

A Decent Homes Standard for the Private Rented Sector

Proposed Wokingham Borough Council consultation response

About you

1. In which capacity are you completing these questions?
 - Local Council
2. If responding on behalf of an organisation, please specify which organisation:
 - Wokingham Borough Council
3. If responding as an individual, where do you live? If you are responding as part of an organisation, where are you primarily based?
 - South East

(Questions 4 – 11: N/A)

The Decent Homes Standard

12. Do you support bringing in and enforcing the Decent Homes Standard, as set out above, in the private rented sector?

- Yes
- No
- Don't know

13. How clear is the Standard as set out?

- Very clear
- Quite clear
- Neither clear nor unclear
- Quite unclear
- Very unclear
- Don't know

14. How difficult do you think the Standard will be to meet?

- Very easy
- Quite easy
- Neither easy nor difficult
- Quite difficult
- Very difficult
- Don't know

15. Currently, a property will fail the Decent Homes Standard if a 'key building component' (e.g. wall, window, roof) is both old and in poor condition. Should we change the Standard to remove 'old' so only the condition is relevant?

- Yes
- No
- Don't know

Enforcement of a Decent Homes Standard in the private rented sector

16. Do you think that a landlord's failure to meet the Decent Homes Standards should be a criminal offence?

- Yes
- No
- Unsure/Don't know

17. Should local councils have the option to issue civil penalties or prosecute for Decent Homes Standard offences?

- Local councils should only issue civil penalties
- Local councils should only prosecute
- Local councils should have the option to issue civil penalties or prosecute
- Local councils should not be able to issue civil penalties or prosecute
- Unsure/Don't know

18. Do you think rent repayment orders should be extended to include Decent Homes Standard offences?

- Yes
- No
- Unsure/Don't know

19. Do you think that a landlord's failure to meet their duty to keep a property at Decent Homes Standard should be included as a banning order offence?

- Yes
- No
- Unsure/Don't know

Exemptions from the duty

20. Do you think that local councils should have the discretion to make properties temporarily exempt from the duty to meet the Decent Homes Standard on a case-by-case basis (with regard to statutory guidance)?

- Yes
- No, exemptions should exist but not at the discretion of local councils
- No, there should be no exemptions
- Unsure/Don't know
- Other, please specify [free text]

21. In some instances, carrying out Decent Homes Standard work or repairs without permission would put the landlord in breach of a statutory obligation, such as in the case of listed buildings. We are proposing to exempt landlords where they have attempted to obtain permission to carry out the works and been refused. Do you think it would be appropriate for this exemption to the Decent Homes Standard to be set out in legislation?

- Yes
- No, these should be discretionary exemptions issued by the local council
- No, this should not be an exemption
- Unsure/Don't know

22. Do you think local councils should have the discretion to temporarily exempt a landlord from the duty to meet the Decent Homes Standard where the landlord has bought a property with sitting tenants that does not meet the Standard?

- Yes
- No, this exemption should be set out in legislation
- No, this should not be an exemption
- Unsure/Don't know

23. Do you think local councils should have the discretion to temporarily exempt the personal representatives of a landlord from meeting the Decent Homes Standard where a letting property is under probate?

- Yes

- No, this exemption should be set out in legislation
- No, this should not be an exemption
- Unsure/Don't know

24. Do you think local councils should have the discretion to temporarily exempt an incoming manager from the duty to meet the Decent Homes Standard where a landlord has either lost their HMO licence or is not fit and proper, so a new company or person is managing the property?

- Yes

- No, this exemption should be set out in legislation
- No, this should not be an exemption
- Unsure/Don't know

25. Do you think local councils should have the discretion to temporarily exempt someone from the duty to meet Decent Homes Standard where they are taking over the property on a temporary basis due to the landlord being incapacitated?

- Yes

- No, this exemption should be set out in legislation
- No, this should not be an exemption
- Unsure/Don't know

26. Do you think local councils should have the discretion to temporarily exempt a landlord from the duty to meet the Decent Homes Standard where accidental damages have occurred (e.g. fires, floods, storms, etc.)?

