

## Renewable Energy Consumer Code – Audit September 2013

### Background information

In 2006 the Renewable Energy Association Chief Executive decided to set up a code of practice under the Office of Fair Trading (OFT) approved code scheme to raise consumer standards within the renewable energy industry. A subsidiary company was established to draw up and administer this code of practice.

In 2010 the Government launched the Feed-in-Tariff incentive scheme for renewable electricity. Businesses who wished to work in this field were required by the Microgeneration Certification Scheme (MCS) installer standards to be a member of an OFT-approved code, and RECC's membership grew rapidly as a result.

The Renewable Energy Consumer Code (RECC) currently has 4,700 members, having had 5,500 at its peak.

### Audit Process

Two qualified trading standards professionals from the Trading Standards Institute (TSI) completed an onsite audit split over two days.

The audit focused on the following areas:

1. Member application process including checks carried out on prospective businesses
2. Member auditing – content and process (including general compliance with the code, staff training and dealing with consumer complaints)
3. Sanctions for non complaint member businesses
4. Marketing and advertising by member businesses – terms and conditions and pre-contractual information (including cancellation rights, deposits, delivery times and guarantees and warranties)
5. Customer service provisions (including support for vulnerable consumers)
6. Consumer complaints process (including ADR)
7. Customer satisfaction, information/complaints from enforcement agencies, and how this information is used to develop and improve the code.

## **Audit Summary**

The rapid expansion and pressure on RECC to admit members due to its position as the only OFT-approved Code, has left it with a legacy of a small, but nevertheless, significant number of problem members. Unlike most other code sponsors, it has also faced a number of legal challenges to its processes from members. It has defended these consistently.

RECC has a particularly robust oversight mechanism with independent Applications Panel, Supervisory Panel and Non Compliance Panel, each chaired by very experienced individuals. The RECC Executive also has good, well managed and effective processes in place for dealing with the requirements placed upon it. We were impressed by their approach to dealing with serious non-compliance in that small minority of members; their review processes for most complained about members and their monitoring and performance management information. We were also impressed by the openness and transparency that they demonstrate through the materials and information available on their website.

We made a number of general observations about the RECC processes, which in our view may assist RECC to strengthen its approach.

### **Applications Panel**

The RECC Independent Applications Panel is responsible for determining whether or not new applicants should be admitted to membership. It is clear that this Panel has taken action to reject inappropriate applications and to add probationary conditions on membership. However, having done so, the oversight of adherence to those conditions becomes a matter for the Non Compliance Panel, who applies the same standards of sanction as for any other member. In our view, this weakens the position of the Applications Panel. The terms of probationary admission may include taking actions that merely seek to establish whether the organisation is fit and proper (as opposed to actions that require sanction). In our view, oversight of probationary or conditional membership should be retained by the Applications Panel. Such probationary or conditional terms should only be discharged when the Applications Panel are satisfied that the prospective member has met their demands. Thereafter, they should be subject to compliance monitoring in the usual way. This would not, in our view, preclude the Non-Compliance Panel from taking action against a member who seriously breached the terms of the Code, even though that member was still under probation.

We would suggest that the Applications Panel ought to be empowered to take a broader 'fit and proper person' test into account in determining applications and, in particular, in determining the terms of probation or conditional membership.

**Recommendation:**

RECC to consider replacing probationary membership conditions with a time-limited membership as appropriate, to strengthen the Applications Panel role and enable them to keep an oversight of new members whom they have concerns about.

**Application Determination**

RECC completes a series of checks on new applications to ensure the businesses applying to join RECC and their directors are fit and proper, including checks for 'phoenix companies' which are rife in this sector. RECC also requires any members to be responsible for the actions of any third party lead-generation companies or other sub-contractors they use.

**Observation:**

Trading Standards support – During the course of our audit, a number of issues came to light where it was clear that RECC would have benefitted from the involvement of a trading standards professional in assessing the legality of some trade practices by members. We hope to discuss further with RECC how this might be achieved.

**Membership Application Process**

RECC has all member application material available online, including guidance and model documents. Around four applications a day are submitted, 75% are submitted electronically using the online system.

