Removing Barriers to Energy Efficiency in the Rental Sector by Addressing the Split-Incentive Problem

Public Consultation

Introduction

The Department of Communications, Climate Action & Environment is undertaking a public consultation on the split incentive problem as it impacts on the objective to improve energy efficiency standards in the rental sector. The Context and Guidance Paper outlines the issues and the process now in place to explore possible solutions or policy options.

The objective of this consultation is to identify the most appropriate policy intervention(s) and to provide stakeholders an opportunity to inform this consideration.

Interested parties are invited to review suggested possible approaches outlined and to comment on these in this response form. This public consultation is open to all - whether organisations or individuals. Responses can be submitted at any point up until the closing deadline of 18:00 on 17 January 2020.

The response form also provides opportunities to make further suggestions on how to address the split incentive problem, to raise or comment on other relevant elements or issues. Respondents are asked where possible to please provide supporting evidence for points made. Submissions made will be taken account of by the Expert Advisory Group (see Context and Guidance paper) in making recommendations to Government on what, if any, new policy measures, including regulations might be warranted.

A draft outline of Ireland’s next Long term Renovation Strategy (LTRS) is also
provided. Respondents who may wish to comment on the LTRS may do so using the relevant part of the response template by 17 January – or subsequently by eMail to Energy.efficiency@dccae.gov.ie by the later date of 24 January.

**Guidance on making your response**
You may answer, or provide comments on, as many, or as few, of the questions/issues as your wish. No questions are compulsory – and all can be skipped. The only required input is the name and contact details of the person/organisations making the submission. For those making a comprehensive response you may save an incomplete response and return to complete it later but you must submit your response by the deadline indicated.
Buildings other than Dwellings - (Commercial and Public Sector)

Possible Approach #1—Introduce regulations requiring all commercial buildings to attain a minimum building energy rating (BER) by a specified date in the future. This would entail setting a future date from which it would be a requirement that any commercial building offered for rent/lease must meet a stipulated minimal BER. This would apply to any new (or renewed) lease after the specified introduction date. If such an approach is taken, there would be a lead in period to allow stakeholders to make the necessary preparations.

1. Do you agree with the proposal to introduce a minimum BER requirement for commercial buildings being offered for rent?
   - YES
   - NO
   - Don’t Know

2. If Yes
   What BER would you consider appropriate as the minimum required?

3. If No
   Please state reason.
Possible Approach #2—Encourage more use of green leases. - A ‘Green Lease’ is basically a normal commercial lease with additional green clauses included. These facilitate and or encourage co-operation between the landlord and tenant to achieve beneficial environmental outcomes. Green lease clauses are already applied to some extent in Ireland. There is no international standard definition of what a ‘green lease’ should be or do. It usually encourages and facilitates tenant–landlord cooperation by promoting collaboration and fostering better communication between the parties. This means that the rental contract can provide a mechanism and opportunities to address environmental issues including energy efficiency or other sustainability goals. Green Lease clauses are becoming increasingly popular.

Green clauses might for example provide \[\text{[1]}\];

- that it is the intention of the landlord and the tenant to promote the reduction of emissions,
- an engagement mechanism e.g. “Building Management Forum” to consider the adequacy and improvement of data sharing on energy and water use, agree targets and strategies to improve the environmental performance,
- tenant may, with landlords consent, carry out alterations which will improve the environmental performance of the premises,
- tenant shall not to carry out any repairs/modifications which would adversely affect the energy performance of the building,
- landlord and tenant shall use reasonable endeavours to share environmental performance data relating to the premises on a regular basis.

[1] We are grateful to Reddy Charlton solicitors who have allowed us to draw upon some of the green lease content they have produced and to the Irish Green Building Council for their assistance in this regard.

2. Do you agree that green leases can help facilitate improved energy efficiency in rented commercial buildings?
   - YES
   - NO
   - Don’t Know

3. If Yes
   How in practice could the more widespread use of effective green leases be encouraged and promoted?

4.
If No
Please state reason.

5. Would you like to suggest any other provisions that could beneficially be considered for incorporation in green leases.
Max 200 words
Possible Approach #3—Provide for a Right of commercial property tenant to initiate improvements. - In some countries tenants can initiate energy efficiency improvements, (some examples are provided later for the residential sector), i.e. to request consent from their landlord to install energy efficiency improvements in the property they rent, and the landlord cannot unreasonably refuse consent. Such an approach would afford commercial tenants a right to upgrade the energy performance of the property under certain conditions. This would relieve the landlord of the burden of financing the works whilst allowing the tenant to benefit from the reduced fuel costs and increased comfort.