- Yes

- No, this exemption should be set out in legislation
- No, this should not be an exemption
- Unsure/Don't know

27. Do you have any further comments on exemptions from the landlord duty to meet the Standard?

- [free text] – Whilst we support these exemptions, due to the need for the private rented sector to expand rather than shrink where possible, there would need to be very robust statutory guidance (or set out clearly in legislation) regarding these exemptions. This would be to ensure that Councils are clear on where making exemptions is appropriate, so that they can approve these in certain cases, whilst equally ensuring that these are not used as loopholes for private landlords whose properties are not up to the necessary standard.

Responsible person for the landlord duty

28. Who do you think should be responsible for a Decent Homes Standard failure? Please select one or more responses.

- **The immediate landlord** - the person who receives the rent from those living in the property. Although this person has a direct relationship with the tenants they may not have sufficient control over the property to ensure it meets the Decent Homes Standard.
- **The person with “control” over the property** - this may not be the immediate landlord if in order to comply with the Decent Homes Standard they need consent from a superior landlord. A person would have “control” if they can make decisions about the property to ensure the Decent Homes Standard is met without having to seek consent from a superior leaseholder or freeholder.
- **The freeholder of the property or the leaseholder with a lease of more than 21 years** - which party is responsible for the relevant criterion of the Decent Homes Standard will depend on the rights and responsibilities as set out in the terms of individual leases.
- **Other** [free text] – Where relevant, there needs to be mutual agreement between all three of these parties in terms of responsibility. If the immediate landlord is not responsible in any particular case, then it needs to be clear as to who else is responsible instead.

Registering Decent Homes Standard compliance on the Property Portal

29. Do you think that landlords should use the Property Portal to register Decent Homes Standard compliance of their properties or record where there is an agreed exemption?

- **Yes**
- No
- Unsure/Don't know

(30. Tenants only)

- Not applicable

31. Do you think it should be an offence to provide false or misleading information regarding Decent Homes Standard compliance and exemptions?

- Yes
- No
- Unsure/Don't know

32. Duplicative burdens on landlords at local and national level are undesirable where they can be avoided. We want to work with local councils and other stakeholders to ensure that the transition to a Privately Rented Property Portal is as seamless as possible, including looking at how it can integrate with licensing schemes where practicable. We will also work to streamline requirements for landlords, such as by working with BEIS on synchronising guidance on minimum energy efficiency. It is imperative that the system meets the needs of landlords, tenants, agents and local councils. Please share thoughts on how we can streamline requirements and support compliance.

- [free text] – Whilst we would support the suggestion that landlords register their properties on the Property Portal, this would be on the condition that it does not involve duplication of work which landlords already do, as it will constitute an additional burden on landlords. Landlords already have significant burdens in terms of electrical safety regulations, EPC ratings and other legislation and liabilities, with S21s also having an impact on landlords. As well as no duplication, it would be important that landlords are clear on what the required information on the portal will be, how it will be kept up to date, who will have access to it and so on. The expansion and encouragement of growth in the private rented sector is a strategic priority of the Council's – therefore, it is of great importance that any new duties for landlords are non-duplicative and do not discourage reputable landlords from having properties in the private rented sector.

Duty on local councils to investigate Decent Homes Standard complaints and report on enforcement action

33. Do you think local councils should have a duty to investigate complaints of properties that fail to meet the Standard in their area?

- Yes
- No

- Unsure/Don't know

34. Should local councils be required to report activity related to addressing properties that fail to meet the Standard in their area?

- Yes
- No
- Unsure/Don't know

35. If local councils were required to report their Decent Homes Standard activity, to whom should they provide the information?

- To their local community
- To central government
- Both their local community and central government
- Unsure/Don't know

36. [For local councils only] How important would standalone enforcement guidance be to assist local councils in enforcing the Decent Homes Standard?

- Very important
- Moderately important
- Not important
- Unsure/Don't know
- Not applicable

37. Do you have any further comments on the proposal to put a duty on local councils?

- [Free text] – The proposal to put a duty on local councils will have resource implications for local authorities, therefore, further funding should be made available for this.