RECC has a comprehensive member database, with all records kept electronically.

The audit examined:

- The procedure for appointing new members
- The records of audit of existing members
- The process for completing inspections of members
- The process of membership withdrawal

**Summary**

The member database was comprehensive, data was easily retrievable and no issues were found with missing records.

## New Members

The application process was examined for five recent new members and two rejected applications.

New applicants are checked for credit history, CCJs, director information and cross-checked against RECC's complaints database.

Applicants also complete a self-assessment questionnaire. If there are any concerns, RECC's auditors complete additional checks on the applicant and contact the applicant for more information, as appropriate.

Additional checks are also randomly carried out on new applicants.

The process was complete for all examined applications and issues such as undisclosed CCJs were discovered as part of the application process. New members, where concerns were raised, were flagged for follow-up action and audits.

### **Recommendation:**

Sole traders and directors of companies applying to join RECC to be asked to provide photographic evidence to confirm their identity, such as a copy of a passport or photo driving licence.

## Existing Member Inspections/Audit

Around one third of RECC members are audited each year. The audit programme is drawn up twice a year. Members are selected for audit due being higher risk. This could be due to complaints, issues highlighted at a previous mystery shopping exercise, or any other concerns. Some members are also selected for audits at random. The audit cycles include desk based audits and a number of site visits. RECC has a large team of auditors with a variety of specialisms, including consumer protection, energy, engineering and technical and quality management.

Members are notified ahead of the audit and key documents are requested from them. RECC also provides extensive guidance for members on what is expected of them during an audit. Auditors typically spend half a day or more on site. Auditors complete an audit checklist, overview and comments. They also risk rate the member for compliance with the Code. Any areas for action are highlighted and the member is given a set time to comply.

Failure to comply with the auditors' actions will result in the member being referred to the Non-Compliance Panel. Any members given a score of 100 or more are automatically notified to the Non-Compliance Panel.

The annual audit programme was examined and selected members flagged for follow-up action were included in the next audit programme, as appropriate. However, there was some sixth round of audits follow-up work that had not been added to the seventh round catch-up list. This coincided with a member of staff leaving and someone else taking over the audit planning.

Five members who had been audited in the last two years were examined in depth. The audit risk rating, selection and audit process had been complied with. All audit documentation was present. The documentation was examined and recommended follow action deadlines had been checked by auditors to ensure businesses complied with the audit requests for action.

A TSI auditor attended a RECC onsite audit on a previous occasion.

**Action required:**

Review outstanding actions/follow-up work from round six audits and ensure they are captured in round eight.

### **Membership Withdrawal**

The process for withdrawal of membership, including those that had ceased trading was assessed. Most of the withdrawals are as a result of ceasing to trade, but of those that are at the instigation of the Non-Compliance Panel, we checked the process and it effectively closes down their membership and return/deletion of the TSI Approved Code logo.

Action is also taken to notify the Microgeneration Certification Scheme.

### **Sanctions for Non-Compliant Member Businesses**

RECC has a full range of available sanctions for non-complaint members, which are imposed by their independent Non-Compliance Panel.

An auditor attended a meeting of the Non-Compliance Panel who had met to discuss what further action, if any, to be taken against members who had allegedly breached the code of practice.

The Panel is completely independent and RECC only attends if required by the Panel.

**Best Practice:**

The Disciplinary Panel is independent from RECC including independent secretariat. The Panel has autonomy to make their own decisions and run the Panel process as they see fit under the leadership of a very experienced Chair.

## **Marketing and Advertising by Member Businesses**

RECC provides considerable online resources to their members and potential members including guidance and standard documents relating to marketing and advertising. Applicants are asked what they use in terms of marketing and advertising material as part of the self-assessment.

As a result, 90% plus use RECC's provided model documents.

Issues relating to marketing or advertising may be identified during the application process, or via complaints, mystery shopping or audits.

No issues were found during the RECC audit.