4. Would it be appropriate to introduce a system whereby a commercial tenant could initiate energy efficiency improvements?

☐ YES

☐ NO

☐ Don't Know

5. If YES
Under what circumstances should a commercial tenant be able to instigate energy efficiency improvements and what should reasonably be expected of landlords in such situations?

6. If NO
Please state reason.
6. If you would like to suggest other reasonable incentives or supports which might be considered for either landlords or tenant that would enable them to deliver or achieve further energy efficiency improvements in the commercial or public sectors, please do so here. Suggestions should have regard to the limited availability of exchequer resources.

(Max 500 words)
Dwellings - (Residential sector)

A side effect of our economic recovery is that demand for housing, particularly in Dublin, is rising with acute pressures in the rental sector.

Government has prioritised a range of actions to ensure that existing rent predictability measures, such as the Rent Pressure Zones (RPZ) and increased security of tenure, are fully respected and enforced.

The Expert Advisory Group are very mindful of the following;

- the current acute accommodation shortage,
- the level of regulatory change that has taken place in the sector in the last number of years, and
- the need to have regard to this in any policies that might be introduced in the coming years until this pressure is eased (when the supply response has begun to balance demand).

Please comment on any of the following suggestions, in particular regarding their effectiveness in encouraging more landlords to invest to enhance the energy efficiency of the properties they rent.
7. Possible Approach #4 – An enhanced grant for landlords who upgrades their rented property and their own home at the same time; provided both properties are brought up to specified BER standards.

☐ Effective

☐ Ineffective

8. If Effective

Please state reason.

9. If Ineffective

Please state reason.

10. Comment (Optional)

(Max 200 words)
9.
Possible Approach #5– Promote longer leases which could make tenants more likely to invest in energy efficiency measures with quick payback times in the properties they rent be encouraged.

☐ Effective

☐ Ineffective

10.
If Effective
Please state reason.

11.
If Effective
How could longer leases be promoted?

12.
If Ineffective
Please state reason.

13.
11. Possible Approach #6—Better highlight or highlight the multiple benefits of improved energy efficiency (e.g. improved asset value, reduced maintenance, improved tenant satisfaction, etc.) in order to promote and encourage more landlords to invest more in the maintenance, and energy efficiency.

☐ Effective

☐ Ineffective

12. If Effective
Please state reason.

13. If Ineffective
Please state reason.

14.
14. Possible Approach #7—Link participation by a landlord in the HAP scheme for a defined period of time to a free energy efficiency upgrade.

[2] http://hap.ie/ Housing Assistance Payment (HAP) Scheme - HAP is a form of social housing support provided by all local authorities. Under HAP, local authorities can provide housing assistance to households with a long-term housing need, including many long-term Rent Supplement recipients.

☐ Effective

☐ Ineffective

15. If Effective
Please state reason.

16. If Ineffective
Please state reason.

17.
18. Possible Approach #8—Recognising that there is currently less appetite to invest to upgrade the energy efficiency of rental properties do you have any suggestions for how to improve appetite for upgrade having regard to the limited availability of exchequer resources. (Max 500 words)
Possible Approach #9–Improve the properties gradually in steps with further improvements carried out in each BER Cert period up to 2050. Rental properties, in common with other home offered for sale or rent, require a BER certificate. Each BER cert is valid for 10 years and each BER assessment to acquire a new certificate produces an advisory report which sets out energy efficiency improvement options specific to that property with information on supports available. Bearing in mind the objective is to achieve NZEB standard by 2050 a milestone target to progress in that direction that could be achieved in steps e.g. next target achievement of the next BER assessment date could be set. This would provide the property owner a 10 year period in which to attain that incremental step with 2 to 3 such steps before 2050.

17. Would such an approach, or a variant of it, have merit?
   ☐ YES
   ☐ NO
   ☐ Don't Know

18. If YES Can you comment on its merit or suggest how it might best operate in practice?

19. If NO What issues do you see with such an approach, and can you suggest how any of these issues might be overcome?

20.
Possible Approach #10 – **Regulate to require Minimum energy efficiency measures or minimum levels of efficiency**, e.g. a requirement for heating controls or for a certain amount of insulation to be in place in rental properties; this option would **not** entail a minimum BER.

19. Do you agree with the proposal to introduce a regulation which would require minimum measures to be in place in order to offer a residential property for rent?

☐ YES

☐ NO

☐ Don't Know

20. If YES
What minimum measures would you consider appropriate and reasonable?

21. If YES
What timescale for introduction of this requirement would you consider reasonable and why?
If NO
Please state reason.

