

Renewable Energy Consumer Code

1 September 2022

Background Information

Renewable Energy Assurance Limited (REAL), subsidiary of Association of Renewable Energy and Clean Technology has operated a Code of Practice (Renewable Energy Consumer Code) approved under the Consumer Codes Approval Scheme (CCAS) since 2006. The Code has been adapted over the years to reflect Government Initiatives, including the earlier Feed-in-Tariff incentive scheme (that is now closed) and the Domestic Renewable Heat Incentive (that closed 31 March 2022) but also to reflect the needs of some members by introducing a 'pay as you go' membership in conjunction with the Micro-generation Certification Scheme (MCS).

The Code has been expanded to accommodate businesses who wished to work in the related Battery Storage Systems sectors. REAL is embarking on a new Primary Authority Partnership with Surrey Trading Standards reinforcing their intentions to provide the highest level of support to members and maintain consumer protection in the sector. There are currently 2480 members of the Code.

Audit Process

The Audit was carried out by a Trading Standards Practitioner from the Chartered Trading Standards Institute (CTSI) on site at RECC.

The audit focused on the following areas:

1. Outstanding actions/observations from last audit
2. Any planned changes to the Code or to the operation of the Code
3. Member application process, including checks carried out on prospective businesses
4. Member auditing - content and process, including general compliance with the code, staff training and dealing with consumer complaints
5. Sanctions for non-complaint member businesses
6. Any disciplinary cases in previous year
7. Consumer complaints process, including ADR
8. Customer satisfaction, information/complaints from enforcement agencies, and how this information is used to develop and improve the Code

Audit Summary

The Code was amended in 2021 to accommodate the closure of the Domestic Renewable Heat Incentive (DRHI) on 31 March 2022 by BEIS. The Code is mentioned in the DRHI regs. The amendments to the Code are shown on the website in a table form. Changes were made to the section that relates to Vulnerable Consumers, changing to Consumer in Vulnerable Circumstances, following the new CTSI Guidance.

Following on from the impact of the COVID-19 pandemic and Government lockdowns, REAL is now operating with a blend of working in the office and working remotely. This is working well and will be continued indefinitely.

An unprecedented increase in applications began in September 2021 and continues. A new post of Head of Membership was appointed in August 2022.

Member Application Process

During 2021, there was 773 businesses applied to join the Code, this represents a 112% increase in the number of applications in 2020. Due diligence checks were carried out on 536 applicants by the RECC membership team, this represents a 48% increase compared to 2020. Of those applicants: -

- 428 were accepted as members of the Code
- Three were accepted for a defined period of Temporary Code Membership
- Six were rejected
- 109 had their applications closed due to failures to respond and/or pay their membership fees

A joining fee of £80 is now payable prior to application.

The application process is in two stages: -

- **Stage One** - a full check of the business and any individuals associated with it, during which the veracity of the declarations made by the applicant are checked along with their compliance checks
- **Stage Two** - a full assessment of the applicant's documentation, including their model contract, performance estimates, the content of the applicant's website(s) and any social media pages

If an applicant does not meet the requirements of the Code at Stage 1, their application is rejected. This process was introduced in 2020 to reduce the time spent on an application if, for example, the applicant's business history means they are not fit and proper for Code membership.

If an application progresses to Stage Two and does not meet the requirements of the Code, the applicant may be required to make changes to their procedures and documents, before being admitted to the Code.

For example, they may be required to:

- change their advertising and marketing materials
- adopt the model contract or change their contract terms and/or
- register with an insurance provider

Following the due diligence check, if there continues to be concerns about an applicant, dependant on the nature and seriousness of those concerns, their application may be:

- accepted subject to conditions
- accepted on a temporary basis, which may include being subject to conditions
- referred to the Independent Applications Panel (IAP)
- rejected without reference to the IAP

New Members

Two new applications were provided as examples of the process and a review of the application and supporting material found that the Executive Team continue to maintain a high level of scrutiny.

The documentation provided is a valuable example of how the new two stage process works. It also demonstrates how any prospective member will be challenged about the accuracy of the information they submit and they will be asked for additional material when necessary.

The Executive Team demonstrated that an application may be refused if they believe the prospective member does not meet the criteria, with the rationale for the refusal being documented in a clear and concise manner.

Independent Applications Panel (IAP)

The IAP is shared by other Code Sponsors in the sector. If the Executive Team is unsure whether to accept a business as a member, they can refer the application to the IAP for review. If an application is rejected, the applicant has an option to have their application reconsidered by the IAP. In 2021, six applications were rejected without reference to the IAP. These applicants were given the option to have their applications reconsidered by the IAP; however, the applicants did not request such reconsideration. Unsuccessful applicants are provided with a full explanation for the rejection and are permitted to reapply for membership, subject to any reasonable period set by the IAP within which an application will not be reconsidered, and any new application will be treated on its merits.

