

**The Renewable Energy Consumer Code
Non-Compliance Panel Hearing**

In the matter of

DHS Renewables Ltd

held on

22nd March 2017

at

1 Wood Street, London, EC2V 7WS

Panel Members:

Mr Keith Richards (Chair)

Ms Elizabeth Stallibrass

Ms Amanda McIntyre

In attendance:

Ms Grace Blackwood (Panel Secretary)

Renewable Energy Consumer Code (“the Executive”) representation:

Ms Lorraine Haskell (RECC Panel Liaison Manager)

Ms Rebecca Robbins (RECC Compliance Manager)

DHS Renewables Ltd (“the Member”) representation:

Mr Joe Searle (Director)

Mr Alexander Jeffery (Director)

1. The Charges

1.1 The Member is alleged to have been in breach of Clause 8.5.4 of the Bye-Laws (“the Bye-Laws”), which states “Where the Executive has invited the Code Member to agree to a Consent Order in accordance with this clause 8 and the Code Member has:... agreed to the Consent Order but has subsequently failed to comply with any of its terms, the Executive may convene a Hearing of the Non-Compliance Panel in accordance with clause 10.6 where the Executive considers this to be necessary and appropriate.” Evidence of a breach of clause 8.5.4 of the Bye-Laws comes from complaints 8227, 8236, 8311, 8446, 8582, 8593, 8627, 8648, 8695, 8794 and 8815.

1.2 The Member is alleged to have been in breach of Section 6.2 of the Renewable Energy Consumer Code, (“the Code”), which states “In the event that a Consumer cancels the Contract within the Cancellation Period, Code Members must refund any money to the Consumer within 14 days.” Evidence of a breach of this section of the Code comes from complaints 8227, 8236, 8311, 8446, 8582, 8593, 8627, 8648, 8695, 8794 and 8815.

1.3 The Member is alleged to have been in breach of Section 9.1 of the Code’ which states that

- “1. The Consumer must inform the Code Member he or she agreed the Contract in writing with about any dispute they have as soon as possible after they have first noticed the problem;
2. The Code Member will consider the details of the dispute and report the findings clearly to the Consumer within ten working days of being notified about the dispute;
3. If appropriate, the Code Member will arrange to inspect the Consumer’s system, within seven days of being notified about the dispute, and within 24 hours of being notified about the dispute where a Consumer is without heating or hot water as a result of the situation that has led to the dispute;
4. The Code Member will try to find an agreed course of action to resolve the dispute speedily and effectively to the Consumer’s satisfaction.”

Evidence of a breach of this section of the Code comes from complaints 8227, 8236, 8311, 8582, 8593, 8627, 8631, 8648, 8695, 8720, 8794 and 8815.

1.4 The Member is alleged to have been in breach of Section 4 of the Code which states “Code Members will not act in any way that might bring the Code into disrepute.” Evidence of a breach of clause 8.5.4 of the Bye-Laws, and breaches of sections 6.2 and 9.1 of the Code, all contribute to evidence of a breach of section 4 of the Code as well.

2. Determination of facts and breaches

2.1 Ms Lorraine Haskell, RECC Panels Liaison Manager, represented the Executive. Mr Joe Searle, a Director of DHS Renewables Ltd, represented the Member.

2.2 Mr Searle admitted the facts relating to all of the charges. The Panel found the facts proved.

2.3 Ms Haskell outlined the background which had led to the signing of the Consent Order on 22nd August 2016 (“the Consent Order”). She stated that there was a pattern of non-compliance and referred to the large number of complaints received by RECC. There was a consistency in the type of complaints both before and after the signing of the Consent Order by the Member. There had been sixty-five complaints since the Member joined RECC in 2014. For the purposes of this Hearing, Ms Haskell was relying on the fifteen new complaints received since the signing of the Consent Order.

2.4 Ms Haskell took the Panel through the charges individually. She referred to some evidence in detail but acknowledged that RECC would not be relying on all the evidence in the bundle, as not all of it was relevant to the charges.

2.5 Mr Searle told the Panel that the company was four years old and had been a member of RECC for three years. In that time it has been audited once by RECC and he said he would have expected more practical assistance from the Executive. The Member signed the Consent Order with the intention of complying but said that the company was dealing with factors both inside and outside their control, including financial difficulties. He explained that the Member had subsequently caught up with its refund process.

2.6 The Panel considered each of the charges in turn, having considered all the written and oral evidence (including the additional evidence presented at the Hearing).

