



## **CMA call for information on consumer protection in the green heating and insulation sector**

Response to be sent to [greenheating@cma.gov.uk](mailto:greenheating@cma.gov.uk) by 2 November 2022.

This response is being sent on behalf of The Chartered Trading Standards Institute and has been compiled by Steve Playle, CTSI Lead Officer for Net Zero.

### **ABOUT CTSI**

Founded in 1881 (as the 'Incorporated Society of Inspectors of Weights and Measures'), today's Chartered Trading Standards Institute (CTSI) is one of the world's longest-established organisations dedicated to the field of Trading Standards and Consumer Protection. And, after more than 140 years of progress, we remain immensely proud of our close association with the Trading Standards profession and the vital work it continues to do – promoting fair business practices, tackling rogue traders and, ultimately, protecting UK consumers.

At CTSI and through the trading standards profession we aim to promote good trading practices and to protect consumers. We strive to foster a strong vibrant economy by safeguarding the health, safety and wellbeing of citizens through empowering consumers, encouraging honest business, and targeting rogue practices.

We provide information, guidance and evidence-based policy advice to support local and national stakeholders including central and devolved governments. CTSI is responsible for business advice and education in the area of trading standards and consumer protection legislation, including running the Business Companion service to provide clear guidance to businesses on how to meet their legal and regulatory obligations. CTSI is also responsible for the Consumer Codes Approval Scheme which facilitates high principles of assisted self-regulation through strict codes of trading practice. This ensures consumers can have confidence when they buy from members of an approved scheme and also raises the standards of trading of all businesses that operate under the relevant sector's approved code.

We run training and development events for both the trading standards profession and a growing number of external organisations. We also provide accredited courses on regulations and enforcement

### **BACKGROUND**

The move towards net carbon zero by 2050 is a massive challenge and there are a multitude of contributors to achieve the overall objective. Ensuring that consumers and householders are fully engaged along the way is fundamental for the objectives to be met. This means that consumers

(and landlords) must be confident that any measures installed in their properties are going to be honestly sold and actually deliver the benefits that are promised.

Previous attempts to promote consumer protection in the green heating and insulation sector have failed, notably the Green Deal and the more recent Green Homes Grant initiatives.

In order to assist the CMA, we have taken each of the five issues raised by the CMA in the call for information and listed a number of bullet points for each one which we hope will assist.

#### **HOW CONSUMERS SELECT PRODUCTS AND BUSINESS SUPPLIER**

- There must be recognition that consumers are highly vulnerable in this area. The move to net carbon zero and all the associated technologies, marketing claims and jargon is extremely complex to the average consumer and this is something that can be easily exploited by businesses. This is exacerbated by the very high costs associated with installing measures in the home which makes it even more important to get things right. Consumers who invest money in products and services that do not deliver the promised savings will potentially have a life changing and financially detrimental effect on them.
- There is an initial clamour from consumers to “do the right thing” and invest in installing measures that will save them money and contribute towards achieving net zero carbon. However, it seems that there is a lack of capacity in the legitimate business sector to meet demand which inevitably opens the door to criminal elements.
- Advice for consumers is available from a wide range of sources so we feel there is the need for a single, Government endorsed, Government funded information point that should be promoted as the “go to” resource.
- If consumers need to have gas appliances installed or have work carried out on them, then the law states that only businesses on the Gas Safe register can be used. There are a multitude of trade associations and trusted trader schemes in the UK, including the Government endorsed TrustMark scheme. However, the multitude of schemes is confusing with varying degrees of consumer protection and it is time to consider a proper licensing scheme for those businesses who install energy saving measures. At the moment, anyone can set up a business to install energy saving measures which simply gives the whole sector a bad name and disadvantages those businesses that are legitimate and trying to do the right thing.
- Pricing is another important determinant for how consumers select products although the challenge is around the transparency of pricing. Prices are volatile and expensive in traditional energy markets. Pricing is difficult to understand or predict which makes comparison (even within traditional suppliers) virtually impossible for consumers who are time-poor and experiencing a cost-of-living crisis.
- Switching to new methods of green heating provides even more difficulty since consumers are even less familiar with the products and market. Factors include costs of installation and maintenance, performance, how to use products which represents the most suitable for their situation, where and how it should be installed, whether the system will cope should energy usage/requirements change. All are potentially unknowns to the vast majority of consumers.
- To compound matters, it will invariably involve the consumer engaging with traders they have never used before and don’t know their competence or trustworthiness. This imbalance of knowledge provides considerable scope for unscrupulous traders to exploit consumers, either via profiteering or by outright criminality by professional offenders using

the product as a vehicle by which to commit fraud. This has been seen in areas such as roofing, double glazing, installation of solar panels and spray foam insulation.

