying how the Community Energy Saving Programme (CESP) funding could be better applied in rural settings. CESP targets households across the UK, in areas of low income, to improve energy efficiency standards, and reduce fuel bills. CESP targets areas that have significant levels of low income households. These are identified through the Indices of Multiple Deprivation (IMD). IMD data is measured at Lower Layer Super Output Area (SOA) level in England and Wales. The Scottish equivalents are known as Data Zones. The CESP eligible areas are further broken down by Super Output Areas in England and Wales, consisting of approximately 1,500 people per area (approximately 650 households), and Data Zones in Scotland with average populations of 750 people and approximately 300 households. SOAs or Data Zones eligible for a CESP scheme must be within the lowest 10% income decile in England, and the 15% most income

deprived areas in Scotland and Wales, based on comparable level of income deprivation. However, due to these criteria, few rural areas qualify as they do not tend to have the density of households in need of assistance.

Scottish Power is obligated to deliver CESP in order to hit mandatory carbon reduction targets. It is keen to deliver CESP in rural areas, however to date has struggled to find suitable rural CESP projects. It was proposed that the six rural housing associations (HAs) that Calor has been working with through FREE should be explored as potential CESP candidates, as the FREE funding has enabled them to identify required measures for carbon reduction and energy efficiency improvements. If these measures qualify under CESP rules, CESP funding could be used to implement these measures. Their eligibility would depend on the housing stock and residents falling within a CESP qualifying area (Data Zone) and being within the lowest 15% of the Index of Multiple Deprivation (IMD).

Furthermore, the Scottish Government has indicated that if there was a fuel switching project in Scotland that may require additional funding, they would consider funding this with Scottish Power. However, having explored this, it transpires that it is difficult, if not impossible, to establish a viable CESP project with any of the six HAs for the following main reasons:

- The housing stock does not fall into qualifying Data Zones—this is the main reason that CESP cannot be made to work in many rural areas. If a targeted area straddles different levels of Data Zones, Ofgem will not approve the project. One of the HAs has already tried this.
- Furthermore, if any of the HAs did fall into a qualifying Data Zones it is unlikely that their communities would meet the IMD criteria. Unlike urban areas where social deprivation exists in relatively small areas at a relatively large scale, the social and financial demographic of rural communities means that concentrated incidence of deprivation are rare, or the isolated areas of deprivation are “averaged out” by small incidences of affluence.
- Finally all of the FREE HAs have “in principle” agreements with a utility—not all of them with the same utility. A multi-utility approach can’t be taken because of Ofgem rules relating to thresholds and the fact that utilities can’t pool outcomes.

Scottish Power has funding for rural CESP projects and is looking for suitable candidates. Calor can identify up to six off-grid Housing Associations who have already identified required energy efficiency and carbon reduction improvements and are now looking for funding to facilitate this. These potential CESP projects cannot be taken forward at this point due to the strict qualifying criteria of the Data Zones and IMD. Due to their dispersed nature rural communities rarely fit within Data Zone criteria. Due to the varied social demographic of rural communities (with a mix of affluence and deprivation) communities rarely fit within the IMD criteria.

- 4.2.4 The current CESP criterion unfairly disadvantages rural communities who are unable to take advantage of the financial assistance available to promote energy efficiency and carbon reduction measures. The UK Government should look to address this to ensure a scheme that is both equitable and relevant to rural households.
- 4.2.5 The learning from this should be applied to the application of the Green Deal and Energy Company Obligation to ensure that qualifying criteria take into account the specific needs of rural householders.

4.3 CERT (*Carbon Emission Reduction Target*):

- 4.3.1 The current CERT programme which obligates energy suppliers to provide energy efficiency measures to eligible homes has been primarily marketed to, and delivered within, urban areas, where the majority of homes are eligible for relatively low cost improvements such as cavity wall insulation, and the CERT companies can make a large volume of improvements in a small geographical area, therefore maximising efficiencies. An investigation undertaken as part of the FREE initiative found that out of 100 rural households, 56% were either CERT Priority or Super Priority eligible, yet to date CERT has largely been under-delivered in rural areas.

4.4 Warm Front:

- 4.4.1 The Warm Front programme provides both heating and insulation measures within a strict eligibility criteria. However a 2010 a Centre for Sustainable Energy report stated that the correlation between Warm Front grants delivered between 2000 and 2008 and levels of fuel poverty was strongest in urban areas and weakest in hamlets.

4.5 In addition, if assistance is available at a local level, many rural fuel poor households find that they fall outside the scope of the available grant programmes due to their personal circumstances, house type or location, or that the grant level is not sufficient to enable the necessary improvements to the fabric of the home to be made.

5. FREE—CALOR’S RURAL FUEL POVERTY PROGRAMME

5.1 Calor has pledged to assist off-gas grid households across Great Britain in tackling fuel poverty and since 2010 has been working with the fuel poverty charity National Energy Action, and sister organisations in Wales and Scotland, to deliver the Future Rural Energy (FREE) programme—a three year £1 million initiative funded by Calor to help tackle fuel poverty and promote effective energy efficiency advice and behaviours in off-gas grid communities across Great Britain.

5.2 FREE was developed when Calor identified the need for a bespoke programme to bring independent energy efficiency advice and practical fuel poverty and carbon reduction measures directly to rural householders. In developing the FREE initiative Calor identified that:

- 5.2.1 Whilst there is a wealth of general energy efficiency information and advice, very little material exists that is specifically designed to cater for rural housing types, energy options and social demographics.
- 5.2.2 In fact, a number of misconceptions prevail regarding efficient rural energy solutions, particularly concerning Renewables which to date have largely been offered as the solution to rural carbon reduction and fuel poverty.
- 5.2.3 However, the nature of both the housing stock and capacity of rural electricity, combined with the high cost of installation, often limits the range of renewable technologies that can effectively be deployed in rural areas.
- 5.2.4 Furthermore, recent reports from both the EST and Joseph Rowntree Foundation have highlighted concerns around the reliability of some renewable technologies in terms of performance, cost effectiveness, and correct operation.
- 5.2.5 This fundamental lack of knowledge about rural energy issues has led to a discernible scarcity of formal rural energy assistance information and packages, both in terms of funding and activity, with Government schemes primarily being targeted at and delivered within urban areas where large scale “easy wins” can be achieved for a relatively low capital investment. The lack of both credible independent information and formal assistance schemes relevant to householders in off-gas grid Britain was one of the key motivations behind the development of Calor’s FREE initiative.

5.3 Through the FREE initiative, Calor and its partners have been working directly with rural communities across eight English regions (North East, North West, Yorkshire and the Humber, West Midlands, East Midlands, East, South East and South West), helping individual households to focus on their energy consumption and encouraging local communities to work together to promote best practice in energy efficiency and carbon reduction. Calor provided funding of £25,000 to each region to employ Rural Energy Officers to facilitate delivery of the FREE initiative at a local level in priority off-mains communities, and also funded 20 days of technical support per region from NEA fuel poverty specialists.

5.4 The FREE initiative combined a practical event-based programme of energy efficiency advice roadshows with relevant bespoke supporting materials including the first dedicated off-mains gas energy efficiency website and advice pack for Rural Energy Officers. Specifically designed to support those working within rural communities, the pack and website offer bespoke advice and technical solutions relevant to a range of typical rural housing types, locations and lifestyles. This was complemented by a bespoke rural consumer-facing energy efficiency booklet developed in conjunction with the Energy Saving Trust detailing simple, practical measures to reduce energy consumption in rural homes.

5.5 The FREE initiative is about getting bespoke advice and help to the people that need it most. Through materials and practical advice, it is helping off-gas grid households to understand the full range of options open to them with regard to cost savings, new technologies, income maximisation and carbon reduction methods and encouraging local communities to work together to promote best practice.

6. KEEPING LPG FUEL BILLS DOWN

6.1 The Committee note that there is no evidence of a lack of competition in the heating oil market, and wonder what can be done to prevent a repeat of the situation in December 2010 when households were faced with high energy costs during a spell of particularly cold weather.

6.2 LPG is not regulated like the transmission of electricity and gas for reasons explained by Charles Hendry in a recent Written Answer: “Regulation is typically introduced where natural monopolies arise. While the gas and electricity transmission and distribution networks are natural monopolies, this is not an issue for LPG supply where the UK has an open and competitive market with regulation by the UK’s independent competition authorities who are the Office of Fair Trading (OFT) and the Competition Commission” (*Hansard*, 31 October 2011, col 370W).

6.3 LPG used in the UK is primarily produced as a by-product from the refining of crude oil and hence its price is related to the price of crude oil and the internationally traded price of propane. The end user price for consumers, however, tends to be less volatile than that of oil because some suppliers tend to buy a large proportion of their gas forward in order to cushion householders from sharp spikes in winter pricing. In relation

to the query raised by the Committee it is worth pointing out that the litre price of Calor Gas's LPG remained virtually fixed from July 2010 to January 2011 with only a c 7% increase during December. This was at a time when the highest cost of gas for propane, in £ Sterling, was ever recorded.

6.4 In order to provide rural Britain with secure, low cost, low carbon energy, Calor is working with UK boiler manufacturers to bring mCHP (micro Combined Heat and Power) boilers to the rural market. mCHP is the process of generating both electrical power and heat from a single source. An mCHP boiler will heat the property with a high efficiency condensing boiler, but will also generate up to 80% of the electricity required in a rural home. Electricity is generated at or near the point of use when it is needed, avoiding the wasted energy associated with power stations and transmission systems. mCHP is a low cost, low carbon solution which is particularly effective at delivering secure, affordable low carbon electricity to rural areas—even very remote ones. It will reduce home energy bills—given an appropriate level of Feed-in Tariff:

6.4.1 A group of leading companies in the mCHP sector, including Baxi, Ceres Power, British Gas and E-on, recently launched a vision report highlighting how mCHP can actively contribute to the UK's transition to greener heat and power generation. (www.calor.co.uk/mchp) The report demonstrates that the installation of over 1 million micro-CHP units in the UK by 2020 is an essential and credible aspiration, but that the right Government support will be key to making this happen. Indeed, the upcoming second phase of the Comprehensive Review of the Feed-in Tariffs (FiTs) scheme presents a unique opportunity to kick-start the industry towards a path of sustained growth and wide uptake by the end of the decade. It is the conviction of all participants that raising the FiT to at least 15p/kWh and committing to continued support for micro-CHP after the initial pilot of 30,000 units, are essential short-term elements of an ambitious Government strategy concerning micro-CHP. According to the report, a subsidy level of 15p/kWh would allow micro-CHP to achieve internal rates of return (IRR) of around 5%, which is on par with the IRR targeted for photovoltaics in the recent Phase 1 of the Comprehensive FiTs Review Consultation. Commercial viability would allow rapid capital cost reductions for this emerging technology with corresponding FiT degression and eventual phase out of support once wide deployment has been attained. The cost of such support is estimated by the report at £12.7 million until the end of the Spending Review period in April 2015, which is less than 2% of the total FiT budget for this period. The policy cost per carbon abated until the eventual phasing out of FiT support for micro-CHP would be as low as £60/t CO₂. This constitutes considerably higher carbon cost effectiveness than the anticipated overall scheme effectiveness, as set in the FiT impact assessment published in February 2010. The benefits of enabling wide uptake of micro-CHP at such a low cost are bound to be significant for both the UK's overall energy strategy and for the consumer—especially those in rural areas where the range of low carbon technologies that can be employed is restricted by the limited capacity of the electricity grid, much of which is only single phase. One million micro-CHP units would not only considerably enhance the grid's capacity to meet electricity demand during peak periods, but also empower a greater number of consumers to produce electricity and heat on site allowing them to lower their energy bills and encouraging a culture of “bottom up” participation in the energy system. Fossil-fuel powered mCHP is practical, can use the current electricity and fuel supply infrastructure and will be very cost-effective per tonne of carbon saved.

6.4.2 Stirling engine-based LPG mCHP units are already on the market and installed in British homes. Such micro-CHP units can reduce total household energy consumption by over to 30% in existing properties where it replaces an old boiler.

6.4.3 Furthermore Calor is investing with the UK company, Ceres Power, to bring the Calor LPG fuel cell boiler to the rural market as the next generation of mCHP. As well as the existing benefits of using mCHP, the fuel cell mCHP boiler will provide a measure of black-out protection as the system can keep the power running during power cuts—a particular problem in rural areas. This will help the UK cope with possible shortages of generation capacity. This fuel cell boiler will cut carbon emissions on an average property using oil by up to 50%.

⁴ <http://www.calor.co.uk/documents/87/original/wales-fuel-poverty-map.pdf>

⁵ <http://www.calor.co.uk/documents/89/original/scotland-fuel-poverty-map.pdf>

⁶ <http://www.calor.co.uk/about-calor/why-calor-lpg/sustainability/free/england/fuel-poverty-mapping-in-england/>

7. Appendices not printed see^{7 8 9}

December 2011

Written evidence submitted by Citizens Advice (CAB)

INTRODUCTION AND SUMMARY

Citizens Advice welcomes the opportunity to respond to the Energy and Climate Change Committee's inquiry into fuel poverty.

The Citizens Advice service provides free, independent, confidential and impartial advice to everyone on their rights and responsibilities. It values diversity, promotes equality and challenges discrimination. The service aims:

- To provide the advice people need for the problems they face.
- To improve the policies and practices that affect people's lives.

The Citizens Advice service is a network of nearly 400 independent advice centres that provide free, impartial advice from more than 3,000 locations in England and Wales. In 2010–11 the Citizens Advice service advised 2.1 million people on 7.1 million problems.

Fuel poverty amongst households that live in privately rented accommodation and or who are not connected to mains gas is of significant concern to us, and both issues consistently feature in the evidence that we receive about fuel poverty from bureaux. We are very pleased that the Committee has undertaken to examine fuel poverty as it relates to these important issues.

This submission covers the following key points:

- Individuals who rely on off-grid heating can have particular difficulty affording their fuel and the lack of protection for low income and vulnerable consumers can lead to serious detriment. Although we welcome the work of the Office of Fair Trading (OFT) in this area, we are concerned that it will not be sufficient to fully address the needs of these consumers. We therefore support the stated intention of the Federation of Petroleum Suppliers to self-regulate but request that DECC is involved in the development of this and provides a strong steer about the direction it should take.
- We welcomed the Government's announcement that it will become illegal for landlords to refuse reasonable energy efficiency requests from their tenants and that rental of the very coldest properties will be banned through a minimum energy efficiency standard. However we have grave concerns about introducing these measures without also bringing in protection from retaliatory eviction.

OFF-GRID

1. Citizens Advice Bureaux have raised concerns about the difficulties that CAB clients face when they are off the gas grid for some time, and we submitted evidence to the OFT's market study earlier this year.

2. The key types of detriment that CAB clients face fall into the following categories: affordability; lack of affordable payment options; lack of support for low income consumers; lack of protections for vulnerable people; dubious or underhand sales practices; and lack of competition:

A CAB in the South West saw a woman who was struggling to heat her home as she could not afford her heating oil. She lived with her disabled child in private rented accommodation, in a rural area, and had no access to mains gas. In the summer she had purchased oil at 50p/litre but over Christmas the price had doubled to £1/litre and the company was in any case unable to deliver to her. She found another supplier that could provide oil for collection, but the price was £1.50/litre. She could not afford this and was looking for help. The CAB adviser checked and there were no grants available. Because she had solid walls, she could not have cavity wall insulation installed and lack of access to her loft space made it impossible to determine whether her loft was insulated. She was not eligible for a winter fuel payment and there were no additional benefits that she could claim. The only possible source of funding was an energy trust, but this was only available to pay off arrears, not to cover ongoing consumption. The woman and her child were having to wear several layers of clothing including a hat, gloves and a coat for sleeping in. The woman was aware that it was cheaper to buy oil in the summer months, and tried her best to save in order to do this.

A 60 year old man went to a CAB in the North West of England because he was having difficulty with his LPG supply. He was paying £180 per month to his supplier but he had arrears of £800. When he went to the bureau, there had been significant snowfall in the region, with temperatures regularly falling below 0°C. There were nine people in the household, including three children under

⁷ <http://www.calor.co.uk/documents/87/original/wales-fuel-poverty-map.pdf>

⁸ <http://www.calor.co.uk/documents/89/original/scotland-fuel-poverty-map.pdf>

⁹ <http://www.calor.co.uk/about-calor/why-calor-lpg/sustainability/free/england/fuel-poverty-mapping-in-england/>

thirteen, and two people with a disability. The man's brother-in-law had epilepsy and his seizures were more frequent in cold weather. Despite this, the supplier would not deliver any fuel unless the arrears were cleared in full. The adviser noted that this neglected to take into account any other financial commitments the man had. Eventually, after a protracted negotiation, the supplier accepted £550 upfront, which meant the man had to use up all the savings he had made due to taking a payment holiday from his mortgage and still had to borrow a significant amount from other family members.

3. When the OFT published the findings of its market study, we welcomed its commitment to look more closely into oil suppliers' practices to ensure compliance with existing consumer protection legislation. We understand that many of the worst practices we hear about—such as charging a different price on delivery from that quoted, or siphoning oil from a customer's tank to recover debt—are already covered by existing law. It should therefore be possible to stamp out such practices with a robust approach to enforcement.

4. However, we remain very concerned about the experiences of vulnerable and low income consumers, and we strongly believe that more needs to be done to protect these groups. Although the OFT found no evidence of a failure of competition across the market, our experience is that some consumers have little or no choice over their heating fuel supplier. While competition may be seen to work across the market as a whole, this fails to deliver positive outcomes to all groups of consumers:

A CAB in the West Midlands reported that they had seen a woman who owed £2,000 to her LPG supplier. She lived with three children and was self employed, but on a low income and was in receipt of tax credits and council tax benefit. The price of gas had increased considerably and she was unable to change supplier because she shared a tank with several neighbouring households. Even if all the households agreed to change supplier, they would be charged £500 for a new tank as the tank belonged to the supplier.

A CAB in the South East saw a woman who lived on a mobile home site. She was a full time carer for her disabled husband and the couple's only income was benefits. Their home was heated by LPG, which was brought onto the site four times a year and distributed to residents. The residents of the site had no choice over the supplier used. The woman said that all the residents on the site were unhappy with the prices charged and wanted to change to a different supplier.

5. In our experience consumers on low incomes or those who are vulnerable for another reason are more likely to be constrained in their choices than other consumers, and competition alone is less likely to meet their needs. We were therefore disappointed that the OFT did not make any recommendations about how vulnerable groups of consumers might be protected.

6. In order to address some of the problems that customers face with affordability, we are promoting bulk purchasing of heating oil through our oil clubs campaign. Information about these initiatives, including how to set up and run an oil club, tips for co-ordinators, and a map that enables customers to search for a club in their area is available on our website, and some CABs have been involved in promoting clubs locally.

7. Following discussions with DECC, the FPS, Action with Communities in Rural England (ACRE) and others, we used the launch of our oil clubs campaign in September to help spread the jointly agreed message that it is cheaper to buy oil outside of the peak periods.

8. In addition to the high cost of off-grid fuel, those who use heating oil or LPG have no protection that is equivalent to the gas and electricity supply licence conditions. Suppliers are under no obligation to provide assistance or protection from disconnection, to low income or vulnerable consumers, nor are they obliged to take into account ability to pay when recovering debts.

A CAB in Wales reported the case of a woman who lived with her partner and 11-year-old daughter in rented accommodation. Her daughter, who had epilepsy and a heart condition, had been sent home from school as she was unwell and she had later had a seizure. When the woman tried to run a bath for her daughter, she found her LPG supply had been disconnected. She phoned the supplier the following day and was told that there was an outstanding bill. The woman said that she had received the bill, but disputed the amount and had written to the supplier but received no reply. The supplier told her that unless she paid a significant part of the £700 bill, she would not be reconnected. The supplier representative also said that the woman should move home as LPG is relatively expensive. The CAB adviser challenged this, and was eventually able to persuade the supplier to reconnect the supply, waive the reconnection fee and make a repayment arrangement for the outstanding debt.

9. In order to improve practices and bring greater consistency across the sector, we recently drafted a charter setting out good practice in dealing with vulnerable and low income customers and we encouraged the FPS to sign up to this.

10. The FPS has informed us that they will not sign up to the charter as they are working with the OFT towards developing self-regulation, and this would make the charter redundant as a separate document. However, our discussions with the OFT indicate that discussions between the OFT and the FPS will focus simply on clarifying existing law.

11. We are very keen that any industry self-regulation adequately addresses the problems for vulnerable consumers in the sector and the FPS has indicated that it will involve Citizens Advice in the development of any regulatory code beyond what is currently required by law.

12. We would welcome moves by the industry to self regulate, but this must be done as swiftly and as collaboratively as possible. If progress is slow or not sufficient to address the difficulties we see, then we would ask the Government to consider statutory regulation.

13. Our experience of self regulation in other sectors is that it works best when Government strongly supports it and when the industry concerned is aware that independent regulation is likely should it fail to appropriately self-regulate. We would therefore like to see DECC involved in discussions about self-regulation of the off-grid sector and we would welcome a strong steer from DECC about the direction that such self-regulation should take.

PRIVATE RENTED SECTOR

14. Citizens Advice, as part of a coalition of around 40 organisations, campaigned for the 2011 Energy Act to introduce a minimum energy efficiency standard for the private rented sector from 2016, and greater protection for tenants who ask their landlords to improve the energy efficiency of their home. We believed it was important to provide protection from retaliatory eviction to tenants who make reasonable energy efficiency requests.

15. Private rented homes are the worst maintained part of the national housing stock and contain large numbers of vulnerable households and people living in fuel poverty. Urgent action is needed to ensure that all private rented sector tenants live in homes maintained to an acceptable standard. As the private sector grows, this becomes an ever more pressing matter.

16. We strongly welcomed the Government's announcement that it would become illegal for landlords to refuse reasonable energy efficiency requests from their tenants and that the rental of the very coldest properties would be banned through a minimum energy efficiency standard (although we continue to have reservations about the timetable and the precise definition of the minimum—implementation could be as late as 2018; and there is a loophole whereby properties can still be let below the “minimum” if the landlord has taken advantage of the available Green Deal and Energy Company Obligation finance).

17. However, we remained concerned that many tenants may be deterred from making requests of their landlords through fear of eviction. Under Section 21 of the Housing Act 1988, a landlord can end an assured shorthold tenancy agreement by giving a minimum of two months notice, without giving any reasons.

18. Research carried out by the Citizens Advice service¹⁰ has shown that many tenants fear that if they make demands of their landlords, they may be served with a notice to quit. The fear of retaliatory eviction is a significant barrier to many tenants asking for improvements and maintenance of rented properties, even where the landlord is in breach of health and safety regulations. Environmental Health Officers cite threats of retaliatory eviction as a significant challenge in their work to enforce health and safety standards.

19. Feedback from bureaux since *The tenant's dilemma* was published shows that the problem of retaliatory eviction persists:

A CAB in South East England saw a woman who was in her early forties and had long term health problems. She had lived in her flat since 1993 and in 2005 had signed a fresh assured shorthold tenancy. In 2009 she complained to the landlord's agents that the flat was excessively cold and had damp and mould growth. Neither the landlord nor the agents addressed the problem, so the client contacted the local authority, who inspected the flat. The local authority contacted the letting agent and set out the results of their visit, specifying the action the landlord had to take. The work was not carried out within three months and the council issued an Improvement Notice under the Housing Act 2004. The work was still not carried out and shortly afterwards the letting agents issued the client with a section 21 notice requiring possession. The client had no rent arrears and had a good record of payment of rent over the seventeen years she had lived in the property. The client felt sure that the agents had issued the notice in retaliation after she successfully pursued the disrepair allegation.

A CAB in the East Midlands saw a woman who lived in privately rented accommodation on an assured shorthold tenancy. The kitchen in her house was very damp, with mould, and she was concerned that the damp could be affecting her children's health. Additionally, her telephone line had been corroded due to the damp wall. She complained to the estate agent who promised to contact the landlady. The agent arranged for two builders to look at the problem, and they confirmed dampness, but did not arrange a solution. The tenant's subsequent calls to the agent were met with a lack of interest or not answered at all, so she contacted the local Environmental Health team who served the landlord with a notice to undertake remedial work. Following this she was served with a section 21 notice to quit.

A CAB in the South West saw a couple who were renting privately on an assured shorthold tenancy. The couple had been in the property for four months and were concerned about damp. They

¹⁰ *The tenant's dilemma—warning: your home is at risk if you dare complain*, D Crew, Citizens Advice, June 2007.

complained to the letting agency but the landlord refused to carry out maintenance work. The couple then contacted the Environmental Health department and a visit was arranged, but before it was carried out the letting agency contacted the client to say that the landlord would serve a section 21 eviction notice if they continued to complain about the damp. The couple were very keen to stay, as moving would be very stressful as they were expecting a baby. They therefore promised to desist from involving Environmental Health and tried to keep the damp at bay themselves using damp proof paint.

20. In 2008, Housing Minister Grant Shapps acknowledged that threatening tenants with retaliatory eviction when they seek to uphold their statutory rights is fundamentally unfair, saying “retaliatory evictions are completely unacceptable... we need sufficient protections in place to make sure retaliatory evictions do not happen”.¹¹

Under the Housing Act 2004 tenants are now protected from retaliatory eviction when their landlord fails to protect their deposit. We believe that this principle should extend to tenants who make energy efficiency requests using the provisions of the Energy Act. Some such provision should be introduced at the earliest opportunity. Without it, the Government will be encouraging tenants to demand energy efficiency measures from landlords without giving them protection from the potential consequences. Apart from the hazard to tenants, it is consequently less likely that these measures will succeed in driving up energy efficiency standards in the private rented sector.

21. The Government responded to pressure in Parliament by establishing a Green Deal Consent and Retaliatory Evictions Working Group, to look at the evidence. This consisted of representatives of stakeholders from different sides of the argument, including Citizens Advice, as well as DECC and CLG officials. However, it was clear from the outset that, in the absence of large-scale quantitative evidence, the conclusion was going to be that action on retaliatory evictions would not be recommended. Weeks before the report was completed, DCLG reassured landlords that there would be no postponement of section 21 evictions while a Green Deal application was in progress.¹² As regards retaliatory eviction, there would be a DECC “watching brief”.

22. As we made clear in our submission to the Working Group, the recurrent theme of a limited evidence base suggests a case for commissioning robust research to monitor the retaliatory evictions issue as the policy unfolds into practice.

December 2011

Written evidence submitted by National Energy Action (NEA)

1. BACKGROUND

1.1 National Energy Action (NEA) welcomes the Energy and Climate Change Committee’s decision to hold an inquiry into the causes and extent of fuel poverty in the private rented sector and in households without access to mains gas. From its inception in 1981 NEA has campaigned on fuel poverty issues and has sought to develop and promote policies and programmes to ensure affordable warmth for all households in the United Kingdom. NEA operates through its headquarters in Newcastle upon Tyne and through offices in Wales and Northern Ireland, and also works in collaboration with its equivalent organisation in Scotland, Energy Action Scotland.

1.2 NEA estimates that fuel poverty now affects more than 6.5 million households across the UK and is concerned that this total will increase further as domestic consumers face additional cost burdens resulting from continuing high global energy prices and Government proposals for a low-carbon energy industry. Yet the response from Government in terms of remedial action has been totally inadequate. There is no sign of the commitment, direction and resources that are urgently required to comply with the provisions of the Warm Homes and Energy Conservation Act 2000. In fact, recent developments show a weakening of political will to resolve fuel poverty and, despite supportive words from Government, no indication of a willingness to implement the scale and structure of the policy response required.

