



RESPONDENT INFORMATION FORM

Please Note this form **must** be completed and returned with your response.

Are you responding as an individual or an organisation?

- Individual
 Organisation

Full name or organisation's name

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The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

- Publish response with name
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Information for organisations:

The option 'Publish response only (without name)' is available for individual respondents only. If this option is selected, the organisation name will still be published.

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We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

- Yes
 No

Response to the Scottish Government's Heat in Buildings Bill consultation

March 2023

Introduction

Energy Action Scotland is the national third sector membership organisation dedicated to ending fuel poverty. Energy Action Scotland has been working with this remit since its inception in 1983 - 2023 is our 40th anniversary - and has campaigned on the issue of ending fuel poverty as well as delivering many practical as well as research projects to tackle the problems of cold, damp homes.

Energy Action Scotland's response focuses primarily on those areas that it considers may impact most on fuel poor and vulnerable consumers. Energy Action Scotland is neither a housing organisation nor a health organisation, but we are concerned about the health impacts of living in fuel poverty and that respiratory and circulatory conditions which are exacerbated by living in a cold, damp home make up a high proportion of Scotland's excess winter deaths, both of which are linked to living in fuel poverty.

Fuel poverty is driven by four main issues, these being: high energy costs; low disposable incomes; poor energy efficiency of homes; and how energy is used in the home. In Scotland, consistent with the definition within the Fuel Poverty (Targets, Definition and Strategy) (Scotland) Act 2019, there are over 1 in 3 households¹ estimated to be in fuel poverty. Almost 1 in 4 of Scotland's households endure extreme fuel poverty, simply unable to afford anything like the level of energy to maintain and protect their health and wellbeing.

Fuel poverty is not evenly distributed in society and factors including geography and climate impact on communities whose residents may further be affected by medical and social conditions that magnify disadvantage.

We believe that decarbonising heating is critical if climate change targets are to be met and if this is done well and there is a fair and just transition, that there can be a positive alignment of policy targets with that of reducing fuel poverty.

Recent analysis by the Energy and Climate Change Intelligence Unit (ECIU)² found that, under Ofgem's price cap from January 2024, homes with poor insulation, with an EPC band F, will be on average around £730 a year worse off than homes with an EPC band C. Scottish Government analysis in the Scottish House Condition Survey for 2022³ identified that 27% of households that were already living in a home with an EPC rating of 'C' or better were in fuel poverty. The challenges of shifting to affordable clean heat were further highlighted with 46% of electrically heated homes being in fuel poverty whilst rates for other forms of heating were all lower.

We strongly believe that improving the fabric efficiency of Scotland homes is the single biggest step that the Scottish Government can take to reducing fuel poverty. The recently published Fuel Poverty Monitor for 2022/3⁴ states that an additional £1.6bn is required to make up the shortfall in Government funding to reach the 2025 fuel poverty targets in Scotland which demonstrates the scale of the gap between existing policy and aspiration. We remain concerned that this consultation fails to identify any proposed measure to ensure that Fuel Poverty is a material consideration. The

¹ Scottish Government, Scottish House Condition Survey 2021, published 31 May 2023 footnote fuel poverty section estimate for 2023

² <https://eciu.net/media/press-releases/2023/energy-bill-price-cap-poorly-insulated-homes-to-cost-over-400-more-to-heat-next-year>

³ <https://www.gov.scot/publications/scottish-house-condition-survey-2022-key-findings/pages/3-fuel-pov-erty/>

⁴ <https://www.nea.org.uk/wp-content/uploads/2024/01/NEA-Fuel-Poverty-Monitor-Executive-summary-FI-NAL-Feb.pdf>

Heat Networks Act is a precedent for including a protection/provision for fuel poverty and we believe that it is incumbent on the Scottish Government to include a similar provision following this consultation.