#### **HOW BUSINESSES IN THE SECTOR PROMOTE THEIR PRODUCTS AND SERVICES**

- A major feature of the marketing by businesses in promoting energy efficiency measures is the promise of savings on energy bills, even more so right now due to the record high level of the energy price cap. The accuracy of these energy saving claims is questionable and in order for Trading Standards to disprove any claims would involve spending huge sums of money that simply aren't available. In particular, "up to" claims have the potential to be highly misleading and will most likely influence consumers to take transactional decisions that they would not otherwise take. "Up to" claims need to be made illegal because they will only apply to a small minority of situations, if at all.
- Where energy saving claims are made by businesses, there should be a reverse burden of proof such that a comprehensive technical file will be available to regulators to help show that any claims are accurate.
- Trading Standards across the UK use considerable resources in tackling the menace of cold calling traders, many of who cause misery and mayhem. This includes unsolicited telephone calls which then lead to home visits by commission paid sales representatives. The issue of cold calling on the doorstep and unsolicited telephone calls in this sector needs to be looked at very carefully with an option for it to be banned and made a criminal offence.
- High pressure and aggressive selling by commission paid sales representatives is a scenario well known to Trading Standards and leads to consumer detriment, particularly where contracts to purchase are concluded in the home. This is a criminal offence and evidence of such practises should lead to a review of that businesses licence to trade (see above).
- With products such as heat pumps, these should never be installed until the basic fabric of the property is sufficiently updated to give them the chance to work effectively. This must be a clear duty that is imposed on businesses in this sector. To achieve energy savings in the home requires an holistic approach or, failing that, an established pecking order of measures that needs to be followed.

#### **THE PROVISION OF KEY INFORMATION TO CONSUMERS BY BUSINESS BEFORE, DURING AND AFTER THE PRODUCT'S PURCHASE AND INSTALLATION**

- Consumers must be given clear and easy to understand pre contract information, in the correct language if necessary, which shows exactly what measures are being installed, the total inclusive price, what reasonable savings will be achieved in their particular situation and clarity over when work will be carried out and completed.
- Many products will have a normal expected life cycle and this needs to be spelled out to consumers, perhaps as a minimum expected life. This will then allow a consumer to make a calculation about whether a measure is going to pay for itself and eventually lead to saving money or not, as the case may be. There may be some consumers who are willing to invest many thousands of pounds with little prospect of a return in the future but we suggest that these will be in the minority.
- Many products will require maintenance during their expected life cycle. For example, solar panels with a life expectancy of 25 years may require replacement inverters every 5 to 10

years and the expected cost of this maintenance must be made known to consumers and factored into the purchasing decision.

- Ideally, a fully insurance backed warranty should be provided for the life cycle of all measures. If this is not available, then this makes the provision of the possible maintenance costs even more important for the consumer when making a purchasing decision.
- An issue that has not necessarily been properly considered is the impact on household insurance policies when measures are installed. If a consumer is required to instruct their insurer that alterations to their property have been made, this is important information that CTSI feels should be made clear. For example, an insurer might be very interested if a home lithium battery storage facility has been installed and it may lead to an increased premium due to an increased risk of fire which needs to be factored into the cost calculations.
- It is important for consumers to know if planning permission or building control legislation applies in relation to any measures being installed. Businesses need to make consumers aware if it does.

### **THE COMPLAINTS AND REDRESS PROCESS IF THINGS GO WRONG**

- The potential for complaints arising in the first place needs to be minimised. The model of the recent Green Homes Grant provided some encouragement to Trading Standards before the scheme failed. The encouragement was caused by the imposition of an independent post installation auditing regime for work carried out using GHG funding, allowing the opportunity to check the quality of work and tackling rogue operators at an early stage. This is something that CTSI would like to see as we move forward, albeit Government funding would need to be made available to pay for this work. It seems to CTSI that consumers are being asked to pay large sums of money to contribute to the net carbon zero journey so Government needs to support consumer protection by investing money to identify the rogue operators.
- Although there are many complaints and redress processes across a range of sectors, the reality is that these are long, slow and potentially obstructive to consumers with legitimate claims. This is unacceptable. However, with a licensing scheme in place, this could encourage businesses to resolve legitimate complaints in a timely manner. Failure to deal with complaints could jeopardise their ability to trade but this could also be backed up with a properly resourced Ombudsman scheme, free of charge for consumers to use.

### **THE ROLE OF CERTIFICATION SCHEMES AND CODES OF PRACTICE**

- Certification schemes and codes of practice are only effective for consumers if they are easily accessible, simple to follow and have resources to allow cases to be determined quickly. Otherwise, they are of no real benefit.
- A real concern that CTSI has is how progress towards achieving net carbon zero will be measured. It appears that greenwashing is moving towards epidemic proportions and great care needs to be taken to challenge claims.
- Massive challenges lie ahead and there are many variables that can never be properly captured, particularly in relation to consumer behaviours. Another variable is that energy saving claims made today by businesses could be completely irrelevant and false next year if wholesale energy prices go back to the previous more palatable levels that existed before Russia invaded Ukraine.

**FOR FURTHER INFORMATION**

CTSI is happy to work with the CMA and other agencies and contribute to work in this area in order to protect consumers and protect reputable businesses.

Please contact Duncan Stephenson, Director of External Affairs for further information ([duncans@tsi.org.uk](mailto:duncans@tsi.org.uk) or 07557 229 774)