1.3 The Energy Act 2011 is intended to address the themes of this specific inquiry and it may yet prove to be the case that the legislation can be effective in these areas. The Act does contain provisions to improve energy efficiency standards in the private rented sector and it is intended that a combination of the Green Deal and the Energy Company Obligation should address the problem of hard to treat housing, although the latter ambition is more concerned with solid wall insulation than with access to affordable heating. However NEA does not believe that early manifestations of Government thinking provide reassurance that this will happen without a major rethink of proposals relating to fuel poverty in the private rented sector and assistance for those low-income households occupying hard to treat properties.

1.4 The time lag in publication of official data means that published Government statistics on fuel poverty trends are generally two years or so behind the current reality. The tables below¹³ have employed statistical

¹¹ Interview with *Environmental Health News* in 2008.

¹² At the National Landlords Association Conference, Manchester, 9 November 2011.

¹³ Statistical analyses undertaken by the Centre for Sustainable Energy on behalf of *Consumer Focus*, November 2011.

modeling to reflect, predominantly, the impact of energy price increases since publication of the official data for 2009. The tables illustrate estimated fuel poverty by tenure and by main heating source in 2011.

FUEL POVERTY BY TENURE—ENGLAND 2011

<i>Tenure</i>	<i>% households in group</i>		<i>Number of households</i>	
	<i>Not fuel poor</i>	<i>Fuel poor</i>	<i>Not fuel poor</i>	<i>Fuel poor</i>
Owner occupier	77.8%	22.2%	12,056,500	2,509,000
Private tenant	71.6%	28.4%	2,355,000	932,000
Local authority	68.3%	31.7%	1,214,000	562,500
Registered Social Landlord	76.9%	23.1%	1,466,400	441,000

FUEL POVERTY IN ENGLAND—2011—BY FUEL USED FOR MAIN HEATING SOURCE

<i>Fuel</i>	<i>% households in group</i>		<i>Number of households in group</i>	
	<i>Not fuel poor</i>	<i>Fuel poor</i>	<i>Not fuel poor</i>	<i>Fuel poor</i>
Gas	78.2%	21.8%	14,258,000	3,968,000
Oil	61.1%	38.9%	532,000	339,000
Solid fuel	40.2%	59.8%	78,000	116,000
Electricity	64.6%	35.4%	1,260,000	689,000
Total	76.0%	24.0%	16,371,000	5,164,000

1.5 NEA's comments on these issues follow the sequence of specific questions set out in the Energy and Climate Change Committee Terms of Reference.

2. What are the barriers to tackling fuel poverty in the private rented sector?

2.1 The private rented sector poses a number of specific problems, but these often come down to the motivation and attitude of both landlord and tenant in relation to energy efficiency improvements. This is frequently described in terms of a “split incentive” in that landlords bear no responsibility for the energy bill and tenants will not or cannot invest in improving the standard of a dwelling in which they have no financial interest. The private rented sector is both volatile and growing in scale. In 1999 there were two million private sector tenancies but this had risen to 3.6 million by 2009–10. Patterns of residency are also significantly different in this sector; the most recent English Housing Survey shows that 1 in 3 private tenants had occupied their home for less than one year and more than 50% for less than two years.

2.2 These conflicts of interest represent a fundamental barrier that can be made more formidable by the poor condition of some properties within this tenure category. Standards across the private rented sector are diverse and, whilst the majority of properties in this tenure satisfy reasonable heating and insulation criteria, the highest proportion of the worst housing is found in this sector. Energy Performance Certificate Bands F and G would normally see a property classed as posing a Category 1 Cold Hazard under the Housing Health and Safety Rating System¹⁴ and, as such, warrant enforcement action on the part of the local authority.

ENERGY EFFICIENCY RATING BY TENURE 2009

<i>Tenure</i>	<i>A-B</i>	<i>C</i>	<i>D</i>	<i>E</i>	<i>F</i>	<i>G</i>
Owner-occupied	25,000 (0.2%)	1,336,000 (8.9%)	5,429,000 (36.3%)	5,779,000 (38.6%)	1,884,000 (12.6%)	508,000 (3.4%)
Private rented	42,000 (1.2%)	527,000 (14.7%)	1,256,000 (35.0%)	1,082,000 (30.2%)	473,000 (13.2%)	208,000 (5.8%)
Local authority	20,000 (1.1%)	448,000 (24.7%)	843,000 (46.5%)	371,000 (20.5%)	102,000 (5.6%)	29,000 (1.6%)
Registered social landlord	53,000 (2.7%)	645,000 (32.7%)	853,000 (43.2%)	311,000 (15.8%)	91,000 (4.6%)	19,000 (1.0%)

2.3 Private sector tenants are more likely to be in fuel poverty than either owner occupiers or tenants of Registered Social Landlords with only local authority tenants having a greater likelihood of fuel poverty. The higher propensity to fuel poverty is not directly attributable to low household income since most private tenants do not appear to be income poor. In 2009–10, private sector tenants paid on average twice as much in weekly rent as social tenants (£153 compared with £75) but were much less likely to receive Housing Benefit (24% compared to 62%).¹⁵ In fact the incidence of fuel poverty in the private rented sector is not overwhelmingly different from other tenure groups; rather it is arguable that the extremely poor quality of some private sector housing, allied to the low incomes of a minority of tenants, makes the depth of fuel poverty greater for many tenants in this tenure group.

¹⁴ *A Decent Home: definition and guidance for implementation*, DCLG, 2006 indicates that an energy efficiency rating of SAP 35 or below is a simple proxy for a Category 1 Cold Hazard. G-rated properties score between 1–20 on the SAP rating and F-rated properties score 21–38.

¹⁵ *English Housing Survey: Headline Report 2009–10*, DCLG, 2011.

FUEL POVERTY BY TENURE—ENGLAND 2009¹⁶

Tenure	% households in group		Number of households		All households	% of fuel poor
	Not fuel poor	Fuel poor	Not fuel poor	Fuel poor		
Owner occupier	82.8%	17.2%	12,056,000	2,509,000	14,566,000	63.3%
Private tenant	78.9%	21.1%	2,594,000	693,000	3,287,000	17.5%
Local authority	75.8%	24.2%	1,346,000	430,000	1,776,000	10.8%
Registered	82.6%	17.4%	1,575,000	352,000	21,535,000	100.0%
Social Landlord						

3. To what extent will the recent measures in the Energy Act 2011 (to introduce minimum energy efficiency standards in the private rented sector) help the problem?

3.1 The Energy Act contains a number of provisions that should impact on the private rented sector. From 2018, private landlords will be required to improve any property that is rated F or G on the Energy Performance Certificate scale to a minimum target rating of EPC Band E.¹⁷ In advance of that date, from April 2016, tenants will be able to request the right to implement energy efficiency improvement works to which the landlord must give consent.

3.2 So the Energy Act does have potential to deliver major energy efficiency improvements across the private rented sector but there are serious concerns and uncertainties about the timescale, the role of landlord and tenant and financial arrangements for remedial heating and insulation improvement works.

3.3 Whilst the Act entitles the tenant to request permission from the landlord to undertake energy efficiency improvements, and permission cannot be withheld, this is the full extent of the landlord's obligation. That is, landlords are not required to undertake or commission any practical works and nor are they required to contribute towards the cost of such works.

3.4 NEA believes that this is wrong both in principle and in practice. Heating and insulation standards in the social rented sector were driven by the Thermal Comfort element of the Decent Homes Standard which established minimum energy efficiency criteria to be satisfied by the landlord on behalf of the tenant. The previous Government had intended that the Decent Homes Standard should be extended to cover dwellings occupied by vulnerable households and had set specific incremental targets to achieve this objective. NEA does not believe that compliance with minimum standards of decency in a rented property should be the responsibility of the tenant in organising or financing the works. It appears both perverse and inequitable that a tenant should assume responsibility for measures that ought to be the duty of the landlord and which will add to the value and quality of the dwelling.

3.5 As indicated earlier, the lack of meaningful prescription, regulation or incentives will tend to perpetuate the situation where neither tenant nor landlord will be strongly motivated to act. The proposal that all private rented properties at or below Energy Performance Certificate Bands F and G should be withdrawn from the lettings market is welcome but is also inadequate. The target date of 2018 is incomprehensibly delayed and the target energy efficiency standard is minimal in its ambition.

3.6 As currently designed, improvement works in the private rented sector could in future be funded through the Green Deal and this too raises some difficult issues. As previously noted, tenants will continue to be averse to acquiring financial liabilities even where the improvements are of benefit in the short term. But this may not be the case with landlords who will now be in a position to commission significant and expensive works, provided they form part of the suite of permissible Green Deal measures, in the knowledge that current and future tenants will bear responsibility for repayments.

3.7 There is also uncertainty around use of the Energy Company Obligation to fund works in the private rented sector. Current proposals intend that annual Energy Company Obligation funding should be in the region of £1.3 billion and that these resources should be split 75%/25% respectively between a carbon reduction target and an affordable warmth target. During the passage of the Energy Act the Government had given repeated assurances that the withdrawal of the Exchequer-funded Warm Front programme should not be a matter of concern since the Energy Company Obligation would provide significantly greater resources for fuel poverty programmes.

3.8 In fact the projected expenditure on the affordable warmth element of the Energy Company Obligation represents a significant reduction in funding to improve energy efficiency in dwellings occupied by low-income and vulnerable households. Prior to the Comprehensive Spending Review of 2010, expenditure on Warm Front had exceeded £1.1 billion over the period 2008–11. This expenditure was augmented by annual expenditure on Priority Groups¹⁸ through the Carbon Emissions Reduction Target of approximately £600 million over that

¹⁶ *Fuel Poverty in England—Detailed Tables*, DECC, 2011.

¹⁷ This is the minimum target. However where basic improvements are unable to attain this standard the property will be considered compliant.

¹⁸ Effectively households in receipt of a means-tested or disability-related benefit although all households aged 70 or over were also categorised as part of the Priority Group.

same period, and this in turn was further supplemented by the £350 million Community Energy Saving Programme. Not only is projected expenditure on affordable warmth to be significantly reduced, it will also be funded in its entirety through regressive levies on domestic consumers' energy bills. Following the demise of Warm Front in March 2013 there will be, for the first time in more than 30 years, no Government-funded energy efficiency programme in England.

3.9 Private sector landlords could, if they so chose, benefit from a number of current incentives offered by Government in order to encourage energy efficiency investment. There are a number of potential sources of funding to improve the energy efficiency of properties in the private rented sector. The Landlords Energy Saving Allowance (LESA) is a tax allowance that enables landlords to claim up to £1,500 against tax every year. The allowance covers the cost of buying and installing certain energy saving products for rented properties including:

- cavity wall and loft insulation;
- solid wall insulation;
- draught proofing and hot water system insulation; and
- floor insulation.

The LESA can be claimed up to 1 April 2015, after which the allowance will no longer be available. Of course, private sector landlords can also improve their properties through the Carbon Emissions Reduction Target which offers free or discounted energy efficiency measures subject to the status of the tenant.

3.10 The Government has finally resolved to set the precedent of minimum energy efficiency standards in the private rented sector although the timeframe is unnecessarily long and the standard insufficiently rigorous. NEA understands that the Irish Republic is to require that, by 2020, no property should be rented out where it is E, F or G-rated on that country's Building Energy Rating (BER) scale. In addition, consideration will be given to withdrawing state support for housing costs where properties do not comply with minimum energy efficiency standards—an approach that NEA has previously supported for the UK. Energy Performance Certificate Band E equates to 39–54 on the SAP rating system and this modest target is insufficiently challenging.

4. *To what extent is fuel poverty in rural areas driven by lack of access to the gas grid and to what extent are other factors (such as housing condition and income levels) responsible?*

4.1 Clearly lack of access to mains gas represents a major factor in fuel poverty in rural areas and other communities that lack access to what, despite recent significant price increases, remains the cheapest current heating option. The table below illustrates the variation in heating costs depending on the fuel source used.

SPACE AND WATER HEATING COSTS BY FUEL TYPE—NORTH OF ENGLAND
OCTOBER 2011¹⁹

<i>Fuel type</i>	<i>Heating system</i>	<i>Annual cost</i>
House coal	Open fire with back boiler	£1,266
Electricity	Storage heating and radiators	£1,314
Natural gas	Gas-fired boiler and radiators	£1,259
Liquid propane gas	LPG-fired boiler and radiators	£2,331
Oil kerosene	Oil-fired boiler and radiators	£1,649

4.2 The subsequent table provides some indication of the effects of different central heating options in predisposing to fuel poverty. However whilst it suggests a general correlation it does not necessarily tell the full story in that it provides no information on the financial circumstances of the households or of the energy efficiency characteristics of the dwelling in terms of thermal insulation. Nevertheless there is clearly an association between fuel source and system and the scale of fuel poverty. The table relates only to households with some form of central heating; for those households without access to central heating the situation is even worse with 53% of these households being in fuel poverty (73.2% of households where solid fuel is the heating source).

FUEL POVERTY IN ENGLAND—2009—BY FUEL USED FOR MAIN HEATING SOURCE²⁰

<i>Fuel</i>	<i>% households in group</i>		<i>Number of households in group</i>		<i>Total number of households in group</i>
	<i>Not fuel poor</i>	<i>Fuel poor</i>	<i>Not fuel poor</i>	<i>Fuel poor</i>	
Gas	84.0%	16.0%	15,128,000	1,936,000	17,742,000
Oil	70.1%	29.3%	610,000	214,000	925,000
Solid fuel	51.1%	49.9%	82,000	82,000	221,000
Electricity	75.4%	24.6%	1,208,000	264,000	1,520,000
Total	82.6%	17.4%	17,290,000	3,647,000	20,691,000

¹⁹ *Sutherland Comparative Heating Costs*, October 2011, based on 3-bedroom semi-detached property.

²⁰ *Fuel Poverty 2009*, Detailed Tables, DECC 2011.

4.3 However, the link between income and heating source is not always straightforward. More affluent households do generally have greater access to mains gas as a heating source but the difference is not hugely significant across income levels. The overwhelming majority of lower-income households use mains gas for heating—a reflection of the historic economic benefit of this fuel source in recent decades.

4.4 Similarly, there is little overall difference between household income and use of LPG for heating in terms of numbers although in all cases these numbers are low. Use of heating oil shows a link between incomes with oil-fired central heating increasing moderately in line with income. Solid fuel use is low across all income levels but tends to decrease in inverse proportion to income levels. Electricity use for heating is broadly similar across households on low to moderate incomes but decreases sharply in higher income households.

MAIN HEATING FUEL BY FULL INCOME DECILE (NUMBER AND % OF HOUSEHOLDS)—
ENGLAND 2008²¹

	<i>Mains gas</i>	<i>LPG</i>	<i>Heating oil</i>	<i>Solid fuel</i>	<i>Electricity</i>
Decile 1	1,690,000 (79.0%)	17,000 (0.8%)	58,000 (2.7%)	40,000 (1.9%)	285,000 (13.3%)
Decile 2	1,637,000 (76.4%)	18,000 (0.9%)	51,000 (2.4%)	22,000 (1.0%)	344,000 (16.1%)
Decile 3	1,721,000 (80.4%)	9,000 (0.4%)	56,000 (2.6%)	33,000 (1.5%)	276,000 (12.9%)
Decile 4	1,750,000 (81.8%)	12,000 (0.6%)	85,000 (4.0%)	31,000 (1.4%)	236,000 (11.0%)
Decile 5	1,825,000 (85.2%)	12,000 (0.6%)	61,000 (2.8%)	29,000 (1.3%)	191,000 (8.9%)
Decile 6	1,797,000	13,000	98,000 (4.6%)	16,000 (0.8%)	197,000 (9.2%)
Decile 7	1,891,000 (88.3%)	7,000 (0.3%)	84,000 (3.9%)	23,000 (1.1%)	130,000 (6.1%)
Decile 8	1,937,000 (90.5%)	7,000 (0.3%)	90,000 (4.2%)	21,000 (1.0%)	80,000 (3.7%)
Decile 9	1,917,000 (89.5%)	12,000 (0.6%)	94,000 (4.4%)	11,000 (0.5%)	100,000 (4.7%)
Decile 10	1,867,000 (87.2%)	20,000 (0.9%)	153,000 (7.2%)	14,000 (0.6%)	79,000 (3.7%)

4.5 However, whereas more affluent households are able to manage their higher costs and/or consider fuel switching or adopting a renewable technology option, these opportunities are not available to low-income households. Financially disadvantaged households must persevere with their expensive and often inefficient heating methods, a circumstance that will be worsened by the termination of the Warm Front programme in 2013.

5. Given that the OFT found no evidence of a competition problem in the heating oil market, what (if anything) can be done to prevent a repeat of the situation in December 2010 when households were faced with high energy costs during a spell of particularly cold weather?

5.1 The Office of Fair Trading (OFT) report was limited in its remit to study of competition and consumer protection issues. Consequently, the report was not specifically concerned with issues of affordability and the need to devise remedial solutions to a problem that was considered fundamentally to be linked to internationally traded prices for oil and LPG.

5.2 The Office of Fair Trading declared itself satisfied that any adverse impact on vulnerable and fuel-poor consumers did not result from a lack of competition or choice, barriers to market entry by new suppliers or collusion by existing suppliers. Whilst the OFT did advocate further support for off-grid consumers through, for example, improved oversight of price comparison websites and enforcement of existing consumer protection powers it also concluded that price regulation was not justified on grounds of competition and that: “the UK Government and Devolved Administrations can of course consider policy interventions targeted towards the vulnerable parts of the off-grid population.”

5.3 Despite these assurances there must be serious concerns that off-gas consumers pay whatever the market will bear rather than a price that reflects a pass through of costs with an acceptable level of profit margin. It is at least highly regrettable that a service essential to the health and wellbeing of users should be subject to market forces driven by short-term supply and demand.

5.4 However, given the OFT findings that prices for off-grid fuels are not exploitative and, in general, reflect global market realities, then remedies must be sought elsewhere. Where the fundamental problem is the cost of the fuel in relation to other sources then there is limited scope for intervention although, of course the heating technology can often be made more efficient. Otherwise the main opportunities to reduce costs lie in

²¹ Off-gas consumers: Information on households without mains gas heating, *Consumer Focus*, 2011.

fuel switching and/or some form of financial support for financially disadvantaged households using expensive fuels.²²

5.5 In March 2010, the Energy and Climate Change Committee published findings from its inquiry into fuel poverty. That inquiry considered a number of issues associated with households off the gas grid and heard evidence from the Department of Energy and Climate Change on a number of current initiatives including partnership working between gas distribution networks and agencies to connect 20,000 additional properties occupied by low-income households to the mains gas network. Clearly there are limits to the cost-effective extension of gas networks but NEA would welcome the continued incentive for gas network operators under RIIO from 2013–2021 to extend the gas network into disadvantaged communities. Some of the companies have now produced business plans which show the extent to which they would continue to provide such connections and whilst these could make a huge difference to the individual households, the scale is likely to remain very limited. For example, Southern Gas Networks are proposing 9,000 fuel-poor connections over that eight-year period and, even scaled up, it is unlikely that this will play a substantial role in ending fuel poverty in rural/off gas grid areas. It is appropriate that their plans be reviewed in 2014–15 to ensure any industry link-ups can be made following the introduction of Green Deal and ECO.

5.6 Whilst lack of access to mains gas is generally perceived as a problem associated with “rurality” it can often be an issue in intensely urban areas where the predominant housing type may comprise both high-rise and low-rise purpose-built blocks of flats. Greater consideration should be given on social, economic and environmental grounds to use of communal gas-fired district heating in buildings where individual gas heating systems are not appropriate.

5.7 Alternatively, there may be much greater scope in future to develop innovative technologies for space and water heating in areas without access to mains gas. Household or community scale low carbon technologies can provide off-gas grid communities and individual households with solutions to mitigate the impact of rising energy costs. Disadvantaged and fuel-poor households can benefit from these approaches where conventional energy efficiency improvements, such as demand-side energy efficiency interventions are already utilised or are inadequate or impracticable. Where properly specified and installed and/or operated by a professionally trained or accredited installer, these technologies can provide energy services (heat and power or cooling) economically through greater fuel efficiency or through harnessing plentiful renewable sources of energy such as wind, waste streams or solar. They are particularly relevant therefore in solid-walled and non-traditional construction properties, and in those dwellings that are not connected to the mains gas network and therefore reliant on more expensive fuels. However minimal progress appears to have been made in testing and proving such technologies as air-source and ground-source heat pumps. However, regardless of the recommended solution the benefits can only be optimised where the property has been improved to an effective standard of thermal insulation and, where practicable, this should be the priority in all cases.

5.8 The Energy and Climate Change Committee had also urged further consideration of regulation of the market for non-mains fuels although, as noted earlier, this recommendation was not supported by the OFT investigation. There may still be scope for more flexible payment schedules for the Winter Fuel Payment, a further Committee recommendation, but there are no indications that the Department for Work and Pensions is considering such an option.

5.9 Given the limitations of any technological approach, it is apparent that the most effective short-term solution would be to ensure that low-income households, those on specific means-tested benefits and reliant on expensive heating sources, should receive additional financial support through the social security system in the form of energy costs-related income supplements.

6. How could DECC’s policies for tackling fuel poverty in the private rented sector be improved?

6.1 The private rented sector poses a dilemma. The sector contains some of the worst housing occupied by the most financially disadvantaged households but responsibility for the condition of these properties lies first with the owner. At a minimum it is wrong in principle for taxpayer money to be spent on improving the business assets of private landlords. It is even more wrong that tenants should be expected to pay for improvements which often do no more than meet the basic minimum Decent Homes Standard.

6.2 Clearly this was the case with Warm Front where properties in this tenure category were improved to a significant degree by public funding. However this occurred in circumstances where there appeared to be little alternative since there was no effective policing of standards, no licensing regime and virtually no implementation of enforcement powers under the Housing Health and Safety Rating System.

6.3 NEA sees no case for public funding of basic energy efficiency measures in the private rented sector and nor do we believe that consumer-funded programmes such as the Carbon Emissions Reduction Target or the future Energy Company Obligation should be used to fund such works. The Energy Act entitles tenants to request energy efficiency improvements and precludes a negative response from landlords; but there is no requirement on landlords to arrange or fund these improvements and NEA believes this to be fundamentally wrong.

²² This approach was employed until the late 1980s with recipients of means-tested benefits entitled to additional payments where they were reliant on expensive fuel sources such as oil.

6.4 Nor do we believe that DECC proposals to introduce mandatory energy efficiency improvements post-2018 are anywhere near sufficient. The intention to remove the least energy efficient (F and G-rated dwellings) from the stock is a welcome advance; however, we cannot support these improvements being financed through either the consumer-funded Energy Company Obligation or through the Green Deal. An economically heated and effectively insulated property is a requirement of the Decent Homes Standard and, where the Green Deal is used to fund these works, we would face the inequitable situation of tenants paying extra for the privilege of occupying a dwelling that met basic standards of decency.

6.5 The target date for removal of F and G-rated properties must be brought forward from 2018. It is absurd and perverse that this requirement should be delayed to such an unnecessary extent and incomprehensible that the proposed target date is two years after the Government has undertaken to eradicate fuel poverty for all households in England.

6.6 A recent report from the Energy Saving Trust²³ set out to quantify the cost of removing all F or G-rated properties from the housing stock. The analysis only considered expenditure needed to improve dwellings to an E-rating and, as such, could have been much more ambitious. Nevertheless the main findings were that:

- 37% of properties could be improved at a cost of less than £1,000 per dwelling.
- A further 47% of dwellings could reach EPC Band E for less than £3,000.
- An additional 1.5% of properties would cost between £3,000-£5,000.
- Hard to treat homes, comprising 15% of all homes, required expenditure of between £5,000-£9,500 to meet EPC Band E.

7. How could DECC's policies for tackling fuel poverty among off-grid consumers be improved?

7.1 NEA has previously discussed the considerable barriers to addressing fuel poverty where households lack access to cheaper forms of domestic energy. There are no clear technical solutions to the problems other than an incremental approach that expands the gas network where cost-effective and promotes innovative technology as this becomes more reliable and accessible.

7.2 As noted earlier, priority should be to develop a coherent view of what can and should be done to maximise extension of the mains gas network—what is technically feasible and cost-effective and what financial and planning structures need to be in place to allow and encourage such a development.

7.3 In the short term, fuel-poor, low-income households dependent on expensive forms of heating should be assisted through the benefits system. This would require financial support linked to the additional costs incurred by households of differing sizes in maintaining a warm and healthy living environment. Determining the amount of any heating subsidy should be a simple process based on the size of the dwelling, the number of occupants and the heating fuel and system.

7.4 One area in which DECC proposals might deliver significant benefits would be to ensure that properties off the mains gas network and occupied by vulnerable and financially disadvantaged households were prioritised for thermal insulation improvement.

7.5 This will require continued support both through existing programmes and through the imminent Energy Company Obligation. In many cases the insulation improvements will involve basic measures, but many of the properties off the mains gas network are in rural locations and will not be amenable to the most economical and cost-effective interventions. These properties may require considerable investment, for example where solid wall insulation is required.

7.6 Under current proposals the new Energy Company Obligation will be divided in a 3:1 ratio to carbon reduction initiatives and an affordable warmth element. NEA believes that the full amount of ECO funding should be devoted to fuel poverty programmes and that this need not be at the expense of carbon reduction ambitions. In this respect NEA would cite the support of the Committee on Climate Change which commented in its 3rd Progress Report.²⁴ “The particular area of concern is the cost of subsidising solid wall insulation under the ECO which under current proposals would be passed through to all consumers, whether beneficiaries or not. If assessment suggests a significant risk of fuel poverty, mitigating measures that could be introduced include more targeting of the fuel poor under the ECO (eg to prioritise solid wall insulation in the 1.9 million fuel poor households that live in solid walled properties)”.

7.7 In addition, and as highlighted above, NEA believes that the synergies between affordable warmth and implementation of domestic or community low carbon technologies can be strong and need to be fully understood. NEA is being funded by the Department for Energy and Climate Change (DECC) to carry out an investigation into the barriers associated with the take up and accessibility of micro-generation and community energy for fuel-poor households. The project seeks to identify the key barriers and, working with industry and representative organisations, develop a set of costed policy options to address these in turn.

7.8 Access to appropriate energy infrastructure is a key barrier to the take up of these approaches. The inability of disadvantaged households to benefit from low carbon technologies may result from a number of

²³ F & G banded homes in Great Britain: *Research into costs of treatment*, Energy Saving Trust, 2010.

²⁴ *Meeting Carbon Budgets—3rd Progress Report to Parliament*, Committee on Climate Change, 2011.

physical factors including: lack of access to renewable sources of energy or fuel; lack of access to the appropriate energy infrastructure; or poor security of fuel supplies (for example biomass). This means that some fuel-poor consumers simply become sponsors of policy to the benefit of others and to their own detriment. As highlighted above, lack of access to the gas grid is still an issue for many households. As well as the economic advantage conferred through access to mains gas, access to the electricity grid infrastructure and the ability to connect electricity generating technologies remains a complex and often expensive operation.

7.9 The main issue relating to accessibility is that the existing incentive mechanisms (Feed-in Tariffs etc) provide an operational incentive rather than a contribution towards the capital costs associated with feasibility assessment and installation. These up-front capital costs, and the need for ongoing maintenance costs, represent one of the biggest barriers to increased take up of these technologies by financially disadvantaged households. In some cases capital may be accessed through financial institutions but this option will rarely be available to fuel-poor private sector households.