2.7 Clause 8.5.4 of the Bye-Laws

The Panel was unable to find a breach of this Bye-Law because clause 8.5 of the Bye-Laws is procedural and allows the Executive to convene a Non-Compliance Hearing.

2.8 Section 6.2 of the Code

The Panel finds that there was a breach of this section of the Code and accordingly a breach of term 3 of the Consent Order. There were eleven complaints that detailed the consumers’ difficulties in securing the return of their deposits. The Panel also took into account the Executive’s point that the Code requirement of timely refund of deposits within fourteen days of cancellation comes direct from legislation, namely The Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013.

2.9 Section 9.1 of the Code

The Panel finds that there was a breach of this section of the Code. There were twelve complaints where the consumers had experienced either inconsistent or no response at all to their complaints. In five cases the consumer had to threaten legal action to get their deposits repaid.

2.10 Section 4 of the Code

The Panel finds that the breaches of Sections 6.2 and 9.1 and the consistency of the experience of complainants under those Sections does bring the Code into disrepute, therefore the Panel finds that there is a breach of Section 4 of the Code.

3. Determination of Seriousness and Sanction

3.1 Ms Haskell outlined how much correspondence there had been between the Executive and the Member since they joined the Code in 2014. She referred to the audit, the number and nature of complaints, the Consent Order and the subsequent complaints. Whilst she acknowledged that the Code Member had refunded some consumers, the Executive still has serious concerns over the Member's compliance. The Executive considers the breaches to be especially serious and considers that there is insufficient evidence that the Member will comply with the Code in future. The Consent Order was seen as the Member's final chance and the Executive cannot continue to give the Member endless opportunities to demonstrate compliance. Ms Haskell stated that the sanction they were seeking was termination of membership. However, if the Panel were to consider other sanctions, the Executive requested the Panel to bear in mind any resource demanded of the Executive.

3.2 Mr Searle accepted responsibility for the breaches and acknowledged the importance of taking compliance seriously. He explained the circumstances in which the company had grown and outlined a number of measures that they are considering to improve customer service.

3.3 The Panel finds all the breaches to be of a serious nature and therefore considered sanctions from the least to the most serious.

3.4 The Panel considers this matter too serious to have no sanction.

3.5 The Panel considers that it would be proportionate to issue a written warning. The terms of this warning are set out in Annex A to this determination.

3.6 The Panel also considers that it would be proportionate to impose conditions specifically relating to the areas of breach. The Panel imposes the following conditions:

1. The Member must have a member of staff dedicated to customer relations with the appropriate training and authority to resolve aftersales queries and complaints speedily and effectively. They must supply the job specification to the Executive within one month of the date of this Determination and to have filled the role within three months of this Determination.
2. All outstanding repayments of deposits must be completed within fourteen days of the date of this Determination. The Member must supply the Executive with written confirmation that this condition has been met.
3. The Code Member must ensure full compliance with Section 6.2 of the Code and regulation 34 of part 3 of The Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013.

Failure to abide by any term of these conditions will lead to a further hearing before the Non-Compliance Panel.

Determination of Costs

The Panel orders the Member to pay the costs of RECC in the amount of £4,343.60.

Appeal Period

Under Bye Law 11 the Member may appeal this determination within 14 days of the date of the determination.

27th March 2017

Annex A

The Renewable Energy Consumer Code Written warning following the Non-Compliance Panel Hearing on the 22nd of March 2017

In the matter of

DHS Renewables Ltd

Panel Members:

Mr Keith Richards (Chair)

Ms Elizabeth Stallibrass

Ms Amanda McIntyre

Written Warning

1. The Panel was invited by the Executive to terminate the Member's membership of the Code.
2. The Panel gave weight to the Member's statement of intent to be compliant with the Code and their willingness to engage with the disciplinary procedure. Therefore the Panel decided to stop short of this ultimate sanction at this time.
3. However, the Panel shared the Executive's concern about the seriousness of the breaches found, and the potential for consumer detriment if the Member continued to fail to be compliant with the Code.
4. The Panel has therefore decided to impose a set of stringent conditions on the Member designed to ensure the Member delivers on its intent to become compliant.
5. The Member should be under no illusion about the seriousness of the situation, and that failure to comply with the conditions set out in the Panel's determination will lead to a further Non-Compliance Hearing and the likelihood of termination of Membership.

27th March 2017