

## Renewable Energy Consumer Code

### Audit – September 2014

#### Background Information

In 2006 the Renewable Energy Association 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. In 2010 the Government launched the Feed-in-Tariff (FIT) incentive scheme for renewable electricity. Businesses who wished to work in this field were required to be certified by the Micro-generation Certification Scheme (MCS). The MCS installer standards require all certified businesses to be a member of an OFT-approved code. The Renewable Energy Consumer Code's (RECC) membership grew rapidly as a result. In April 2014 the Government launched the Domestic Renewable Heat Incentive (RHI) scheme. This is a financial incentive scheme designed to encourage uptake of renewable heating among domestic consumers. Again businesses who wish to work in this field are required by certified by the Micro-generation Certification Scheme (MCS) installer standards and to be a member of an approved code.

The Renewable Energy Consumer Code (RECC) currently has 3,959 members, having had 5,500 at its peak.

#### Audit Process

Two Trading Standards Practitioners from the Trading Standards Institute (TSI) completed an onsite audit on 30<sup>th</sup> September 2014.

The audit focused on the following areas:-

1. Member application process including checks carried out on prospective members;
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 (in particular changes following the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013);
5. Customer service provisions;
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

Due to the continuation of the FIT and the launch of the RHI, applications to join RECC arrive at a rate of three or four applications per day. Vigorous systems are in place to ensure the fitness of businesses to join. This vetting process takes time and energy yet RECC manages the tasks competently and efficiently. In addition RECC receives an average of 110 consumer complaints a month, of which four out of five are resolved by means of mediation. Despite these pressures RECC remains able to react to new challenges and provide assistance to enforcement bodies upon request.

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

## New Members

The application process was examined for a number of recent applications.

New applicants are cross-checked against RECC's current database for links to any existing RECC member, previous member or any links to any information the RECC's extensive database. Any information is added to the new applicants file for consideration. Then the applicant is checked for credit history/rating, County Court Judgements (CCJs), director information and against the RECC complaints database. Applicants are required to complete a self-assessment questionnaire, the majority of issues raised during the application process arise from incomplete declarations on the application form. If there are any concerns, the applicant is referred for a 'Spot Check' carried out by one of RECC's audit team. The auditor completes additional checks on the applicant and contacts the applicant for more information as appropriate.

### 2013 Audit Recommendation Update

Sole traders 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. This process will be implemented shortly.

## Independent Applications Panel

The RECC Independent Applications Panel is responsible for determining whether or not new applicants should be admitted to membership where the Applications Manager/Auditor has concerns about the fitness of the business to be granted RECC membership. The panel consists of four members who are drawn from a pool of seven members. The Chair of the panel, Keith Richards, is a barrister and has previously worked for the Which? Group and ABTA. The Panel regularly reviews applications and can make one of the following decisions:

- acceptance;

- acceptance for temporary membership (the member must then reapply and go through full application process again);
- rejection;
- rejection with suggestions for what actions might make the company eligible for membership should they reapply.

#### **2013 Audit Recommendation Update**

Since the last audit RECC have replaced probationary membership conditions with a time-limited (between one and six months) membership to be granted as appropriate. This requires any applicant whom the Application Panel has only deemed suitable for a temporary membership to reapply, hence subjecting them to the full application process again. This has strengthened the Applications teams' role and enables them reassess applicant members whom they previously had concerns about.

#### **Best Practice**

The applications team use extensive, inventive and rigorous procedures for ensuring that businesses and directors known for rogue practices are excluded from membership of RECC.

### **Application Determination**

RECC complete a series of checks and spot checks on new applicants to ensure the businesses applying to join RECC and their directors are fit and proper. RECC also require any members to be responsible for the actions of any third party lead-generation companies or other sub-contractors they use.

#### **2013 Audit Observation Update**

Trading Standards Support – The last audit recommended that RECC sought involvement from Trading Standards in assessing compliance of members. Since the 2013 audit RECC have entered into a Primary Authority agreement with Slough Trading Standards Service. They have found this relationship to be beneficial.

### **Existing Member Monitoring**

RECC uses a variety of methods to monitor conduct of their members:-

- Self Assessment Compliance Questionnaires – sent to new members;
- Customer Satisfaction Form – sent to members' customers (2912 members' customers have been surveyed to date). Forms are sent to all customers who are registered for insurance-backed warranties with Quality Assured National Warranties (QANW). Some members send forms to all of their customers as a matter of course and the form is also

available on the RECC website. All responses are logged centrally and where any negative feedback is given the consumer is contacted and the problem followed up with the member company where the customer gives their contact details or is otherwise traceable). Any serious negative feedback may put the member company on the audit list.