8. As highlighted above, the Secretary of State for Energy and Climate Change announced in the 2010 Annual Energy Statement that the Government would tackle the barriers to investment in domestic energy efficiency by launching the Green Deal. The aim of the Green Deal is for every participating household to save money by insulating their dwelling. Participating energy companies and high street stores would finance the work upfront, in the context of a competitive finance market. Householders will then repay the finance over time through savings on their energy bills.

8.1 Whilst, in the main, the Green Deal Finance Mechanism is an inappropriate mechanism for low-income and vulnerable householders, in off-gas grid properties, these finance arrangements might be made more attractive where integrated with other schemes such as the Renewable Heat Incentive or Feed-in Tariffs. This could provide low-income and vulnerable households with an opportunity to fund the installation of domestic or community-scale low carbon technologies at no upfront cost.

December 2011

Supplementary written evidence submitted by the Office of Fair Trading (OFT)

1. The Office of Fair Trading (OFT) is pleased to be invited to write to the Energy and Climate Change Committee with its observations in relation to the call for evidence for the Fuel Poverty Inquiry. The terms of reference of the Inquiry present a number of topics on which the OFT's recent market study into off-grid fuel supplies may be useful to the Committee. Principally these are:

- fuel poverty and its relationship with competition and consumer protection;
- concerns around short term but often significant movements in prices for heating oil around the winter period; and
- the case for further regulation in the off-grid sector.

FUEL POVERTY AND THE COMPETITION AND CONSUMER REGIME

2. The OFT excluded a direct analysis of fuel poverty from its recent study of off-grid fuel supplies. While protecting vulnerable consumers is a key theme across our work, the OFT has no specific remit in relation to fuel poverty. The OFT continues to receive representations from consumers and others that fuel poverty and poor fuel affordability are clear evidence of an uncompetitive market. Of course, uncompetitive markets will tend to produce poor outcomes for consumers that are likely to manifest as higher prices. However, it is not the case that the converse is true: competitive markets do not guarantee affordability for all. If affordability is the desired objective then competition and consumer policy have an important role to play, but they will rarely, if ever, represent the whole solution.

WINTER PRICING

3. The sudden movement in prices for heating oil during the early and severe snow in December 2010 gave rise to considerable public concern regarding affordability, and to accusations of anti-competitive behaviour. While the reaction is understandable, it is important to recognise that such price changes are to be expected in response to sudden shifts in demand and supply in free markets, and mirror the way prices move in other industries with similar characteristics.

4. Winter is, for obvious reasons, a period of high demand, particularly during the run-up to Christmas. Demand rises during periods of particularly cold weather, and the early arrival of snow may have added an element of panic buying. As a consequence, demand in December 2010 was 40% greater than a typical December.

5. Distributors found they had more orders than they could quickly supply, a situation made worse by impassable roads in many parts of the country. In markets where supply capacity is limited, prices will rise quite sharply in such circumstances. For example, prices in the airline industry or package holiday sector rise, often significantly, as demand increases; air travel is more expensive around the busy Christmas period and holiday accommodation is more expensive in peak season.

6. Such an analysis gives rise to two observations that may be helpful to the Inquiry. First, that all other things equal, high prices in winter are to be expected in a competitive market, and the more acute the pressures on demand the higher prices are likely to rise. Second, that smoothing demand away from the winter peak will ease the degree to which prices rise in busy periods.

7. The Inquiry will be aware that various efforts have been made to get consumers to change their buying habits and spread demand more evenly across the year. Most recently, the Federation of Petroleum Suppliers alongside consumer groups ran a campaign in September. The effect of such campaigns on consumer behaviour are constrained due to relatively small tank sizes, which make it difficult for consumers to stock-up, consumers' budgeting considerations, and a degree of consumer apathy.

8. Greater supply capacity would also ease prices during the winter peak but would come at a cost, which would be passed on to consumers and therefore result in higher prices on average over the course of the year. As things stand, the industry has not invested in additional capacity mainly because, for most of the year, the existing infrastructure is underutilised.

POLICIES FOR ADDRESSING FUEL POVERTY

9. During the course of its off-grid market study the OFT came across a number of issues that it felt unable to address itself but which nevertheless raised concerns regarding affordability.

10. Our off-grid study found that consumers may elect to buy smaller quantities of fuel due to affordability concerns. As with most products, heating oil is usually cheaper per litre in larger quantities. The mechanisms that allow customers to meet their short term needs may reduce affordability over the medium term. However, in the course of our study we came across some mitigating practices. For example, communal buying may be able to assist in such situations by increasing volume size and affordability. Some suppliers also offer support by way of a range of payment options (including ways to spread costs such as instalments or prepayments) and credit terms, although the ability of suppliers to finance such measures and their policies in this regard vary.

11. I would draw the Inquiry's attention to Chapter 3 of our market study report, which presents analysis of the characteristics of off-grid households, including the mapping of their locations against fuel poverty and multiple deprivation indices (Figure 3.2 and Figure 3.4).

THE CASE FOR FURTHER REGULATION

12. The OFT was asked by a number of correspondents whether the consumer protections provided to on-grid energy consumers and overseen by Ofgem should apply in the off-grid sector. Obviously, for off-grid households that use electricity as their primary source of fuel these protections do apply. Such households account for about half of the off-grid community and so the question relates to the remainder who are, predominantly but not exclusively, in rural locations. The study found no grounds for recommending price regulation in the off-grid sector.

13. With respect to non-price regulation, general consumer law—notably the Consumer Protection from Unfair Trading Regulations (CPRs) and Unfair Terms in Consumer Contracts Regulations (UTCCRs)—offers important protections to off-grid consumers. Following on from the market study the OFT is taking a range of actions to ensure that off-grid energy suppliers comply with this law.

14. There are a number of areas where on-grid gas consumers benefit from Ofgem's consumer protections that are not mirrored in the off-grid market by the CPRs and UTCCRs. Whether these protections should be extended to off-grid consumers is primarily a matter for policy makers. As we noted in the Off-Grid Study report, it is somewhat anomalous that protections that have been extended to one group of consumers on grounds of fairness have not been extended to another group. That said, there are differences between on-grid and off-grid supply that make a direct read across problematic—these are discussed below. Furthermore, there would be costs associated with extending regulation—we note that the heating oil industry in particular is characterised by a large number of small firms and frequent new entrants. Some of these are likely to be subject to the moratorium on new regulation for micro businesses and start-ups.

15. With respect to disconnection protections for pensioners, this may be a meaningful concept in relation to bulk Liquefied Petroleum Gas (LPG) supplies, where the supplier typically owns the tank and the consumer has often entered into a long term supply contract. There is, however, no close analogy with heating oil supply, where the customer owns the tank, tends not to be in a long term supply contract, and may indeed buy from a variety of suppliers throughout the year. In this market the analogous concept would be obligation to supply, which is somewhat more difficult to address.

16. Similarly, under certain circumstances on-grid energy suppliers are required to offer to consumers experiencing payment difficulties a pre-payment meter and/or access to the Fuel Direct scheme. Pre-payment meters, which are effectively "pay as you go" schemes, have no direct analogy in either LPG or heating oil distribution where consumers typically pay for a bulk delivery in once transaction (albeit perhaps by saving up in small amounts through a long term saving scheme first). The feasibility and costs associated with the technology necessary to facilitate pay as you go payment for LPG or heating oil is not something on which

the OFT holds any data. The Fuel Direct scheme is administered by Department for Work and Pensions who are best placed to advise on its potential application to other fuels.

17. Returning to LPG, there may be benefits for consumers to extending disconnection protections: we have recently a complaint about a supplier apparently notifying an elderly woman in November that it would no longer provide further supplies because of health and safety concerns surrounding the location of her tank. However, we have not received a high volume of complaints regarding disconnections.

18. The study team was concerned that, in relation to LPG, some customers who may be unable to afford to relocate a tank (or simply don't have a suitable location to relocate it) if it no longer meets the standards set out in the industry Code of Practice may find themselves unable to access the market at all. While this problem has its roots in health and safety considerations, which are clearly an important feature of a well functioning market, the effect on a small number of vulnerable consumers may be particularly extreme. Of course, consumers unable to afford to relocate a tank are unlikely to be able to switch to other sources of supply such as electricity or heating oil. The overall effect may be to create a small number of consumers who are, in effect, unable to obtain any fuel source to heat their homes.

19. The statutory Warm Homes Discount now applies to on-grid energy suppliers. There is nothing of a similar nature in relation to heating oil. A cross-subsidy scheme, like Warm Homes Discount would almost certainly require inter-firm transfer payments as the social profile of customers is likely to vary substantially between heating oil suppliers who tend to serve local markets. There is also a limited amount of management capacity at the smallest suppliers.

20. Ofgem also requires energy suppliers to offer a range of payment schemes. While many heating oil businesses offer similar schemes (such as pre-payment saving or direct debit schemes) not all do so and it seems likely that capability to administer such schemes varies significantly from supplier to supplier.

December 2011

Written evidence submitted by the Office of Fair Trading (OFT)

1. Further to our oral evidence given to the Energy and Climate Change Committee on Fuel Poverty in the Private Rented and Off Grid Sectors on 11 January we are submitting further written evidence. There are five specific questions raised by the Committee where we can provide further information and we also make some general observations in relation to the OFT's remit and fuel poverty.

SPECIFIC QUESTIONS

2. *Q19*—We have a central estimate of average gross margins of six pence per litre.²⁵ This is the amount on top of the international price for jet kerosene that UK consumers pay for a delivery of home heating oil on average across the year. The question as to whether consumers in rural or peripheral regions pay a higher margin is not one on which we hold good quality data. However we have limited but indicative data that suggests that geographic price differentials might range from minus three pence (in areas with many suppliers) to plus nine pence per litre (in areas with few suppliers) relative to the average price.²⁶

3. *Q23*—The OFT has looked into the arrangements relating to automatic top-up schemes. We believe these schemes tend to cost more than spot pricing (ie quotes provided on the day over the telephone) although the exact mark up is likely to vary from company to company. We are aware of price differentials of up to 10 pence per litre in some cases.

4. The setting of prices, including whether or not top up schemes charge more than other ways of buying, is a matter for suppliers. Consumers may be prepared to pay more if they perceive additional convenience from a service. However, we are concerned that the prices of top-up schemes should be sufficiently transparent to allow consumers to make informed choices. We are currently examining this issue carefully. We will keep the Committee informed of developments.

5. *Q26*—Further to the evidence previously provided, we are aware of a high profile case taken by Carmarthenshire Trading Standards Service (TSS) against OJ Williams, part of the GB Oils Limited business. The case was won by Carmarthenshire TSS but in order to pursue the case it was necessary to seek additional financial resources from the Department for Business, Innovation and Skills (BIS).

6. *Q30*—When we published the market study into the supply of energy to off grid households we said that there were aspects of the microgeneration market that we would keep under review. The OFT is working together with relevant government departments and key stakeholders to better identify and address the consumer concerns in this sector including, but not limited to, misselling, misrepresentation, unfair contract terms, and cancellation rights. In doing so, the OFT will utilise its range of tools, including consumer law enforcement, advocacy work and consumer awareness work, so as to maximise its impact on reducing both current and potential consumer harm where appropriate.

²⁵ See OFT 1380, paras. 4.104–4.110 and Fig. 4.14

²⁶ See OFT 1380, paras. 4.41–4.49 and Fig 4.10

7. Q34—The OFT is undertaking further work in relation to remote communities. This work has been prompted by the fact that in many of the markets where we find that there are no major competition problems and that the market works for well for the great majority of people, there are often peripheral or remote locations where competition works less well. While there may be inherent features of these locations that make it harder for competition to benefit consumers (small populations, long access times, etc) this nevertheless means that some communities do not enjoy the same benefits as others. This effect is often magnified as it affects consumers in those areas across many markets at the same time.

8. We are concerned that, while a problem for the communities in question, there are not necessarily readily available remedies and that the remedies that are available may not be entirely or even partially within the OFT's control. We are therefore carrying out a piece of work to better understand the problem and its potential solutions. It will consist principally of a Call for Evidence, a review of the work undertaken by other competition authorities and governments in relation to the same problem, and a small number of case studies. We hope that this will better illuminate some of the causes of and potential responses to the challenges faced. The preparatory work for this is already underway and we expect to run the call for evidence between February and April and report in May. We will make a formal announcement of this work shortly.

REMIT AND FUEL POVERTY

9. A number of the Committee's questions explored the conditions of supply with respect to vulnerable consumers, and whether particular groups should be granted the additional consumer protections (over and above those granted in general consumer law) that they would receive if they were on-grid. The evidence collected during our study (including significant original research into consumers' experience in the sector) did not indicate widespread problems for consumers, and those that are present can generally be addressed under existing consumer law.

10. Turning to the role of competition, the OFT's role is to ensure that competition is delivering all that it reasonably and practically can in terms of benefits to consumers. The Committee asked a number of questions about pricing to consumers in remote or peripheral areas. Prices in these areas may be higher—reflecting a combination of higher costs of supply and less intensive competition between suppliers—but, for the most part, we do not believe that there are practical measures available to strengthen competition in these areas. The outcomes we see are likely to be the best, or close to the best, that competition can provide. That said, if evidence of market sharing or exclusionary behaviour by suppliers were to come to light that would significantly alter this assessment. Our study to date, however, yielded no evidence of market sharing or exclusionary behaviour in the supply of heating oil.

11. We would also reiterate that there are three important factors driving fuel poverty: fuel prices; fuel consumption and energy efficiency; and income levels. The OFT, within its competition and consumer policy remit, looked primarily at the first, and within that at only one aspect—domestic distribution. Our study explicitly recognises the importance of the international oil price as well as the other factors and the importance of a holistic approach to addressing the affordability problems faced by off grid energy consumers.

February 2012

Written evidence submitted by the Residential Landlords Association (RLA)

ABOUT RLA

1. The Residential Landlords Association (RLA) is one of the two direct membership national landlords associations operating in England and Wales. We have some 10,000 subscribers representing a membership of around 15,000. Our members own or control over 150,000 units of accommodation. Primarily our members are landlords in their own right but a number are managing and letting agents, some of whom are also landlords. Our members operate in all sub-sectors of the Private Rented Sector (PRS). Properties are rented out to families, working people, young professionals, the elderly, students and benefit customers.

PRIVATE RENTED SECTOR TECHNICAL COMMITTEE

2. The RLA took the lead in forming a Technical Committee to co-ordinate advice and assistance in relation to the introduction of the Green Deal in the PRS. This Committee comprises all of the national private landlord and agent bodies in the Sector. The Committee has worked closely with the Department (DECC) during the passage of the Energy Act and related work preparing for Green Deal.

THE DEFINITION OF FUEL POVERTY IN THE PRS

3. Whilst the definition of those who are in fuel poverty is clear it is nevertheless an elusive concept. Who is fuel poor can also be due to a change in income, the cost of fuel, and even the amount of fuel consumed all of which can quickly change. One month someone can be within the definition and next month outside it *eg* because they take on paid work.

4. Like it or not the PRS can be a fast turnover tenure where the average tenancy lasts around 18 months. One let may be to someone in fuel poverty and the next time to someone who is not. A person can be inside the definition at the start of a tenancy and out of it when the tenancy ends. Further, increasingly due to constraints on social housing and difficulties in accessing owner/occupier accommodation, the PRS is housing more less well off tenants who would otherwise have been allocated social housing. All of this makes fuel poverty a challenge for the PRS. This is happening at a time when the PRS is becoming an increasingly important provider of housing and may soon equal the social sector in size.

PRS STOCK CONDITION

5. 40% of PRS stock is pre 1918. These properties have no cavity walls and often attics rather than lofts. Thus, the PRS has an undue proportion of older hard to treat stock. The PRS should not be criticised for its stock condition. Rather, this needs to be seen as a challenge. In our view it also explains why the PRS needs assistance when looked at in conjunction with the number of those in fuel poverty housed in the Sector. Unlike the social sector the PRS has not had between £35 billion and £40 billion invested in its stock with a further £2 billion to come under the Decent Homes Programme. Real rent returns on PRS renting are now low and outside London thoughts of capital growth are a thing of the past. The Report by Professor Michael Ball of Reading University commissioned by the RLA makes disturbing reading and it contradicts Press Reports of a booming rental market. A summary of the Report is to follow in hard copy form.

ENGAGING WITH THE PRS

6. Up to now the landlord has been expected to fund energy efficiency improvements but the tenant gained the advantage. Unfortunately, the reality has been that energy efficiency is not reflected in improved rental returns. Landlords will improve their properties if they see a financial return so that there is a business case for them to do so.

7. The Government hope that the Green Deal Golden Rule will transform this. Certainly, energy performance certificates have to date had no real impact. Tenants are not interested in them at the moment. Experience shows that energy efficiency at present plays little or no part normally in driving tenant choice as to what property to rent. We have our doubts that the golden rule will produce the required result. The savings need to be markedly greater than the cost of green deal finance. High rates of interest will not help. The average calculation applied to determine savings means that actual savings may not be achieved. A further concern is that properties which have been improved with the benefit of the Green Deal could be seen to be “blighted” for tenants who may be less ready to take on such a property because of the ongoing liability to pay the Green Deal charges. This will be the case unless very real savings can be demonstrated commensurate with a tenants own lifestyle. If interest rates are too high and the Green Deal is seen as expensive finance then this would accentuate this potential problem. We hope that we are wrong but this is our view based on what we have seen so far.

8. The three way nature of organising energy efficiency improvements is a particular challenge for the PRS. Tenant, landlord and green deal provider are all involved. The evidence is that this added complication has made providers under the CERT and similar schemes reluctant to engage with the PRS. There are far easier “hits” dealing only with owner/occupiers or social housing providers, where it is much more a one to one relationship.

PRS GREEN DEAL PARTNERSHIP

9. In conjunction with the PRS Technical Committee we have advocated the creation of a PRS Green Deal Partnership to bring landlords representatives together with selected Green Deal providers who are willing to work with the PRS. This has been discussed with DECC. What such a partnership would do is to give providers a route to market and , in return, the landlords side could assist providers by helping them tackle the challenges inherent in the Sector.

GAS V ELECTRICITY

10. Local authorities when setting amenity standards and carrying out enforcement work under the Housing Health and Safety Rating System (HHSRS) are opposed to electric heating systems and the Chartered Institute of Environmental Health support this view. It is not just an issue in relation to OffGas Grid properties but more generally. Many landlords prefer electric heating. It absolves them from having to organise gas safety checks with the risk of enforcement action, including possible prosecution, if inadvertently such checks are not carried out. Getting access to do these checks can be a problem and there is the cost of carrying out the checks. Health and safety requirements relating to gas can be expensive *eg* the recent requirement by the Health and Safety Executive in certain cases to fit access hatches to obtain access to gas flues. Electricity is perceived as being the safer alternative as it removes the risk of carbon monoxide poisoning. Looking forward as North Sea Gas reserves are depleted and we become more and more dependant on imports it is likely that the cost of gas is going to rise compared with electricity . The current cost advantage for gas will be much diminished. The Committee therefore needs to be aware that for many landlords electricity is the heating fuel of choice. Landlords believe that with appropriate insulation modern storage heating systems and panel heating systems

suffice for these purposes, coupled with electric immersion heaters to heat the water supply. An additional problem when it comes to heating water is that modern condensing boilers are perceived as being less reliable and need replacement much more frequently than old type boilers.

COMPULSION IN THE PRS

11. The PRS is the only sector currently subject to compulsory minimum energy efficiency standards with implementation no later than 2018. The RLA is extremely concerned at the way in which the Government are currently handling the implementation of this measure. We have urged the Government to use the relevant regulation making powers to prescribe minimum standards now; rather than waiting. Although the Government have announced that their intention is that the requirement will be to upgrade to at least an E under an EPC, there is no certainty regarding this. Landlords have had their fingers burnt before in this situation. The result is that landlords will sit on their hands until they know what the minimum standards are. They do not want to have to carry out two separate sets of works if the requirement is changed and arrange for their funding and for them to be carried out. Unfortunately, when it comes to Government experience shows that the goal posts are often fitted with wheels! This has happened in relation to the changes to the feed in tariff which has sent completely the wrong message. Whilst everyone was expecting changes in April 2012 to have them implemented with virtually no notice in November 2011 has sent out shock waves. We would ask that the Committee send a strong message to DECC to bring in the regulations straight away to prescribe what the minimum standards will be. The intention had always been that there was a lead in period during which private landlords would be encouraged to undertake improvements voluntarily but this will not happen without landlords knowing with certainty what is required of them. At the moment it looks as if the sector is being set up to fail to justify implementation earlier than need be the case.

PRIORITISATION OF THE PRS

12. We believe that the PRS needs to be given priority especially in relation to the social sector, having regard to the larger amount already spent on housing in the social sector via the Decent Homes Programme, already referred to above. Specific measures need to be taken to encourage the take up of energy efficiency improvements in the PRS, especially to reduce those in fuel poverty. Further use of Energy Company Obligation (ECO) Affordable Warmth resources in the social sector would be a disturbing development to say the least.

A SUGGESTED APPROACH TO THE PRS

13. We have already highlighted our proposal for a PRS partnership to take the lead in conjunction with Green Deal providers. The Government's consultation paper "The Green Deal and Energy Company Obligation" raises interesting questions regarding the approach to be adopted towards identifying those individuals who are in fuel poverty. Rather than pepper potting, we feel that greater attention needs to be given to an area based approach. From local knowledge and looking at house prices/rental levels it is relatively easier to identify those areas, particularly in towns and cities where less well off are living. It is also important to look at stock type and tenure. We have already referred to the difficulties of both people moving in and out of fuel poverty and also to individuals in fuel poverty moving in and out of rented accommodation. If we are looking to reduce the trends in fuel poverty as well as reducing carbon emissions, perhaps it should not always matter too much if people who are not, for the time being, in fuel poverty, are assisted in less affluent areas particularly where there is a preponderance of older hard to treat properties. At the end of the day it is the long term improvement of properties which is key. We would therefore advocate much more an area based approach to identify those in need of assistance. This will at least help with an initial identification of those who may qualify for assistance. At the same time it will identify those hard to treat properties which will benefit from assistance via ECO.

USING THE BENEFIT SYSTEM TO IDENTIFY THE VULNERABLE

14. Whilst the use of means tested benefits is a readily available means of identifying the less well off, the problem is that it is weighted towards those in receipt of state benefits; rather than the low paid who are in work. The fact that the low paid in work are helped with their fuel bills and thereby freeing up household income can be a driver to encourage work. Using the state benefits for those not in work to passport them into lower fuel bills is yet another perverse incentive encouraging people to remain as part of the benefits culture.

FUNDING ENERGY EFFICIENCY WORK

15. As well as the Green Deal and ECO we would strongly advocate much improved landlords energy saving allowance for landlords to provide tax relief for improvement measures. The current LESA system is limited to £1,500 per annum per property and the scheme itself is time limited. It is also limited to certain measures. We strongly advocate the introduction of a system of capital allowances spread over say four years to enable the full cost of approved measures to be recovered via tax allowances against income tax or corporation tax. Experience with grants has shown that many landlords prefer to self fund particularly where tax relief is available. The Government already has concerns about how much money is available to fund ECO and in the current state of the capital markets funding for the Green Deal may not be readily available. Therefore encouraging landlords to self fund in this way would mean that there was more money available

particularly in the PRS which is more difficult to reach and where there is a need to bring in resources particularly to deal with issues arising out of compulsory improvement measures when they come into force. If the State is going to demand improvements then it is only right that tax relief should be available in respect of expenditure in meeting these requirements and more widely for all kinds of improvement measures.

TECHNICAL ISSUES

16. In all of this it is important not to have overlooked technical issues. Of particular concern is that which can be experienced with condensation and mould, in particular. Often due to tenant ignorance or misuse the PRS seems particularly prone to these problems. We are therefore concerned that requirements for energy efficiency improvement can accentuate this problem. Tenant education is therefore very important.

RLA PROPOSALS TO HELP ALLEVIATE FUEL POVERTY

17. The RLA puts forward a number of ideas which could help bring about improvements and reduce levels of fuel poverty:

(1) *EPCs*

- (a) There is a need to raise the awareness of the important part EPC's can play for tenants when choosing a rental property. Tenants need to look at the running costs and the potential savings that can be achieved by improvements which are advised in EPCs. We welcome the Government's efforts to improve the EPC.
- (b) Departments of local authorities need to be aware of the part EPCs can play in helping reduce fuel poverty. They need to encourage their provision and use.

(2) *Advice for tenants*

- (a) The Government needs to provide easy to understand guidance for tenants on:
 - maximising their income;
 - debt assistance; and
 - behaviours that will reduce fuel usage.

Landlords could be encouraged to assist by providing tenants with this information in the information packs that many landlords provide to tenants at the start of a new tenancy. Landlord associations, national and local, could assist in circulating and raising awareness.

- (b) The direct.gov website should include fuel poverty issues on its debt pages and link customers to practical advice on how to make savings on fuel bills.

(3) *Tax*

Landlords should not be penalised by the tax regime when making capital investments to help alleviate fuel poverty. We have already referred to improving LESA. The feed in tariff for renewable energy is another example because it is tax free to home owners for tax for landlords who install it in their tenanted properties. This reduces uptake and disadvantages tenants.

(4) *Gas Safety Certificates*

A radical idea would be to place a duty on gas suppliers to carry out gas safety checks on all domestic appliances they supply gas to and include the cost in standing charges. This would remove a common concern for landlords who have gas installations in having to arrange gas safety inspections.

(5) *Vouchers*

Tenants who agree to improvements to their properties need to be incentivised to reward them for the hassle involved. Vouchers could be given as a thank you

OVERLAP BETWEEN THE TWO STRANDS OF ECO

18. Managing and understanding when ECO is available to those in fuel poverty who live in hard to treat properties is important as dealing effectively with hard to treat properties in those areas which are more likely to accommodate should be a key priority in rolling out ECO.

FUEL POVERTY INITIATIVES

19. The Government must ensure that the PRS is specifically dealt with and highlighted as being included in any initiatives aimed at dealing with any aspect of fuel poverty. Experience shows that frequently the PRS is not mentioned in advertising campaigns or briefing documents as being eligible for assistance. No account seems to be given of the need to inform tenants in the PRS. As a result many landlords (and their tenants) believe that the default position is that their properties are excluded so they do not pursue the initiatives. On the other hand if something is advertised then it works. The boiler scrappage scheme was advertised as being available to landlords in the PRS and the very first voucher under the scheme was issued to a private landlord.

CONCLUSION

20. The RLA very much welcomes the enquiry and supports measures to alleviate fuel poverty. Clearly warm and thermally efficient homes not only save energy and reduce carbon emissions but they promote healthier and happier lives. We believe that adopting the measures outlined in this evidence will help promote these objectives if they were to be adopted.

December 2011

Written evidence submitted by Consumer Focus

INTRODUCTION

Consumer Focus is the statutory consumer champion for England, Wales, Scotland and (for postal consumers) Northern Ireland.

We operate across the whole of the economy, persuading businesses, public services and policy makers to put consumers at the heart of what they do. We have specific responsibilities for the energy and postal sectors.²⁷

EXECUTIVE SUMMARY

Energy efficiency improvements needed to tackle fuel poverty in the private rental sector are not happening due to the problem of “split incentives” between landlords and tenants, the rental market not fully valuing energy efficiency measures, and tenants lacking the information and market power to request improvements.

