

**Minutes of the 62nd Meeting of the Supervisory Panel
Renewable Energy Consumer Code
Wednesday, 15 December 2021**

Present

(Meeting held on the Microsoft Teams Meeting platform)

- Steve Lisseter - Chairman
- Bryn Aldridge - Independent Trading Standards Expert
- Walter Carlton - Deloitte
- Chris Jackson – Environmental Programmes, Ofgem
- Sarah Howard – MCS (part)
- Atif Iqbal - Certsure

In attendance

- Abena Asare-Frimpong – RECC (part)
- Virginia Graham – RECC
- Aida Razganaite – RECC
- Rebecca Robbins - RECC

Apologies

- Chris Avgherinos – Domestic RHI, BEIS
- Zoe Guijarro – Citizens Advice
- Gretel Jones – Independent Consumer Expert
- Kevin McCann – Solar Energy UK

1. Introduction and apologies

The Chairman welcomed attendees to the 62nd Supervisory Panel Meeting. He noted that four apologies had been received, and that the meeting was being held online for the eighth successive time.

2. Minutes of last meeting

Members agreed the Minutes of the 61st Supervisory Panel Meeting as being an accurate record of the meeting and agreed that they could be made available on the RECC website.

The Chairman commented that, immediately following the previous meeting, David Laird had announced his intention to retire from the Supervisory Panel in view of his impending retirement. Virginia Graham paid tribute to the enormous contribution David had made to the Panel, first as a founder Member, then as the second Chair and, more recently, as a Panel Member, making a total of 15 years' service. Other Panel Members agreed and asked for their thanks to be conveyed to David.

3. Matters Arising

Virginia Graham went through the summary of actions agreed at the last meeting. She explained that all the actions were either complete or on the agenda for the current meeting other than two. She explained that there would be a further update on the Memorandum of Understanding between CTSI-approved Codes in the sector as and when it had been revised. She also confirmed that there would be a presentation at the next meeting outlining the work being carried out on flexible energy and demand-side response. Panel Members thanked her for the update.

4. Highlight Report

Aida Razgunaite explained that, during September, October and November 2021 RECC had gained 113 new members and that, at the end of November 2021, RECC had a total of 1,965 members. This reflected the continuing strong demand for RECC membership and MCS certification in the sector, and a very heavy workload for the RECC team. Aida also provided an update on the RECC membership renewal process for 2022.

Rebecca Robbins explained that, during September, October and November 2021, RECC had carried out 34 compliance checks. She went on to explain what had triggered the compliance checks. For example, 19 members had been identified as carrying out a particularly high number of installations while 2 members had been identified on the basis of the number of complaints registered with RECC.

Atif Iqbal asked whether, as well as the triggers for the compliance checks, in future it would be possible to document the outcomes from the compliance checks. Rebecca agreed that this would be useful information to provide, in line with that provided in the Annual Report. She agreed to provide this information in the next Highlight Report.

Rebecca reported that RECC had allocated 8 new audits during the period. Of the 13 audits allocated in the previous period, 3 had been closed out, 2 had been transferred to non-compliance action, 1 had been postponed, 5 had yet to respond fully, 1 had yet to respond at all and 1 was still being reviewed by the auditor. Further, she explained that, during the period, RECC had sent out 2 compliance notices and 16 insurance non-compliance letters, 4 of which had since been resolved.

Abena Simpey reported that, during September, October and November 2021, RECC had registered 110 complaints, up from 70 in the previous quarter. Of these, 50 had fallen within RECC's remit. 37 complaints were about solar PV, up by 13 from the last quarter, while 43 complaints were about air source heat pumps, up by 22 from the previous quarter. Further, she reported that, during the period, RECC had resolved a total of 7 disputes, 4 fewer than in the last quarter. Of these, 5 had been resolved by informal mediation, 1 had been resolved after RECC's initial involvement while 1 had been resolved by formal mediation. As a result, consumers had recovered a total of £9,298.

Abena explained that, during the period, 5 arbitration awards had been published. In 3 of these the consumers' claims had succeeded while in two they had failed. She reported that the consumers whose claims had succeeded had recovered a total of £6,440 through arbitration during the quarter.

Abena concluded by explaining that 30 disputes had been closed during the quarter without a resolution, higher than during the previous quarter by 17. 11 of these had been closed for 'other' reasons which included consumers pursuing a complaint through court action, complaints registered against non-Code Members and issues which fell outside RECC's remit. 8 complaints had been closed because the Code Member had ceased trading, 4 in October 2021 alone. Finally, she reported that 5 complaints had been closed owing to termination of Code Membership.

Walter Carlton asked why companies whose Code membership had been terminated were no longer obliged to resolve outstanding complaints and asked whether termination could be delayed until all outstanding complaints had been resolved. In his opinion this was not consumer friendly. Rebecca explained that this was in fact already the case, and that even those whose Code membership had been terminated were obliged to continue to resolve outstanding complaints, including by participating in the Independent Arbitration Service if requested to do so.

Abena pointed out that the wording in the Highlight Report had been misleading in that, in this case, those specific consumers had elected not to refer their complaints to the Independent Arbitration Service for other reasons. They had not been prevented from doing so. She agreed to make this clearer in future Highlight Reports.

Panel Members thanked Aida, Rebecca and Abena for their reports and explanations.

