

**Minutes of 32<sup>nd</sup> Meeting of the Supervisory Panel**  
**Renewable Energy Consumer Code**  
**Wednesday 18 June 2014**

**Present:**

David Laird (Chair)

Bryn Aldridge - Former Director of Trading Standards and Veterinary Services for the City of London

Walter Carlton – Deloitte

David Frise - B & ES

Heather Kerr - MCS

Jim Thornycroft - Independent Solar PV expert

Chris Wood – Ofgem (Observer)

**In attendance:**

Samantha Bourne - RECC

Mark Cutler - RECC

Sarah Rubinson - RECC

Abena Simpey - RECC (minutes)

**Apologies:**

Alistair Boon – DECC (Observer)

Gretel Jones - Independent Social Issues Expert

Liz Laine - Citizens Advice

Dave Sowden - Sustainable Energy Association

**1. Welcome, Introduction and Apologies**

The Chair welcomed attendees to the 32<sup>nd</sup> meeting of the Supervisory Panel. Panel Members introduced themselves and noted apologies for absence.

**2. Minutes of the 31<sup>st</sup> Supervisory Panel Meeting**

Panel Members agreed the Minutes of the 31<sup>st</sup> Supervisory Panel Meeting as being an accurate record of the meeting.

**3. Matters Arising**

The Executive ran through the matters arising from the Summary of Actions from the 31<sup>th</sup> Meeting.

The Executive informed the Panel that any suggestions they had for the RECC Newsletter were welcome. Panel members agreed that the Newsletter was a useful resource for members, stakeholders and auditors. Panel members noted that the MCS Licensee encouraged feedback from certified installers by means of a survey containing a range of general questions. MCS sent installers

a £50 voucher to encourage them to respond. Panel members requested further details about this to be presented at the next meeting.

Panel members enquired whether auditors had ever been invited to attend Panel Meetings. They suggested it would be useful to have an auditor's input in order for them better to gain an understanding of the audit process. The Executive explained that there was a regular Auditor's Roundtable where auditors met separately. Sue Bloomfield, one of the independent auditors, had attended Panel Meetings in the past. The Executive proposed that she or another independent auditor could be invited to attend the next Panel meeting. Further, if the Panel ever required specific information about audits, this could be obtained. Panel members agreed that an auditor should be invited to the next Meeting.

The Executive confirmed that the Panel Activity Plan had been circulated to Panel members. The Executive showed Panel members the RECC website which had been updated to include a section on the Domestic RHI. Panel members noted the useful information on qualifying technologies and the Domestic RHI tariff rates.

The Executive confirmed that the revised Bye-Laws, which Panel members had previously commented on at two meetings, had finally been posted on the RECC website in May.

The Executive reported that the guidance documents for heat pumps had been posted on the RECC website; that the biomass guidance documents were due to be completed within the next month; and that it would be followed thereafter by the guidance documents for solar thermal.

The Executive reported that the Annual Report had been delayed, but that it would be provided to the next Panel Meeting before being sent to the Trading Standards Institute (TSI).

The Executive reported that the paper on compliance enforcement had yet to be completed, but that it would be circulated to Panel members before the next Panel meeting. The Executive explained that, because the Bye-Laws had recently changed, there would be some changes to the compliance enforcement procedures and these would need to be incorporated into the paper. One example was the introduction of Consent Orders which could now be sent at an earlier stage to a member suspected of breaching the Code in one or more ways. The Executive reported that a new member of staff had been recruited to work on the early stages of compliance enforcement.

The Executive reported that the paper on the pros and cons of charging for complaint-handling would be provided to the next Panel meeting.

The Executive informed Panel members that TSI's discussions on multiple codes in the same sector were ongoing. The (then) Energy Minister, Greg Barker MP, had met Chair of the Consumer Code Advisory Board (CCAB), Baroness Crawley, to discuss how multiple codes could operate in the small-scale generation sector without standards of consumer protection diminishing. The two had agreed that a representative from DECC and MCS should attend the next CCAB meeting in July to advise CCAB members on the particular issues relating to the sector. Three codes had expressed interest in TSI approval: Home Insulation and Energy Services Contractors (HIES), Glass and Glazing Federation

(GGF) and the Double Glazing and Conservatories Ombudsman. The first of these had applied for Stage One Approval. The code had been considered by the TSI Consumer Advisory Panel, but had yet to be put before the CCAB.

Panel members voiced their general concern that multiple codes could lead to consumer confusion and diminishing standards within the sector: a business may decide to move to a different code if they perceived it had a lower level and cost of enforcement, particularly if they had non-compliance issues or registered complaints. Panel members concluded that the focus must be on consumer protection with a co-ordinated action plan for taking the matter forward.

Panel members requested a meeting with the Executive to encourage debate among those involved as to how best they could put their views forward to TSI and in particular members of CCAB. They suggested that the upcoming TSI conference would provide a chance for RECC to present its concerns to TSI and other stakeholders. Panel members suggested that a range of bodies could engage in co-ordinated action to lobby the CCAB, using the consultation as a process for doing this.