Going further than Government’s proposals and introducing a minimum energy efficiency standard for private rented properties of band D could lift twice as many households out of fuel poverty. Government can support energy efficiency, especially in hard-to-treat homes, by recycling proceeds from the EU Emissions Trading Scheme to complement Green Deal and Energy Company Obligation (ECO) funding, and by an extension to Landlords’ Energy Saving Allowance, as well as improved information measures.

Fuel poverty among rural off-gas consumers is a result of both high fuel prices and energy inefficient housing. Government can support this group through early winter fuel payments, integrated support for energy efficiency and renewable heat, and supporting connection to the grid where possible.

What are the barriers to tackling fuel poverty in the private rented sector?

1. Along with high energy prices and low incomes, poor energy efficiency is one of the primary causes of fuel poverty. Our research, “Raising the SAP”,²⁸ shows the strong correlation between poor quality housing and fuel poverty: 50% of fuel poor households in England live in EPC F and G homes, compared with 23% of all households. These homes are expensive to heat and particularly prone to cold and damp conditions.

2. Poor energy efficiency is a particularly common problem in the private rented sector (PRS). Among the four main types of tenure, the private rented sector has the highest proportion of EPC band G homes (9% or 218,000 PRS homes are in this band) and the second highest of EPC band F homes (18% or 423,000 PRS homes).

3. Our research “A ‘now cast’ of fuel poverty in 2010”²⁹ showed that 28% of PRS tenants in England were in fuel poverty in 2010, compared with 20% of all households, according to the basic income definition of fuel poverty. The corresponding figures on the full income definition were 23% and 18% respectively.³⁰ It should be noted the private rented sector is very diverse and also includes many properties with a high level of energy efficiency.

4. Energy efficiency improvements in the private rental sector are not happening due to the problem of “split incentives”, that it is landlords who make the investment in improving properties but tenants who largely get the benefit. The Green Deal and ECO should help address this problem since they create a mechanism by which landlord investment is minimised. However, there are still problems with the new arrangements which are outlined later in this briefing.

5. The property market fails to recognise the value of energy efficient homes, with the costs of the resultant ill-health externalised to consumers and the taxpayer. This is also the case in the owner-occupier market but is a particularly significant issue in the private rental sector.

6. Prospective tenants do not have information on energy efficiency. Information on the energy performance of a property should be provided to consumers at the point of rental or sale through an energy performance

²⁷ For further information on our role and duties, see <http://consumerfocus.org.uk/g/4p4>

²⁸ Consumer Focus. “Raising the SAP”. Consumer Focus. [Online] 13 May 2009. <http://consumerfocus.org.uk/g/4n5>. p11

²⁹ Preston, I and Brigeman, T & Moore, R. A “now cast” of fuel poverty in 2010. Consumer Focus. [Online] 2010. <http://consumerfocus.org.uk/g/4n6>.

³⁰ The “full income” definition includes benefits received for housing costs as “income” and is the Government’s preferred definition of fuel poverty. The Government also provides fuel poverty data according to a “basic income” definition, which does not include benefits received for housing costs as “income”.

certificate (EPC). However, our research on the impact of the EPC on decision-making³¹ showed that only 31% of tenants who moved in the past two years received the EPC or other information on energy efficiency (compared to 79% of owner occupiers). Landlords have also told us that tenants never ask to see the EPC.³² Furthermore, homes of multiple occupancy (HMOs) are exempt from the requirement to produce an EPC, except in cases where the whole building is being let or sold.

7. Our work on tenants' rights identified issues relating to tenant security, the information available to tenants and tenant's market power.³³ Landlords are far more likely to have information about the condition of their property, and tenants themselves, than tenants will about the property and the landlord. They also have the threat of retaliatory eviction against tenants. As a result tenants in the sector are unlikely to demand energy efficiency improvements from their landlords.

8. Lack of enforcement of existing standards is another barrier. Over 400,000 private rental homes—15% of the total—are classified as a Category 1 “excess cold” hazard under the existing Housing Health and Safety Ratings System (HHSRS). However, the current system for enforcement is not designed to improve standards on a large scale.

To what extent will the recent measures in the Energy Act 2011 (to introduce minimum energy efficiency standards in the private rented sector) help the problem?

9. Consumer Focus has consistently argued for minimum energy efficiency standards in the private rental sector. Our report “A private Green Deal” looks at the impact on fuel poverty of introducing minimum EPC standards in the private rental sector.³⁴ This found that a minimum standard of band E would reduce fuel poverty by around 25%, while raising the minimum standard to band D could lift over 50% of fuel poor tenants out of fuel poverty—see Table 1. As such we advocated a minimum standard of band E by 2015, with a gradual tightening of the standard over time to ensure the continued reduction in fuel poverty.

Table 1

IMPACT OF MINIMUM STANDARDS ON FUEL POVERTY

	<i>No change</i>	<i>Lifted out of fuel poverty</i>
Band E	464,000	150,000
Band D	302,000	312,000

10. We welcome the Government's intention to introduce a minimum standard for private rented properties as part of the 2011 Energy Act. However, given the current scale and severity of fuel poverty, and the UK government target to eliminate it by 2016, we consider the standard should apply from 2016 and not 2018 as the Government proposes.

11. We also consider the government should gradually raise the minimum standard beyond band E in future. Our analysis shows that raising the minimum standard to E will not lift the majority of fuel poor tenants out of fuel poverty.

12. We do not support the Government's intention to allow landlords to continue to let homes below EPC E if they install all measures that can be funded through the Green Deal finance mechanism. We consider further investment is required to ensure more extensive measures are installed that would allow homes to be brought up to EPC E or better. Landlords should be expected to provide some of this finance themselves—an improved Landlords Energy Saving Allowance (LESA) would help facilitate this.

13. Only 28% of PRS homes (ie those in bands F and G) require investment to meet the minimum standard. Our analysis found that 39% of these homes could be improved to band E for less than £1,500 per property and a further 16% for less than £3,000 per property. The very act of taking action to meet a band E standard will enable a significant number of private rented properties to meet band D due to the nature of measures installed.

14. For the 20% of hard to treat PRS homes (those requiring more than £3,000 per property to meet band E), further support is required. We consider the Government should recycle proceeds from the EU Emissions Trading Scheme (ETS) and Carbon Floor Price to fund an energy efficiency programme that complements the Green Deal and ECO programmes and is focussed on low income households in all tenures. Such a programme could help private landlords go considerably beyond the minimum standards required by regulation.

How could DECC's policies for tackling fuel poverty in the private rented sector be improved?

15. Consumer Focus considers minimum energy efficiency standards in the private rented sector should gradually be increased over time as part of a strategy to improve standards in all housing sectors. This is

³¹ Consumer Focus, Room for Improvement—The impact of EPCs on consumer decision-making [Online] <http://www.consumerfocus.org.uk/publications/room-for-improvement-the-impact-of-epcs-on-consumer-decision-making>, February 2011.

³² National Landlords Association. Interview. August 2010.

³³ Consumer Focus, Opening the door Examining the potential for reputational regulation of private rented sector landlords

³⁴ Consumer Focus. “A private green deal”. Consumer Focus. 2011.

essential if the Government is to meet both its carbon and fuel poverty targets. Our “Raising the SAP” research found that a programme to improve homes to an EPC B standard, where practical, would remove 83% of fuel poor households in all tenures from fuel poverty. This will require considerably more resources than those released through Green Deal and ECO—hence our call for the recycling of EU ETS auction proceeds. Germany, Hungary and Poland have already agreed to recycle revenues to energy efficiency programmes. The Australian government has taken a similar stance with respect to its nascent carbon trading scheme.

16. We consider the current LESA, which provides a tax allowance for energy savings measures up to £1,500 in value, should be raised to £10,000 and more extensively promoted (in 2007–08 LESA was only taken up by 0.2% of private landlords).³⁵ This would help those landlords to meet minimum standards, particularly those with hard to treat properties.

17. We consider all private rental properties in EPC band F and G should be classed as a Category 1 hazard for “excess cold” under the Housing, Health and Safety Rating System (HHSRS).³⁶ The government already recognises that properties with a Standard Assessment Procedure (SAP) below 35 are “excessively cold”. This provision would formalise the association since band F ranges from SAP 21 to 38. The provision will reduce the costs of risk assessment for local authorities due to, for example, having to spend much less time on inspection of properties.

18. We consider the Government should provide guidance to local authorities on “appropriate action” under HHSRS so that they can advise landlords with low rated properties on the measures required to improve homes to the minimum standards. Government should also require local authorities to keep registers of private rented properties in their area—many local authorities already do this. The Government intends to make all EPC ratings publicly available.³⁷ Local authorities could combine F and G data with registers and provide information to landlords about their legal requirements, advice on the measures needed to improve homes and the support available.

19. We consider the Government should require landlords, and their agents, to provide an up-to-date EPC at the point of marketing a property to help prospective tenants compare the energy performance of properties. This should include HMOs.

20. Our report on tenants’ rights in the private rented sector³⁸ proposes introducing a system of reputational regulation, in the form of a landlords register with a landlord rating system, to address the asymmetry of information between landlords and tenants. We consider such a system would help empower private sector tenants, reward good landlords and over time improve the quality of properties offered (including energy efficiency standards) and their management.

To what extent is fuel poverty in rural areas driven by a lack of access to the gas grid and to what extent are other factors (such as housing condition and income levels) responsible?

21. Our recent report³⁹ provides detailed information on the circumstances of off-gas consumers in England, Scotland and Wales: where they live, the type of homes they live in and their household characteristics. 3.9 million homes (16%) in Britain are heated by sources other than mains gas. Of the latter group, 2.3 million homes in Britain are heated by electricity (9.3% of the total), 1.1 million (4.4%) by heating oil, 310,000 (1.2%) by solid fuel and 170,000 (0.7%) by liquefied petroleum gas (LPG).

22. While electricity is the second most common heating fuel after gas in England and Scotland (9% and 15% of homes in each country respectively), heating oil is the second most common heating fuel in Wales (11%).

23. The proportion of homes using fuels other than mains gas is higher in rural than urban areas. Heating oil is the most common fuel alternative fuel in remote rural areas, accounting for 34% of such homes in England, 46% in Wales and 32% in Scotland.

24. The prices of off-gas fuels are more volatile than alternatives; this is particularly the case for heating oil, which increased in price by more than 50% over the autumn of 2010. Although prices subsequently fell, they remain high by historical standards, and fuel poverty—even among consumers not on the lowest incomes—is higher for off-gas households as a result.

25. Homes reliant on non-gas heating fuels have much lower energy efficiency standards than gas heated homes. 60% of non-gas heated homes in Wales, 49% in England and 22% in Scotland are F and G rated on the EPC scale, compared to less than 10% of gas-heated homes. While this reflects the higher heating costs associated with these fuels it is also a result of the condition of off gas homes.

³⁵ Fuel Poverty Advisory Group. Eighth annual report. sl : DECC, 2009.

³⁶ Very brief overview of HHSRS.

³⁷ Communities and Local Government. DCLG. Making better use of energy performance certificates and data. [Online] 30 November 2010. <http://bit.ly/hlm0qR>

³⁸ Consumer Focus, Opening the door [Online] 26 February 2011, <http://bit.ly/haomp4>

³⁹ Consumer Focus, Off-gas consumers—Information on households without mains gas heating [Online] <http://bit.ly/uKDFtA> October 2011.

26. Off gas homes have a greater likelihood of being older, detached and built with solid walls. Detached homes and bungalows account for 60% of all homes with oil heating in England, 52% in Wales and 71% in Scotland, compared to 31% of all homes in Britain. Homes heated by oil and solid fuel are more likely to have solid walls than homes using other heating fuels. 33% of oil-heated homes in England, 47% in Scotland and 35% in Wales have solid walls, in comparison to 25% of homes in Britain as a whole. Homes using oil and LPG as their main heating fuel are also much more likely to use secondary heating compared to homes using other fuels.

27. Fuel poverty is higher among users of all off gas fuel types than it is among mains gas customers—see Table 2 below. Among electric and solid fuel heating consumers this to be expected given the association of these fuels with low income. However, among heating oil consumers the level of fuel poverty is more surprising, given its association with higher income. It appears that high heating costs and the type of homes associated with oil (larger, solid walled, detached) pushes many better off oil consumers into fuel poverty.

Table 2

FUEL POVERTY BY HEATING FUEL, ENGLAND, SCOTLAND AND WALES IN 2008
Thousand households/row percentage/column percentage

	<i>Mains gas</i>	<i>LPG & Bottled Gas</i>	<i>Heating Oil</i>	<i>Solid Fuel</i>	<i>Electric Heating</i>	<i>Communal</i>	<i>Total</i>
England	2,410	67	236	102	494	27	3,335
	72.3	2.0	7.1	3.0	14.8	0.8	100.0
	13.4	52.0	28.5	42.4	25.7	10.2	15.6
Scotland	427	10	57	19	130	3	646
	66.0	1.5	8.9	2.9	20.2	0.4	100.0
	24.1	53.6	42.6	57.0	36.8	17.7	27.7
Wales	209	13	67	18	25	0	332
	62.8	4.0	20.2	5.4	7.5	0.1	100.0
	21.0	53.2	46.8	48.3	39.7	5.0	26.2

Notes:

¹ The definition of fuel poverty is slightly different in Scotland than England and Wales, eg Scotland uses a higher temperature standard than England and Wales.

² Table 2 uses the “full income” definition of fuel poverty, ie the benefits households receive for housing costs are counted as “income”.

Given that the OFT found no evidence of a competition problem in the heating oil market, what (if anything) can be done to prevent a repeat of the situation in December 2010 when households were faced with high energy costs during a spell of particularly cold weather?

28. Consumer Focus commissioned GHK consultants to assess options for improving the circumstances of off-gas consumers (publication forthcoming). The analysis found that there would be significant practical difficulties in introducing formal price regulation in the off-grid market, as prices are linked very closely to the price of crude oil. There is reasonably healthy competition in the off-grid markets with a large number of suppliers, although there is evidence of reduced competition in certain local markets.

29. In the cold weather of December 2010 many suppliers made efforts to minimise the impact on consumers, particularly vulnerable consumers. A voluntary code of conduct by suppliers could formalise these examples of good practice and make sure they apply across the board.

30. The GHK analysis found that while there was only limited potential for improving the off-gas markets, there was considerable potential for re-designing existing and forthcoming Government initiatives so that they better support off-grid consumers. The proposals below focus on short term initiatives that could provide immediate help to off-grid consumers. Our proposals on longer term initiatives to provide affordable heating alternatives to expensive oil, LPG and solid fuel are outlined in our response to the next question.

31. *Winter Fuel Payments:* Heating oil costs are generally lower in late summer and early autumn; however winter fuel payments are typically made in December. Early payment of the payments by the Government (DWP) could help facilitate improvements in consumer energy planning and therefore reduce energy bills for vulnerable elderly consumers;

32. *Warm Home Discount:* The Government should consider providing a higher level of Warm Home Discount (WHD) to eligible households off the gas network. Consumer Focus continues to advocate extending the mandated WHD to all Cold Weather Payment eligible households and low income families.

33. *Supply side improvements:* Require the heating oil sector to improve the quality and reporting of price information, particularly with respect to price transparency, eg distinguishing delivery costs from unit costs. Heating oil and LPG suppliers (with Government support) should introduce alternative payment methods for low income consumers to facilitate budgeting and planning.

34. *Improving information on off-gas consumers:* The Government should map off-grid homes with respect to proximity to the gas network. As a minimum, the UK Government and Welsh Government should develop a distance-based indicator of gas network proximity for the English Housing Survey and Welsh Living in Wales Survey to give a better understanding of homes that might conceivably be connected to the gas network and those which cannot. The Scottish House Condition Survey already includes a distance-based measure.

35. The Government should also further develop the National Energy Efficiency Database (NEED) to help improve Government and industry targeting of energy efficiency, renewable and other initiatives to off-gas homes.

How could DECC's policies for tackling fuel poverty among off-grid consumers be improved?

36. *Consumers with a gas supply without gas heating*—our analysis of off-gas consumers found that over half a million households in Britain have a gas supply in their home but do not have gas heating. 35% of these households are fuel poor and 43% are in the lowest three income deciles (England only). The installation of gas heating in these homes would be cost effective and potentially transform the circumstances of the households living in them. Policy should focus on these “low hanging fruit” as a priority.

37. *Consumers in close proximity to the gas network*—our analysis also found that a further 1.3 million homes are located in “gas postcodes” but do not have a gas supply. Many of these homes could cost effectively be connected to the gas network and have gas heating installed. It is not possible to establish the exact proportion of homes for which this is a viable option in England and Wales, unlike Scotland, due to the lack of a distance-based measure of gas network proximity. The Government should facilitate community partnerships to expand mains gas connectivity, involving industry and communities working together, to fund connection particularly for low income communities.

38. *Renewable heat*—many rural, off-gas homes could have renewable heat measures installed. In combination with insulation measures, this could improve affordability considerably. The renewable heat incentive (RHI) can help make these measures attractive for consumers who are able to finance the upfront costs of measures. However, this is not viable for low income off-gas consumers.

39. *Green Deal and ECO*—the recently published consultation document says very little about how Green Deal, ECO and RHI might work together to provide whole house solutions to off-gas homes that include renewable heat measures. The consultation states that suppliers can offer heat pumps and other low carbon heating sources to low income off-gas households under the Affordable Warmth element but does not intend to provide any additional incentives for suppliers to do this.

40. Consumer Focus notes that Warm Front is similarly not able to offer affordable heat options to off-gas consumers. Currently electric storage heaters or oil central heating systems are the only measures on offer, neither of which offer affordable heat. We also recognise that heat pumps only provide an affordable option if they are installed alongside substantial insulation measures. For many rural off-gas homes this will require solid wall insulation.

41. *Integrated policies*—Consumer Focus considers DECC should consider how Green Deal, ECO and RHI can be combined so that renewable heat and substantial insulation are offered to low income off-gas consumers as an integrated package. Options might include:

- additional uplifts within both the Affordable Warmth and Carbon elements of ECO for renewable heat, including biomass (which is generally suitable for “healthy adults” but less so for older and disabled consumers), as well as heat pumps;
- combining the revenue stream from the RHI with ECO subsidy to finance the up-front costs of renewable heat; and
- introducing a publicly funded grant system that is integrated with ECO for low income off-gas consumers, as is currently the case in Wales and Scotland where the NEST and Energy Assistance Package are integrated with the Carbon Emissions Reduction Target (CERT).

42. *Delivering energy efficiency in off-gas areas*—CERT schemes have disproportionately addressed urban areas (with the exception of London), where cost of installing measures are often lower, due to the potential for economies of scale and lower travel costs. The Green Deal/ECO consultation suggests this may be less of a problem with ECO because it is designed to provide measures to hard to treat homes (primarily solid wall insulation). It also suggests that ECO could give greater recognition to the potentially larger carbon savings that can be achieved in off-gas, rural homes. This will therefore also help direct activity towards these homes. The Government therefore does not intend to make “geographic equity” a requirement of ECO.

43. Consumer Focus considers that there is a substantial danger off-gas, rural homes will miss out from both the carbon and affordable warmth elements of ECO. Large concentrations of social housing provide the greatest potential for suppliers to meet the carbon target of ECO through solid wall insulation, particularly if also delivered to private housing in adjacent areas (although there are still substantial barriers⁴⁰). However, these concentrations are predominantly found in urban areas. Similarly, suppliers are more likely to focus affordable

⁴⁰ See the recent report we commissioned from ACE. Scaling the solid wall.

warmth activity on cost effective delivery of gas heating and simple insulation measures in urban areas, at least in the initial phase of ECO.

44. Recognition of the more severe climate in rural Scotland (and thus the greater potential carbon savings) in the ECO metric may help direct some activity towards these homes. However, there are other factors such as higher travel costs and dispersed settlement patterns that will militate against this.

45. Consumer Focus therefore considers “geographic equity” should be recognised in the delivery of energy efficiency programmes. We are concerned that the market-based nature of the ECO mechanism will not do this. However, a national, Government-directed energy efficiency scheme that complements Green Deal and ECO would be more able to address geographic equity and provide measures suitable for off-gas homes.

46. Consumer Focus considers such a programme could be funded through the recycling of ETS and Carbon Floor Price funds. This should be specifically designed to focus on hard to treat and off-gas homes that cannot easily be helped by Green Deal and ECO.

December 2011

Written evidence submitted by London Borough of Newham

INTRODUCTION

Newham is an inner-London borough to the east of Tower Hamlets. It is one of the most deprived boroughs in London (2nd only to Hackney in the 2010 Indices of Multiple Deprivation). Newham has a high proportion of housing in the private rented sector—currently estimated at approximately 35%, according to Newham Household Survey 2009. The latest fuel poverty statistics from DECC show that Newham has the highest level of fuel poverty in London—13.7%. However, if the higher cost of living in London is taken into account, it is estimated that this figure is more likely to be >20%.

SUMMARY OF HOUSING MAKE-UP AND POPULATION PROFILE

Figure 1.1

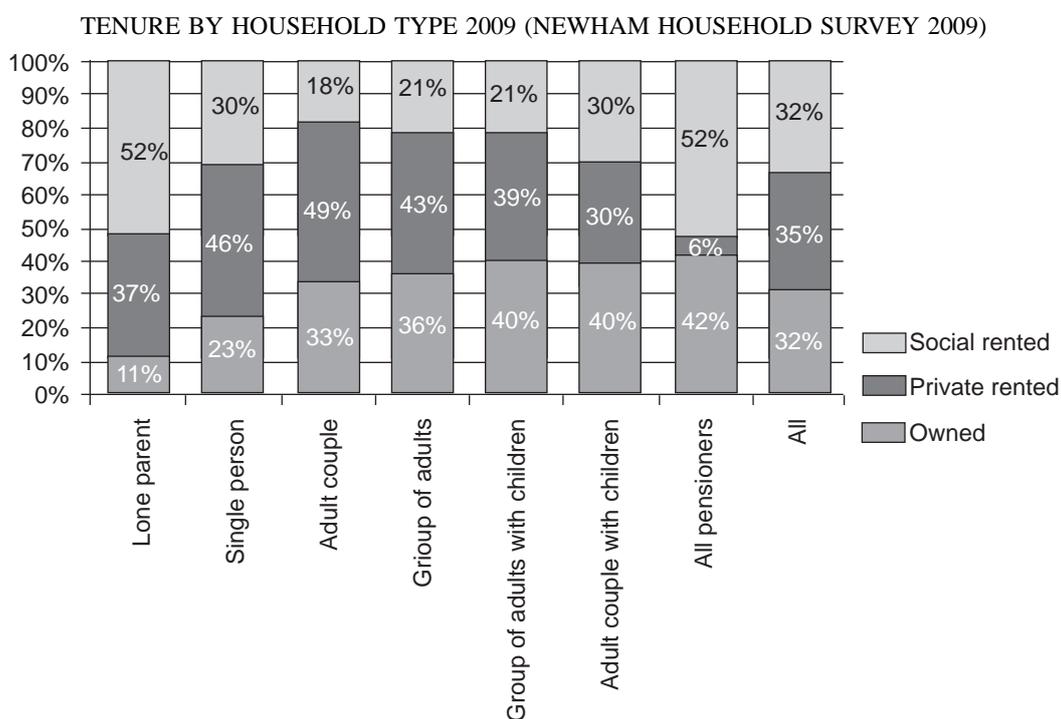


Figure 1.2

POPULATION ETHNICITY BREAKDOWN IN NEWHAM (CENSUS 2001)

<i>Ethnicity</i>	<i>Newham</i>	<i>London</i>	<i>England</i>
White: British	33.78%	59.79%	86.99%
White: Irish	1.32%	3.07%	1.27%
White: Other White	4.31%	8.29%	2.66%
Mixed: White and Black Caribbean	1.22%	0.99%	0.47%
Mixed: White and Black African	0.68%	0.48%	0.16%
Mixed: White and Asian	0.68%	0.84%	0.37%
Mixed: Other Mixed	0.80%	0.85%	0.31%
Asian or Asian British: Indian	12.14%	6.09%	2.09%
Asian or Asian British: Pakistani	8.46%	1.99%	1.44%
Asian or Asian British: Bangladeshi	8.80%	2.15%	0.56%
Asian or Asian British: Other Asian	3.12%	1.86%	0.48%
Black or Black British: Caribbean	7.35%	4.79%	1.14%
Black or Black British: African	13.11%	5.28%	0.97%
Black or Black British: Other Black	1.12%	0.84%	0.19%
Chinese or other ethnic group: Chinese	0.96%	1.12%	0.45%
Chinese or other ethnic group: Other ethnic group	2.14%	1.58%	0.44%
TOTAL	100%	100%	100%

In this response, the questions regarding off-gas grid properties will not be addressed as the vast majority of Newham is on the gas grid.

1. *What are the barriers to tackling fuel poverty in the private rented sector?*

There are a number of factors that make tackling fuel poverty in the private rented sector (PRS) especially difficult:

- (i) Generally, the PRS has lower energy efficiency (EE) standards than the owner occupier (OO) or social housing (SH) sectors (EHS data).
- (ii) Much of the housing in Newham is Victorian terraces. These are termed “hard-to-treat”, as they have solid walls that cannot be insulated easily or cheaply, unlike cavity walls. They also tend to be draughty and many are in a poor state of repair.
- (iii) There is a “split incentive” for the landlord to improve EE standards—ie they are paying for the EE improvements, but it is the tenant who will benefit from the reduced energy bills.
- (iv) A high proportion of landlords in Newham are non-professional—ie own one or two properties but are cash-poor, therefore may lack the necessary capital to invest in EE improvements.
- (v) Fear of retaliatory evictions/increase in rent by the landlord if the tenant requests EE works to be carried out on the property.
- (vi) A high proportion of the fuel poor in Newham are from BME and EU accession households—could indicate cultural/language barriers.
- (vii) Lack of incentives to landlords.
- (viii) Poor information available on pay back schemes/improvements.
- (ix) Landlords and the PRS not engaging in the climate change agenda.
- (x) Lack of adequate tenant matching to properties, such that borderline FP tenants are placed or forced to accept poorly SAP banded dwellings.
- (xi) High proportion of shared/HMO dwellings.
- (xii) Pre-payment meter types and arguably fewer off-peak tariffs meter installed in properties.
- (xiii) Worklessness and unemployment.
- (xiv) Robust inspection regimes and assessment of HHSRS.
- (xv) Robust checks and regulation of EPCs.

2. *To what extent will the recent measures in the Energy Act 2011 (to introduce minimum energy efficiency standards in the private rented sector) help the problem?*

- (i) Generally, the measures recently announced in the Energy Act 2011 to introduce minimum EE standards in the PRS should have a positive effect and benefit tenants.
- (ii) However, there are a number of caveats to consider.
 - The tenants, as mentioned previously, may feel that if they ask their landlord for EE improvements, they may be under threat of the raising of the rent or retaliatory evictions by the landlord.