In reviewing the consultation we felt that there was considerable assumption that areas that have a material impact on the operation of this Bill were being optimistically considered. Cost reductions in materials, technology, the availability of skilled labour, the rollout of smart metering, electricity network capacity/resilience, change cost differentials for electricity and gas, and fairer energy pricing would all be delivered to the benefit for the Bill. In all likelihood some of these assumptions are already unfounded. For example there are real restrictions to the electricity distribution network in the north of Scotland, where smart meters have the lowest market penetration, where complex metering exists, where households are reliant on outdated technology and where there are some of the least efficient homes and highest rates of fuel poverty. Smart meter rollout looks unlikely to conclude in 2025 and the plan for the development of the electricity distribution network in the north do not stretch beyond 2026 albeit they enter into cyclical planning but it is far from clear when the load managed status of the north region will change.

We are concerned that with the introduction of standards and obligations for owners that this could result in suboptimal outcomes for other areas of public policy including fuel poverty, poverty and child poverty. As energy prices retain a cost differential of approximately 4:1 in favour of gas, households moved or given due to obligations on landlords to accept heating systems with higher revenue running costs to achieve the same levels of comfort will be worse off than they need be.

The Scottish Government should consider providing some mitigation to ensure that when the new clean heat system is introduced that the new revenue running costs are at least cost neutral to the lowest cost option available in a location. This would ensure that people are encouraged to take up clean heat and maximise the impact in reducing fuel poverty, poverty and child poverty.

We welcome this consultation as a first step reflecting that it feels more like a call for evidence than a consultation of a potential Bill.

Responses to Questions

1. To what extent do you support our proposal to prohibit the use of polluting heating systems in all buildings after 2045?

Strongly support

Please include any additional comments below.

We strongly support the principle of prohibiting polluting heating systems, but recognise that there is some confusion about dates and when this will happen. Home owners need certainty over when changes are expected and their role in this. Support for advice services will be essential in ensuring that the public are informed and there will need to be substantial investment in local community level engagement and with specialist organisations to ensure that vulnerable households are supported.

2. To what extent do you agree that we should introduce a minimum energy efficiency standard to be met by private sector landlords by the end of 2028 (even if they are already using clean heating)?

Strongly support

Please include any additional comments below.

We welcome the inclusion of the requirement for the private rented sector (PRS) – both landlords and tenants. The earlier date of 2028 is justified in terms of contributing towards the Scottish Government's commitment to eradicate poor energy efficiency as a driver of fuel poverty and its interim target for no more than 15% of fuel poor households by 2030. Fuel Poverty rates for private tenants were 44% in 2022 and improvements cannot come soon enough for tenants. They are overdue.⁵

It is, however, essential that the legislation (and guidance on energy efficiency measures) is published as early as possible to ensure landlords have sufficient time to prepare for compliance. It is difficult to comment on the exact detail of this whilst the outcome of the review of Energy Performance Certificates in Scotland is not known.

3. To what extent do you agree that we should introduce a minimum energy efficiency standard to be met in owner occupied homes (which still have a polluting heating system) by the end of 2033?

Somewhat support

Please include any additional comments below.

We support the concept of a minimum energy efficiency standard for owner occupied homes but are concerned about what impact this will have on already struggling households. The cost of living crisis has deflated domestic finances and the savings of those that had them. There is already over £3bn of domestic energy debt and households wary of taking on finance that could take decades to recover, if at all.

⁵ Tackling Fuel Poverty: A strategic approach, Scottish Government, 2021

If there are to be standards than they need to sensitively introduced with the support of local government and charities. They must be part of a fair and just transition so all people benefit from living in a warm, affordable to heat home. There are risks that households are simply further burdened with unaffordable costs which does not fundamentally improve or reduce fuel poverty rates in Scotland.

4. Do you agree with our proposal to set a minimum energy efficiency standard that can be met by either installing a straightforward list of measures, or showing a good level of energy efficiency based on a reformed EPC fabric efficiency metric?

Somewhat support

Please include any additional comments below.

We are concerned that whilst the intention may have been to provide clarity and certainty with a list of measures that there is a real risk that this becomes the actual and only list of activities that can be achieved or funded, granted or loaned, and that this could then be counterproductive against the achievement of other policy outcomes in areas including health, fuel poverty, child poverty where the delivery of measures against a 'list' fails to achieve maximum outcomes for people.

5. What is your view on the initial proposed list of measures to meet the minimum energy efficiency standard?

Somewhat support

Please include any additional comments below.

