

**Minutes of the 40th Meeting of the Supervisory Panel
Renewable Energy Consumer Code
8th June 2016**

Present:

David Laird – Chairman
Walter Carlton – Deloitte
Bryn Aldridge – Independent expert
Gretel Jones – independent expert
Jim Thornycroft - Independent expert
Amanda Clarke - Certsure
Zoe Guijarro – Citizens Advice
Steve Lisseter – Independent expert
Philip Wolfe – Independent expert
Mike Landy - STA (part)
Neel Naik – DECC (observer)
Anna O’Connor – Ofgem (observer)

Apologies:

Brendan Murphy – MCS Administrator
David Sowden - SEA

In attendance:

Virginia Graham
Rebecca Robbins (part)
Lorraine Haskell (part)
Andreea Miu (part)
Sarah Rubinson (minutes)
Colin Meek, RECC auditor (via phone, part)

1. Welcome, introduction and apologies

The Chairman welcomed attendees to the 40th Supervisory Panel Meeting and noted apologies for absence received. He asked Panel Members present to introduce themselves and to declare any conflicts of interest.

2. Minutes of last meeting

Panel Members agreed the Minutes of the 39th Supervisory Panel Meeting as being an accurate record of the meeting. The Executive agreed that the dates of the next meetings would be re-circulated to members with the Minutes, but that for the record they would be on 14 September and 14 December 2016.

3. Matters arising

The Executive confirmed that a Panel Member had taken up the Executive's invitation to receive a detailed demonstration of RECC's dispute resolution database. The invitation was extended to further Panel Members at their convenience. The Executive confirmed that, on 8 June 2016, the date of the meeting, the total number of ongoing disputes was 122 and the total number of closed disputes was 2,167. This compared with 133 ongoing disputes and 2,003 closed disputes on 16 March 2016, the date of the previous meeting.

DECC confirmed it would respond to the RHI consultation early in the autumn and that it had discussed the issues surrounding the proposal to allow the assignment of rights with the Executive. DECC confirmed that there was a period of *purdah* leading up to the forthcoming EU Referendum. This had had the effect of pushing back publication dates for decisions including on the RHI Consultation and the Bonfield review.

4. Highlight Report

The Executive presented the Highlight Report. Panel Members thanked the Executive for the information it contained and had questions and comments on the following two sections.

Membership

The Executive explained that the first three months of the year had seen a protracted renewal period. Because of the nature of the uncertainty in the sector, many companies had waited until April to renew at which point an additional 500 had renewed. In view of this the Executive had extended the renewal cut-off until the end of April. Overall, membership had reduced by less than 40% against a budget which had been based on 50%. This was positive. The reduction from 4,000 to just under 3,000 members had reduced the scale of RECC's work on dispute resolution, compliance and enforcement.

The Executive confirmed that a more streamlined renewal procedure would be in place for 2017 taking advantage of the new CRM database and Sage 50. The Chairman requested that the net movement of numbers of members be included in the next Highlight Report.

Dispute resolution

Panel Members asked for more detail on the disputes which were marked as 'closed' but not included in the numbers resolved by RECC or as a result of arbitration. The Executive explained that the number of such disputes was high in the current quarter owing to companies deciding not to renew their membership, meaning that the Executive could no longer mediate or offer arbitration. The Executive further explained that, if it became aware of a negative change in a company's credit rating, it would escalate the consumer's route into the independent arbitration process, and would provide consumers with as much assistance as possible. The restructuring in the sector had meant

that there had been a jump in the number of arbitration applications. Panel Members asked for more information about the outcomes of arbitration awards, a breakdown of which was set out in the annual report.

Panel Members asked about the use the Executive made of 'Feedback complaints', given that they were generally uncorroborated. Some members considered that they were untrustworthy for that reason while others considered that they were very useful indicators. The Executive explained that it was obliged to record any feedback received, whether negative or positive, about members, which it did. However, the Executive explained that it would not rely simply on Feedback complaints as evidence of non-compliance at a Hearing. Rather, Feedback complaints would be used as a trigger for further investigation of certain issues and could be used to supplement other evidence. The Executive explained that it had never categorised disputes by whether they were justified or unjustified. The Chairman agreed that, in running a quality management system, you are obliged to take account of all feedback and so it was important that it was registered.

The Executive passed round copies of two 'end to end' dispute resolution reports which the Panel had requested at the previous meeting. The Chairman thanked the Executive and said they should be on the agenda for the next meeting. Panel members noted the amount of work that went into each activity including dispute resolution, and requested that that CTSI be made fully aware of this. Panel Members asked whether the outcomes of closed/resolved complaints could be analysed. The Executive explained that it was harder to analyse qualitative than quantitative information and that it would thus require certain value judgements to be made. The Executive explained that it was seeking to cut down the timeframes in the dispute resolution process as much as possible, and that this would be on a trial basis in the first instance.

Panel Members asked whether the status of a dispute could be tracked all the way through the process and requested that additional categories be incorporated into the dispute resolution database to give a more precise picture of the period between registration and allocation to a case-worker. They also asked about the procedure for deleting disputes from the database which the Executive explained was only applicable to duplicate entries. Panel Members requested that a more detailed breakdown of information be provided to one Panel Member and the Chairman on a monthly basis for six months.