- An integral part of the Energy Act 2011 is the “Green Deal”. This will run from 2013 and is the Government’s flagship domestic energy efficiency scheme. Energy efficiency improvement works will be carried out in the property with no upfront cost. They will then be repaid by recouping the costs through the energy bill. The “Golden rule” states that the payments will not exceed the reduction on the bill achieved as a result of the installation of the energy saving measures. If the tenant is paying the utility bills, they would be paying for the EE improvements. This means the landlord is effectively having their house improved for free. Many tenants may perceive that this is inequitable, therefore take-up rates may be low.
- Green Deal providers may “cherry pick” the easy wins and easier to reach communities. Traditional hard-to-reach areas such as Newham may not receive the same level of interest from providers

3. How could DECC’s policies for tackling fuel poverty in the private rented sector be improved?

- (i) The minimum EPC rating required by 2018 in PR properties will be an E. This is still low in terms of EE. Consumer Focus estimate that raising all properties in England to SAP 81 (equivalent to EPC band B) would lift 83% of households out of fuel poverty.
- (ii) Energy efficiency standards are only one part of the problem in terms of the causes of fuel poverty. The other two main factors are energy prices and household income. The government may wish to consider a more holistic approach, to include services such as income maximisation (benefits checks), and also policies to tackle rising energy prices in order to tackle fuel poverty more effectively.
- (iii) Definition of fuel poverty is an issue. The current definition is any household spending 10% or more of their income on heating their home to an acceptable level. Due to the current high energy prices, many higher income households are falling into this category. For example, a high income household living in a large Victorian property may have high energy bills, but are living comfortably due to their higher income. The recently published Hills fuel poverty review considers alternative definitions. These include looking at income after housing costs, rather than before, which is argued gives a more accurate reflection of a household’s disposable income and affordability of its fuel bills. Also suggested is looking at those with a low income who also live in an energy inefficient property.
- (iv) There is a pilot scheme in Newham called the Neighbourhood Improvement Zone (NIZ). This is based in a specific area of Little Ilford Ward in Newham, which has a particularly high proportion of PRS properties, and also a high incidence of poor quality properties, as well as anti-social behaviour. All private landlords in the NIZ were required to be licensed. This was to ensure they were fit and proper to be a landlord and also the property did not contain any category 1 hazards—such as excess cold. The RE:NEW scheme currently being undertaken in Little Ilford Ward will target these landlords to ensure energy efficiency standards are pushed up further. Any landlords in the NIZ who refused to become licensed were prosecuted and fined, and are not allowed to rent out their properties. This selective licensing scheme has been successful in enforcing better standards in the area and will enable conditions to be attached to the property licences. Examples of such are minimum SAP ratings, landlord training and landlord financial incentives.
- (v) More engagement could be done with Private Sector landlords in order to encourage higher energy efficiency standards.

CONCLUSION

- Fuel poverty is a significant issue in the UK and will only get worse with further price rises. Fuel poverty is especially prevalent in Newham, (as well as other inner-London areas), due to high levels of income deprivation, a high prevalence of “hard-to-treat” properties, as well as a high proportion of Private Rented Sector properties.
- Living in cold housing is known to have a detrimental effect on both physical and mental health, especially on those in vulnerable groups; eg the elderly, low income families with young children, those with existing health conditions etc.
- It should be noted that with the Universal credit and Housing benefit changes on the horizon, there is likely to be income level pressures, and hence tilting the balance between landlord and tenant further towards the landlord.
- Each year there are approximately 27,000 “Excess Winter Deaths” nationally caused by people living in cold housing. Even if only 10% of these deaths were attributed directly to fuel poverty, this is still 2,700 deaths per year, which is more than the number of people that die in road traffic accidents annually. Therefore it is imperative that the government takes swift and robust action to combat fuel poverty.

Written evidence submitted by Friends of the Earth

SUMMARY

1. Friends of the Earth welcomes the opportunity to contribute to this inquiry. We have campaigned on the issue of fuel poverty for more than a decade. We were a leading part of the coalition which campaigned for the Warm Homes Bill which eventually became the Warm Homes and Energy Conservation Act 2000. Most recently we founded and jointly led the coalition of almost 40 health and consumer organisations, green groups, children's charities, councils and grassroots tenants' rights groupsⁱ campaigning for the introduction of a minimum standard of energy efficiency for private rented properties in the Energy Act 2011.

2. The Private Rented Sector (PRS) contains rented homes include a large number of households in fuel poverty; many are so cold and poorly insulated that they are a health hazard and cost a huge amount to heat.

3. Information failures, the split incentive, poorly implemented Energy Performance Certificates, landlord inertia and fear of retaliatory eviction are all barriers to the take up of energy efficiency in the PRS. The Green Deal provides a much needed mechanism for landlords to finance improvements but by itself it will not drive the take up of energy efficiency in the sector.

4. Measures in the Energy Act represent a welcome and significant advance in energy efficiency policy and could have a substantial impact on fuel poverty in the PRS. However they must be properly implemented to reach their potential and not allow a significant proportion of F and G rated properties to slip through the net. This means including Houses in Multiple Occupancy, writing the Secondary Legislation as soon as possible and closing a loophole that would allow F or G rated properties to be let if they take up the Green Deal and ECO. In addition the "minimum standard" should be introduced in 2016 in line with the fuel poverty target and a date should be set soon for the minimum standard to rise to EPC Band D.

5. The scale of the Energy Company Obligation is also a cause for concern.

FUEL POVERTY IN THE PRIVATE RENTED SECTOR

6. The number of households renting privately in England has risen by one million since 2005, from 2.4 million to 3.4 million in 2010—15.6% of the housing stock. Wales has 140,804 and Northern Ireland has 81,000 private rented properties—respectively 11% and 11.5% of the housing stock.ⁱⁱ

7. Properties with the very worst energy efficiency rating (Band G) are more than four times as common in the private rented sector as in the social sector.ⁱⁱⁱ

8. Private rented homes have poor overall energy performance. Private rented properties have an average SAP of 51, compared with 61 for Social Landlords. PRS properties tend to be old—40% of private rented homes were built before 1919.^{iv}

9. 20% of PRS households in England are in fuel poverty.

10. There are about 680,000 private rented properties in England lowest two energy efficiency ratings of F and G. Over 40% of households in these homes live in fuel poverty.^v

11. Modelling for Friends of the Earth^{vi} estimates that £145 million is currently spent by the NHS in England every year treating illnesses caused by living in cold rented homes.

What are the barriers to tackling fuel poverty in the private rented sector?

12. The "split incentive" is often identified as a major barrier to improving energy efficiency in the PRS. The landlord is responsible for investing in energy-saving measures, but the tenant benefits from the reductions in fuel bills.

13. Turnover in the PRS is high, 50% private tenants occupy their home for less than two years.^{vii} This means that there is little incentive for tenants to request energy efficiency measures from their landlord as they are likely to leave the property soon and may not wish to suffer disruption or conflict with the landlord for the sake of improvements from which they are unlikely to benefit from for any length of time.

14. Many tenants are deterred from making requests of their landlords for improvements and maintenance works because they are afraid of being evicted.^{viii} This is known as "retaliatory eviction" and is made possible by Section 21 of the Housing Act 1988.

15. Small landlords dominate the PRS. The Rugg Review^{ix} estimated that in 2006, 73% of all landlords were individuals or couples. Just over 70% of all landlords owned fewer than 10 properties, and 84% of individual/couple landlords owned 10 or fewer properties. According to DECC just 3.3% are a member of a landlord association.

16. Take up of energy efficiency schemes has historically been very low even when these—for example EEC and CERT—are a low or no cost to the landlord^x (indicating that the availability of the Green Deal as a mechanism to avoid upfront capital costs will not be enough to drive take-up and hence the need for regulation to compliment it).

17. Landlords' Energy Saving Allowance, was taken up in 2007–08 by only 0.2% of UK landlords, despite offering a tax allowance of up to £1,500 per property for landlords installing energy saving measures.

18. Far too often tenants do not get to see the EPC for their property, and so are unaware of the property's thermal efficiency. Research by Consumer Focus shows that just 31% of tenants who moved in the past two years received an EPC, as compared with 79% of owner occupiers.^{xi}

19. DECC^{xii} characterises the problem as “The information failures in the PRS are particularly strong with a diverse set of owners, and tenants, who have failed to take advantage of as many subsidised energy efficiency measures as other sectors.”

To what extent will the recent measures in the Energy Act 2011 (to introduce minimum energy efficiency standards in the private rented sector) help the problem?

20. The Impact Assessments (IA) for both the Energy Act 2011 and to accompany the recent consultation on the Green Deal and ECO confirm that the measure is expected to have a major impact on the uptake of energy efficiency measures in the PRS.

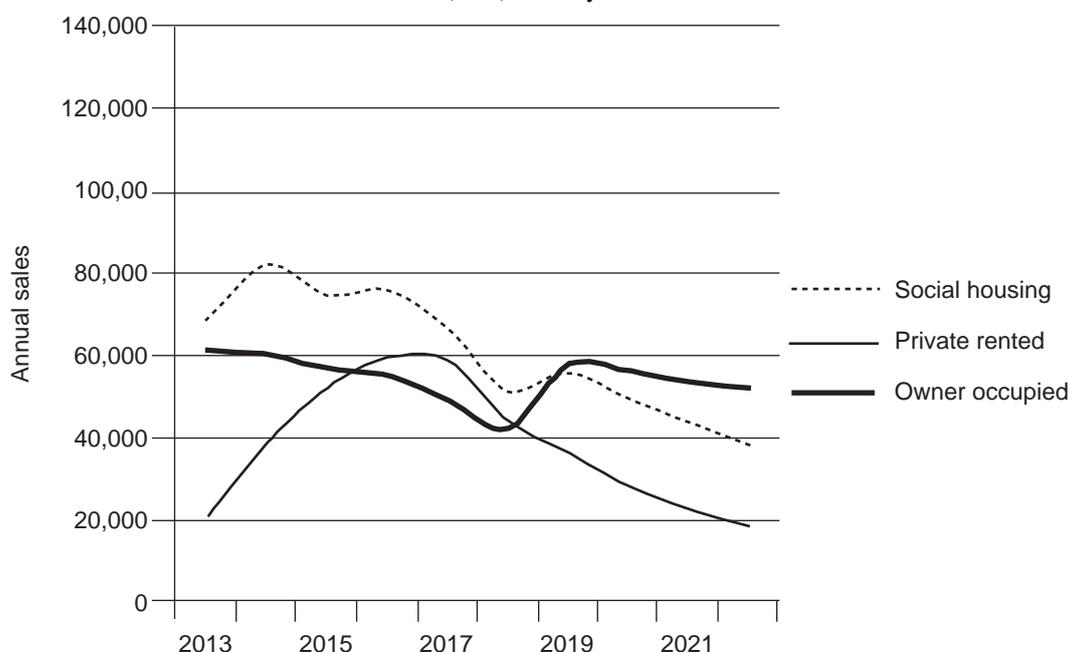
21. Measures needed to reach E rating in F and G rated PRS properties and impact of Energy Act “minimum standard” policy.^{xiii}

<i>Measure</i>	<i>Number of installations available in F and G PRS properties (,000)</i>	<i>Number that will be completed due to PRS measures in the Energy Act 2011 (,000)</i>
Cavity Wall	243	230
Loft	148	128
Loft top-up	250	245

22. The Energy Act IA (page 78) assumes that just 2.2% of the installations available will be due to the “tenants request” measure meaning the minimum standard is expected to be responsible for successfully delivering almost the entirety of these cost effective measures available in F and G PRS properties.

23. The Energy Act IA does not include any prediction of how many solid wall insulations will be due to the regulations.

24. However the more recent Green Deal and ECO Impact Assessment (referred to as GD/ECO IA from hereon) accompanying the Green Deal and ECO consultations does provide a graph (page 77) showing the breakdown of additional solid wall insulation (SWI) sales by tenure.



25. This graph, with sales in the private rented sector rising to a peak just before 2018, indicates that the PRS regulations will also be highly successful in driving SWI, indeed so successful that SWI installations in the PRS (which makes up 15% of the housing stock) briefly overtake SWI installations in the owner occupied sector (which makes up almost 70% of the housing stock).

26. This is confirmed by the GD/ECO IA (page 76) which states “The model predicts that in the owner occupied sector, uptake is relatively constant. In the private rented sector, activity increases more rapidly as

landlords take steps to meet the private rental sector (PRS) supporting policy that comes into effect in 2018. Once this regulation has come into effect and the stock of F and G rated properties have been retrofitted, uptake declines.”

27. The GD/ECO IA (page 202) states that the minimum standard policy has been modelled separately from the Green Deal because “the policy is likely to provide a stronger incentive for landlords to consider energy efficiency measures that are Green Deal compliant.”

28. Friends of the Earth has asked DECC officials for a comparative breakdown of data on the uptake measures other than SWI by tenure but this has not been provided.

THE IMPACT ON FUEL POVERTY

29. Friends of the Earth cannot find an estimate on the impact on fuel poverty of the PRS measures contained in the Energy Act. The GD/ECO IA (page 88) predicts that across the whole housing stock ECO will see “a reduction in the number of households in fuel poverty of between 350,000 and 550,000, compared to how many households could have been in fuel poverty at the end of 2022 without the ECO.”

30. We consider this to be inconsistent with the Government’s legal duty under the Warm Homes and Energy Conservation Act 2000.

31. Research by Consumer Focus^{xiv} showed a minimum energy efficiency standard of Band E for private rented homes could take 150,000 private rented households out of fuel poverty. This is 25% of all those private rented households currently living in fuel poverty. If the minimum standard was raised to Band D it would take 300,000 households out of fuel poverty—50% of the total in the sector.

32. However the real world impact could be much less if a significant number of households are not improved because of lack of enforcement, problems gaining consent (especially from freeholders in blocks of flats) and other exemptions and loopholes. This is recognised in the GD/ECO IA.

IMPACT ON DISADVANTAGED SOCIAL GROUPS

33. DECC’s 2010 Impact Assessment for the Green Deal states: “In particular the PRS is home to a high proportion of young households, and black or minority ethnic households, so any regulation to improve the standard of housing in this sector could be expected to improve the outcomes for those groups relative to others.”^{xv}

34. It also notes that: “The PRS has a particularly high proportion of lone parents with dependent children...Improving the energy efficiency of the housing stock in the private rented sector could have a particular positive effect on this section of society, with benefits for single mothers.”^{xvi}

35. This seems especially important given the subsequent evidence of the impact on the physical and mental health of children and teenagers presented in the Health Impacts of Cold Homes and Fuel Poverty report commissioned by Friends of the Earth from Marmot Review Team at UCL.^{xvii}

How could DECC’s policies for tackling fuel poverty in the private rented sector be improved?

36. Changes or improvements required to measures contained in The Energy Act 2011

TAKE UP OF THE “TENANTS REQUEST” MEASURES AND RETALIATORY EVICTION

37. The Government has included a provision in the Energy Act (Section 46) which means that landlords cannot refuse consent for reasonable requests by tenants for energy efficiency measures. This means they cannot unreasonably block a Green Deal or ECO. However the GD/ECO IA does not model any predicted impact from the measure.

38. The Energy Act Impact Assessment—which predicts 2.2% of the measures taken up in F and G properties will be due to this policy—states that the impact of the “tenants request” measure would be limited because “For those tenancies of a few years or less, it is unlikely the bill savings under the Green Deal will repay the hassle costs of requesting consent for a measure from their landlord” and that even longer term tenants who might benefit more “may not want to risk losing their tenancy by confronting the landlord, especially in the case that tribunal is required.”

39. The recent Green Deal consumer insight research for DECC^{xviii} reports that those tenants who might want to take out the Green Deal “felt uncomfortable about the prospect of broaching the subject with their landlord. They were concerned that it would be seen by the landlord as overstepping the mark, and might annoy the landlord if they failed to handle the discussions carefully.”

40. This confirms the case being made by Citizens Advice, Crisis and tenants rights groups during the passage of the Energy Bill that tenants would be unlikely to request measures from landlords because of their fear of eviction and that they should be given proper legal protection when they request energy efficiency improvements. It is worth noting that IA was written finished in May 2011 (though was not made publically available until after Royal Assent).

41. Work by Citizens Advice^{xix} and others shows that fear of eviction is an established barrier to many tenants asking for improvements and maintenance works in rented properties.

42. A 2000 survey by the ODPM^{xx} found 8% of private rented sector tenants surveyed were very dissatisfied with repairs and did not try to enforce their rights because they thought their landlord would end their tenancy.

43. According to a YouGov survey commissioned by Shelter in 2011,^{xxi} 7% of tenants who had had a problem with their landlord did nothing about it because they were scared of the consequences.

44. Under the Housing Act 2004 tenants are now protected from retaliatory eviction when the landlord fails to protect their deposit. This principle should extend to tenants who make energy efficiency requests using the provisions in the Energy Act.

45. In 2008, Grant Shapps MP declared his opposition to retaliatory eviction in an interview with Environmental Health News:^{xxii} “Retaliatory evictions are completely unacceptable and I throw my weight behind EHN’s campaign...It is absolutely wrong and inappropriate.”

46. A simple solution would be to limit the use of Section 21 by landlords when an energy efficiency request had been made by a tenant under the regulations. It is disappointing that the Government did not take the opportunity of the Energy Act to put in place protection for tenants who take up the “tenants request” measure. Given the evidence of its own Impact Assessment and the new evidence of its own consumer insight research we think the Government should take the next available legislative opportunity to do this.

HOUSES IN MULTIPLE OCCUPANCY (HMO)

47. There are an estimated 300,000 HMOs in England and Wales.^{xxiii}

48. The Energy Act 2011 (Section 43) states that regulations will apply to landlords of a property “in relation to which there is an energy performance certificate”. HMO’s do not currently require an Energy Performance Certificate when one of the rooms is let (though if the whole property were let as a single unit an EPC or it were sold and EPC would be required) because a room is not defined as a building and therefore not technically covered by the EU Energy Performance of Buildings Directive (EPBD). An HMO created/converted before the Energy Performance Certificate regulations came into force in 2007 will not have an EPC and will not be required to receive one until the property is sold regardless of how many times the individual units it contains are rented out. Personal communication with officials at CLG confirms that the recast of the Energy Performance of Buildings Directive which must be implemented by July 2013 will not change this situation.

49. This means that not only will prospective HMO tenants be denied the opportunity assess the possible heating requirements of the property, but perhaps much more importantly the property will not be covered by the “minimum standard” regulations in 2018.

50. It would be technically difficult an EPC to be provided for an individual bedsit because the methodology is designed for individual properties. However it would be possible for an EPC for the whole property to be required to be shown to prospective tenants for one of the rooms or bedsits. This proposal was made in a CLG consultation issued in March 2010. 94% of respondents agreed with this proposal. However it was not carried forward.^{xxiv}

51. All three major organisations representing landlords (the Residential Landlords Association, the National landlords Association and the British Property Association) have agreed that it is appropriate to extend the coverage of EPCs to HMOs.^{xxv}

52. There is no evidence to suggest that their omission of HMOs from the legislation is anything other than an oversight. However it should be put right as quickly as possible so that landlords of HMOs are given the certainty that they too will be required to meet the regulations and that there will be a level playing field with non-HMO landlords.

53. However may be resistance to extending EPCs to HMOs because an individual unit of an HMO is not technically a building and this is not specifically required by the EPBD until the whole property is sold or let and would thus constitute “gold-plating”. Article 11 of the recast EPBD clearly states that the intention of EPCs is to provide information about the energy efficiency of a property to “owners and tenants”. We believe that requiring an EPC on HMO’s is not gold-plating and not requiring them is simply using a technically to do less than the minimum required by the Directive.

54. In addition irrespective of what the EU Directive may or may not say, the UK Parliament has decided to pass the Energy Act 2011 and the PRS measures it contains. Friends of the Earth does not believe that it was the intension of Parliament to exclude a significant number of the worst properties from the scope of legislation on a technicality, especially when these house many vulnerable tenants.

THE COMMENCEMENT DATE FOR THE “MINIMUM STANDARD” MUST BE BROUGHT FORWARD TO 2016

55. Tenants in the worst performing homes (those rated F or G) would save on average £488 off their annual fuel bill if the property were improved to a minimum standard. Improving all private rented F and G homes to

Band E would also save an estimated 1.87 MtCO₂ annually.^{xxvi} Consumer Focus^{xxvii} estimates 150,000 households could be removed from fuel poverty.

56. These benefits will be unacceptably delayed if the introduction of the minimum standard is held back to 2018 rather than 2016. Seven years is an unnecessarily long time to wait. 2018 is two years after the date by which the Government has a legal obligation under the Warm Homes & Energy Conservation Act 2000 to end fuel poverty.

57. Introducing the minimum standard in 2016 rather than 2018 would have zero cost to the Exchequer.

58. The only firm evidence offered during the passage of the Energy Bill for the 2018 was the proportion of tenancies which would have turned over by 2018. Greg Barker MP stated^{xxviii} “Most tenancies, I am told, are 12 to 18 months, so by 2018, we expect that 80% to 90% of tenancies will have changed.”

59. However he was unable to say why 80–90% tenancy turnover was the desirable proportion nor what the turnover by 2016 would be.

60. Using the English Housing Survey Headline Report 2009–10, Friends of the Earth has calculated that 80.3% of PRS tenants have lived in their current home for less than five years and 89.8 have lived in the property for less than 10 years. So while the Minister is correct that by 2018 there is likely to be an 80–90% turnover by 2018, an 80–90% turnover could also be expected by 2016. This means the rationale offered for a 2018 start date also applies to 2016.

61. The Minister also stated^{xxix} that the 2018 date was the result of careful consideration and balancing arguments: “Ultimately, the date is a matter of judgment and balance. I do not think that we would pretend that there is anything perfect about 2018.”

62. “We do not want to put an unnecessary burden on landlords or to risk perverse consequences such as tenancies being shortened against tenants’ wishes, unintended consequences for housing costs, or knocking the availability of housing in the private rented sector. A judgment must be made, and having taken everything into consideration we have landed up at the date of 2018.”

63. Friends of the Earth does not find the claim that there has been careful consideration of 2016 to be credible.

64. The Energy Act IA section on the PRS regulations (page 75) specifically states that because of the existence of the Green Deal landlords will not face the majority of costs of these improvements (some residual hassle costs remain) and therefore “The cost of this regulation is unlikely to be a significant driver of exit from the market in the context of the much larger exit costs”. This IA does not contain any exploration of the impact of an earlier start date for the regulations before 2018.

65. The Minister has also said that while he anticipates that many landlords will welcome the Green Deal if voluntary improvement does not happen fast enough before 2018 the date could be brought forward—as is allowed for by the legislation. By the time enough date about the take up of the Green Deal by landlords is available to make a decision to bring forward the date—say 2014 or 2015—it would be too close to 2016 to bring it forward and still give landlords enough notice. Far better to set the date at 2016 now, maximising transparency and certainty for landlords.

66. The independent Committee on Climate Change in its recent 3rd Progress Report to Parliament specifically called for “earlier introduction of regulation for the private rented sector”, stating that “there is no reason to delay implementation of this aspect of the proposals.”

67. While welcoming the minimum standard legislation, the most recent Fuel Poverty Advisory Group annual report^{xxx} says it is “regrettable that the start date is seven years in the future, when the people in the least energy efficient housing stock need help to keep warm much sooner.” It notes “that the Energy Act does allow for the regulation regarding the Private Rented Sector to commence prior to 2018 and FPAG call for Government to bring forward this date.”

F & G-RATED PROPERTIES MIGHT NOT HAVE TO BE IMPROVED TO MEET THE “MINIMUM STANDARD” BUT COULD STILL BE LEGALLY LET AT F OR G AFTER 2018

68. The legislation contains a significant loophole in the legislation which could considerably reduce the effectiveness of the legislation in tackling fuel poverty.

69. Section 43 of the Energy Act establishes that landlords of properties falling below the specified standard (ie Band E) will have to make energy efficiency improvements. However, there is no definitive obligation in the Bill to bring the properties up to Band E in every case. The legislation merely requires such energy efficiency improvements as can be financed by the Green Deal or ECO or by “such other financial arrangement as the regulations provide.” This is not the banning of F and G rated properties from 2018 intended by the Secretary of State.^{xxxi}

70. The legislation allows a landlord with a dangerously cold F or G rated property to continue to let it legally simply because they have made improvements or taken out a Green Deal or ECO.

71. DECC officials have stated that a landlord would be required to undertake all measures which could be covered by the Green Deal and/or ECO. However this is not in the primary legislation and will not be confirmed until the regulations are written, meaning landlords do not have the certainty about what will be required of them, which will discourage them from acting early.

72. Greg Barker MP has stated “Landlords will either have to reach an E rating or carry out the maximum package of measures funded under the green deal and the ECO, even if that does not take them above an F rating.”

73. The GD and ECO IA states that “It is further assumed that it would require these premises to undertake all the energy efficiency improvement measures compliant with the Golden Rule, which would improve their rating to E or better. Due to the strictness of the Golden Rule criterion, some buildings’ physical constraints and the rate of turnover of leases, the model suggests that not all rented premises would achieve an E rating”. DECC’s modelling explored an undeliverability factor of 35%, 25% and 15%.

74. This indicates that potentially a very significant number of properties could be let below Band E depending on how tightly the regulations are written.

75. The amount of work which can be done under the Green Deal changes depending on the golden rule of the tenant, so a property might be a legal F or G rating under one tenant but an illegal F or G rating under another. Similarly the amount work financeable under ECO Affordable Warmth element could depend on whether energy companies have met their target or a future Comprehensive Spending Review so a property for which ECO finance was available for sufficient measures to reach Band E at one time might at another time find ECO resources are not available and therefore it can be legally let below Band E.

76. Local authorities will face the complicated and expensive task of policing and enforcing the law and will be called upon to prove (by means that are wholly unclear) whether F or G rated properties have been sufficiently improved to be legally let or whether they have not and should be prosecuted.

77. Speaking at Report Stage in the House of Commons, Greg Barker MP said: “We do not want our regulations to have an adverse impact on the supply of properties in the private rented sector. For that reason, we remain committed to ensuring that there are no up-front costs for landlords.”

78. We believe the concern about supply is unjustified. The vast majority of these properties can be improved to an energy efficiency rating of Band E at relatively low cost. Research by the Energy Saving Trust for Friends of the Earth shows that 37% of F or G rate private rented homes could be improved to a minimum standard of Band E for less than £900 through cheap measures like loft and cavity wall insulation and draught proofing. The overwhelming majority (74%) would cost less than £3,500 and just 5% would cost more than £7,500 to bring up to a basic standard of energy efficiency.

79. Landlords will have access to both the Green Deal and, where their properties are hard-to-treat to assistance from ECO, so by setting a strict Band E standard landlords would not have to pay for the full cost of improving those properties, just that amount which falls beyond the Green Deal golden rule or outside the support available from ECO.

REGULATIONS NEED TO BE LAID RAPIDLY AND SHOULD SET DATE FOR THE STANDARD TO RISE

80. The GD and ECO IA predicts take up of measures in the PRS in anticipation of the regulations coming into force in 2018. However those regulations have not yet been written. DECC officials have stated that the department does not intend to consult on and lay the regulations for some time, possibly until 2016. Friends of the Earth believes this is a serious error which could dramatically increase the number of properties which are not improved voluntarily before the 2018 deadline meaning much greater enforcement costs to local authorities later and a delay in improvements in the sector. With only the primary legislation in place there is simply too much uncertainty about regulations for landlords to act.

81. Consumer in-sight research released alongside the GD consultation^{xxxii} confirms that despite dealing with the tenant landlord split that by itself the Green Deal finance mechanism will not alone drive significant uptake of energy efficiency measures in the Private Rented Sector: “A small number of domestic tenants were interested in taking up the Green Deal. The domestic tenants who were interested in taking up the Green Deal were in draughty and difficult to heat homes and planned to stay in their property for at least a few years. They were attracted by the notion of a warm and easier to heat home even without a substantial cost saving.” Many more thought the small projected savings didn’t justify the hassle of changes.