#### **4. Highlight Report**

The Executive explained the structure of Renewable Energy Assurance Ltd (REAL) including its work on different Certification Schemes and Consumer Codes. Panel members reviewed the Highlight Report and outlined key RECC outcomes since March 2014.

Panel members pointed out that the Highlight Report did not show comparative statistics from the same period the previous year. The Executive agreed that this task would be completed for the next Panel meeting. Panel members requested year-on-year figures together with explanatory detail.

Panel members noted that, while the charts in the highlight report were very useful, they requested that they be supplemented for the next Panel meeting with explanatory text, especially for complaints and membership.

#### *Membership*

The Executive reported that there were around 3,700 RECC members at present, with 1,000 members having left the Code at the start of 2014. The launch of the Domestic RHI had led to a steady increase in the number of applications received, and 200 new members had been added during 2014 to date. The Executive reported that one in five of these had been spot (compliance) checked based on a variety of risk criteria.

Panel members were reminded of the context in which RECC membership had increased significantly in 2009 when the Feed-in Tariff and Renewable Heat Incentive had first been announced; and increased again in 2010 when the Feed-In Tariff had gone live. RECC membership had reached its highest level of 5,500 in 2011 at the time that the dramatic reduction in the Feed-In Tariff had been announced, as installers and consumers rushed to beat the deadline.

Panel members asked what happened in the case of members who did not renew but requested that their membership be reinstated later in the year. The Executive confirmed that such businesses were required to re-apply and to pay the full year's membership fee, in line with the Bye-Laws.

The Executive explained that the membership category and thus the membership fee was dependent on the number of employees, including self-employed. This number was verified through audit visits. RECC published membership categories on its website and on its membership certificates. Panel members noted that the majority of members fell within the 1-6 employees' category and enquired as to whether the number of contracts signed or installations undertaken was ever checked. The Executive confirmed that cross-checks were carried out in order to verify the categories. Members were required to inform RECC of any change to the information provided in the application form and published on the RECC website.

### *Monitoring*

The Executive explained that the 9<sup>th</sup> audit round was expected to start in the middle of 2014. Statistics were presented comparing the outcome of the 8<sup>th</sup> audit round with the 7<sup>th</sup> audit round. During the 7<sup>th</sup> round, 191 members had been selected for audit, 74 of which did not proceed for a variety of reasons and 113 of which had been completed. For the 8<sup>th</sup> round, 134 members had been selected for audit, 47 of which did not proceed while 93 had been completed. The Executive explained that it could take up to 12 weeks for the audit follow-up to be completed.

Panel members noted that the number of audits which did not go ahead was quite high in both rounds and suggested that in the future a higher number of members should be selected for audit, to allow for members dropping out. Panel members questioned the Executive on situations where links were found between different members being audited. The Executive confirmed that, where links or patterns were found between members, the issues were identified and followed up. Panel members requested that they be informed of any pattern developing of businesses joining the Code, but leaving before they were due for an audit.

The Executive explained that they were working on a revised Monitoring Strategy with TSI it would be provided to the next Panel Meeting.

Panel members queried whether there was a notable difference between the members selected based on risk and those selected at random. They asked to see a comparison between the two. Lastly, Panel members enquired whether there were situations in which a desk-based audit had indicated that a member was compliant, but an audit visit had revealed otherwise. The Executive reported that there had been higher negative scores overall in the 8th round, but that was probably due to the fact that the sample had been more risk-based and that there had been some additions to the audit questionnaire.

The Executive confirmed that a comprehensive training resource was available on the RECC website in the 'Members' Section', and that the model documents were also freely available on the website. These resources had been designed to assist members to comply with the Code.

### *Independent Panels*

The Executive reported that the Independent Applications Panel had met six times during the three months March to May 2014 with a total of ten applications having been considered. Six applications had been rejected, two accepted unconditionally, one accepted subject to some conditions and one returned to RECC in the light of new information having emerged. The Bye-Laws had been amended so that the Panel's procedures and sanctions were now clearer.

The Executive explained that the Non-Compliance Panel had met twice during the three months March to May this year, and that, as a result, there had been two Non-Compliance Panel Hearings. In one of these the Panel had decided that the member's membership should be terminated and, in the other, that the member's membership should continue subject to conditions. There had been one Appeals Panel Hearing at which the earlier Non-Compliance Panel Hearing Determination that was the subject of the appeal had been upheld.

Panel members noted that, while the tables showing the number of Application Panel meetings and Hearings were very useful, they did not require graphs as well since they did not add to the statistics.

### *Complaints*

The Executive reported that there had been 268 complaints registered during the period March to May 2014: 139 complaints had been logged as feedback, 34 had been referred to MCS Certification Bodies and 90 complaints would be handled by RECC. The Executive reminded Panel members that feedback complaints were those in which RECC received information about a member's practices, from a consumer, a non-member or a different member which did not require redress.

The Executive reported that there were 166 ongoing complaints and that the backlog in complaints being allocated to complaint-handlers had decreased to around 8 weeks. Panel members noted that, in situations where complaint handlers had failed to resolve a complaint through mediation, the final stage of the complaints procedure was independent arbitration for which the consumer and member would each be required to pay a fee of £100 plus VAT while RECC would pay the balance of £150 plus VAT. The Executive explained that independent conciliation was no longer offered since it did not add much to the existing procedure, and was not required by TSI's core criteria.