## **Terms and Conditions and other Pre-Contractual Information**

RECC provides standard terms and conditions and pre-contractual information to their members. Applicants are asked about their use of terms and conditions, along with the taking of deposits and the offer of credit as part of the application self-assessment. As a result the majority of applicants use RECC's provided model document.

Issues relating to the members' terms and conditions or other pre-contractual information may be identified during the application process, or via complaints, mystery shopping or audits.

The standard terms and conditions were clear, reasonable and complied with the requirements of the core criteria.

## **Customer Service Provisions**

RECC provides a standard vulnerable persons policy for use by their members along with detailed guidance. Member businesses are required to adapt key customer documents for vulnerable consumers. This includes providing documents in large print, languages other than English and advising vulnerable consumers to read terms and conditions, quotes, contracts and guarantees with a relative or trusted friend. This is verified at the application stage and checked on audits. Members who conduct sales in the home also have to abide by strict rules within the Code. Evidence of audit checks on these areas of the Code was explored during the audit, and no issues were found.

## **Consumer Complaints Process**

Consumers must complain to the RECC member in the first instance. Members are required to respond within seven days and 24 hours if the consumer is without heating or hot water. If the complaint is not resolved, the consumer can complain to RECC for issues that relate directly to the Code.

The relevant MCS installer certification body will deal with any complaints of a technical nature, which are outside the scope of the Code, although the organisations work closely together to resolve consumer complaints.

On receipt of the completed complaint form, RECC logs and acknowledges complaints within seven days, generally within three days. The RECC member is then notified and requested to report back to RECC on how they intend to resolve the complaint.

RECC has nine complaint handlers, eight of which are legally-trained.  
94% of complaints registered are resolved by RECC.

RECC has a conciliation service available to consumers and 3% of complaints are resolved through conciliation.

RECC uses an independent alternative dispute resolution service (ADR) as part of the Code. Any consumers who feel that their complaint has still not been resolved to their satisfaction after in-house complaints handling and conciliation, can apply to have their case referred to ADR.

3% of complaints are resolved at ADR.

Five complaints from the last three months were examined to follow them through the whole complaints-handling process. No deficiencies were found and all documentation was present and processes followed.

However, there is a backlog of around 6 – 8 weeks in dealing with new complaints between the date the complaint is registered and the date it is assigned to a case handler. Some 10% of registered complaints are resolved by the parties during this period. It is noted that the complaints handling team has expanded considerably in the last 18 months, following the avalanche of complaints received after the drastic cut to the Feed-in Tariff rate in March 2012. The backlog has reduced as a result, though the number of complaints registered each month has remained constant.

The introduction of the domestic Renewable Heat Incentive in spring 2014 and the expected high take-up, adds the potential for additional volume of complaints being registered relating to renewable heat technologies.

RECC will need to ensure they have adequate resources to deal with this.

**Observation:**

The complaints backlog needs to be monitored to ensure the backlog continues to be reduced over time.

## **Customer Satisfaction and Feedback**

RECC sends out a feedback questionnaire directly to consumers. They can also leave feedback online. The majority of feedback is very positive, with over 92% of customers rate the service 9/10 or higher.

RECC checks all feedback received. Any comments are logged and the company is informed. Negative feedback is used to risk-rate companies and, depending on the issues, the company may be mystery-shopped or audited.

Any serious complaints are acted on through the complaints procedure.

All customer feedback data is analysed annually and any issues identified are acted on.

Example: Awareness of the code prior to signing a contract was identified as an issue. A targeted communications strategy was drawn up to raise awareness and educate members to ensure they do tell potential customers about the code prior to signing any contract.

## **Conclusions**

RECC is one of the larger code sponsors and devotes substantial resources to the efficient operation of its scheme, notably monitoring of RECC members and complaints handling, to ensure they are fulfilling their obligations as a code sponsor and their membership is compliant with the CCAS core criteria and the RECC code.

RECC faces the future challenge of the introduction of the domestic Renewable Heat Incentive scheme (RHI) in spring 2014. RECC is working with key government departments, OFGEM and the Microgeneration Certification Scheme to ensure that effective consumer protection provisions are in place ahead of the RHI launch.