We are concerned that whilst the intention may have been to provide clarity and certainty with a list of measures that there is a real risk that this becomes a tick box exercise rather than a rationale consideration about a property and the needs of its occupants. It isn't clear how these activities relate to achieve the levels of warmth and comfort specified in the Fuel Poverty Act and whether as a consequence that this will ensure or not that the enhanced heating regime has been a material consideration.

The exclusion of some measures on the grounds of current affordability issues e.g. external wall insulation seems arbitrary given the relatively high costs of other measures such as some of the clean heating systems. Technology will change over time and there needs to be sufficient flexibility afforded that can allow for innovation and development in retrofit and clean heat.

Therefore, we challenge the Scottish Government to publish how this Bill will connect to other policy areas and legislation. In the consultation for the Heat in Buildings Strategy the Scottish Government identified that there was significant potential for conflict between its fuel poverty and netzero ambitions yet this bill consultation does not address this either explicitly or implicitly.

6. Do you think that properties for which most or all of the measures on the initial proposed list are not relevant should be required to meet an equivalent minimum energy efficiency standard?

a. No – these properties should be considered compliant once they have installed all the measures that are appropriate for their building type, even if this is few or no measures.

b. Yes – they should be required to meet the standard and additional measures should be included on the list (such as solid wall insulation, solid floor insulation and flat roof insulation), and they should be required to install all of these where feasible.

c. Yes – they should be required to meet the standard and additional measures should be included on the list (such as solid wall insulation, solid floor insulation and flat roof insulation), but they should only be required to install some of these where feasible and cost effective.

d. Yes – they should be required to meet the standard and additional measures should be included on the list (such as solid wall insulation, solid floor insulation and flat roof insulation), but they should only be required to install some of these where feasible, and they should be allowed additional time to do so.

Please include any additional comments below.

It is important that homes are subject to professional high quality and detailed on-site surveys which can then lead to targeted and impactful retrofit. People and the benefits derived from retrofit must be at the heart of decision making. Householders should not be left at risk from uncertain outcomes based on flawed survey information. The current variability in quality of EPC surveys is cause for concern and brings risks to householders that should not exist. Where works are carried out these should be done so as to maximise the benefits to households pushing to achieve the highest practicable standards whilst considering affordability.

7. Do you think that an alternative approach to setting the minimum energy efficiency standard is required?

Yes

Please include any additional comments below.

We believe that the most appropriate approach would be meeting the standard through achieving a heat demand/fabric efficiency metric as proposed in the reformed EPC.

We believe that the fabric efficiency metric provides a much greater degree of accuracy and will contribute to a better understanding of our homes – both at a national level for monitoring purposes, but also at the householder level.

We believe that this approach should be encouraged and supported, but that an alternative route to compliance must be considered to take account of the diversity and challenges that our housing stock presents.

8. Do you agree that the use of bioenergy should continue to be permitted in certain circumstances?

Yes it should be permitted for those buildings already using it and for those buildings who have no other clean heating system available including as an alternative to inefficient electric heating systems which are unaffordable to run

Please include any additional comments below.

In principle we support the option of bioenergy where that is a practical and affordable option for households especially those in more remote and rural locations.

9. To what extent do you support the requirement to end the use of polluting heating following a property purchase?

Somewhat support

Please include any additional comments below.

We support the proposal in principle that this trigger could afford but are concerned about the unintended consequences of its implementation.

It may reduce the availability of property for households that may have otherwise considered downsizing. These are typically older households, mortgage free, but may hold off downsizing due to uncertainty caused to them as both buyer and seller.

Similarly where households are affected by falling finances or by family breakdown we are concerned that without careful introduction that this could worsen the economic position of households.

10. We are proposing to give those purchasing a property a 'grace period' to end their use of polluting heating. Do you agree with this proposal?

A) Yes - the grace period should be two years

B) Yes – the grace period should be three years

C) Yes – the grace period should be four years

D) Yes – the grace period should be five years

E) No, please provide reasons for your view.

Please include any additional comments below.

We support providing a grace period to end the use of polluting heating following the purchase of a property. This can allow homeowners and landlords to get advice, quotes, and the best design possible for their home. Households should be encouraged to undertake this work as part of other renovations – so any redecoration or new flooring would take place after the heating system installation. How this is financed is a concern as typically these costs will be substantial and there will need to be flexible financing systems in place to support later expenditure on heating systems.