Panel members requested more information about complaints noted as closed while still unresolved; and further statistics about the reasons for the backlog, to be provided to the next Meeting. Panel members also requested further clarification as to how often a consumer or member had their fee refunded. Panel members suggested that, where the member does not succeed at arbitration, they should also be required to refund RECC its £150 element of the fee. They suggested that this might encourage members to resolve complaints before reaching arbitration. Failure to refund the fee could be a factor when considering as a breach of the Bye-Laws. The Panel noted that RECC now encouraged consumers to use arbitration if a complaint handler had failed to resolve the complaint after 8 weeks' mediation.

## **5. Complaints Database demonstration**

The Executive demonstrated the Complaints Database which is now stored remotely and accessible through the website. The Executive took Panel members through: the new format for the complaint form; information on how to complain; the declarations consumers need to make before registering a complaint; the summary of the complaint, the outcome the consumer was seeking and the search functions. The Executive explained that 30,000 files had been successfully transferred from the old database which had been a huge undertaking.

The Executive explained that a member of the Complaints Team was responsible for checking new online complaints each day, and allocating a status to them: ongoing, referred onwards, feedback or non-domestic. The Executive explained that new complaints could also be added manually, new activities added, a complaint report generated, and that data could be transposed into an Excel file. There were currently 166 ongoing complaints, the majority about solar PV with biomass and heat pumps representing a smaller percentage (although the number of complaints about air source heat pumps was steadily increasing).

Panel members were pleased to see new database operating well. They queried how non-domestic complaints were categorised and handled and whether there was a system size limit for MCS. By way of response the Executive explained that there were definitions of a domestic consumer in the Bye-Laws, in legislation and in the MCS installer standard. RECC had set up a separate independent arbitration scheme for small commercial consumers, known as the Micro-Business Arbitration Service. Panel members saw an example from the complaints database of a case in which a complaint had been successfully resolved through mediation.

David Frise suggested that, where a system exceeded the size limit for MCS, RECC could consider referring the complaint to B&ES as they have the expertise in this area. He agreed to provide further details about this option.

Panel members asked about security for the Complaints Database. The Executive explained that the Database was robust, and that a security policy was in place allowing external Complaint Handlers to have access to the Database in order to carry out their mediation work.

## **6. Proposed amendments to the Code**

The Panel Members considered the proposed amendments to the Code. They agreed that they would send their comments individually following the meeting. They noted that they would be required to adopt the revised Code once TSI had considered the amendments.

## **7. Legislative Changes**

The Executive reported that as of 13 June the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 came into force. The new legislation requires all businesses to provide information to consumers wherever a contract is signed. This means that members must

now set out the delivery and installation date, any additional delivery charges and their complaints handling policy.

The Regulations also replace the 'distance' and 'doorstep' selling Regulations. The main changes for RECC members that sell in a consumer's home or place of work are:

1. The cooling off period increases from 7 to 14 days. For contracts including both goods and services the cooling off period extends to 14 days after the day on which the last part of the goods is delivered.
2. Members must provide consumers with the cancellation form exactly as set out in the Regulations.
3. If a consumer cancels the contract during the cooling off period members must return all funds to the consumer within 14 days.
4. The installation can take place within the cooling off period but only with the consumer's express written request. This means that the consumer must have requested in writing that the installation to take place within the cooling off period. Merely ticking a box or signing a pro forma request may not be acceptable.
5. If the consumer has expressly requested that the installation take place within the cooling off period the member may retain the cost of any such services.
6. If a consumer cancels the main contract then all linked (or 'ancillary') contracts – not just credit agreements - will automatically be terminated.
7. Members may only take any additional payments if the consumer first gives express written consent.
8. Members cannot levy any above-cost surcharges on consumers for using payment cards or other payment methods.

The Panel expressed concern that the 14 days starts from the date of delivery especially for heat pump installations as the member would need to carry out a lot of work before the installation and if the consumer decided to cancel, it could prove to be difficult for the member. The Panel noted that members can charge for work completed if the consumer has given their express written consent for the work to go ahead. The Panel noted that RECC would amend its guidance, model contracts and cancellation forms. The Executive reported that it was also seeking advice from Sough Borough Council.

The Panel enquired whether the change of consumer credit regulator from the OFT to the FCA would have any impact on members' registration for credit licences. The Executive informed the Panel that further guidance was being prepared and would be provided following meetings with FCA and some of the credit providers.

## **8. Supervisory Panel Activity Plan 2014**

Panel members welcomed the Panel Activity Plan. They requested that promotion of the Code should be on the agenda for the next Panel Meeting, with a view to agreeing more co-ordinated promotion.

#### **9. Date of next meeting and any other business**

The Chair confirmed that the date for the next Panel Meeting will be **Wednesday 17 September** at 1.30 p.m. The following Panel Meeting would be held on **Wednesday, 10 December** at 1.30 p.m. There being no further business the Chair closed the Meeting and thanked Panel members for attending.