Withdrawal from membership

Approximately 150 members left RECC during the latest renewal process and 20 had their memberships cancelled throughout the year, mainly as companies had gone into liquidation, dissolved, or ceased trading.

Membership cancellations must be conveyed to RECC with 14 days' written notice. RECC may refuse to accept a resignation in the interests of consumer protection and/or their continued membership is fundamental to the Executive's role administering the CTSI Code. For example, if the Executive is aware that a consumer is shortly to commence an arbitration, if the Executive is formally mediating a complaint, or if the Code Member has been allocated for Audit. This is in accordance with the RECC byelaws.

Each member who leaves the Code is provided with an exit letter confirming that they must immediately remove the RECC and CTSI Approved Code logo from all their documentation, their website(s) etc.

Monitoring Existing Members

RECC use a variety of tools to monitor compliance with the Code and byelaws in line with their Monitoring Strategy, including:

- extensive due diligence checks on all new applicants
- members subjected to risk-based Compliance Checks
- members randomly chosen for Compliance Checks

A Compliance Check consists of top-level risk assessment analysis and the member is not usually involved in the activity. Compliance Check assessments include an assessment of the member's online business presence, including website(s), social media and any online reviews, a full financial check on the business and the individuals involved in the business, a review of insurance and MCS installation records, and full analysis of complaint information recorded on the RECC and MCS complaints databases, including any paperwork given to the complainant by the member. A record is made of the results of each Compliance Check, along with the recommended action and the relevant key Compliance Areas which have been flagged as a risk for each member.

During 2021, 149 members were the subject of a Compliance Check. These members were selected for several reasons, including:

- 64 members who had recorded inadequate insurance information on the MID
- 28 members about whom there had been two or more complaints within a set period of time or a single complaint of particular concern
- 22 members who had registered a higher-than average number of installations on the MID over a set period of time; and
- 13 members about whom information was received about their compliance with the Code from a consumer and/or industry stakeholder

Of these, 35 were allocated for a desk-based audit, 73 were sent compliance communications regarding insurance and/or issues found with their online marketing, for 15 members carry out further monitoring; place 8 members in the disciplinary process, refer four members to the Membership Team to make administrative changes to their membership records and take no further action in the case of 14 members.

Where a decision is made to allocate a member for an audit, the member is first sent a Self-Assessment Compliance check to complete and asked to submit a set of core documentation for review. The full response is then assessed against a standard auditor questionnaire which is evaluated against the 10 key compliance areas. The questionnaire is completed by the auditor based on the Member's answers to the self-assessment compliance check and the documents submitted.

To pass an audit, the member must be compliant in the seven high priority Compliance Areas and two of the three medium priority areas. Each section of the questionnaire (the sections relate to the 10 Compliance Areas) is weighted according to the questions applicable to each member.

Once the Auditor has completed the questionnaire, it is returned to RECC who will determine whether the member has passed or failed. If the audit is passed, the member is notified in writing. If the audit is failed, the RECC Compliance Team assess the results and decide on the next best steps. If the results of an audit show an area(s) of serious concern, or a significant number of areas of concern, the matter may be dealt with in line with the disciplinary process. Otherwise, the member will be sent a 'follow-up' letter, setting out all issues identified at audit and the action the member must take to resolve those issues. The member is then given a set period to take the necessary action and provide RECC with evidence that the action has been taken. The decision, and any subsequent steps taken, are recorded and tracked.

Members in the Disciplinary process

In 2021, 68 members were invited to respond to evidence of potential breaches in accordance with the RECC disciplinary process.

- 5 members had non-compliance action invoked against them, of which
 - Two members had their Code membership terminated
 - One was invited to agree to a Consent Order
 - Two were on-going at the end of 2021
- 63 members were sent compliances notices, of which
 - one had its Code membership terminated
 - 49 were able to resolve all issues and/or areas of concerned identified
 - 13 are still ongoing

In addition to the 68 members who were asked to respond to evidence of a potential breach

- One member, who was already in the disciplinary process, had its Period of Enhanced monitoring extended
- One had the ongoing disciplinary action closed after it was invited to agree to a Consent Order
- One had its membership terminated before non-compliance action was taken due to the company's voluntary liquidation

Marketing and Advertising by Member Businesses

During audits, all marketing and advertising by members is checked. Most issues arise from claims and statements made which are not adequately sourced or where there is not enough information explaining where the claim or statement has come from. Members are told how such claims should be amended.