82. However inertia from landlords may not be easily over-come “None of the domestic landlords in this research expressed interest in the Green Deal as described in the research. Without a cost saving, they felt there was little reason to take up the Green Deal. In addition, since the examples had shown that major energy efficiency improvements did not make a return on their investment for many years, it undermined their commercial value. In addition, they believed a property with an ongoing payment attached to its energy bill would be less attractive to prospective tenants or buyers.”

83. Indeed The Energy Act 2011 IA (page 79) states that “While it is the regulation in the PRS that would be expected to drive take-up in the sector, the presence of the Green Deal finance is required to make the take-up possible.” It is clear that it is the combination of the minimum standard regulations AND the Green Deal (and ECO) which will drive change in the sector. While F and G rated properties are the most associated with fuel poverty and damage to health, rising energy prices mean that the number in fuel poverty in properties above F and G will also be rising

84. The Energy Act IA (page 65) states “In a sector that is predominantly high turnover the Green Deal on its own is unlikely to exploit all cost-effective energy-efficiency improvements in the PRS.”

85. Speaking during the passage of the Energy Bill, Greg Barker MP confirmed that the minimum standard can and should rise over time “the Secretary of State has the power to increase the standard if and when further evidence comes to light”, “it is anticipated that the minimum standard will evolve over time.”

86. Evidence in the GD and ECO IA and DECC’s consumer insight research shows that a long term regulatory signal is needed to accompany the Green Deal and ECO. Therefore the Secretary of State should move rapidly to consult on a firm long-term date of 2020 for the standard to rise to include the Band E properties in the PRS—of which there are over one million—to give the maximum notice to landlords with these properties.

IMPLICATIONS FOR THE ENERGY COMPANY OBLIGATION

87. Improvements to the energy efficiency of fuel poor PRS households will be dependent on ECO. Greater resources available to ECO are essential. The current proposed £330 million for the Affordable Warmth element (25% of the £1.3 billion overall pot) is entirely inadequate to the job of tackling the 5.5 million households in fuel poverty across the housing stock. However many landlords with solid walls might benefit from the carbon element, the PRS regulation should therefore help ensure that not all the ECO carbon target is taken by better off owner occupiers who are less likely to be in fuel poverty.

88. It is not possible simply to increase the scale of ECO by increasing the size of the targets and putting a bigger and bigger burden on energy bills. Friends of the Earth supports the use of the revenues to the Treasury from the sale of permits under the EUETS and the carbon floor price. The Treasury itself estimates that in 2015–16 it will be receive over £3.5 billion in receipts from these two schemes.^{xxxiii}

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ⁱⁱ English Housing Survey, Headline Report 2009–10, Living in Wales 2008 and Building Sound Foundation, Department for Social Development.

ⁱⁱⁱ English Housing Survey, Headline Report 2009–10.

^{iv} English Housing Survey, Headline Report 2009–10.

^v Page 54, Energy Bill: Green Deal Impact Assessment, DECC, 2010

^{vi} The health costs of cold dwellings, BRE and CIEH, April 2011

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^{xi} Consumer Focus, Room for Improvement—The impact of EPCs on consumer decision-making <http://www.consumerfocus.org.uk/publications/room-for-improvement-the-impact-of-epcs-on-consumer-decision-making>, February 2011.

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- ^{xxvi} Which Way Up—Advance Headline Findings, Energy Saving Trust, Feb 2011
- ^{xxvii} <http://www.consumerfocus.org.uk/files/2010/12/A-private-green-deal.pdf>
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- ^{xxx} Fuel Poverty Advisory Group, Ninth Annual Report, Oct 2011
- ^{xxxi} From 2018, the rental of the very worst performing properties—those rated F and G—will be banned through a minimum energy efficiency standard.” Rt Hon Chris Huhne MP, 10 May 2011
- ^{xxxii} Green Deal and the Private Rented Sector, Consumer research amongst tenants and landlords, Quadrangle, November 2011
- ^{xxxiii} http://cdn.hm-treasury.gov.uk/2011budget_complete.pdf Data from p92—current receipts and p43—budget policy decisions.
- December 2011*
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Supplementary written evidence submitted by Friends of the Earth

1. IMPACT OF THE GREEN DEAL AND PRS REGULATIONS—TAKE UP OF ENERGY EFFICIENCY MEASURES BY TENURE

Since submitting our written evidence to the Committee, DECC have provided the data requested on the uptake of measures other than solid-wall insulation by tenure.

These are reproduced in the tables below:

(Figures supplied by DECC in personal communication.)

Table 1

TAKE UP OF MEASURES IN THE PRIVATE RENTED SECTOR

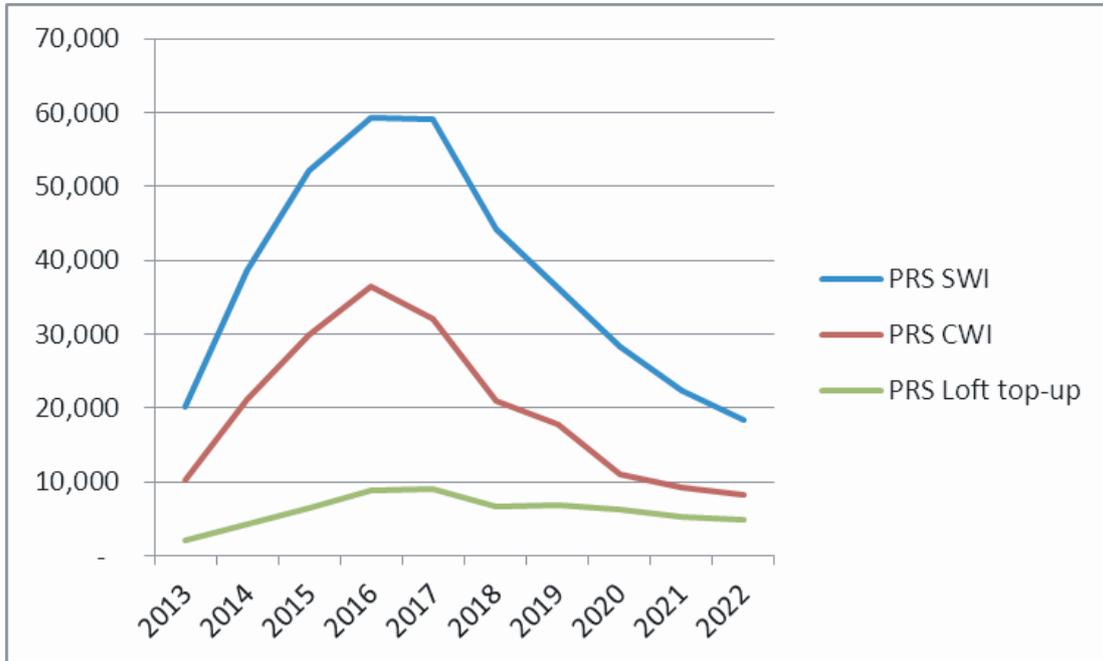


Table 2

TAKE UP OF MEASURES IN THE OWNER OCCUPIED SECTOR

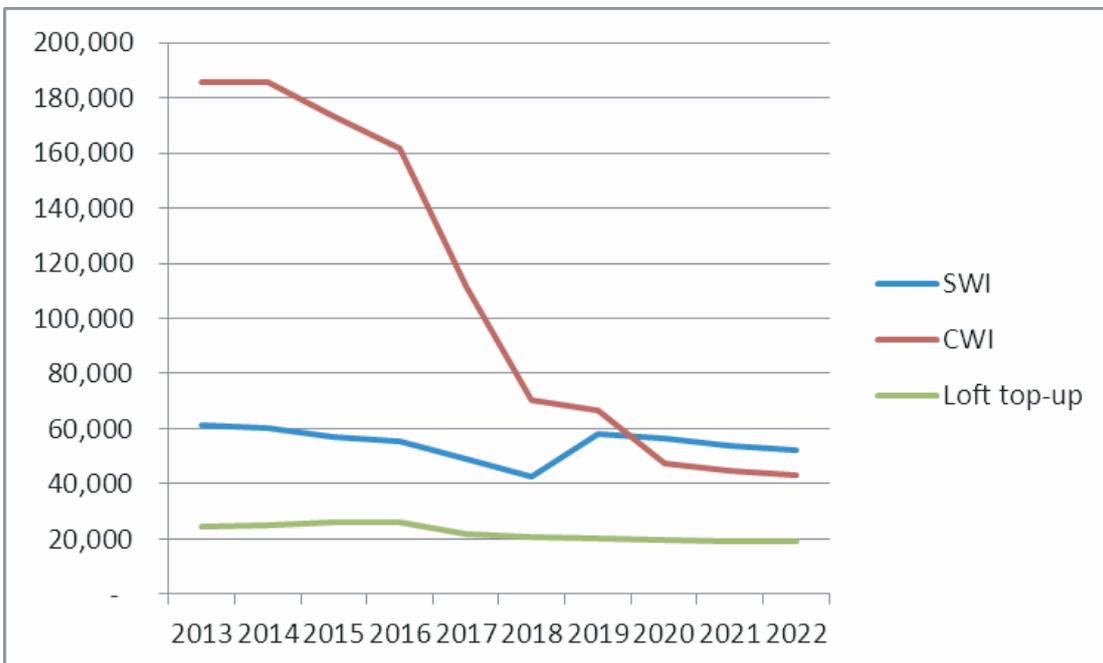
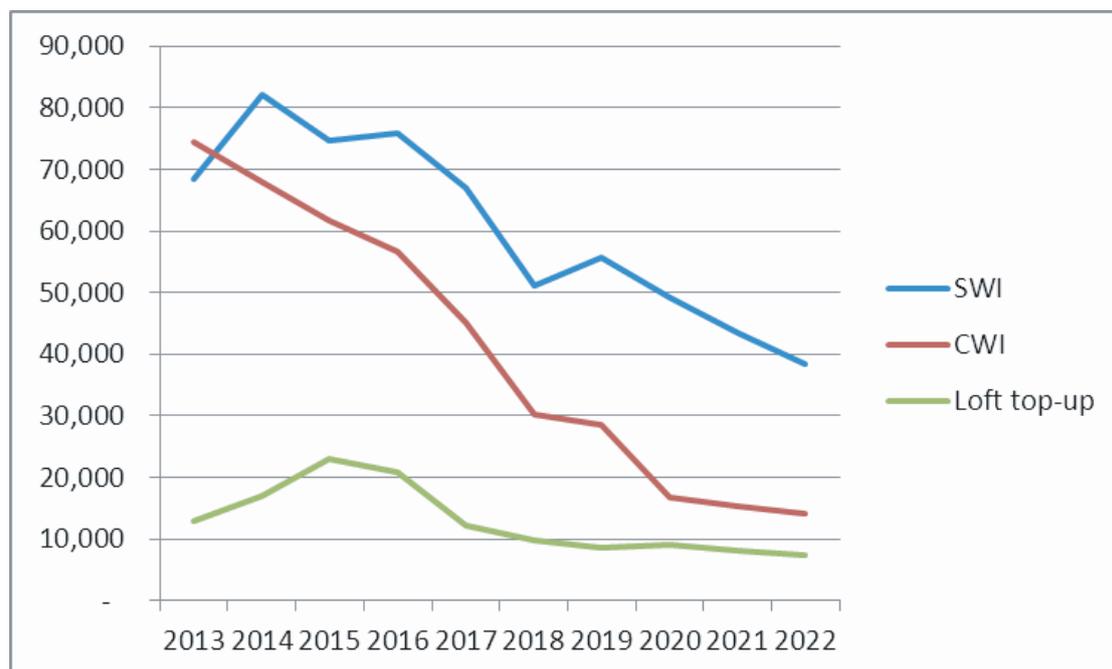


Table 3
TAKE UP OF MEASURES IN THE SOCIAL HOUSING SECTOR



The shape of deployment of measures in the PRS clearly shows the influence of the 2018 minimum standard contained in the Energy Act 2011 and that the installation of measures is being driven to meet that deadline rather than being driven by the Green Deal itself.

2. TIGHTENING THE “MINIMUM STANDARD” OVER TIME—THE COST AND IMPACT OF EXTENDING TO BAND D

According to the English Housing Surveyⁱ 30% of the Private Rented Sector is made up of Band E properties—just over one million homes.

During the oral evidence session on 7 February Laura Sandys MP asked (QU132) about our position on extending the minimum standard to Energy Performance Certificate Band D (making it illegal to let E, F and G properties). In addition to the points made during the evidence session we have learnt that the Irish Government recently published its Warmer Homes strategyⁱⁱ in which it states that by setting minimum standards “New regulations will focus on progressively removing properties rated E, F and G from the rental market by 2020.”

While the Irish Government does not use exactly the same methodology for rating homes as the UK it is clear that they are aiming at a more ambitious level of minimum standard regulation for private rented homes.

The cost and impact of extending the minimum standard to include Band E properties was explored in modeling commissioned by Friends of the Earth from the Energy Saving Trust.ⁱⁱⁱ Their conclusions comparing a minimum standard in the PRS of Band E with one of Band D are shown in the table below.

	<i>Improving PRS F & G</i>	<i>Improving PRS E, F & G</i>
No. of homes ⁴¹	754,000	2.03 m
Average SAP rating before improvement	31 (F)	41 (E)
Average SAP rating after improvement	47 (E)	61 (D)
Total cost of improvements	£1.91 billion	£7.92 billion
Average cost per improved home	£2,535	£3,890
Total annual CO ₂ saved	1.87 MtCO ₂	5.00 MtCO ₂
Average annual CO ₂ saving per improved home	2.48 tCO ₂	2.46 tCO ₂
Total annual fuel bill reduction	£368 million	£968 million
Average annual fuel bill reduction per improved home	£488	£476

⁴¹ Numbers have been scaled up by the EST for Britain and therefore differ from the numbers given in the English housing stock breakdown

The EST also modeled the cost of improvements to reach Band's E and D. These are reproduced below:

Band	Percentage of homes brought up	
	PRS F&G to E	PRS E,F&G to D
1—less than £900	37%	32%
2—£1,000 to £2,500	1%	2%
3—£2,500 to £3,500	36%	36%
4—£3,500 to £7,250	21%	4%
5—over £7,500	5%	25%

The report concludes that while improving homes by two SAP bands (ie going from Band G to Band E) can often be done through less expensive measures and only 5% of homes require measures that cost over £7,250: *“The Private Rented Sector has a disproportionate number of G rated homes. To bring all homes in the private rented sector up to a D rating therefore requires raising a substantial number of homes (estimated to be 1.675 million in Britain) by 3 SAP bands, from a G to a D. It is for this reason that we see that 25% of PRS homes are in band 5 when considering the costs of reaching a ‘D’ minimum standard, compared to only 12% of all homes.”*

Moving to a Band D minimum standard for the PRS increases the proportion of properties which would require a more expensive package of improvements and more expensive measures. We do not believe that this should be a barrier to raising the standard to Band D, but it does mean that the existence of regulation in the PRS and the demand this will create for certain measures must be taken into account when designing other policies which will provide a subsidy for these measures, namely the Energy Company Obligation and the Renewable Heat Incentive.

Separate modeling carried out by Consumer Focus^{iv} estimated that a minimum standard of EPC Band D would take 302,000 households out of fuel poverty.

3. EVIDENCE OF ENFORCEMENT AND PROSECUTION FOR NON-COMPLIANCE WITH ENERGY PERFORMANCE CERTIFICATE REGULATIONS

During the oral evidence session I promised to supply evidence that EPC's were not being adequately enforced by local authority trading standards departments and that doing so would increase the proportion of tenants who saw EPCs.

Email correspondence^v with the Mike Ockenden of the Property Energy Professionals Association (a trade body which represents businesses engaged in the provision of Energy Performance Certificates and Display Energy Certificates) confirms this. He states that:

“PEPA has been offering a service to its members for a number of months now which provides for instances of non-compliance with the EPBD regulations to be reported confidentially. These matters are then referred to the local Trading Standards Office for action to be taken. In order to control numbers this service has not been made widely available to property professionals at large.

We have so far reported 335 instances of non-compliance with the EPBD regulations to 29 authorities. These cases have all been in respect of domestic properties listed for sale. Of the 29 authorities only eight have reported taking any action and have communicated with the estate agent involved. There have been no fixed penalty notices issued by the authorities who report having taken action. We have received definite rejection from six authorities who state they have other priorities/no finance/too busy and an example of this has been provided to you separately. We have not been able to elicit any response whatsoever from the other 15 authorities despite repeated chasing.

We believe that non-compliance is currently running at 30% on domestic properties listed for sale, over 50% for domestic rentals and between 60 and 70% on non-domestic sales and rentals.”

4. IMPORTANCE OF CONSULTING ON AND WRITING THE PRS REGULATIONS URGENTLY

Para 80 of Friends of the Earth's written evidence to the Committee mentions the importance of writing the PRS regulations as soon as possible to provide the certainty needed for landlords to act ahead of them coming into force. Doing so will increase the number of landlords acting early and increase compliance with the regulations when they come into force, thus reducing the need for enforcement prosecutions by local authorities.

Friends of the Earth and ACE have signed a joint letter (date 27 January 2012) to Greg Barker alongside all the major landlord associations, the Association of Residential Lettings Agents and Consumer Focus and others stating a shared concern that the primary legislation in the Energy Act 2011 does not contain the detail needed to encourage landlords to act. The letter (provided alongside this note) asks for the consultation on the secondary legislation to be undertaken by 30 September 2012 ahead of the Green Deal coming into force.

5. BETTER INTEGRATING THE PRS MINIMUM STANDARD REGULATIONS WITH THE TURNOVER OF THE RENTAL MARKET

During the House of Commons Committee Stage of the Energy Bill the Government introduced an amendment which allowed “may not let the property” to be defined as “may not continue to let the property”. This specifically allows for a so-called “hard-start” to the regulations whereby all F and G rated properties remaining when the regulations come into force will be breaching the regulations rather than the breach only occurring next time they are made available for rent after the regulations come into force. This hard-start is a key part of the argument for needing to leave a longer period of time before the regulations start (ie 2018 rather than 2016) because almost all properties need to have been given time for their tenancies to have turned over *before* the regulations come into force.

Friends of the Earth advocates a “soft-start” to the regulations where a breach would only occur when a property is next let or marketed to let at F or G *after* the regulations have come into force. This has a number of significant advantages over a “hard-start” and allows the start of the regulations to be brought forward to 2016 without any risk of unintended impacts on tenants or housing supply.

- Making an offence of re-letting an F or G rated property after the regulations come into force means local authorities can enforce the regulations simply by looking at properties being made available for let and which will therefore have a valid EPC indicating the energy rating. A “hard-start”—which would cover lettings already in existence as well as re-lettings—would put local authorities in the position of having to investigate existing tenancies which might not even have an EPC to find out whether they are in breach of the regulations.
- Sitting tenants will not be at risk of having their tenancy ended prematurely in order works to be carried out to meet the regulations. With a 2018 start date about 10% of tenancies won’t have turned over and the landlord won’t have had a void period during which to make more disruptive improvements if these are required.
- Bringing the regulations forward to 2016 and allowing a “soft-start” would both provide a more urgent signal to landlords about the need for action but also work with the natural turnover of the rental market—with properties needing to be improved by the time they are next let—rather than cutting across it. This means there is less risk of a last minute rush to meet the regulations.
- The Government would also have the power to set a later backstop “hard” date where any existing tenancies by which had not turned over could be mopped up.

REFERENCES

ⁱ English Housing Survey Headline report 2009–10, Communities and Local Government, February 2011

ⁱⁱ Warmer Homes: A Strategy for Affordable Energy in Ireland, Department of Communications, Energy and Natural Resources, 27 November 2011

ⁱⁱⁱ Which Way Up—Advance Headline Findings, Energy Saving Trust, February 2011

^{iv} A private Green Deal, Consumer Focus, December 2010

^v PEPA is happy for this correspondence to be made available to the Committee if necessary.

February 2012

Written evidence submitted by the Association for the Conservation of Energy (ACE)

INTRODUCTION

The Association for the Conservation of Energy was formed in 1981 by major companies active within the energy conservation industry, in order to encourage a positive national awareness of the needs for and benefits of energy conservation, to help establish a sensible and consistent national policy and programme, and to increase investment in all appropriate energy-saving measures. We welcome this opportunity to submit our views on fuel poverty in the private rented and off-grid sectors.

EXECUTIVE SUMMARY

1. The Association for the Conservation of Energy has long been concerned about the poor standards of energy efficiency (and large concentrations of fuel poor and vulnerable households) in the private rented sector (PRS). Throughout the passage through Parliament of the Energy Act 2011, we (along with Friends of the Earth and Citizens Advice) therefore led a 40-strong coalition of organisations in a campaign calling for the introduction in 2016 of a minimum energy efficiency standard in the PRS to make it illegal to re-let a property with an Energy Performance Certificate (EPC) rating of F or G.

2. While we welcomed the introduction of such a standard at the Bill’s Second Reading in the Commons, we were—and continue to be—extremely disappointed that, for no good reason, it will only be introduced in 2018. In the particular context of fuel poverty, this is especially perverse. The Government have repeatedly

stated that the minimum standard is intended to tackle fuel poverty in the rented sector, but it does not come into force until two years after the date—2016—by which they have a statutory obligation (under the Warm Homes & Energy Conservation Act 2000) to end fuel poverty. We therefore believe that the minimum standard should be brought forward to 2016. In addition a major loophole in the Act—whereby landlords will not in every case have to bring their property up to an E rating—needs closing without delay.

3. The other relevant provision in the Act⁴² will mean that, from 2016, landlords cannot refuse requests for “reasonable energy efficiency improvements” from their tenants. However, for a number of reasons we believe that this provision will have negligible impact. In particular, we believe that, without protection from retaliatory eviction, tenants will be significantly deterred from using this new power.

4. In addition to taking steps to strengthen the Energy Act provisions in relation to the PRS, we believe that the Government should increase the level of funding available through the ECO to tackle fuel poverty in the PRS and more generally. In particular, we call upon them to use, post-2013, the revenues from the EU Emissions Trading Scheme and the carbon floor price to provide additional spending on energy efficiency programmes, prioritising the homes of the fuel poor and vulnerable.

5. Finally, the Government should take some simple steps to ensure the more proactive use by local authorities of their powers under the Housing Health & Rating System to ensure the improvement of PRS properties that contain a Category 1 hazard of “excess cold”. Alongside this, they should increase the level of the Landlords’ Energy Saving Allowance and do more to promulgate information about it to landlords, in part through the mechanism of an enhanced EPC Register.

RESPONSES TO INDIVIDUAL QUESTIONS

N.B. We have confined ourselves to responding to questions that lie within ACE’s remit.

What are the barriers to tackling fuel poverty in the private rented sector?

6. The PRS in England continues to grow rapidly: in 2005 there were 2.4 million private sector tenancies, but by 2010 this had risen by 1 million to 3.4 million—over 15% of the housing stock.⁴³ Wales has 140,804⁴⁴ and Northern Ireland 81,000 private rented properties⁴⁵—respectively 11% and 15% of the housing stock.

7. While the energy efficiency of the sector varies greatly, it has the highest proportion (58%) of the very worst properties (those in EPC Band G). These G-rated properties are more than four times as common in the PRS as in the social sector.

8. In its most recently published fuel poverty statistics,⁴⁶ DECC reports that 21.1% of English households in the sector were in fuel poverty in 2009 (based on the “full income” definition of fuel poverty). This had risen steadily from 19% in 2007⁴⁷ and 20% in 2008.⁴⁸ Recent modelling carried out for Consumer Focus⁴⁹ estimates that as many as 28.4% of private rented tenants are in fuel poverty in 2011.

9. This problem is even more acute in F & G-rated properties, of which there are around 680,000 in the PRS.⁵⁰ DECC estimates that in 2009 an astonishing 42% of these properties were occupied by fuel poor households.⁵¹ The Consumer Focus work would suggest that this figure is now likely to be even higher.

10. Nevertheless, despite the clear and pressing need to tackle the energy efficiency of the PRS, progress to date has been poor. A number of different factors have been responsible for this:

- The most obvious barrier is the so-called “split incentive”, whereby the landlord is responsible for investing in energy-saving measures, whereas it is the tenant who benefits from the resulting reductions in fuel bills.
- Turnover in the PRS is very high, with one in three private tenants occupying their home for less than a year and more than 50% for less than two years.⁵² This means that there is little incentive for tenants to request energy efficiency measures as they will not wish to suffer from disruption for the sake of improvements from which they are unlikely to benefit for any length of time.

⁴² Energy Act 2011, Section 46

⁴³ English Housing Survey, Headline Report 2009–10, DCLG, 2011.

⁴⁴ Living in Wales, 2008.

⁴⁵ *Building Sound Foundations: A Strategy for the Private Rented Sector*, Department for Social Development.

⁴⁶ Fuel Poverty 2009—Detailed Tables, Annex to the Annual Report on Fuel Poverty Statistics 2011, DECC, 2011.

⁴⁷ Fuel Poverty 2007—Detailed Tables, Annex to the Annual Report on Fuel Poverty Statistics 2009, DECC 2009

⁴⁸ Fuel Poverty 2008—Detailed Tables, Annex to the Annual Report on Fuel Poverty Statistics 2008, DECC 2008

⁴⁹ Statistical analyses undertaken by the Centre for Sustainable Energy for Consumer Focus, November 2011

⁵⁰ Energy Bill: Green Deal Impact Assessment, DECC, December 2010

⁵¹ Ibid.

⁵² English Housing Survey, Headline Report 2009–10, DCLG, 2011

- There are significant information failures in the PRS. This is particularly clear as regards the Landlords' Energy Saving Allowance (LESA), which was taken up in 2007–08 by only 0.2% of UK landlords, despite offering a tax allowance of up to £1,500 per property for landlords installing energy saving measures. However, another problem is that too few tenants actually get to see the EPC for their property, and so are unaware of its thermal efficiency. Research by Consumer Focus shows that only 31% of tenants who moved in the past two years received an EPC, as compared with 79% of owner occupiers.⁵³
- The Housing Health & Safety Rating System, established by the Housing Act 2004, gives local housing authorities a wide range of powers for ensuring the improvement of properties containing health hazards (including the Category 1 hazard of “excess cold”). However, despite the requirement in Section 3 of the Act for them “to keep the housing conditions in their area under review with a view to identifying any action that may need to be taken by them”, local authorities have not used their HHSRS powers as proactively as they might have done. The House of Commons Environment, Food & Rural Affairs Committee stated recently that it was concerned that HHSRS was “not being pursued as vigorously as it could be”, and recommended that “Government urgently reviews the extent to which local authorities use their powers under the Housing Health and Safety Rating System to tackle excess cold”.⁵⁴
- Work by Citizens Advice⁵⁵ and others concludes that many tenants are deterred from making requests of their landlords for improvements and maintenance works because they are afraid of being evicted. This is known as “retaliatory eviction” and is made possible by Section 21 of the Housing Act 1988.

To what extent will the recent measures in the Energy Act 2011 (to introduce minimum energy efficiency standards in the private rented sector) help the problem?