- New Member Application Process – including spot check if required;
- Desk Top Audits – new initiative as part of the RECC’s new monitoring strategy;
- Mystery Shopping – 46 mystery shopping exercises have been carried out already in 2014. Companies to be subjected to a Mystery Shopper are chosen on a risk assessment basis. Mystery Shoppers include friends of auditors many of whom have previously worked for the Which? Group so are familiar and comfortable with the Mystery Shopper format.
- Full Audits – The 8<sup>th</sup> round of audits is almost completed with members already identified for the 9<sup>th</sup> round of audits.

#### **2013 Audit Action required update**

The 6<sup>th</sup> and 7<sup>th</sup> rounds of audits have all been completed with appropriate remedial actions completed.

### **Member Audit Programme**

The 8<sup>th</sup> round of audits is almost complete. Just six reports are outstanding and these delays are due to external issues.

The 9<sup>th</sup> round of audits is underway. A total of 248 member companies were selected for audit, this was reduced to 183 due to a number of members no longer trading etc.

For this round of audits the audit questionnaire has been amended to take account of a number of factors:-

- the implementation of the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013;
- concern regarding sales techniques around consumer credit agreement where claims were being made by member companies that energy savings would match credit repayments;
- issues recently found with members selling on eBay whereby some members were found to be advertising fully fitted renewable energy systems at a ‘Buy Now’ price on eBay. The prices were taking no account of the variables in a customer’s property and therefore were likely to be misleading and in breach of the code.

Members are notified of the impending audit and the notification includes a request for key documents including all marketing and advertising material, pre-contractual information and all estimate and quotation forms.

Auditors spend half a day to one day on site. Auditors complete an audit checksheet, overview and comments. Any areas for action are highlighted, and the member is given a date by which to comply, usually six weeks ahead.

Scores are not given in the audit report. A negative score of between 0 – 8 is a 'pass'. Members with a negative score of over 9 and 50 are given time to remedy issues to bring their score down to a pass rate. Any negative score over 50 gives cause for concern and a score over 100 is passed to the compliance team (see below).

Member companies are chosen for audit on a risk assessment basis. This risk assessment includes many aspects of member activities and results of other RECC monitoring.

For example:

- MCS provides RECC with the number of installations registered by each member company – a high number of installations increases the likelihood of audit;
- Negative feedback on customer survey forms may trigger inclusion on the audit list;
- Member companies who do not respond to a request for completion of a Self Assessment Compliance Questionnaire or who submit incomplete forms are also likely to be audited.

## Trading Standards Investigation

Essex County Council Trading Standards have been investigating a company in their area. This company is not a RECC member but has links with many companies that are RECC members. This investigation has triggered an additional 14 audits to be carried out since April 2014. The investigation is still ongoing.

### Best Practice

RECC is able and willing to be reactive to serious issues raised by enforcement bodies and new types of malpractice that affect the wellbeing of consumers and the compliance of their members with the Code.

## Compliance Officer

RECC has introduced a new area into their member compliance process.

Following an audit, members are given up to 12 weeks to remedy any issues found during the audit. If these issues have not been resolved after 12 weeks, the details are passed to the Compliance Officer. The Compliance Officer then sends a formal letter to the member setting out the concerns RECC has. The letter gives the member 14 days to provide a full evidence-based response of steps taken to achieve compliance. The letter also sets out sanctions for any

continued non-compliance which could include paying for an additional audit or a claim for recovery of costs if the member is later referred to the non-compliance panel for formal action.

RECC has introduced this process on a trial basis. During the 2.5 months of the trial 17 formal letters were issued and in all but two cases the member company has provided an adequate response thus preventing further formal action from being taken.

Several examples were examined showing varying results.

#### **Best Practice**

RECC is constantly reviewing their systems for monitoring member compliance and where gaps are found or improvements can be made new processes are developed, trialled and if successful, implemented.

#### **Non Compliance Panel**

RECC has an independent non-compliance panel with an independent secretariat. Meetings are always held at premises other than the RECC offices. RECC believes that the panel is reasonable, fair and consistent in its approach and application of the rules. Since January 2014 there have been six hearings.

Any member suspected of being in serious and/or repeated breaches of the code is contacted and informed of the issues in a Charge Letter 21 days before the proposed hearing. They have seven days in which to respond and then RECC will provide a response regarding any documents or evidence submitted within a further seven days. Then all documents will be sent to the Non-Compliance Panel seven days before the hearing.

