

Note of 25th Meeting of the Supervisory Panel
REAL Consumer Code
12 September 2012

Present:

David Laird (Chair)
Tom Chapman – Gemserv
Martin Cotterell – Sundog Energy
Peter Mitchell – Energy Saving Trust
Anna Moule – Ofgem (observer)
Paul Rochester – DECC (observer)
Steve Storey – SSE
Jim Thornycroft – Independent solar PV expert
Philip Wolfe – Independent solar PV expert

In attendance:

Sue Bloomfield – REAL (part)
Virginia Graham – REAL
Andrea Kourra – REAL
Sarah Rubinson – REAL (part)

Apologies:

James Court – Consumer Focus
Chris Beedel – ECA
Gideon Richards – MCS
Dave Sowden – Micropower Council
Mike Landy – REA
Indra Vaizgelaite – Renewables UK
Neil Schofield – Worcester Bosch

1. Welcome, introductions and apologies

DL welcomed everyone to the 25th meeting of the REAL Supervisory Panel. He explained that he had taken over as Chair of the Panel from Gill Owen who had stood down at the end of July. He noted the apologies for absence received.

2. Minutes of 24th Panel meeting

The minutes of the 24th meeting of the Supervisory Panel were agreed as an accurate record subject to minor amendments.

3. Minutes of REAL Supervisory Panel

Following a discussion Supervisory Panel Members agreed by a show of hands that the minutes would be made available on the website going forward, once they had been agreed as an accurate record.

4. Revised Terms of Reference for REAL Supervisory Panel:

Panel Members reviewed the draft of the revised Terms of Reference for the Supervisory Panel. The revised Terms of Reference were adopted subject to the following:

- the number of Panel Members required for quorum be increased from 3 to 5;
- further guidance be drafted for the next meeting regarding the procedures for substitutes / alternates to attend Panel Meetings.

5. Summary of proposed revisions to REAL Consumer Code and Bye-Laws

Panel Members discussed and approved the proposed amendments to the Code and Bye-Laws. The proposed amendments to the Code were designed to:

- bring Section 5 into line with the Provision of Services Regulations 2009, notably Regulations 8(1) and 9;
- clarify further the Code references to the MCS 001 requirements for sub-contracting;
- provide further clarification of requirements around the setting of delivery and completion dates;
- provide further clarification of the application procedures for independent conciliation and arbitration.

The proposed amendments to the Bye-Laws were designed to:

- provide some additions to the 'Definitions' section;
- clarify members' obligations in respect of complaints being registered against them;
- clarify members' obligations in respect of probationary status.

Several Panel Members requested the documents in Word format, and agreed to submit any additional comments to REAL by 28 September at the latest. Panel Members noted that the proposed amendments to the Bye-Laws would be put before the REAL Board Meeting on 19 September 2012 for approval.

6. Overview of complaints

Panel Members reviewed data on the number of complaints registered with REAL each year since 2006; and more detailed data on complaints registered since 12 December 2011 (the Government's original proposed reference date for the reduced rate Feed-in Tariff for small-scale solar PV). The complaints related to some 100 of REAL's 5,000 members. Panel Members agreed that the updated charts could be posted on the REAL website. Panel Members also considered progress with MCS scheme guidance on the role of Certification Bodies in handling and resolving complaints.

Panel Members requested that, at the next meeting, a further breakdown of the time taken for complaints to be resolved be made available. They also requested a comparison of the number of complaints as a percentage of the number of domestic installations in a given period.

Panel Members discussed further the REAL complaint-handling process from first registration to resolution, including the referral of complaints to MCS Certification Bodies and Trading Standards. Panel Members considered the cost to REAL of providing conciliation to members free of charge, and of subsidising the cost of independent arbitration for members. They noted that, while other bodies pass the costs on to members, the OFT does not permit REAL to do so. Nevertheless, Panel Members urged REAL to make greater use of the conciliation and arbitration services since they considered them to represent a cost-effective means of resolving complaints.

7. Future Consumer Landscape

VG updated the Panel about the proposed transfer of the Consumer Codes Approval Scheme (CCAS) from the OFT to TSI as from 1 April 2013. She explained that TSI is currently working out how to take things forward, in particular in developing a model for making the scheme self-financing. TSI aims to increase the number of approved Codes in different sectors the long-run although TSI has stated that it does not intend to reduce the robustness of the Codes or water down the core criteria. TSI has applied to BIS for transition support for the first 2 years while the new arrangements bed in.

8. Overview of latest audit round

VG explained that a full overview of the audit round would be provided to the next meeting, once the follow-up had been completed. She explained that the on-the-day results of the current audit round (February – June 2012) were slightly better than in previous rounds, despite the fact that the audit questionnaire was now longer. However, a number of members were still scoring a very high number of negative marks. She reported that a further round of audits was due to start in October.

9. Update on Crystal Windows and Doors Ltd's dispute with REAL

VG explained that REAL and REA had been served with a claim in the High Court by one of REAL's members, Crystal Windows and Doors Ltd (Crystal). REAL and REA deny all of the allegations made which they consider to be matters for which Crystal does not have a cause of action and which are an abuse of process.

She explained that, following the correspondence between the Office of Fair Trading (OFT) and Crystal regarding changes made to the REAL Code, Crystal had decided to issue a claim for judicial review of the OFT's decision to approve changes to the Code. Whilst these are primarily matters for the OFT, Crystal named the REA as an interested party but declined to

also name REAL as an interested party. REAL applied to Court to be heard as an interested party. REA and REAL filed and served Acknowledgments of Service and Summary Grounds of Resistance in respect of Crystal's judicial review against the OFT on 30 August. OFT had also served an Acknowledgement and Summary Grounds. The Administrative Court will now decide whether Crystal's judicial review will be granted permission to proceed.

Some discussion ensued.

10. Update on activity in REAL Non-Compliance and Applications Panels

Panel Members considered a report of the activity in the Panels since the last meeting.

The Applications Panel had met twice to consider applications from 7 companies which appeared to fulfil one or more of the published Circumstances for refusing Membership published on the website.

The Non-Compliance Panel had met once since the last meeting to consider potential breaches of the Code. The process for seeking responses from the members concerned was under way. Some discussion ensued.

VG explained that a new Chair of the Non-Compliance Panel, Mary Symes, had been appointed and would take up her post at the end of the year. Panel Members agreed that she should be invited to meet them at the next meeting.

11. Any other business

PR updated Panel Members on the process for appointing the MCS Licensee, and on setting up the MCS as a company with a view to:

- improving the governance of the MCS
- limiting the liability of industry representatives taking part in the MCS committees.

The Chair requested that a draft Panel activity plan for 2013 be presented at the next Panel Meeting.

12. Date of next meeting

Panel Members noted that the next meeting would be held Wednesday 5th December 2012.