We believe the grace period should be two years initially to allow the supply chain to grow and for greater public awareness and understanding of the regulations. There should also be consideration about any change of ownership that might occur within any grace period and the implications that has on the consequential purchaser.

11. To what extent do you support our proposal to apply a costcap where people are required to end their use of polluting heating following a property purchase?

Strongly oppose

Please include any additional comments below.

We supports the intention to be fair and pragmatic but we believe a cost cap is a blunt and ineffective tool and will not achieve fairness. Instead, the affordability of meeting the standard should be entirely driven by the needs of the individual property and household circumstances.

A cost cap runs the risk of 'expensive to upgrade' homes or 'hard to reach' individuals being left behind in the clean energy transition. These properties will remain cold, damp, and draughty, placing the occupants in or at risk from fuel poverty.

12. Which of the following methods of applying a cost-cap do you support?

e. Another, please suggest below.

This is a hugely problematic proposal and needs much greater consideration to ensure that properties are not left out based on location which can wildly affect the value of similar constructs. We believe that any cost cap should be determined based on a accurate assessment of what is achievable and affordable relative to the circumstances of the household. This would still enable grant funding to support households where for them it is unaffordable to undertake improvements.

13. To what extent do you support the proposal that the Scottish Ministers should be given powers to extend the circumstances in future (beyond a property purchase) in which people could be required to end their use of polluting heating?

This could be, for example, preventing the installation of new fossil fuel boilers when replacing the heating in your home or business premises?

We strongly support giving Scottish Ministers powers to extend the circumstances in the future in which people could be required to end their use of polluting heating. The current energy driven cost of living crisis and the impact of COVID 19 are both examples of where provisions would have been necessary to prevent risk or harm to households. To enable a route for extension will at least ensure that action can be taken.

Please include any additional comments below.

N/A

14. To what extent do you support our proposal to provide local authorities (and Scottish Ministers) with powers to require buildings within a Heat Network Zone to end their use of polluting heating systems by a given date?

Somewhat support

Please include any additional comments below.

We would welcome the inclusion of this proposal in the Heat in Buildings Bill as it is reasonable to require homeowners (and other buildings owners) to end their use of polluting heat when a viable alternative exists.

However this needs to be genuinely viable within a network which has the capacity to absorb other customers. Equally it is contingent on that heat network providing an affordable form of heating and does not expose households to uncertain or unpredictable energy costs.

The provision of heat to homes via a heat networks may also take some time to be realised.

15. To what extent do you support our proposal to provide powers to local authorities (or Scottish Ministers) that require developers to connect new buildings within Heat Network Zones to a heat network?

Somewhat support

Please include any additional comments below.

This would need a presumption in favour for the infrastructure for district heating to be built into new development planning and for retrofitting to existing properties which may be in an area where district heating is planned or permitted but not yet operational. We support this where heat is provided at an affordable level but remain concerned that this consultation assumes that all heat network provision will be fair and affordable.

16. To what extent do you support our proposal to require occupiers of non-domestic properties to provide information about unused heat on their premises?

Please include any additional comments below.

No comment

17. To what extent do you support our proposal to potentially require buildings with unused heat to provide this to a local heat network?

Strongly support

Please include any additional comments below.

No comment

18. We will need to have a way to monitor if people are meeting the Heat in Buildings Standard, and discussed two options for this. Which do you support?

A combination of the two

Energy Performance Certificates has the potential to provide the information necessary but in itself is insufficient to provide longitudinal data. This could be achieved through an enhanced Scottish House Condition Survey with an increased sample size and comprehensive assessment.

We are concerned about the burden of costs for EPCs being pushed towards owners of properties especially those that already are on the lowest incomes.

The quality of EPCs are also of concern and we advocate for a stronger quality assurance process for assessors with a redress route for householders in the event that standards are not met. As it is householders are expected to find their own assessors as well as installers.

19. We will need to have a way to enforce the Heat in Buildings Standard. We discussed possible options to help achieve compliance. What are your views on these ideas?

d. We support a mixture of the above options.