5. Update on compliance and enforcement

The Executive explained that, by invoking the disciplinary procedure earlier on, companies were given plenty of opportunity to avoid a Non-Compliance Panel Hearing. The new Bye-Laws which came into force in November had been very effective in terms of allowing the Executive to invoke the disciplinary procedure earlier on.

The Executive provided more detail about the various stages of the disciplinary procedure, and how the costs of investigation were apportioned. For example, Members in the disciplinary procedure could be asked to pay £2,000 in advance for a re-audit. Panel Members involved with other Panels

confirmed that the investigations which the Executive undertakes are very thorough and that every effort is made to assist the company to be compliant.

The Chairman asked whether stakeholders were being sufficiently informed of the lengths the Executive went to in order to bring its members into compliance. It was agreed that the Executive would provide (redacted) examples of a case prepared for the Applications Panel and the Non-Compliance Panel for the next meeting.

6. Report on performance estimates for heat technologies

On behalf of the Executive Colin Meek presented the analysis report he had carried out into performance estimates for heat technologies. He presented a set of slides summarising the key findings of the report which were that installers of heat technologies were not complying with the MCS installer standard requirements as regards performance estimates. Rather they were giving very varied and often extremely inaccurate and misleading information to consumers. He explained that RECC was seeking a uniform, simple grid format in which key performance information is presented before the contract is signed. In this way consumers would be able readily to understand what they were purchasing and would be able to compare offers across the board. He explained that the Consumer Rights Act 2015 required installers to provide sufficient information to consumers before they signed a contract; and that it was the responsibility of MCS Certification Bodies to monitor and enforce compliance with all aspects of the MCS installer standards including this one.

Panel Members thanked Colin for his excellent report and presentation. They had many questions for him. In response to some of these Colin explained that, by way of follow-up, he had attended the MCS Working Groups for heat pumps, biomass boilers and solar thermal. He explained that the solar thermal working group had responded well and had already implemented changes to the standard. The heat pump working group was currently engaged in an exercise designed to simplify the standard on the basis that the pre-contractual information requirements were costly for installers to provide. As a result, there was some resistance to Colin's analysis which could be seen to run counter to the simplification agenda. There were ongoing discussions in the biomass working group, with some members challenging Colin's interpretation of the MCS standard requirements.

In response to questions as to why the poor practice was arising Colin explained, *inter alia*, that:

- the standard calculations do not define the actual values that should be given to consumers;
- the MCS standards are written confusingly, especially the heat pump standard; and that
- there is a fundamental contradiction in the MCS biomass standard regarding fuel requirements.

Colin emphasised that this was a sector-wide issue, and that providing accurate and meaningful performance estimates could appear complicated to installers. For this reason he explained that the Executive had prepared technology-specific model performance estimates for RECC members to use, free of charge. The analysis showed that members who use the RECC model documents performed better than others, especially for heat pumps. Further he explained that RECC members were

permitted to charge for preparing a detailed, pre-contractual performance estimate so long as the consumer is made aware of the charge in advance, and that they have ownership of the information in the event they do not sign the contract. Colin said it was essential that CBs looked at installers' performance estimates much more rigorously during their inspections to ensure conformity and to prevent consumer detriment. Their inspectors needed to be able to examine multiple contracts to ascertain the standards being applied across the piece, not just in individual, pre-selected cases. The DECC observer confirmed that DECC was aware of the situation, and that they were taking the analysis into account as part of their forthcoming response to the RHI Consultation.

Panel Members were keen to set out an action plan to avoid the sector being brought into disrepute. They suggested that the Executive publicise the analysis more widely, drawing attention to the fact that those members who use the model documents find it far easier to comply with the standard than those who do not. They are therefore much more likely to pass a RECC audit inspection. Colin explained that smaller, more serious companies tended to use the model documents while those larger companies who sell directly to consumers in the home do not. These companies were responsible for the largest proportion of non-compliance.

Panel Members urged the Executive to make the report available on the website, with a shorter summary to introduce it in a more consumer-friendly way. Finally, they asked whether the Bonfield Review was likely to have any impact on the situation. The Executive outlined its involvement with the process and summarised the possible outcomes, to be released in the autumn.

7. Update on domestic RHI and FiT schemes

The Executive had circulated before the meeting Ofgem's quarterly report on the domestic RHI and Ofgem's report on Feed-In Tariff deployment caps in Quarter Two. The rate of installation of solar PV systems in the < 10 kW band continued to be very low compared with 2015 and the capacity cap had not been met. The Ofgem and DECC observers explained the background to these updates and responded to Panel Members' questions.

8. Update on multiple approved codes in the sector

The Executive explained that there were continuing difficulties with working jointly with other approved Codes in the sector. Most of these were caused by not having a Confidentiality Agreement between RECC and HIES. The Executive was hopeful that this would be remedied shortly which would make taking a consistent approach more straightforward. Notwithstanding, the Executive reported that one application had successfully been referred to the Applications Panel by RECC and then by HIES. This was an excellent example of how the independent Panels could work across the sector and contribute to a consistent, high standard of consumer protection.

9. AOB and date of next meeting

The Executive reported that REAL is now officially a Trustmark Scheme Operator. The Executive would shortly be writing out to members with an offering of joint RECC / Trustmark membership. Panel Members' views would be welcome.

The next Supervisory Panel Meetings had been scheduled for 14 September and 14 December 2016.