The Panel consists of three members; the Chair of the panel is a non-practising barrister. RECC has a pool of six members to call on, all highly qualified and experienced in their field. They include a Trading Standards Officer, a lecturer in consumer law, a former Ofgem renewable energy manager, a former Energy Saving Trust manager and an independent solar panel expert.

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

All marketing material, pre-contractual information, quotation and estimates forms are requested by the auditor prior to any monitoring audit. The auditor also carries out online research, including whether the member company has been subject to any Advertising Standards Authority adjudications (formal or informal) and looks for marketing material local to the member company. The auditor reviews all the material that has been gathered and submitted as part of the audit report and any non-compliances count towards the audit score.

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

RECC has recently engaged Slough Borough Council Trading Standards Department as their Primary Authority. Slough Trading Standards have provided assured advice in relation to updating RECCs model terms and conditions and pre-contractual information in line with the new Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013. RECC has now provided guidance on their website to enable member companies to update their company's material in line with the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013.

## **Customer Service Provisions**

The recent introduction of the domestic RHI has presented new challenges for RECC. Domestic RHI calculations are based on 'estimated' heat requirements for the home. This gives a high potential for companies to mislead consumers about potential savings from a system based only on the output which may well be considerably greater than the demand.

RECC has already produced additional guidance on the RHI to prevent mis-selling on energy savings.

## **Consumer Complaints Process**

RECC receives an average of 110 consumer complaints a month of which 79% are resolved by means of mediation. The new TSI core criteria of eight weeks to resolve complaints informally have proved useful and RECC has recently adopted this into their systems. Historically RECC had often found that delays in complaint resolution were caused by delays in responses from consumers. Following the eight week mediation period, complaints are referred for Alternative Dispute Resolution (ADR).

During the TSI audit in 2013 a six to eight week backlog was observed. To attempt to clear this backlog additional complaint handlers have been appointed. RECC now has eight full time complaint handlers. However the backlog remains similar. RECC is hoping that the recently-introduced eight week mediation rule will assist in reducing the backlog.

RECC has a new complaints database which is hosted online. This has been in place since March 2014. The system is accessible externally and complaints handlers can access it remotely.

RECC's annual report 2013 provides the following statistics on complaint handling:

- 1301 complaints were received by RECC
- 33% of these were investigated by RECC
- 48% were customers registering some dissatisfaction, but not looking for redress
- 15% were about non RECC members

It took 18.6 weeks on average to resolve each complaint, but 23.6 weeks if another body was involved, such as an MCS Certification Body.

- 4746 complaints – active awaiting documents or evidence from the consumer;
- 4702 – active, process followed. Awaiting further docs from consumers.
- 4609 – active, recent activity. Awaiting customer call back for latest information.
- 4453 – active, recent activity. Awaiting customer update; have been chasing consumers some of whom have not responded since June 2014.

### **Observation**

RECC has adopted new and innovative methods for increasing efficiency in complaint handling. Nonetheless a backlog of complaints still exists. Undoubtedly recent changes to complaint handling processes and procedures will assist in the reduction of the backlog.

## **Customer Satisfaction and Feedback**

Customer Satisfaction Form – sent to members' customers (2912 member's customers surveyed to date). Forms are sent to all consumers who are registered for insurance-backed warranties with Quality Assured National Warranties (QANW). Some members send forms to all of their customers and the form is available on the RECC website. All responses are logged centrally and where any negative feedback is given the consumer is contacted and the problem followed up with the member ( where the customer gives their contact details or is otherwise traceable). Any serious negative feedback may put the member company on the audit list.

## **Membership Services**

Two years ago RECC developed a training facility on the 'members only' section of their website. RECC has recently added an interactive testing facility into this resource. It is now a blended learning facility that gives member companies a detailed and informative training facility in the form of test questions and examinations to increase the awareness of their employees on all matters in relation to consumer protection.

### **Best Practice**

The new RECC interactive training facility is an additional benefit for members that increases knowledge of consumer rights and company responsibilities.



## Conclusions

RECC remains one of the largest TSI code sponsors and continues to devote substantial resources to the efficient operation of its scheme - monitoring its members and complaint handling thus ensuring that they are fulfilling their obligations as a code sponsor and that their membership is compliant with the CCAS core criteria and the RECC code.

The RHI, which promotes complex renewable heating technologies, presents RECC with new challenges for the coming year.