Additionally, in order to ensure clarity on the new Standard, it should be made clear as to how it will interact with the existing tools in the Housing Act which Councils use to determine suitability of housing and take action where the existing standards are not met. In particular, clear guidance should be given as to how this new Standard should be used in relation to the existing Housing, Health and Safety Rating System. This will be important to guide local authorities on implementation of the new Standard and on understanding the added value of the new Standard compared to existing practice.

Provide local councils with powers to remedy properties that do not meet the Standard

38. Do you think Decent Homes Standard failure awareness notices are a useful part of Decent Homes Standard enforcement?

- Yes, they are useful
- No, they are not useful
- Unsure/Don't know

39. Do you think local councils should have the power to serve Decent Homes Standard improvement notices?

- Yes
- No
- Unsure/Don't know

40. Do you think local councils should have the power to undertake emergency remedial works?

- Yes
- No
- Unsure/Don't know

41. Do you think local councils should have the power to issue Decent Homes Standard failure prohibition orders?

- Yes
- No
- Unsure/Don't know

Clarify in legislation that landlords do not have a right to attend local council inspections

42. Should we amend legislation to make it explicit that a landlord does not have a right to attend inspections [by virtue of receiving notice to that effect]?

- Yes
- No
- Unsure/Don't know

Providing advice on decency

43. Do you think that there is a role for other providers (not just the local council) in providing advice to landlords on whether their properties meet the Decent Homes Standard?

- Yes
- No
- Unsure/Don't know

44. Do you think local councils have a role in providing advice to landlords on pre-emptive work to prevent properties failing to meet the Standard in the near future?

- Yes
- No
- Unsure/Don't know

45. Where local councils provide this advice, should they be able to charge for this service?

- Yes
- No
- Unsure/Don't know

Scope of application of the Decent Homes Standard

46. Should the Decent Homes Standard apply to all privately rented accommodation let on a tenancy?

- Yes
- No
- Unsure/Don't know

47. Should the Decent Homes Standard apply to residential temporary accommodation provided by local councils to homeless households?

- Yes
- No
- Unsure/Don't know

48. Should the Decent Homes Standard apply to purpose-built student accommodation (e.g. halls of residence owned by universities or other providers)?

- Yes
- No
- Unsure/Don't know

49. Should the Decent Homes Standard apply to property guardians, where empty buildings are temporarily used for accommodation to provide security?

- Yes
- No
- Unsure/Don't know

50. Should the Decent Homes Standard apply to lodgers, where a tenant lives in the property with the landlord?

- Yes
- No
- Unsure/Don't know

51. Should the Decent Homes Standard apply to non-traditional accommodation such as house boats or caravans?

- Yes
- No
- Unsure/Don't know

52. Should the Decent Homes Standard apply to 'tied' accommodation, which is where an individual is required to or has the option to live in certain accommodation for the purpose of their employment?

- Yes
- No
- Unsure/Don't know

53. Should the Decent Homes Standard apply to farm business tenancies and agricultural holdings?

- Yes
- No
- Unsure/Don't know

54. Do you have any other comments on the scope of the Decent Homes Standard, including other types of accommodation that you think should or should not be included in scope?

- [Free text] – On Q51, given that Building Regulation requirements and the Housing Act 2004 part 1 (having regard to the definition of a dwelling –

Housing Act 2004 s1(5)) do not apply to non-traditional properties such as caravans and house boats, criteria A (and possibly others) would have to be specifically defined and subsequent necessary guidance provided. This would be in order to take account of the limitations in non-traditional construction, such as considerations relating to heating and space, and the fact that Category 1 hazards cannot be identified using the HHSRS.

Clarification would also be required on Q49, Q52 and Q53.

In terms of Q49, it would need to be clarified as to whether this means awake security, or someone sleeping (and using as if a dwelling), or alternatively someone resting/sleeping at a workplace.