11. Following the substantial and high-profile campaign by the Private Rented Sector coalition, Secretary of State for Energy and Climate Change Chris Huhne announced at the Second Reading of the Act in the House of Commons that the Government would after all introduce a minimum energy efficiency standard in the private rented sector. While welcoming the announcement, we were—and continue to be—extremely disappointed that it will only be introduced in 2018. In the particular context of fuel poverty, this is especially perverse. The Government have repeatedly stated that the minimum standard is intended to tackle fuel poverty in the rented sector, but it does not come into force until two years after the date—2016—by which they have a statutory obligation (under the Warm Homes & Energy Conservation Act 2000) to end fuel poverty.

12. Despite this unacceptable delay to the introduction of the standard, the Impact Assessments for both the Energy Act 2011⁵⁶ and the current Green Deal & Energy Company Obligation consultation⁵⁷ state that the minimum standard is expected to have a major impact on the uptake of energy efficiency measures in the PRS. This appears to be particularly striking in the case of solid wall insulation, where predicted uptake in the sector increases rapidly in the run-up to 2018.⁵⁸

13. Research by Consumer Focus has concluded that raising all PRS properties to Band E could lift 150,000 households out of fuel poverty.⁵⁹ This is 25% of all those private rented households currently living in fuel poverty. If the minimum standard does indeed succeed in improving all F & G rated PRS properties to this level, this will clearly represent an important achievement. However, as we outline in paras 23–25 below, there is a significant loophole in the legislation that leads us to fear that a number of properties could still fail to reach Band E even after the minimum standard is introduced.

14. The other relevant provision in the Act (in Section 46) will mean that, from 2016, landlords cannot refuse requests for “reasonable energy efficiency improvements” from their tenants. However, we believe that this provision will have negligible impact. First, many tenants do not know what their existing rights are, so we find it extremely unlikely that they will learn about this new one. Second, many tenants do not have security of tenure and are rightly fearful of retaliatory eviction under Section 21 of the Housing Act 1988. Third, under the terms of the Act tenants are merely entitled to have their reasonable request acceded to by their landlord; there is, however, no requirement on landlords actually to undertake or finance the improvements. We believe this to be wrong in principle.

15. The Government itself admits in its Energy Act Impact Assessment that this measure is likely to drive only marginal levels of energy efficiency activity—and they explicitly acknowledge that this will in part be because tenants will be afraid to “confront” their landlords: “Longer term tenants who may have an incentive to request measures, *may not want to risk losing their tenancy by confronting the landlord*, especially in the

⁵³ Consumer Focus, Room for Improvement—The impact of EPCs on consumer decision-making [Online] <http://www.consumerfocus.org.uk/publications/room-for-improvement-the-impact-of-epcs-on-consumer-decision-making>, February 2011.

⁵⁴ *Energy Efficiency and Fuel Poverty*, House of Commons Environment, Food & Rural Affairs Committee, May 2009

⁵⁵ http://www.citizensadvice.org.uk/press_20070613

⁵⁶ Energy Act 2011: Green Deal Impact Assessment, DECC, October 2011

⁵⁷ Green Deal & Energy Company Obligation Impact Assessment, DECC, November 2011

⁵⁸ *Ibid.*, pp. 76 & 77

⁵⁹ <http://www.consumerfocus.org.uk/files/2010/12/A-private-green-deal.pdf>

case that tribunal is required.”⁶⁰ Overall, the Impact Assessment predicts that only tenants who are in residence for more than five years (22% of the total) will have an incentive to request measures and that only 10% of these will do so. It goes on to state that only 2.2% of the measures taken up in F & G rated properties will be as a result of this measure. We describe in para. 21 and 22 below how we believe it needs to be strengthened in order to make it more effective.

To what extent is fuel poverty in rural areas driven by a lack of access to the gas grid and to what extent are other factors (such as housing condition and income levels) responsible?

16. There is a multiplicity of factors that drives fuel poverty in rural areas. However, it is clear that lack of access to mains gas is a key contributing factor. Table 1 shows that levels of fuel poverty in England are higher (in some cases significantly) among households off the gas grid.

Table 1⁶¹

<i>Main Heating Fuel</i>	<i>% of Households in Fuel Poverty</i>
Gas	16.0%
Oil	29.3%
Solid Fuel	19.9%
Electricity	24.6%
Total	17.4%

17. The percentage of homes using fuels other than mains gas is higher in rural than in urban areas, with heating oil being the most common fuel in remote rural areas. Prices for off-gas fuels also tend to be much more volatile than for gas. There is also a correlation between lower income groups and lower levels of access to the gas grid.⁶²

18. However, the energy efficiency of rural homes is also a significant determinant of fuel poverty. Properties that rely on off-gas fuels have much lower levels of energy efficiency than those that are heated by gas—49% of non-gas heated homes in England are F or G-rated, as opposed to less than 10% of gas-heated homes. Off-gas homes tend likewise to be older, solid-walled and detached.⁶³ Finally, it is well-established that rural households have been under-served by both the Carbon Emissions Reduction Target (CERT) and the Community Energy Saving Programme (CESP).

How could DECC’s policies for tackling fuel poverty in the private rented sector be improved?

19. We have already noted that we believe there is no good reason for the PRS minimum standard to be delayed until 2018. It is particularly inappropriate, given that this is two years after the date by which the Government has a legal duty to eradicate fuel poverty.

20. During the passage of the Energy Bill the only apparent justification for the 2018 start date that was offered by DECC Minister Gregory Barker MP was the proportion of tenancies that would have turned over by that date: “Most tenancies, I am told, are 12 to 18 months, so by 2018, we expect that 80% to 90% of tenancies will have changed.”⁶⁴ However, the Minister omitted to say why 80–90% is the desirable proportion, nor what the turnover would be by 2016.

21. The PRS Coalition therefore did its own calculations of turnover based on the English Housing Survey.⁶⁵ This showed that 80.3% of PRS tenants have lived in their current home for less than five years and 89.8% for less than 10 years. So while it is true that by 2018 there is likely to be an 80–90% turnover, this same level of turnover could also be expected by 2016. This means that the only reason offered for a 2018 start date also applies to 2016.

22. Our call for the start date to be brought forward to 2016 was endorsed by the Committee on Climate Change, which called in its recent 3rd Progress Report to Parliament for “earlier introduction of regulation for the private rented sector”, stating that there is “no reason to delay implementation of this aspect of the proposals”. Finally, the Government’s own Fuel Poverty Advisory Group has deplored the delayed start date, saying that it is “regrettable that the start date is seven years in the future, when the people in the least energy efficient housing stock need help to keep warm much sooner”.⁶⁶

⁶⁰ Energy Act 2011: Green Deal Impact Assessment, DECC, October 2011, para. 276

⁶¹ Ibid.

⁶² 22 Consumer Focus, Off-gas consumers—Information on households without mains gas heating [Online] <http://www.consumerfocus.org.uk/publications/off-gas-consumers-information-on-households-without-mains-gas-heating>, October 2011

⁶³ Ibid.

⁶⁴ Energy Bill, Public Bill Committee, 14 June 2011

⁶⁵ English Housing Survey, Headline Report 2009–10, DCLG, 2011

⁶⁶ Fuel Poverty Advisory Group, Ninth Annual Report, October 2011

23. Again, we have previously flagged our concern that the provision enabling tenants to make energy efficiency requests of their landlords is likely to be used by only a small minority of tenants. To increase the likelihood of uptake we believe that the Government should give appropriate protection to tenants from retaliatory eviction under Section 21 of the Housing Act 1988. Amendments to introduce such protection were repeatedly tabled during the passage of the recent Energy Act, but regrettably these were not accepted by the Government. This was particularly mystifying given the unequivocal statement made by Housing Minister Grant Shapps MP to the effect that: “Retaliatory evictions are completely unacceptable... we need sufficient protections in place to make sure retaliatory evictions do not happen.”⁶⁷

24. In light of the clear weight of evidence as to the seriousness of this problem, we believe that Government should take the earliest possible legislative opportunity to remedy their omission. This could be done quite simply by giving tenants protection from retaliatory eviction in circumstances where they have made a valid request for improvements and until such time as the request has been satisfactorily dealt with. To protect landlords from the actions of unscrupulous tenants, this protection would be invalidated if it could be proved that the tenant had broken the terms of the tenancy agreement prior to submitting an energy efficiency request.

25. There is a significant loophole in the Energy Act provisions for the minimum energy efficiency standard. While Section 43 of the Act establishes that landlords of properties falling below the specified standard (ie Band E) will have to make energy efficiency improvements, there is no clear requirement for those improvements to bring properties up to a Band E in every case. Section 43 merely requires such improvements to be undertaken as can be financed by the Green Deal or ECO or by “such other financial arrangement as the regulations provide”.

26. In many cases taking out a Green Deal and/or ECO subsidy will be sufficient to bring a property up to or beyond Band E, but there is no guarantee that this will be the case.

27. We believe that this loophole is likely to lead to an administrative nightmare. Tenants will not know whether or not the F or G rated property they are being offered is in fact “legal” because the landlord has done everything that is Green Deal-able and/or ECO-able. Meanwhile, local authorities that are charged with policing and enforcing the minimum standard will be faced with trying to prove in every instance whether an F or G rated property has been sufficiently improved to be legally let or whether in fact the landlord is in breach of Section 42 and should therefore be prosecuted. We therefore believe that the Government should take early legislative steps to clarify that in all circumstances PRS properties have to be improved at least to Band E.

28. Finally, we believe that the Government should move swiftly to consult on a date by which the minimum standard will rise to Band D. We believe this date should be 2020.

29. In addition to the above improvements that need to be made to strengthen the PRS measures in the Energy Act, there are a number of other policy areas that need to be addressed in order to help tackle fuel poverty in the PRS.

MAKING THE ENERGY COMPANY OBLIGATION GO FURTHER

30. According to DECC, the Energy Company Obligation (ECO) has two principal purposes:

- to supplement the Green Deal by supporting the installation of more expensive measures (principally solid wall insulation) in hard-to-treat homes, where the costs of installation cannot be funded through Green Deal finance alone (the ECO Carbon Saving Target); and
- to provide energy efficiency and heating systems to the most vulnerable households at greatest risk of fuel poverty (the ECO Affordable Warmth Target).

31. In light of burgeoning levels of fuel poverty, ACE has long argued that in its first years the whole of the ECO should be focused on fuel poor households, with a view to meeting the Government’s statutory target to eradicate fuel poverty by 2016. We were therefore very disappointed that the recently published Green Deal and ECO consultation proposed that only 25% of the annual £1.3 billion spend on the ECO should be directed towards meeting the Affordable Warmth Target, with the remaining 75% directed towards the Carbon Target. The consultation document estimates that the Affordable Warmth Target will provide assistance to only 325,000 households by the end of March 2015, with a further 380,000 benefiting under the Carbon Target over the same period. Even if (which is highly unlikely) the entirety of the Carbon Target were directed towards fuel poor households, that would mean a paltry 705,000 households receiving assistance. With at least four million English households in fuel poverty,⁶⁸ this will leave over three million fuel poor households with no help at all.

32. With no other policy proposals in the offing, one way of *making the ECO “pot” go further is by integrating the ECO and Green Deal* in such a way as to ensure the most cost-effective removal of households from fuel poverty by 2016. By allowing (or mandating) energy companies to make full or partial Green Deal repayments on behalf of fuel poor households over, say, a 25 year period, energy companies would be able to:

- avoid having to find the large upfront capital sums needed to fund the installation of measures in fuel poor households;
- deliver more measures more quickly to those households;

⁶⁷ Grant Shapps, Environmental Health News, 10 October 2008, <http://www.cieh.org/ehn/ehn3.aspx?id=15408>

⁶⁸ *Annual Report on Fuel Poverty Statistics 2011*, DECC, 2011

- recoup the capital costs over a far longer period of time, thereby reducing the regressive nature of the ECO; and
- count such repayments towards their ECO Carbon Saving Target.

33. Under ECO as currently envisaged, the full amount spent by energy suppliers each year (£1.3 billion) will likewise be recouped in bills each year. So a £1.3 billion annual obligation over the four years to 2016 would allow a £5.6 billion capital investment, with an impact on bills of £1.3 billion per year.

34. However, if that annual sum of £1.3 billion were used to allow households within the target group to access the Green Deal, then it could be utilised to meet the full repayments on a capital sum of £18.33 billion (at 5% interest rate over 25 years) to be spent in the initial programme period of four years.

35. Alternatively, the same £5.6 billion capital sum could be raised at an annual cost of £370.5 million per year over 25 years—reducing the costs passed through on bills by 72%. Spreading the cost therefore allows for (a) a greater capital investment without increasing the impact on fuel poverty and/or (b) a reduction in costs passed through on bills. This frontloading of capital would support assistance to large numbers of eligible households in the early years, creating a mechanism whereby the 2016 fuel poverty eradication target could be met, and creating greater cumulative carbon savings through early action.

36. Furthermore, we—along with a growing coalition of other organisations—are calling on the Government to use, post-2013, the revenues from the EU Emissions Trading Scheme and the carbon floor price to provide additional spending on energy efficiency programmes, prioritising the homes of the fuel poor and vulnerable. From 2013, when the carbon floor price kicks in and EU ETS permits start to be auctioned, we estimate that extra revenues of over £2 billion per annum will be raised, rising to £4 billion per annum by 2020. We believe that these sums must be used to make our homes super energy-efficient, driving down fuel bills, creating thousands of jobs and supporting our economic recovery.

LANDLORDS' ENERGY SAVING ALLOWANCE AND A LANDLORDS' REGISTER

37. It has been noted that levels of take-up of LESA have historically been very low. This has in part been due to a lack of information on the part of landlords as to the nature and availability of the allowance.

38. With the advent of the Green Deal, some might argue that the LESA will no longer have a role to play. However, we take a different view.

39. Quite clearly, it would be wrong to provide a tax break for landlords for whom the Green Deal will remove the upfront capital cost of improvements. However, we believe there are two particular sets of circumstances in which the LESA could play a key role in driving energy efficiency installations in the PRS:

- Where a landlord is unable to access the Green Deal finance mechanism due to a lack of consent by the tenant (or for other reasons), the LESA can provide an important alternative incentive to take up the Green Deal.
- The LESA can be used, in addition, to incentivise deeper retrofits by landlords, which incorporate the installation of more expensive measures that go beyond the Green Deal “Golden Rule”.

40. Clearly, however, the problem of low take-up must also be addressed. We therefore propose that the allowance be raised to £3,500 per property—this being the sum required to improve 75% of F and G-rated PRS properties to EPC Band E.⁶⁹ Furthermore, the allowance—currently intended to end on 1 April 2015—should be extended to at least 2018 so as to give a greater spur to improvements ahead of the introduction of the minimum energy efficiency standard.

41. The one remaining problem is landlords' lack of information about the tax break. As landlords' organisations themselves have complained,⁷⁰ access to information is piecemeal at best. The Energy Efficiency Partnership for Homes also commissioned research into landlords' attitudes. This identified that the lack of a reliable official route to communicate with landlords is a major barrier to action: “There is no single point of contact for impartial advice and information for landlords. This puts the onus on landlords to glean information from a variety of potential sources and filter out the good advice from that which is poor and indifferent.”⁷¹

42. To address this problem, during the passage of the Energy Act 2011 the Private Rented Sector coalition called for the introduction of a national or local register of domestic private rented properties for the purposes of distributing information to landlords. An amendment to achieve this was tabled by Luciana Berger MP at Committee Stage in the Commons. Sadly, the amendment was unsuccessful.

43. The opposition of the current Government to a national landlords' register is well-documented. However, we would stress that we do not see a landlords' register as something that landlords should have any reason to fear. On the contrary, it would provide them with a much-needed conduit of information. We believe that there is a simple, light-touch mechanism whereby to achieve this. Section 74 of the new Energy Act makes provision

⁶⁹ *Which Way Up—Advance Headline Findings*, Report by the Energy Saving Trust for WWF and Friends of the Earth, February 2011

⁷⁰ *Beyond Decent Homes*, House of Commons Communities and Local Government Committee, March 2010

⁷¹ Private Landlords Research, Energy Efficiency Partnership for Homes, February 2009

for the contents of the Energy Performance Certificate Register to be disclosed. Furthermore, during Committee Stage⁷² DECC Minister Gregory Barker repeatedly made clear that he intends local authorities to have access to this Register. We therefore believe that two simple additions to the Register—a record of (a) the tenure of each property and (b) in the case of a domestic private rented property, the name and address of the landlord—would allow local authorities to pass information on to landlords, not just about the LESA, but about the Green Deal and ECO and, in due course, the PRS minimum standard.

MORE PROACTIVE USE OF THE HOUSING HEALTH & SAFETY RATING SYSTEM

44. It has already been noted that local authorities have not, in the main, proactively used their HHSRS powers. In part this has been because the HHSRS risk assessment and inspection procedures (that must be undertaken before a property can be defined as having a Category 1 hazard of “excess cold”) are expensive, complicated and time-consuming. This acts as a significant barrier to action.

45. While HHSRS cannot—and should not—be seen as a mechanism for the mass roll-out of energy efficiency measures in the PRS, it could play a significant role in improving the PRS housing stock in advance of the introduction of the minimum standard. This is particularly important given that, at the Commons Second Reading, the Government removed from the Energy Bill 2011 its original proposal to allow local authorities from 2015 to issue written notices to landlords of F and G-rated properties requiring them to improve their properties to at least a Band E (or risk a fine of up to £5,000 for non-compliance). With the removal of this key driver for improvement in advance of the minimum standard, local authorities’ existing HHSRS powers become all the more important.

46. Given that Government publications such as the English Housing Survey suggest a strong correlation between an “excess cold” hazard and an EPC F or G rating, we believe that the Secretary of State should forthwith issue statutory guidance to local authorities defining F or G rated properties as automatically constituting a Category 1 hazard. As well as driving higher levels of energy efficiency improvements in the PRS, this would sweep away the current complex, time-consuming and costly inspection regime and free up scarce environmental health resources for other important issues.

How could DECC’s policies for tackling fuel poverty among off-grid consumers be improved?

47. As already established, there is a high incidence of fuel poverty among off-grid households. Furthermore, while energy efficiency has a crucial role to play in reducing fuel poverty, rural areas have traditionally been under-served by CERT and CESP, as energy suppliers have found it easier and cheaper to focus their efforts on consumers in high-density urban areas.

48. We therefore advocate a number of solutions to the problem:

- Clearly, urgent priority must be given to connecting off-grid consumers to the gas network as soon as possible. The previously cited report by Consumer Focus⁷³ found that 1.3 million homes in Britain are located in “gas postcodes”, but do not have a gas supply. A further half a million households have a gas supply, but do not have gas heating. These households should be tackled as a matter of priority.
- As the details of the ECO design continue to be worked up, care should be taken to ensure that, unlike under CERT and CESP, rural areas are appropriately and adequately covered by the ECO.
- The Renewable Heat Incentive (RHI) should be targeted at off-grid properties in order to maximise both fuel bill and carbon savings. It is vital that renewable heat technologies be delivered alongside energy efficiency measures or into energy efficient homes, in order to maximise value for the taxpayer.
- More generally, the Government should look to integrate the RHI, Green Deal and ECO in order to deliver whole-house packages of improvements to off-grid households.

December 2011

⁷² Energy Bill, Public Bill Committee, 14 June 2011 (afternoon)

⁷³ Consumer Focus, Off-gas consumers—Information on households without mains gas heating [Online] <http://www.consumerfocus.org.uk/publications/off-gas-consumers-information-on-households-without-mains-gas-heating>, October 2011

Supplementary written evidence submitted by Association for the Conservation of Energy (ACE)

At the evidence session last week, I promised to send the Committee some extra evidence on retaliatory eviction and the effect that it (and the fear of it) has on tenants' preparedness to make energy efficiency requests of their landlords.

1. I referred during the session to a survey of its members undertaken last summer by the Chartered Institute of Health. I referred particularly to one local authority where environmental health officers reported that as many as 50% of housing complaints by tenants resulted in retaliatory eviction. Later in the session, Dave Princep from the Residential Landlords Association challenged my statement, saying that the CIEH research showed *not* that 50% of complaints resulted in retaliatory eviction, but that "almost 50% of the people who complained to that local authority dropped their complaints because of *fear* of eviction".

The actual Chartered Institute of Environmental Health report, which makes it absolutely clear (see passage in relation to Wyre Forest Council) that my statement was accurate and that Mr Princep's was inaccurate: "*Officers estimate that as many as 50% of housing complaints result in retaliatory eviction*". In addition to clarifying this particular point, I trust that the Committee will find the rest of the report illuminating.

2. There is general agreement that it is difficult to gather evidence on retaliatory eviction in the private rented sector. One of the reasons for this, as noted by the Rugg Review,⁷⁴ is that local authority Tenancy Relations Officers do not collate records nationally and local authorities vary in their level of proactivity with regard to pursuing problems in the PRS. However, during the PRS campaign last year I had interesting email correspondence with Dave Hickling from Sheffield City Council, who was the Chair of the Association of Tenancy Relations Officers. In an email to me dated 31 August 2011, he said:

"You are entirely right to identify [retaliatory eviction] as a factor in relation to energy efficiency requests, just as it has been an important factor for many years in relation to the reporting of repairs in the private sector generally.

I think the vast majority of housing rights practitioners and advisers would tell you that from their experience they could be very sure that private tenants are often reluctant to pursue their right to get repairs done because of the fear of the landlord responding by giving a Section 21 Notice. Indeed, any sensible, balanced legal advice about repair rights will include making a private tenant aware of the dangers of retaliatory eviction. However, harder evidence is more difficult to come by. Even if:

- organisations were able to establish clear links between a Section 21 Notice and the tenant pursuing a repair issue,
- record those cases systematically, and
- report on the incidence of cases, and
- someone was then in a position to draw all the information from those organisations together,

it would still hugely underestimate the extent of the effect of the retaliatory eviction factor, as most advisers will tell you that the most potent effect is that tenants don't report the disrepair in the first place because of the justifiable and entirely logical fear of retaliatory eviction."

This is a potent and telling statement from the Chair of the relevant professional body. I have not sought Mr Hickling's permission to make this email publicly available, but I would be happy to do so if the Committee would find it useful.

3. In 1999–2000 the Survey of English Housing⁷⁵ found clear evidence of the fear of retaliatory eviction. The survey found that 8% of PRS tenants were very dissatisfied with repairs and did not try to enforce their rights because they thought their landlord would end their tenancy. 5% were "all dissatisfied with repairs" and did not try to enforce their rights for the same reason. In addition, 25% of PRS tenants surveyed who were very dissatisfied with repairs (and 21% of those who were "all dissatisfied") did not try to enforce their rights because they did not want to cause trouble with landlords.

This evidence is clearly over ten years old. However, the reason for this is that specific questions in the Survey of English Housing and its successor, the English Housing Survey, relating to issues which may give rise to retaliatory eviction and the threat or fear thereof, have not been asked since the 1999–2000 edition of the Survey.

4. It is also worth drawing the Committee's attention to the Housing Ombudsman Service Annual Report and Accounts 2008, in which the Housing Ombudsman Dr Mike Biles stated: "Assured and secure tenants in the social housing sector have many rights, including security of tenure. *Despite this protection I still hear from tenants who are afraid that complaining to me will draw a vindictive reaction from their landlords.*" He went on to say: "No such comfort [as regards security of tenure] can be offered to many assured shorthold tenants in the PRS. *If they complain about the condition of their homes or poor services they can be given notice, and the courts have no discretion and must always order possession.* This has come to be known as 'retaliatory eviction' and was highlighted this year in the Citizens Advice publication 'The tenant's dilemma—Warning: your home is at risk if you dare complain'. *I support [the] campaign to put an end to 'retaliatory*

⁷⁴ Julie Rugg and David Rhodes, *The Private Rented Sector: its contribution and potential*, 2008

⁷⁵ CLG Survey of English Housing (C8C[99/00], Table S803)

eviction' and fully endorse the contents of the [Citizens Advice] report and the goal to secure legislative change." This could hardly be more unequivocal.

5. Finally, as promised during the evidence session, I attach the new clause that the PRS Coalition sought to have inserted into the Energy Act 2011 during its Committee Stage (see annex). It should be noted that this clause was drafted in conjunction with the Housing Law Practitioners Association and we are confident that it was entirely fit for purpose. We would therefore urge the Committee to recommend strongly that the Government seek the earliest legislative opportunity to have this protection from retaliatory eviction enshrined in law. Only by so doing will the provision in Section 46 of the Energy Act be made more meaningful and result in higher levels of energy efficiency requests on the part of tenants.

February 2012

ANNEX: COMMITTEE STAGE NEW CLAUSE ON RETALIATORY EVICTION

No section 21 notice (meaning a notice under section 21(1)(b) or (d) of the Housing Act 1988) may be given in relation to a tenancy at any time after a request in compliance with the regulations under sections 43, 44 or 45 has been made by a tenant of a domestic PR property under section 43(3) until such time as the landlord of the property has responded to the request in compliance with the regulations and:

- (a) in circumstances where the landlord has refused the request, until such time as the court has ruled whether the refusal was reasonable or not; or
- (b) in circumstances where the landlord has accepted the request, until such time as the relevant energy efficiency improvements have been made.

Written evidence submitted by the Allen Valleys Oil Buying Co-operative

I have lived in the village of Allendale for eight years. Early last year I responded to a request for a volunteer to research, then establish and run an oil buying co-operative for the benefit of the community.

Allendale is in the North Pennines, 775 feet above sea level and 10 miles from the nearest town of Hexham. It has a population of approximately 2000 including surrounding parishes. Allendale does not benefit from mains gas and heating is fuelled by solid fuels, oil, LPG gas and electric. Allendale has an active community and was nationally recognised as Community Village of the Year 2009.

Since starting the group (first oil order was September 2011) we have been made a case study for the Citizens Advice in their Guidance for setting up an oil group together with the Dept. for Business Innovation and Skills where we are a case study in their Guide to Community Buying.

REASONS FOR ESTABLISHING A BUYING GROUP

1. During the hard winters of 2009 and 2010 there was significant disparity in the prices being charged by suppliers. The difference was up to 20p per litre (£200 on a 1000 litre order).
2. The oil price has quadrupled in 10 years.
3. The fuel poverty initiatives came to the attention of one of the Allendale community groups and it was decided that the village should examine ways in which to buy heating oil more competitively.
4. Following contact with an existing group (North Tyne) and research in other parts of the country, it was quickly established that there were significant savings to be made for members.
5. There were as many as 13 differently branded suppliers delivering to our village. It emerged that 10 of these suppliers came under the collective banner of DCC Plc who operate as G B Oils in the UK.

HOW THE OIL GROUP WORKS

- Members are registered and receive information, reminders and a call to action if they wish to order oil (most communication is by email but other process in place for people without this facility).
- The administrator contacts 5, 6 or 7 oil suppliers to obtain best price.
- The oil suppliers contact ordering members direct to obtain payment and arrange delivery.

OBSERVATIONS SINCE THE ESTABLISHMENT OF GROUP—SEPTEMBER 2011

1. We have quickly established a membership of 130 from limited publicity.
2. Other than residential households the members include farmers, public house, village hall, Church and Taxi firm—demonstrating the level of concern felt.
3. Group savings are obtained through negotiation with several oil suppliers.
4. Group buying means that individuals can order 500 litres at a best price that could normally only be obtained through an order for 2,000 litres or more. This helps with household budgeting and can spread the cost more effectively.
5. It appears that not all suppliers want to deal with us. Experience has shown that only 3 suppliers are prepared to compete seriously for each order. We are surprised that the benefit of sending a full oil tanker to one location does not seem to impress many of the suppliers. I was astonished when one specifically stated that "the trouble with oil groups is that they tie up a tanker all day".