6. Proposed changes to the Code

Virginia Graham explained that two papers had been circulated relating to this item. One was a copy of the existing version of the Code marked up with the proposed amendments. The other was a table setting out the rationale for the proposed amendments. She explained that, after 6 years, there was a window to bring the Code up-to-date given that the DRHI Regulations were due to be amended in the spring ahead of the closure of the scheme to new generators. Given that the Regulations cite the Code, specifically the version number and date, she explained that opportunities for amendment were few and far between. Finally, she explained that it would be helpful if the Panel were able to approve the proposed amendments so that they could be forwarded to Chartered Trading Standards Institute (CTSI) for its endorsement which was required before they could be formally adopted.

Rebecca Robbins introduced the principal amendments to the Code. Firstly, she requested an opinion from the Panel on whether the Code could rely on the definitions set-out in the Bye-Laws. She explained that currently the definitions were slightly different in the two documents and that it would be beneficial to the administration of the Code if only one document had to be updated in future. It was also noted that the list of definitions currently included in the Code was not well signposted. The Panel agreed that the Code and Bye-Laws should work together in this way but asked for certain key definitions to also be set out in the Code itself and for these definitions to be signposted at the start of the Code document. The Panel also suggested an improvement as to how the list of relevant legislation was signposted in the Code. Rebecca agreed to include this signpost in either section 1 or 2 of the Code.

Rebecca then outlined the proposed new wording on consumers in vulnerable circumstances. She explained that she and Abena Simpey had studied recent work by Citizens Advice and Ofgem around best practice for consumers in vulnerable circumstances. Citizens Advice had sent their comments on the proposed amendments in advance of the meeting.

Rebecca explained that, importantly, the emphasis was now for members to understand that consumers could be vulnerable owing to certain circumstances, rather than being permanently labelled as 'vulnerable consumers'. These circumstances could change and could be relevant to a specific situation, for example where a consumer was unable to understand complex information presented to them, or where there was a sudden change to their financial situation. She explained that the Code referred to more detailed guidance, contained in a separate document, which would make it easier for Code Members to understand how the Code applied to them. This guidance was in preparation and would be updated as and when needed.

Panel Members discussed these proposed amendments at some length. The Chairman noted that Citizens Advice broadly welcomed them and had just a few minor comments and suggestions. Chris Jackson provided some comments from Ofgem's perspective. The Panel agreed that the section should make clear reference to the transient nature of some vulnerability. Subject to this change and some other minor changes they agreed the new section and commented that they represented a significant improvement. The Chairman asked that the guidance be placed on the agenda of the next Panel Meeting at which it was hoped that Zoe Guijarro from Citizens Advice would be present.

Next Rebecca introduced the proposal to remove the section entitled 'Failure to complete the contract' from the Code. This section had been inserted at the insistence of Office of Fair Trading (OFT) as a condition of approving the Code. However, since 2013 when the OFT had ceased to exist, this section had become out of step with the way that RECC worked and was potentially confusing for Code Members and consumers alike. Rebecca suggested that equivalent consumer protection was provided by other provisions in the Code and Bye-Laws. She therefore asked Panel Members for their views on removing the section. Panel Members agreed that they had no objection to it being removed, subject to CTSI's approval.

Rebecca asked Panel Members whether they agreed that links in the Code to documents which were not available to the public, i.e. they were in the Members' Area of the RECC website behind a login wall, should be removed. The Panel agreed that they should be removed as the links did not assist the consumer in any way.

Next, Rebecca introduced the proposal to change the definition used in the Code for domestic consumers. She explained that the current definition had in the past limited access to the dispute resolution process for a certain group of consumers, e.g. those consumers who purchased a heat pump for their second home. She proposed that the Code incorporate the definition of a consumer used in relevant consumer protection legislation, including the Consumer Rights Act 2015 and Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013. The Panel agreed with this proposal.

Finally, Rebecca explained that she and Abena had been working on rewriting section 9 of the Code entitled In Case of Problems. The content of the section had not changed significantly but the re-ordered version was more logical and much easier to follow. Given that this section had been tabled at the meeting, rather than in advance, the Chairman proposed that Rebecca forward it to Panel Members by email following the meeting with a deadline for comments. This would give them more time for reflection. On this basis, Panel Members agreed that they were happy to approve the proposed amendments to the Code.

7. Citizens Advice report on consumer protection in the sector

The Chairman proposed that this item be taken at the next Panel Meeting when it was hoped that Zoe Guijarro from Citizens Advice would be present to present the report. Panel Members agreed with the proposal.

8. Arrangements for return to work from the office

Virginia Graham explained that REAL staff had been attending the office two days each week. This had proved a successful shift to returning to work. However, she reported that, since the previous Monday when the Government's 'Plan B' restrictions had come into force, staff were no longer required to attend the office two days each week, though they were still permitted to do so if they wished. She agreed to provide a further update once there were any further changes to the Government's guidance and regulations. Panel Members thanked Virginia for her update.

9. AOB and next meetings

Chris Jackson updated Panel Members on guidance on the forthcoming BUS scheme. He reported that BEIS had issued its guidance at the start of the week, and that Ofgem would be publishing its guidance shortly. He urged Panel Members to submit any comments they might have.

Virginia Graham confirmed that the first 2022 Supervisory Panel Meeting would take place on **Wednesday, 16 March at 2.00 p.m.** She agreed to forward the dates of subsequent meetings with the Minutes. The Chairman confirmed that the next meeting would be likely to be online. It was hoped to work towards hybrid meetings. Virginia confirmed that REA and REAL were exploring hybrid meeting technology.

There being no further business, he thanked Panel Members for their attendance and closed the Meeting.