23.

Comment (Optional)
(Max 200 words)

Possible Approach #11 – **Introduce a regulation to require a minimum energy rating (BER threshold).**

21.

Having regard to potential impacts, and noting that Ireland is required by the EU to facilitate the cost-effective transformation of existing buildings by 2050 into nearly zero-energy buildings where technically and economically feasible, do you agree with the proposal to introduce a regulation which would require minimum BER to be in place in order to offer a residential property for rent?

- [ ] YES
- [ ] Not Yet
- [ ] NO
- [ ] Don’t Know
22. If YES
What minimum Rating from the options stated here would you consider appropriate and reasonable - give reason if possible - F, E2, E1, D2, D1, C3, C2, C1, B3, B2 or B1?

23. If YES
What timescale for introduction of this requirement would you consider reasonable and why?

24. If Not Yet
While bearing in mind that all properties, regardless of ownership, must be nearly zero energy building standard by 2050 please state your reasoning for why not yet and suggest at when, or under what circumstances (e.g. when current accommodation situation eases, or when supply response has begun to balance demand) the introduction of such a requirement would be reasonable.
25. If NO Please state reason and if relevant comment on what support from Government could change your view.

Possible Approach #12—Introduce a Cost Balancing Arrangement. A cost balancing model could apply in the event of a minimum BER efficiency standard being introduced. It could be used in circumstances where a landlord (in the residential or commercial sector) was unable or unwilling to bring the property up to a Regulated minimum BER. Such an arrangement would enable the landlord to continue to rent the property providing s/he put in place arrangements to compensate the tenant annually by an amount equivalent to the calculated reasonable additional cost to the tenant to heat the property over and above the cost if the required BER standard had been in place.

24. Do you agree that in the event of introducing a minimum BER requirement that such a cost balancing arrangement would have merit?
☐ YES
☐ NO
☐ Don't Know

26. Comment (Optional)
(Max 200 words)
25. If YES
Would you like to comment briefly on the merits of such a model, or suggest how this model could be applied in practice.

26. If NO
Please state reason.

27. Comment (Optional)
(Max 200 words)
Possible Approach #13—Provide for a tenant to initiate. In some countries tenants can instigate energy efficiency improvements. For example, in the UK, the Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 established a new right for domestic private rented sector tenants, to request consent from their landlord to install energy efficiency improvements in the property they rent, and the landlord cannot unreasonably refuse consent.

26. Would it be appropriate to introduce a system whereby a tenant could instigate energy efficiency improvements?
   - YES
   - NO
   - Don’t Know

27. If YES
   Under what circumstances should a tenant be able to instigate Energy Efficiency improvements?

28. If YES
   What should reasonably be expected of landlords in such situations – should there be a facility for the tenant to be part compensated by the landlord, if so what would a fair arrangement be?

29. If NO
   Please state reason.
30.
Comment (Optional)
(Max 200 words)

Possible Approach #14 – **Require higher energy efficiency standards from larger landlords.**

28. Should there be different standards expected of landlords with 3 or more properties than of landlords with less than 3 properties.
☐ YES
☐ NO
☐ Don’t Know

29. If YES
What standards should apply to Professional landlords?

30. If YES
What lesser standards should apply to landlords with less than 3 properties?
31. If NO
Please state reason.

32. Comment (Optional)
(Max 200 words)

Possible Approach #15 – **Tie costs and repayments to the property.** One way to help address the split incentive problem might be to tie the cost and repayments to the property so that the occupant who benefits most is the one who pays or pays most. This approach could enable upgrades to be carried out without requiring a large cost outlay by the building owner or tenant. One way this might be achieved is through on bill financing with a pay as you save type tariff assigned to the building through a utility bill and repaid over an agreed period of time.

32. Can on-bill financing help in improving the energy efficiency of rental properties?

☐ YES

☐ NO

☐ Don't Know

33. If YES
How?
34. If NO
Please state reason.

35. Comment (Optional)
(Max 200 words)
Possible Approach #16—**Introduce an appropriate shared investment model.** This approach recognises that there are multiple benefits from upgrading the energy efficiency of a property. These benefits are shared by the tenant (improved comfort, living environment and reduced energy bills) and the landlord (improved asset quality and asset value, tenant satisfaction and retention etc.) and the State through reduced carbon emissions and imported oil and gas dependency. Some international approaches based on sharing the cost and benefits are outlined below.