In terms of Q53, similar issues apply, as to whether there will be a distinction as to the main/only address of occupiers and whether it is a workplace or a dwelling (it can be very difficult to prove that a property is a main address of an occupier). Therefore, clarification would be needed here.

In terms of Q52, clarification would also be needed here for similar reasons again.

Impacts and costs

55. What do you think will be the main impacts from bringing in a Decent Homes Standard in the private rented sector for both tenants and landlords? Please provide any evidence and further comments on impacts in the free text box.

- Improved tenant/landlord relationship
- Fairer competition in the rental market
- Improved health for tenants
- Improved wellbeing for tenants
- Increase in tenants' pride in their home
- Improved communities
- Financial cost for landlords to make changes
- Landlords reducing their portfolio size
- Increased rents
- Increased property values
- Disruption for tenants whilst works are being undertaken
- Disruption for landlord whilst works are being undertaken
- Other (if you have evidence or further thoughts, please include here) [free text] – Financial impact on Council through landlords reducing their portfolio size and additional required duties for Councils relating to the Standard

56. There are risks that bringing in the Decent Homes Standard means landlords exit the market or that they pass costs on to tenants. Which of the below would you support to mitigate the risks of any negative impacts of introducing a Decent Homes Standard in the private rented sector? Choose as many as you would like.

- Cost caps
- Extended implementation timeline
- None
- Other [free text] – Whilst cost caps and an extended implementation timeline would help mitigate negative impacts to an extent, significant additional thought is needed on mitigation. This is because the introduction of this standard will cause associated costs to go to tenants and local authorities, with landlords likely to reduce their portfolios through the additional pressures it will bring, as these will reduce the financial viability and attractiveness of having properties in the private rented sector. The cost of the loss of each private rental property will be significant to local authorities.

An examination of the current information which landlords are required to provide to tenants at the start of their tenancy, with the end of ensuring no duplication in the new proposed Standard, would be helpful. It should be ensured that all of the proposed new information required will be actively useful to tenants, as well as not too much of a burden on landlords. This should help to ensure the decency of accommodation in the private rented sector, whilst also retaining reputable landlords.

It is important that local authorities can continue to follow their strategic objectives and fit in with their local plan, alongside the introduction of this Standard. In authorities such as Wokingham Borough Council, where the increase of private rented accommodation supply is a strategic objective, it is important that councils can continue to prioritise this approach. This means ensuring that the Standard is introduced and designed in such a way that it will not put off reputable landlords whose accommodation is up to standard for the private rented sector. Wokingham Borough Council wants to see both the improvement of standards at the same time as the growth of the private rented sector.

57. To what extent would you support bringing in a cost cap on criteria B, C and D of the Standard (e.g. on the non-safety elements of the Standard)?

- Strongly supportive
- Quite supportive
- Neither supportive nor unsupportive
- Quite unsupportive
- Strongly unsupportive
- Unsure/Don't know

Transitioning to the Standard

58. Do you think there should be a transitional 'grace' period before the Decent Homes Standard becomes a requirement, and when enforcement action can be taken?

- Yes, there should be a grace period
- No, there should be no grace period
- Unsure/Don't know

59. If there were to be a grace period, what length of grace period should there be before the Decent Homes Standard becomes a requirement?

- Less than 12 months
- 12 months
- 18 months
- Longer than 18 months
- There should not be a grace period
- Unsure/Don't know

60. Do you think that we should phase in parts of the Standard. For example, to bring in criteria A and B in the first instance, before including criteria C and D at a future point

- Yes, the elements of the Standard should be phased
- No, all elements of the Standard should come in at the same time.
- Unsure/don't know

61. If elements of the Standard were to be phased in, please rank the order you would want them to be brought in from first to last.

- Criterion A: It meets the current statutory minimum standard for housing
- Criterion B: It is in a reasonable state of repair
- Criterion C: It has reasonable facilities and services
- Criterion D: It has a reasonable degree of thermal comfort

62. If elements of the Standard were to be phased in, how long would you like to see between phases?

- Less than 6 months
- 6-12 months
- 12-18 months
- More than 18 months
- There should not be any phasing

- Unsure/don't know