In 2019, RECC made changes to their byelaws requiring members to display the RECC logo on all consumer facing marketing materials and contractual documentation, and the CTSI Approved Code logo on all consumer facing marketing materials. These requirements were introduced to help improve consumer awareness of RECC membership and the protections afforded to consumers if they chose an installer who is a Code member. In 2020, many members audited had yet to make changes in line with the revised byelaws so an email was sent reminding members of the new logo requirements and providing guidance on how to use these logos, however, this still remains an area of non-compliance.

Comment:

RECC must remain vigilant on this issue. Any lack of visibility of membership of the Code undermines the consumer protection that membership offers.

Terms and Conditions and other Pre-Contractual Information

RECC provides extensive advice and guidance to members in relation to the drafting of contracts that are fair and transparent for consumers. RECC also provides a set of model consumer terms and conditions for members to use or adapt to their business needs.

All model documents are to be reviewed in the coming months by Surrey Trading Standards Department who are, subject to agreement by OPSS, to become the new Primary Authority for REAL.

RECC also offer advice to members concerning consumer contracts or suggest that members seek guidance from their local Trading Standards Department.

Customer Service Provisions

RECC provides an exclusive comprehensive on-line training resource, including interactive training, for its members. The training resources cover the essential elements of consumer protection legislation and the Code. It is set out clearly and in a user-friendly format, with real examples from the sector making it relevant to members.

RECC have changed the section in relation to Vulnerable Consumers in the latest version of the Code. The new version, Consumers in Vulnerable Circumstances, has been developed with reference to the April 2021 CTSI Guidance on Consumer Vulnerability and is currently out with members for consultation. Once it is finalised, it is planned to feature in a webinar in early 2023.

RECC can provide CPD Certification, therefore, members who pass the RECC online training resource exam will qualify for Continuous Professional Development credits.

Dispute Resolution Process

RECC's Dispute Resolution Process consists of mediation and the Independent Arbitration Service. In respect of their mediation service, RECC is an approved Alternative Dispute Resolution body by CTSI.

In 2021, 335 complaints were registered with RECC, a slight increase of 9% from 2020. Of 335 complaints registered, 136 fell within RECC's remit, 181 were about Code Members, 112 were about former Code Members and 42 related to non-Code Members. The 136 complaints that fell within RECC's remit were addressed through their Dispute Resolution Process.

Of the 2,000 Code members in 2021, only 112 had a complaint registered against them, meaning that 95% of members did not have a complaint registered against them in 2021.

In 2021, RECC successfully resolved 63 disputes, 17 were resolved following RECC's initial involvement, 19 were resolved through RECC's informal mediation procedure, 7 were resolved through RECC's formal mediation procedure and 20 were resolved by the Independent Arbitration Service.

Of the 43 disputes resolved by RECC's Dispute Resolution Team, the average resolution time was 5.1 weeks, 46.5% were resolved in 2 weeks or less.

Independent Arbitration Service

The Independent Arbitration Service is administered by the Centre for Effective Dispute Resolution on RECC's behalf. It is the final stage of RECC's Dispute Resolution Process and is offered to consumers if a dispute has not been resolved through mediation.

During 2021, 20 disputes were referred to the Independent Arbitration Service, which accounts for 32% of disputes resolved.

Of the 20 cases, 8 claims were unsuccessful and 12 succeeded. Consumers were awarded a total of £39,987. The average amount awarded across all cases was £3,332 and the highest amount awarded was £18,912 for completion of remedial works. Consumers also succeeded in securing non-financial awards: completion of remedial work on installations, provision of documents or an apology from the Code Member. Consumers with successful awards are issued with a refund of the £120 registration fee.

Customer Satisfaction and Feedback

RECC encourages customers to provide feedback. The customer is asked to complete a Consumer Satisfaction Questionnaire once they have had a system installed. They can give feedback online; by hard copy via freepost or those distributed by the insurance provider when installations are registered for insurance-backed workmanship warranty protection.

However, just 23 Consumer Satisfaction Questionnaires were received for analysis in 2021. Customer feedback through this medium remains low even though the customer is incentivised to provide it.

RECC analysed all returned questionnaires and took action where the contents of the CSQ gave cause for concern. Three members were identified as a 'risk' based on the consumers' responses and became the subject of a Compliance Check. Two were sent insurance letters as a result and one was audited.

Comment:

RECC acknowledge that this level of response does not provide sufficient useful data on customer satisfaction and is considering what other methods of collecting this data could be employed.

Conclusion

RECC continue to be diligent and demonstrate admirable commitment to the Code and removing risks of consumer detriment. This commitment did not waver during the COVID pandemic and government restrictions. Applications for membership have continued to increase and RECC have taken steps to ensure that they can continue to monitor applications and members to their usual high standards.