In **Denmark**, legislation provides that gains deriving from energy improvements in private rented properties will be split between the landlords and the tenants. It provides that a landlord can demand an increase in rent for completed energy saving measures which results in energy savings for the tenants in the property. This increase must be based on the total expenses which have reasonably been incurred in carrying out the work and may not exceed the saving that the measure entails for the tenants.

In **France** - tenancy law was amended in 2009 to facilitate the redistribution of the financial benefits of an energy efficiency upgrade. Under this amendment, a landlord has the right to ask the tenant to make a contribution to an energy efficiency investment by participating in the cost recovery of the work. The contribution is separate from the rent paid by the tenant and cannot exceed 50% of the cost of energy savings. This contribution can however only be asked if substantial work has been done or if the dwelling reaches a minimum level of energy performance. The participation, limited to a maximum 15 years, is specified in the rent agreement.

**34.**
Would an appropriate shared investment model be helpful in promoting improved energy efficiency in rented properties in Ireland?

☐ YES
☐ NO
☐ Don’t Know

**35.**
If YES
What approaches similar to or inspired by the examples above or based on principles of shared cost/benefit might be taken in Ireland; and, how might it work in practice?
Possible Approach #17 – **Make provision for an Accelerated Capital Allowances type scheme or other appropriate tax allowance arrangement** to help encourage and enable more energy efficiency improvements to rental properties.

*(The Accelerated Capital Allowance Scheme provides tax advantages. It allows companies to write down the cost of qualifying equipment in the year of purchase rather than over 8 years.)*

**36.**
Would an ACA type scheme or other tax allowance arrangement available to all landlords be significant in encouraging and enabling more energy efficiency improvements to rental properties?

- [ ] YES
- [ ] NO
- [ ] Don’t Know
37. If YES
How much of difference do you think it would make, and why?

38. If YES
How much of the costs should be eligible for tax allowance?

39. If YES
What approach would be most appropriate, and why?

40. If NO
Please state reason.
41.

Comment (Optional)
(Max 200 words)

Possible Approach #18 – Improve compliance with the requirement to always publish BER for rented properties.

38. Currently, landlords are required by law to publish BERs for rented properties. Do you think that compliance is an issue in publishing BER for rented properties?

☐ YES

☐ NO

☐ Don’t Know

39. If YES

How could compliance with the requirement to always publish BER for rented properties be better ensured?

40. If NO

Please state reason.
41.

Comment (Optional)

(Max 200 words)

Possible Approach #19 – **Make the combined rent and energy bill costs more transparent**; so that tenants can better compare properties thus helping to promote improvements in standards over time.

40.
Do you think the combined rent and energy cost proposal would be helpful?

☐ YES

☐ NO

☐ Don't Know

41.
If YES
How could this be applied in practice – in particular how might the energy costs for the property be made transparent – bearing in mind the varying needs of tenants?

42.
If NO
Please state reason.
Possible Approach #20 – **Revise arrangements for approval of energy efficiency upgrade renovations to multi occupancy buildings.** Another feature of the split incentive problem is the difficulty sometimes associated with obtaining sufficient agreement for a proposed renovation among the different tenants in multi occupancy buildings. This can sometimes result in inability to proceed with a renovation that would benefit all tenants because a small number of tenants (who would also benefit) decline to consent to the work which precludes the work being undertaken. To address this, provision has been made in some other jurisdictions, to change the applicable rules so that whether or not to proceed with such an investment to upgrade is based on a simple majority of the tenants so that the decision once taken becomes binding on all tenants.

42.
Would you support a proposal to revise arrangements to require a simple majority of the relevant tenants?

☐ YES

☐ NO

☐ Don't Know

43.
If YES
Please state reason.

44.
If NO
Please state reason.

45.

Comment (Optional)

(Max 200 words)

44.

If you would like to comment further, make other suggestions or note other relevant issues relating to energy efficiency in the residential sector or suggest any practical supports that may be appropriate to encourage and assist landlords or tenants to improve the energy efficiency of properties - you may do so here. (Suggestions should have regard to the limited availability of exchequer resources.)

(Max 500 words)
45. In addition to your input on the Split Incentive problem, comments on the **Long Term Renovation Strategy (LTRS)** of up to approximately 1,000 words may be submitted here. If you require more space or time to comment on the LTRS then input on the LTRS may also be separately submitted to Energy.Efficiency@DCCAE.gov.ie up until 24 January 2020. (Max 1,000 words)

46. *Profile of Respondent
Please select from the list below.

- A landlord with 3 or more rental properties
- A landlord with less than 3 rental properties
- A tenant
- Other

47. *Name

48. Organisation

49. *Contact Details
Postal address (including Eircode) and/or email address.