**Advice Note: Energy Performance Certificates and PCC properties**

Introduction:

The Minimum Energy Efficiency Standards Regulations 2015 require buildings in England and Wales that are rented out to have a minimum energy efficiency rating of E.

PCCs are likely to be subject to the Regulations where:

* They have granted a lease of a church hall or other church building for a non-worship use; or
* They have granted an assured shorthold tenancy of a residential property (other than to clergy for the performance of their duties).

Properties should be reviewed to establish whether any leases, or similar arrangements, have been granted that fall within the Regulations. If so, the affected property will need an energy performance certificate (an EPC) with a rating of at least E and this should be obtained as soon as possible. An EPC is valid for 10 years, but a new EPC may be needed if alterations are made to the property.

Energy efficiency improvements may be needed to bring the property up to the minimum E rating. A PCC should take professional advice on any proposed improvements to ensure that they will have the desired result. A faculty will be needed for alterations to most buildings which are subject to faculty jurisdiction, though some works may fall within List A or List B – if in doubt, the DAC officers can advise further. Please note that proposed improvements may still need planning permission and other statutory consents.

From 1April 2023 it will be unlawful for a landlord to grant or renew a lease of a non-domestic property, or to continue an existing lease of a non-domestic property, unless it has an EPC rating of at least E. An existing lease of a “sub-standard” property will not be invalidated but the landlord will have to carry out energy efficiency improvements or face enforcement action (unless an exemption applies).

Domestic (i.e. residential) properties must already have an energy efficiency rating of at least E before they can be let.

Penalties for non-compliance:

Possible penalties for non-compliance include a substantial fine (based on the rateable value of the property but with a minimum of £5,000 and, potentially, up to £150,000) and recording in a public register.

Exemptions:

* The building is officially protected as part of a designated environment or, because of its special architectural or historic merit, compliance with certain minimum energy efficiency requirements would unacceptably alter its character or appearance.
	+ Please note that listed buildings and buildings in conservation areas are not automatically exempt.
* Religious use – where the building is used as a place of worship and for religious activities.
	+ Please note that a lease which is for a purpose other than the above would not be exempt.
* The building is stand-alone with a total useful floor area of less than 50m².
* ‘All improvements made’ - all energy efficiency improvements which can be made having spent (currently) at least £3,500 (including VAT) have been made but the property still cannot obtain an E rating.
* ‘High-cost’ – where even the cheapest recommended improvement would exceed the current cap of £3,500 (including VAT).
* ‘No improvements possible’ - the building has an EPC rating of less than E and there are no improvements which can be made.
* Wall insulation – applies where the only relevant improvements to be made are cavity wall insulation, external wall insulation or internal wall insulation (for external walls) and the landlord has obtained written expert advice showing that these measures would negatively impact the fabric/structure of the property.
* ‘Seven year payback’ – the energy efficiency improvements that could be made would not pay for themselves through energy savings within seven years. The Government has provided guidance as to how this is calculated.
* ‘Property devaluation’ – if an independent surveyor (on the RCIS register) reports that the energy efficiency improvements would devalue the property by more than 5%.
* ‘Consent withheld’ – the tenant has withheld consent to the energy efficiency improvements to be undertaken. Documentation confirming that consent was required, sought and refused must be submitted. The landlord will need to try to improve the EPC rating again if the tenant leaves the property before the five year exemption period ends.

An exemption must be registered on the Exemptions Register. Some of the exemptions only last for five years and the landowner will then need to try and improve the property’s energy efficiency rating again.

Some transactions fall outside the scope of the Regulations – e.g. a lease granted for a term of 99 years or more, or (where the tenant has not previously occupied the premises) a very short lease for 6 months or less. Government guidance also suggests that a licence to occupy is unlikely to be covered by the Regulations.

A building used as a place of worship or for religious activities does not fall within the Regulations. But an EPC may be needed if a church hall or other PCC building is also used for another use, such as a nursery or other community use.

Responsibility for compliance:

The PCC or the vicar and churchwardens, as managing trustees of their properties, are required to comply with the Regulations. The PCC will need to pay the cost of carrying out any recommended energy efficiency improvements unless the cost can be recovered from the tenant.

Increasing a property’s energy efficiency will reduce its emissions in furtherance of the Church of England’s goal of achieving carbon net zero. Improvements may also increase a property’s value.

Action to be taken:

PCCs should check whether their buildings could fall within the scope of the Regulations and, if so, whether there is a valid EPC in place with an energy efficiency rating of E or above. Improvement work may be required if the energy efficiency rating of an existing EPC is F or G. An EPC should be obtained where none exists and, again, improvement work may be required to achieve a rating of at least E.

Professional advice should be sought as soon as possible if a PCC has any queries as to whether an EPC is required for an existing lease or other occupational arrangement.

Please remember that after 1 April 2023 a PCC cannot lawfully continue to let a non-domestic property which has an efficiency rating of less than E unless an exemption applies.

Where a letting agency manages a residential property for a PCC, the letting agency should have obtained an appropriate EPC with an energy efficiency rating of at least E before the property was let. This should be confirmed with the agency. Where a PCC manages a residential property itself and there is no appropriate EPC in place, the PCC should arrange to have the property assessed as soon as possible.

Future changes:

The Government’s intention is that there will be phased increases in the required minimum energy efficiency ratings in future years so that by 1April 2030 all properties will require a rating of at least B. The results of a recent Government consultation on possible increased requirements have not yet been published.

Government guidance

Further details are available here:

You can check the Government register by reference to property address and postcode to see if a property has an EPC: <https://www.gov.uk/find-energy-certificate>

Domestic property: <https://www.gov.uk/guidance/domestic-private-rented-property-minimum-energy-efficiency-standard-landlord-guidance>

Non-domestic property: <https://www.gov.uk/government/publications/non-domestic-private-rented-property-minimum-energy-efficiency-standard-landlord-guidance>

Link to finding an energy assessor: <https://getting-new-energy-certificate.service.gov.uk/find-an-assessor/type-of-property>

Listed buildings and buildings in conservation areas are more complicated. Government guidance can be found at: <https://historicengland.org.uk/advice/your-home/saving-energy/energy-performance-regulations/>

Diocesan support

If you have any further questions, please contact the DAC office in the first instance. Staff will be able to advise further or direct your query appropriately.

To contact the DAC office, email:

dac@leeds.anglican.org

or contact the Team Coordinator, Rob Andrews:

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