6. We have a notion that the presence of the group is making suppliers more competitive whether they wish to supply the Group or just their individual customers in our area.
7. There is little doubt that group members who obtain the most significant savings are those that were previously locked into a single oil supplier by a direct debit contract. Inevitably, they did not have the opportunity to “shop around” and were at the mercy of a higher price being imposed. We have three specific examples:
 - In September, a resident who compared our group price to one from their existing supplier found a difference of 13.88p per litre. Worse still this member was paying by DD and was in debt by hundreds of pounds. They said this was because the DD payment had not kept up with the rising price of oil and the supplier seemed reluctant to increase the payment.
 - Two new members in December found a large difference when comparing the price they could obtain to that of the oil group:
 - Example 1. 500 Litres ordered. 12.6p per litre difference = £63 saving.
 - Example 2. 600 Litres ordered. 11.5p per litre difference = £69 saving.

ISSUES FOUND DURING INITIAL RESEARCH IN SUMMER OF 2011

- The existence of the DCC group—This parent company owns a large proportion of oil suppliers who still trade under their original names. We have no evidence that suppliers act as a cartel but we have been reliably informed from an industry source that members of the DCC group do operate a pricing policy between themselves on a routine basis.
- Price comparison sites—it is very unclear who actually owns the sites and how independent they are eg I believe a large comparison website, “Boilerjuice” has a connection with the DCC company and only compares prices between its group members.
- External help—it surprised me how “behind” the agencies such as Citizens Advice were in terms of being in a position to give advice or practical help. This has been addressed in some part eg by the publication of the Citizens Advice National’s guidance notes on setting up an oil group (available on their website).

Genuine Interest in scheme continues—since the creation of the group, I have been asked to talk with neighbouring villages with a view to them replicating our oil group. (Haydon Bridge, Bardon Mill, Whitley Chapel).

THOUGHTS ON HOW TO IMPROVE THE SITUATION

1. The minimum order per address is currently 500 litres. It would help some of the smaller households if a minimum could be reduced to say 250 litres.
2. Many oil users do not have any means of measuring the contents of their tank accurately. A campaign/incentive could be introduced to help address this issue. (For the end user only, not a device connected to any one supplier).
3. Much of Allendale is in the private rented sector. Landlords need incentives to improve insulation. Oil consumption is not considered in rent reviews. Grants for off-grid properties could be introduced including window improvements.
4. A regulatory body similar to OFFER or OFWAT could be established.
5. Reduction in duty/tax for off-grid communities on oil.
6. Ironically, many rural off-grid communities have main British Gas lines running close by (including Allendale). Depressurisation to service remote communities is not cost effective but maybe such facilities could be subsidised or other incentives put in place.

January 2012

Supplementary written evidence submitted by the Allen Valleys Oil Buying Co-operative

1. POTENTIAL SAVINGS TO MEMBERS OF OIL GROUPS

I think this point would benefit from clarification.

In my experience, the potential savings can range significantly depending upon what the person does already.

If that person already shops around, obtaining five or six comparison quotes when ordering oil, purchasing through the group may still save them 1p to 3p per litre. However, if a person does not shop around (far more likely) then the situation is very different. In this case and even worse still, if they are tied into one supplier via a signalman device and/or direct debit payment scheme, they will probably save anything from 10–14p per litre. (I have specific examples in my existing evidence which covers such cases—Two December examples—500 L 12.6p ppl difference = £63 saving, 600 L 11.5ppl = £69 saving and a specific D/D example—in September 13.88p difference).

2. TOP UP SCHEMES/GOVERNMENT INTERVENTION

I would like to add something to the points made about people having a direct debit mandate with one oil supplier ie the top up scheme. We were asked if we thought Govt. should play a bigger part in this area. On reflection, I think a duty of care element should be incorporated into the revised Code of Conduct which the Federation of Oil Suppliers is currently rewriting. This would mean the onus is on them and not government. The Duty of Care element should include some sort of proactive dialogue between the supplier and the consumer to regularly review their monthly payment to ensure it is at the correct level. In an ideal world, consumers would not be tied into this unsatisfactory system at all. They would either buy through a group such as ours or, as a better informed individual.

I am not sure however, that a Code of Conduct would cover pricing and complaints which is, as I understand it, a key responsibility of regulatory bodies such as OFWAT and OFFER. Therefore, I would suggest such a body may need to be introduced via Government despite the oil industry not having been a nationalised industry as the others have been. Part of their remit could be to take an active interest in such matters as what the Off Grid communities are having to pay.

3. EXISTING EXTERNAL SOURCE OF HELP

I would like to advise that the Citizens Advice have introduced some "Oil Clubs Information" help on their website. It is found under "campaigns". The contents include a best practice guide and tips for co-ordinators.

4. OIL PRICES

I think there is scope for the committee to probe further up the "food chain" on prices. The distributors clearly feel and frequently state to me, that their margins are very tight. If this is the case, then who is making all the money? Might the distributors need "protection" too?

Lauren Langton

January 2012

Written evidence submitted by the Federation of Petroleum Suppliers (FPS)

As promised we are writing to outline action taken by the Federation of Petroleum Suppliers against members who they considered to be behaving in a manner which the governing council felt was detrimental to the sector. Our apologies for the delay in our reply but we have been conducting a thorough research into our records to inform our response.

Firstly regarding the Code of Conduct; the current code of conduct, attached, became a mandatory requirement for membership from October 2011 replacing its earlier voluntary status. The decision was taken by the FPS Council in June 2011 and it was agreed that the code of conduct would become mandatory at the next membership subscription call, which for us is in October each year. This gave member companies the chance to comment, or if they disagreed with our position, to resign their membership. Happily no members resigned due to this initiative.

The decision to expand the code of conduct in accordance with the OFT's Consumer Codes Approval Scheme (CCAS), is to ensure that the FPS are properly equipped to maintain the high calibre of its membership.

Whilst the FPS has never attempted to block entry into the sector, nor into membership, anti-competitiveness legislation has made it difficult for trade associations in general to bar entry to disreputable firms. The insistence that new members adhere to the code of conduct will go a long way to ensuring that the FPS has a tool which will enable it to both maintain its high standards and offer consumers valuable additional protection.

The oil distribution industry is highly regulated and regularly audited by officials from *HMRC*, the Environment Agency, Trading standards and *VOSA* to name but a few. Over the past 10 years the FPS has never received a report from any of these bodies, or any others, which has resulted in the Association removing anyone from membership. We see this as a positive sign that the FPS has always maintained a reputable membership and has always been in consultation with the regulatory bodies to ensure that changes in regulation are passed to the membership in good time to ensure compliance.

Although the next enhanced version of the code of conduct is in its early stages, the FPS would still consider the dismissal of a member as the final possible option, preferring instead to provide training and support to their membership in order to encourage and disseminate best practice for the sector. Dismissal of a member would simply mean that a company who fail to conduct themselves according to the code of conduct would then simply be outside of the FPS and its self-regulatory controls. We do not consider that this would be the best outcome for either the industry or the consumers.

We hope that this letter addresses the query from the Select Committee, but if not we would try to answer any subsequent queries to the best of our ability.

January 2012

Written evidence submitted by the Co-ordinator of the North Tyne fuel buying group

FORMATION OF THE GROUP

The group was formed some four years ago. On my retirement I was faced for the first time with the need to buy heating oil. I understood that suppliers had price points for deliveries of 500 litres, for deliveries up to 1,000 litres, for deliveries up to 1,500 litres and for larger orders. Two or three neighbours decided that we should try to order oil together to see if we could get a bulk price. I think that our first joint order was for no more than 2,000 to 3,000 litres. We bought as a small group from a supplier in Hexham from whom we had previously bought as individual customers. I acted as the unelected and unpaid co-ordinator for the group's first order and continue to do so.

GROUP MEMBERSHIP

Membership of the group is now some 70+. In the main we are householders. Group members include three farmers, three village halls (Wark, Lanehead and Falstone), an SME and a pub. Members live in Wark, Bellingham, Lanehead, Greenhaugh, Tarsset, Donkleywood and Falstone. The group now orders heating oil, red and white diesel. Members settle their own bills. The co-ordinator has no financial responsibility other than for his own bill. Membership has grown steadily, usually by recommendation. The co-ordinator does not act as a recruiting sergeant.

GROUP ORGANISATION

The group is informal and has no constitution or rules of membership. The co-ordinator corresponds with most members by e-mail, using an oil group e-address. The co-ordinator corresponds with other group members by telephone.

ORDERS AND QUOTES

The co-ordinator organises monthly orders during the heating season (September to April), in the middle of each month. (Please see final section below for an explanation of why orders are placed in the middle of the month.) He alerts members to a forthcoming order, sets a deadline for and collates individual orders. He seeks quotes for the various fuels from five suppliers and asks the supplier offering the best prices to arrange delivery. The co-ordinator often haggles over prices when he has the quotes. A single supplier usually offers the best quotes for all three fuels. When a supplier quotes a higher price on one fuel he will usually adjust the price to match or better another quote. The supplier rings group members, takes payment for individual orders and arranges the delivery schedule. Delivery usually begins within a day or two of an order being placed. Two potential suppliers are independents based in Gateshead and Harrogate. One is a Sunderland based member of the DCC group and until September 2010 regularly gave us the best quotes. One is part of a farmers' cooperative with a depot in Hexham. The other is part of an agricultural feed and supply company with depots in Carlisle and Hexham.

The minimum delivery per customer is 500 litres.

Buying together the North Tyne group regularly ordered 20,000 litres a month and in December 2010 ordered 30,000 litres. Please see below for volumes ordered by the Allendale and North Tyne groups together.

RANGE OF QUOTES

Experience suggests that two of the companies usually quote high prices for all fuels. The range between the high and low quotes for heating oil from the other suppliers is often 5p per litre. The range between the high and low quotes on red and white diesel is usually between 2p and 3p per litre.

POTENTIAL SAVINGS FOR GROUP MEMBERS

Over the past four years the co-ordinator has regularly found that group members can save up to 5p per litre by buying from the supplier giving the best quote. Given that suppliers usually quote a high price per litre on individual orders of 500 litres and a lower price on orders over 1,000 litres the co-ordinator estimates that a member buying 500 litres with the group may save as much as 9p or 10p per litre over an individual order for the same volume. The co-ordinator has found that group members occasionally seek individual quotes for 2,000 litres of heating oil. They are typically quoted a price up to 2p per litre higher than the co-ordinator can secure.

COLLABORATION WITH OTHER BUYING GROUPS

The co-ordinator of the North Tyne group worked with the co-ordinator of the Allendale group during the Summer of 2011 and explained eg how the North Tyne operated. Since September 2011 the two groups have collaborated well ie they have alerted their group members simultaneously, have collated their own group orders and then placed a joint order. In December 2011 the joint Allendale/North Tyne order was for 50,000 litres.

The co-ordinator of the North Tyne group worked with the Humshaugh Village Shop in the Autumn of 2011. The Humshaugh group alerted its members to the December order at the same time as the Allendale and North Tyne groups. In the event a supplier with a depot in Hexham quoted a lower price to the Humshaugh group and a higher price to the Allendale and North Tyne groups. After some haggling the independent supplier based in Gateshead supplied the Allendale and North Tyne groups, while a supplier with a depot in Hexham supplied the Humshaugh group. After the negotiations on price the difference between the two suppliers on heating oil was 0.1p per litre. The co-ordinators of the Allendale and North Tyne groups are in touch with the acting co-ordinator of the Humshaugh group about the January order.

SUPPLIERS SUPPORT TO BUYING GROUPS

Since September 2010 GB Fuels, an independent supplier based in Gateshead, has quoted the best prices to the North Tyne group. And since September 2011 GB Fuels has quoted the best prices to the Allendale and North Tyne groups when they have asked for joint quotes. In late 2010 GB Fuels made a modest donation to the village halls at Wark, Lanehead and Falstone. In late 2011 the company made a similar donation to a church and a village hall at Allendale. The company explained that it made the donations as a way of showing its appreciation for the business it had done with the communities. GB Fuels seems likely to make further donations in the coming months.

An important way of supporting buying groups has been the willingness of GB Fuels to enter the dates of the buying groups' orders in to its delivery schedules, months in advance, without being certain that it would win the orders.

GB Fuels and another company have assured the co-ordinator of the North Tyne group that they would match the best quote any group member might get for a new fuel storage tank.

UNMANNED FUEL STATION AT KIELDER

The co-ordinator of the North Tyne group is a member of the Northumberland Uplands Local Action Group (NULAG) under the EU/HMG New Leader programme (for information on NULAG please visit www.nuleader.eu) NULAG has recently approved funds to help re-open, as an unmanned station, a fuel station in the remote village of Kielder. The fuel station closed in late 2007.

The co-ordinator spends time in Sweden and speaks Swedish. NULAG has contacts with The Swedish Rural Network and an agreement on transnational collaboration within The New Leader framework with a Swedish LAG. In Sweden there is a growing network of unmanned rural fuel stations and a national brand for these rural stations is emerging. Based on what he has learned in Sweden the co-ordinator thinks there could be scope for the diminishing number of rural fuel stations in Northumberland to collaborate eg on group fuel purchases. He further thinks there is a case for a study to examine if the Swedish experience on unmanned rural fuel stations could be applicable in rural areas of Northumberland and in other parts of the United Kingdom. The Co-ordinator would be interested to know if members of The Committee could advise NULAG on possible sources of funding to test the market for collaboration among rural fuel stations in Northumberland and to see if the Swedish experience may be relevant in the United Kingdom.

COMMENTS FROM MEMBERS OF THE NORTH TYNE FUEL BUYING GROUP

The following comment is from a member of the North Tyne group who is Chair of a Parish Council:

1. It makes good sense to buy our oil in this way because of the remoteness of our villages, it saves fuel, (for the delivery company) it saves time (for the delivery company), and we are helping to lower our carbon footprint overall. It could be argued by delivery companies that the remoteness of the villages offsets the savings in fuel and time, but the alternative is everyone ordering individually resulting in tankers coming out here almost every day.
2. It seems to me that the delivery companies could do two or more trips per day from their depot if they are dropping all their fuel in one small area each time, therefore selling more fuel, per tanker, per day.
3. I think the bigger companies probably have an *average* price for fuel plus delivery in their general area and are not willing, or able, to go below that, whereas GB being a small independent, have done the math and are able to shave a couple of pennies off the price.
4. Overall this is about more than a few pence off the oil price, its about fuel saving nationally by delivery companies, and a lowering of the carbon footprint. Climate change is a real issue, we all need to do all we can.

COMMENTS ON WRITTEN EVIDENCE FROM HUMSHAUGH/EXPLANATION FOR MID MONTHLY ORDERS

We had a hard winter in the North Tyne valley in 2009 and most suppliers struggled to deliver in the fortnight before Christmas. The company which was then our regular supplier (by virtue of offering the best prices) did deliver.

What we experienced in 2009 persuaded us that the prudent course in 2010 was to tell the North Tyne group members and the four or five suppliers from whom we were then seeking quotes that our group would order monthly, in the middle of each month, from September 2010. We made it clear to group members and suppliers that we would aim to have a delivery 10–14 days before Christmas 2010. The suppliers noted what we had said and entered our group in their delivery schedules weeks in advance of the expected order.

In the event we had heavy snowfalls in mid November 2010 and difficult driving conditions over Christmas. The company that had supplied us from September 2010 delivered to 16 out of 20 groups members who ordered in December 2010. They simply could not deliver to the other four customers who were long standing members of our group but new customers to the supplier. At the time most suppliers to our area were operating a similar policy ie of not taking on new customers.

We learned a lesson in the Winter 2009 and applied it from September 2010 onwards ie it is prudent to order regularly and at more or less the same time of the month. It is also prudent to let all the potential suppliers know that is what you are doing. The North Tyne and Allendale groups have ordered together since September 2011. We have worked with the new group in Humshaugh and tried to order with them in December 2011. In the event we could not do so because a supplier with a depot in Hexham quoted two prices ie one for Humshaugh (some five miles from Hexham) and another, higher, price for Allendale and the North Tyne (Allendale is 12 miles from Hexham. Falstone, where I live is 27 miles from Hexham.)

An advantage for group members in regular orders is that they can order smaller volumes of oil at more or less fixed times during the heating season. This helps them spread the cost of fuel over the season. Dick Moules refers to consumers paying by direct debit/standing order. Many do this and thus spread the cost of fuel over 12 months. That is fine if they can be sure that the supplier to whom they make regular payments will always offer the cheapest price. Our experience suggests that may not be the case. The co-ordinator can not, of course, advise consumers to change the way in which they buy their heating oil! But we know that a number of people have stopped direct debits/standing orders to suppliers and started paying regular sums in to a separate account from which they pay for their oil.

Mike Murray

Co-ordinator of the North Tyne fuel buying group

January 2012

Supplementary written evidence submitted by the Co-ordinator of the North Tyne fuel buying group

Following the written evidence which Lauren Langton and I gave to the Committee and our appearance before it on 11 January I have brief further comments.

OFF GRID FOR THE MAJORITY MEANS OIL

In the area I know best ie the North Tyne valley the vast majority of off grid consumers use oil for heating. The high cost of installing biomass heating systems deters most householders from converting from oil to biomass, despite the fact that the North Tyne has, by English standards, ample timber. The Renewable Heating Incentive may persuade some householders to convert their heating systems to renewable energy sources. But I think that most simply can not afford to switch. They are locked in to oil, with clear consequences as the cost of oil rises inexorably.

THE OFFICE OF FAIR TRADING (OFT)

I may do them a disservice but from the written and oral evidence the OFT gave it seems that they do not fully understand the rural realities. I would like to suggest that the OFT visit Northumberland to test the realities. I am sure that Lauren Langton and I could help OFT hear from consumers in the remote and sparsely populated areas where we co-ordinate oil buying groups.

THE FEDERATION OF PETROLEUM SUPPLIERS

In their evidence the Federation suggested that fuel suppliers work to tight margins. I can not contest the figure they suggested ie 2%. But it seems to me that margins are only part of the story. Volume is another part. The Allendale and North Tyne buying groups regularly order between 30,000 to 50,000 litres of fuel per month during the heating season. If we work on the price of heating oil being between 55p per litre and 60p per litre we seem to have a tidy sum from a margin of 2%. And that from two buying groups alone.

I fully appreciate that suppliers must invest heavily in storage capacity and specialist vehicles. And I am sure that the cost of fuel safety is significant. But it seems to me that consumers of heating oil will link margins and volume.

January 2012

Written evidence submitted by National Private Tenants Organisation (NPTO)

1. EXECUTIVE SUMMARY

1.1 The English National Private Tenants Organisation (NPTO) works for professionally managed, secure, decent and affordable private rented homes in sustainable communities.

1.2 This submission to the Energy and Climate Change Select Committee addresses the questions of (1) barriers to tackling fuel poverty in the private rented sector (PRS) and (2) the extent to which recent measures in the Energy Act 2011 help the problem of fuel poverty in the private rented sector.

1.3 In relation to barriers to tackling fuel poverty in the PRS evidence is provided covering the principal drivers of fuel poverty. There is a strong correlation between poor quality housing in the PRS and fuel poverty. An increased use of the Housing Act 2004 Housing, Health and Rating System is an essential tool to help reduce fuel poverty in the PRS.

1.4 In relation to the Energy Act 2011 the effectiveness of measures in helping fight fuel poverty in the PRS are discussed.

2. BARRIERS TO TACKLING FUEL POVERTY IN THE PRIVATE RENTED SECTOR

2.1 A household's fuel poverty status depends on the interaction of three drivers: income, fuel prices paid and fuel requirement (ie fuels used, dwelling and energy efficiency). The PRS has the highest number of households in the lowest Energy Performance Certificate Energy Efficiency Bands F and G (SAP less than 39).⁷⁶ Over 40% of tenants in the coldest privately rented homes live in fuel poverty.⁷⁷

2.2 *Barriers related to income and available income for energy costs*

2.2.1 Factors affecting the amount of income available for energy costs: Research by housing charity Shelter found that PRS rents are unaffordable in 55% of English local authorities. In these areas rents are more than 35% of median average local take-home pay—the level considered unaffordable by Shelter's Private Rent Watch report. The charity said 38% of families with children who rent privately have cut back on buying food to help pay rent. The research found rents had risen at one-and-a-half times the rate of incomes in the 10 years up to 2007.⁷⁸ This obviously has an effect on the amount of income available for energy costs as rent will take priority. Tenants are often forced to self-ration their energy use. Changes to housing benefit and rising food prices will also have an effect on available income for energy costs.

2.2.2 NPTO believes that urgent consideration should be given to PRS rent affordability especially as the size of the PRS increases and market forces could push rents up even further. The issues of excessive rents and rent control should be addressed.

2.2.3 Given the competing pressures on low-income households, many do not spend the amount needed to stay warm.

2.3 *Barriers related to energy consumption costs*

2.3.1 Due to a lack of professionalism and in some cases wilful neglect on the part of some PRS landlords, heating (space and water) systems can often be old, inefficient, poorly maintained and in some case unsafe, this leads to higher operating costs. Legislation relating to standards of PRS properties is often not enforced due to lack of local authority resources and tenant's fear of retaliatory eviction by landlords. PRS tenants often are unaware of their legal rights. Over three-fifths (63%) of all private individual landlords have no relevant experience or qualifications. Only 6% of landlords are members of a relevant professional body or organisation. 89% of landlords were private individual landlords responsible for 71% of all private rented dwellings, with a further 5% of landlords being company landlords responsible for 15% of dwellings. More than three quarters (78%) of all landlords only owned a single dwelling for rent, with only 8% of landlords stating they are full time landlords.⁷⁹

2.3.2 NPTO believes that local authorities should make greater use of selective licensing powers (please see the NPTO report at: <http://www.npto.btck.co.uk/Researchandreports>) and introduce landlord accreditation schemes, and that consideration should be given to a national landlord registration scheme to address the lack of landlord professionalism in the PRS and raise the standards of rental accommodation. Greater security of tenure is required in the PRS to ensure amongst other things, that tenants are not frightened (justifiably) of attempting to see their legal rights upheld.

2.3.3 Many PRS homes do not have gas and therefore tenants will pay more for electric heating eg electric storage heating, than they might for gas heating. 26% of all PRS homes have no gas connection or the gas

⁷⁶ DCLG, *English Housing Survey: Housing Stock Report 2009*, Chapter 6, page 49, 2011.

⁷⁷ DECC, *Energy Bill: Green Deal Impact Assessment*, 2010.

⁷⁸ Shelter, *Private Rent Watch Report 1—Analysis of local rent levels and affordability*, October 2011.

⁷⁹ DCLG, *Private Landlord Survey*, 2010.

connection is not used and 49% have solid walls or non-traditional walls and can not take advantage of cavity wall insulation.⁸⁰

2.3.4 Prepayment meters which are often present in PRS homes do not allow tenants to take advantage of the cheapest tariff schemes on offer. The NPTO believes that action is needed to reduce charges paid by prepayment meter consumers. According to fuel poverty charity National Energy Action, 5.8 million prepayment meters were in use in Britain in 2009. According to Consumer Focus estimates, prepayment meters can cost on average an additional £195 a year for gas and electricity. In addition, many suppliers add on additional charges that they claim are necessary to finance and maintain the meters themselves.

2.4 Barriers related to fuel requirement

2.4.1 The PRS also has the highest incidence of “excess cold” of all housing tenures. Over 400,000 private rental homes—15% of the total—are classified as a Category 1 “excess cold” hazard under the HHSRS. This is the highest incidence of all tenures. “Excess cold” is a major cause of ill health among private rented sector tenants, *resulting in reduced quality of life and high levels of fuel poverty* for the tenants concerned. It also leads to increased costs to health and social services.⁸¹ PRS tenants, particularly those on low income, often have little choice where to live.

2.4.2 *There is a strong correlation between poor quality housing and fuel poverty*, 50% of fuel poor households in England live in EPC F and G homes compared with 23% of all households in EPC F and G bands.⁸² According to the English Housing Stock Report for 2009 15% of private rented households have damp problems. The last English Housing Survey 2009–10, reported that 31% of PRS households were non-decent. In the PRS 61.4% of homes failing the decent homes standard did so because of Housing, Health and Safety Rating System (HHSRS) serious hazards and 57.7% because of thermal comfort shortcomings.⁸³ NPTO believes that local authorities should make greater use of their regulatory powers particularly in relation to the HHSRS to fight fuel poverty. It has been estimated that the cost to the NHS of not improving privately rented dwellings associated with excess cold to an average SAP level is around £145 million per annum.⁸⁴

2.4.3 NPTO believes that the provisions in the Energy Act 2011 for powers to ensure that from April 2018 it will be unlawful to rent out residential or business premises that do not reach a minimum energy efficiency standard (the intention is for this to be set at EPC rating “E”), should not wait until 2018 and should come into force at the earliest opportunity.

2.4.4 Some of the cheapest heating appliances available to low-income PRS tenants are the most expensive to run. Tenants can be forced to use these because their homes lack cost effective heating systems eg gas central heating, and such appliances are needed to supplement inefficient heating systems.

2.4.5 Not all PRS tenants receive Energy Performance Certificates (which can be up to 10 years old) so therefore are not aware of the SAP rating of their prospective home and the estimated cost of heating it. Over two-fifths (42%) of all dwellings have had an Energy Performance Certificate.⁸⁵ A survey commissioned by the Energy Efficiency Partnership for Homes in 2008 found that 59% of consumers found it easy to understand an EPC but older respondents and those from C2DE social classes were less likely to find it easy.⁸⁶

3. THE EXTENT TO WHICH RECENT MEASURES IN THE ENERGY ACT 2011 HELP THE PROBLEM OF FUEL POVERTY IN THE PRS

3.1 NPTO welcomes the improvements to energy efficiency in the PRS that the Green Deal could bring but has concerns relating to Green Deal consent denial from rogue landlords, which could lead to retaliatory eviction (using Housing Act 1988, Part 1, Chapter 2, Section 21, for Assured Shorthold tenancies), the threat of eviction and fear of retaliatory eviction. NPTO has produced an extensive report on the issue available at: <http://www.npto.bck.co.uk/Researchandreports>.

3.2 NPTO believes that the provisions in the Energy Act 2011 for powers to ensure that from April 2018 it will be unlawful to rent out residential or business premises that do not reach a minimum energy efficiency standard (the intention is for this to be set at EPC rating “E”), should not wait until 2018 and should come into force at the earliest opportunity. NPTO also fears that rogue landlords could retaliate to tenant’s reporting illegally let properties by evicting tenants using Section 21 of the Housing Act 1988, ie retaliatory eviction. NPTO feels that regulatory measures are required to deal with this problem.

⁸⁰ Consumer Focus, *A Private Green Deal*, December 2010.

⁸¹ Consumer Focus, *A Private Green Deal*, December 2010.

⁸² Consumer Focus, *Raising the SAP*, 13 May 2009.

⁸³ Julie Rugg and David Rhodes, *The Private Rented Sector: its contribution and potential*, 2008.

⁸⁴ Building Research Establishment Ltd, *The Health Costs of cold dwellings*, November 2010–February 2011.

⁸⁵ DCLG, *Private Landlord Survey*, 2010.

⁸⁶ Energy Efficiency Partnership for Homes, *Private Tenants Research Presentation*, May 2008.

3.3 NPTO believes that a substantial information and advice (educational) program is required to promote the benefits of the Green Deal to landlords and tenants if it is to be successful and lift many PRS families out of fuel poverty.

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