Local authorities should remain, the primary agencies for enforcement. Scottish Government will need to ensure that there is a financial model that ensures that local authorities have sufficient capacity.

20. To what extent do you support our proposals to modify the Standard or exempt certain people from the need to meet the Heat in Buildings Standard?

Somewhat oppose

Please include any additional comments below.

A key danger here is that being too flexible with exemptions means that ambitions will be reduced and that benefits will not be realised. It is not so much that people should be exempted it is that there must to provision made to ensure that all people can be supported to get the maximum benefit.

21. Which people, businesses, or types of buildings, if any, should be eligible for a modified standard or exemptions?

We understand that there are likely to be technical limitations, which could change with technology or innovation, that could create a need for an exemption. This could apply to historic properties some of which are current domestic properties where there is some requirement for them to be maintained in a certain condition. However there should be a fair process that provides some compensation for households should they be prevented from upgrading property due to exemptions.

22. To what extent do you support our proposals to give certain people extra time to meet the Heat in Buildings Standard?

Somewhat support

Please include any additional comments below.

"We know that everyone's individual circumstances are different, and that our homes and other buildings also vary considerably."

People need to be at the heart of this transformation but there must be flexibility to deal with changing circumstances. It must be sensitive to changes in household circumstances and the issues facing people. This isn't easy but is right and fair.

23. Which people, businesses or types of buildings, if any, should be eligible for extra time?

On-site surveys by suitably qualified / chartered professionals to determine the best options for deep retrofits of buildings are key. This should be the route to determine where additional flexibility is required for a building.

For people this is a more challenging circumstances but needs to involve specialist organisations who work with people whose circumstances might dictate that they need more support and/or time.

Time may also be a constraint when it comes to the availability of people to complete works especially where this may be associated with challenging building types. The availability of suppliers and labour are a consistent concern and cost risk to householders/owners.

24. To what extent do you support our proposal to require all buildings owned by a Scottish public authority to be using clean heating systems by 2038?

Neither support nor oppose

Please include any additional comments below.

Again, we support this in principle, but need to understand how this burden falls across local authorities and in their role as housing providers.

There remain the issues that this might place on historic and architecturally important buildings which may mean consideration for exemption would apply.

25. We are considering the following further duties on public sector organisations to support planning for the transition by 2038:

Creating a new duty for each public body to develop and implement a plan to decarbonise their buildings

Please include any additional comments below.

Public bodies already have significant obligations and requirements to support netzero ambitions but also in other public policy areas. Early restrictive requirements could place unreasonable burdens on public bodies and without an existing plan or inventory of building conditions and plans for all types of owned property it does not appear practical. It should also be noted that public bodies have for sometime been disposing or transferring ownership of assets to other legal entities and it isn't clear what consideration has been given to this.

26. Do you agree with our proposals to include powers in the proposed Heat in Buildings Bill to change the current requirement in legislation for a narrowly-defined renewable heat target?

Please include any additional comments below.

No comment

27. Do you agree that the Heat Networks (Scotland) Act 2021 should be amended in light of the passage of the Energy Act 2023?

Don't know

Please include any additional comments below.

It is impossible to answer this question without knowing anything about what amendments the should be being considered.

We are concerned that recent development in the UK have already weakened legislation important to Scotland in relation to heat networks. The appointment of Ofgem as the regulator and the uncertainty over how it will discharge its responsibility provides for considerable uncertainty.

The Scottish Government introduced a requirement to consider fuel poverty and identifies a role for its Fuel Poverty Advisory Panel which is constituted by the Fuel Poverty Act 2019. This remains important and is an area which we believe must be included, in a similar manner, in the Heat in Building Bill.

Consumer protection across the entire landscape covered by the Heat in Buildings Bill consultation but this must extend beyond the quality of work to areas including overselling of the benefits of making changes to properties. Where households are left paying back debts or where the public purse has invested to bring about change it is important that there is redress where householder expectations have not been met.

28. Are there any further amendments to the Heat Networks (Scotland) Act 2021 that the Scottish Government should consider?

The Scottish Government should consider amending the Heat Networks (Scotland) Act to require new developments that are located within a Heat Network Zone to be "heat network ready".