
Renewable Energy Consumer Code

8 September 2023

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 4,230 members of the Code.

Audit Process

The audit was carried out remotely by a Trading Standards Practitioner from the Chartered Trading Standards Institute (CTSI).

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 2023, the amendments relate to sections that cover consumers in vulnerable circumstances and the Dispute Resolution Process. The Code has also been updated so it relates better to this sector as it is no longer dependent on Feed-In Tariffs and the Domestic Renewable Heat Incentive.

In July 2023, REAL launched the Renewable Adjudication Service. The Code and the Bye-Laws and the guidance for consumers and members has been updated to reflect these changes.

An unprecedented increase in applications began in September 2021 and continues throughout 2022 and into 2023.

Member Application Process

During 2022, there was 1,387 businesses applied to join the Code, due diligence checks were carried out on these applicants by the Renewable Energy Consumer Code (RECC) membership team, this represents a 159% increase compared to 2021 (536).

Of the applicants checked:-

- 1,047 were accepted as members of the Code
- Two were accepted for a defined period of Temporary Code Membership
- One was rejected due to a connection with a previous code member
- 310 had their applications closed. An application may be closed after the applicant withdraws their application when it is informed of issues identified or it fails to pay the membership fee and/or respond to communications within a reasonable timeframe

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

Where 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 that 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. Unsuccessful applicants are provided with a full explanation for the rejection and are permitted to reapply for membership. Reapplication may be subject to a reasonable period set by the IAP within, which a reapplication will not be reconsidered. Any new application will be treated on its merits. The last time an application was referred to the panel was during 2021.

Withdrawal from membership

Approximately 70 members left RECC during the latest renewal process. Twenty members had their memberships cancelled during the year, 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. This maybe 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 Bye-Laws.

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 Bye-Laws in line with their Monitoring Strategy, including:

- extensive due diligence checks on all new applicants (1,387 applicants)
- members subjected to risk-based Compliance Checks (215)
- members randomly chosen for audits (40 all desk based)

Monitoring total as percentage of all members in 2022: 54%

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.

Where a company has been identified as 'at risk', a full Compliance Check will be undertaken on the business. During 2022, 215 members were the subject of a Compliance Check.

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

Of these, 63 were allocated for a desk-based audit, 115 were sent compliance communications regarding insurance and/or issues found with their online marketing, for four members carry out further monitoring; place ten members in the disciplinary process, refer three members to the Membership Team to make administrative changes to their membership records and take no further action in the case of 20 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 ten 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 ten 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 any 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 2022, 121 members were invited to respond to evidence of potential breaches in accordance with the RECC disciplinary process.

Nine members had non-compliance action invoked against them, of which

- Three members had their Code membership terminated
- One was invited to agree to a Consent Order
- One was on-going at the end of 2022

112 members were sent compliance notices, of which

- Four had their Code membership terminated
- 100 were able to resolve all issues and/or areas of concern identified
- 8 were still ongoing at the end of 2022

In total, 17 members had their Code membership terminated in 2022 for non-compliance with the Code and/or Bye-Laws. Terminations occurred for several reasons, including:

- One member who failed to comply with an arbitration award;
- Three members who lost their MCS certification and were unable to provide a reasonable explanation for the loss;
- Three members had the Code membership terminated after they failed to respond to their audit allocation or to compliance communications; and
- One member who failed to adequately insure consumer deposits and workmanship warranties.

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 Bye-Laws 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 2022, just 11% of members audited were found to be non-compliant in this area.

Comment:

RECC must continue to 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 have been recently reviewed by Surrey Trading Standards Department, the new Primary Authority for REAL.

RECC also offers 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. Any updates are communicated to members via their campaigns.

Following an update to the Code earlier this year, RECC have published guidance for members on working with consumers who are in vulnerable situations.

Good Practice:

The new RECC guidance (published August 2023) regarding Consumers in Vulnerable Situations is very detailed and provides useful lists to help members understand how to meet their obligations under the Code.

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 (ADR) body by CTSI.

In 2022, 382 complaints were registered with RECC. Of these, 237 fell within RECC's remit, 231 were about businesses who were members in 2022, 142 were about former Code

Members who were members when the consumer signed the contract and 31 related to businesses who had never been members of the Code. Complaints against current or former members were handled through the Dispute Resolution Process, except for complaints about former members where the business is no longer trading or where the business has become a member of another CTSI approved consumer code.

Of the 3,037 Code members in 2022, only 135 had a complaint registered against them, meaning that 96% of members did not have a complaint registered against them in 2022.

In 2022, RECC successfully resolved 81 disputes, 22 were resolved following RECC's initial involvement, 40 were resolved through RECC's mediation and 19 were resolved by the Independent Arbitration Service.

Of the 81 disputes resolved by RECC's Dispute Resolution Team, the average resolution time was five weeks, 31% were resolved in two 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 2022, 19 disputes were referred to the Independent Arbitration Service, which accounts for 23% of disputes resolved.

Of the 19 cases, one claim was unsuccessful and 18 succeeded. Consumers were awarded a total of £121,081. The average amount awarded across all cases was £6,373 and the highest amount awarded was £16,081. Most awards issued were solely financial (14). In the 19 claims, members were ordered to refund the consumer's registration fee in 17 cases and each party was ordered to cover their own costs in two cases.

Customer Satisfaction and Feedback

RECC encourages consumers to provide feedback. Customers are 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.

In addition, RECC's Dispute Resolution Team launched a Consumer Satisfaction Survey in January 2022. The aim is to use the survey to gather feedback to improve processes by identifying what consumers think RECC does well and any areas for improvement. These are measured against the key elements of the dispute resolution process. The survey is also hoped to be useful to identify any emerging themes.

The survey contains thirteen questions which cover the key areas of the dispute resolution process, including complaints registration form, information given about the dispute resolution process, the mediation process and the resolution reached. Consumers are also asked to provide general comments about their experience at the end of the survey. They are invited to provide feedback at the end of the mediation process via a link which is included in the final email.

Comment:

The new survey, to gather consumer's views on the RECC's Dispute Resolution Team is useful tool.

Conclusion

RECC continue to be diligent and demonstrate admirable commitment to the Code and removing risks of consumer detriment. 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.