

CONSUMER CODES APPROVAL BOARD

Microgeneration Sector- Memorandum of Understanding

Action required: Consider the MOU, as a means to address issues that fall outside of the remit of the individual consumer code approval.

Recommended Action: The MOU is approved by the Board.

Introduction

This MOU is necessary as The CCAS moves towards multiple codes within the microgeneration sector, in order to maintain the high standards within the sector.

Consumer Codes Approval Scheme (CCAS)

Memorandum of Understanding: Microgeneration Sector Approved Codes

The CCAS provides a framework for self-regulation in industry sectors. It aims to promote consumer interests by setting out the principles of effective customer service and protection. It goes above and beyond consumer law requirements by setting a higher standard in some areas.

The Microgeneration Certification Scheme (MCS) includes requirements for both product and installer certification. An important aspect of installer certification is the requirement for installation companies to be members of a Chartered Trading Standards Institute (CTSI) approved Consumer Code for the microgeneration sector. There are 10 active MCS Installer Certification Bodies (CBs), accredited by United Kingdom Accreditation Service (UKAS), who are responsible for checking that a business is a Code member as part of the MCS requirements for certification. (A list of these CBs can be found here: <http://www.microgenerationcertification.org/installers-manufacturers/certification-bodies> .)

This MOU sets out the requirements that are above and beyond the core criteria for the Consumer Codes Approval Scheme (CCAS) in the microgeneration

sector. The Consumer Codes Approval Board (CCAB) and The Microgeneration Certification Scheme (MCS) consider these requirements to be important for the effective operation of multiple Codes in this sector.

Introduction

MCS supports the delivery of the Government's financial incentive schemes including Feed In-Tariffs (FITs), the Renewable Heat Incentive (RHI) and Green Deal (GD).

There has been a high incidence of mis-selling cases in the microgeneration sector. This is partly due to the complex technical nature and relatively high costs of small-scale renewable and low-carbon energy systems. Since these systems tend to be one-off, high value purchases, consumers are unfamiliar with the typical cost of them and so are particularly vulnerable to high-pressure selling, including aggressive discounting. This is compounded by the Government financial incentives which give wider scope for mis-selling, where systems do not qualify for the incentives or underperform and fail to provide the promised level of financial returns. Consumers can thus face significant financial loss. In many cases, businesses have targeted the elderly or otherwise vulnerable consumers in this manner.

Consumers therefore need adequate, accurate and timely information, provided in advance, in order to make informed purchasing decisions. They need sufficient time to consider carefully the implications of purchasing a renewable or low carbon energy system before making a decision.

For the reasons set out above, it is essential to have robust Consumer Codes to strengthen consumer protection, to prevent mis-selling and to provide a route for redress where things go wrong. Introducing a competitive market for Consumer Codes in the microgeneration sector needs to be carefully managed to ensure that progress achieved over the last few years is built on and not adversely affected by this change.

Given membership of a CTSI approved Consumer Code is a mandatory requirement for MCS there is a strong push for installation companies to join a Code.

The MOU seeks to create a level playing field for multiple Consumer Codes in this sector. It addresses the way Codes must work together in the following areas, which are not directly covered by the CCAS core criteria:

- The interface with MCS and Certification Bodies
- The Application Process
- The Application Panel
- Complaints Process

- Complaints-handling
- Handling Non-compliances
- Appeals

Code Sponsors must undertake not to admit as members of their Code a business which: has a pre-existing complaint or complaints registered with another Code Sponsor, has had its application for membership rejected by the Independent Applications Panel, is in the Disciplinary Process of another Code Sponsor, has had its membership of another Code terminated by the independent Non-Compliance Panel or owes another Code Sponsor membership or other fees.

It is imperative that Codes, wherever possible, work together to provide a single point of contact for consumers' complaints. We know from experience that complaints-handling is critical to the development of the sector and that consumers with complaints are very easily confused. Currently, the approved Consumer Code (RECC) receives over 100 complaints each month and has done so consistently for the past five years. It has 10 complaint-handlers who work to resolve them. It is therefore essential that the existence of multiple Consumer Codes does not create an opaque and complex system which deters consumers from registering and thereby resolving their complaints.

1. Microgeneration Certification Scheme

MCS, including the Administrator and the Certification Bodies, in particularly those that provide installer certification and the Code Sponsors, will establish forms of communications for collaborative discussion and agreement on issues that may arise and which affect Code Sponsors and their members. It is intended that a Code Sponsors' Forum (CSF) be established between MCS, DECC and the Code Sponsors to facilitate this engagement. This should include a representative from the parallel Certification Body (CB) Forum.

The CSF may cover areas such as consistency of addressing issues arising, scheme reputational issues and guidance on areas where further clarity would facilitate the operation of multiple Codes in the sector. MCS's intends that the CSF should provide a representative to attend MCS Steering Group and CB Forum meetings.

Where there are issues that require specific discussion, advice or agreement, MCS, DECC or a Code Sponsor can request a meeting separate from the CSF.

Code Sponsors will be required on a regular basis to provide information for Government, MCS or CTSI. Where reasonable to do so they will provide this information freely and in a timely manner. Code Sponsors should consider how this works with respective privacy policies.

2. Applications process

In order to prevent 'phoenix' company activity in the sector each Code Sponsor must examine the previous five years trading history for new applicants. (This does not mean every business must have been operating for five years prior to applying). Checks must include insolvency checks and the trading history for all listed Directors, their relatives and executive management roles for the previous five years.

Where necessary each Code Sponsor must make enquiries with other Code Sponsors operating in the microgeneration sector, to check for the applicant business' history including details of any outstanding complaints. Each Code Sponsor must also make appropriate enquiries to MCS to check their complaints log for evidence relating to each applicant business.

In addition to the criteria set out in respective Codes' Bye-Laws, as part of the application process, Code Sponsors must not admit new businesses to their Code if there are outstanding complaints about the business registered with the existing Code Sponsor or if business is in an existing Code Sponsor's Disciplinary Process. In addition, Code Sponsors must not admit new businesses to their Code where the business owes an existing Code Sponsor membership or any other fees, until all outstanding fees have been paid.

3. Applications Panel

Code Sponsors must rule on application for membership as set out in their Bye-laws. In cases where Code Sponsors refuse an application, applicants may request access to the Independent Applications Panel who will decide whether the initial decision was justified. Each party will provide their cases to the Panels secretariat within the timescale set out in the Bye-Laws.

A decision of the Applications Panel may not be appealed, although the applicant will be permitted to re-apply for membership.

Code Sponsors must use the Independent Applications Panel, including any joint secretariat functions and facilities required to underpin it, as agreed by the parties involved.

The costs for the operation and management of the Applications Panel, including any secretariat functions, will be shared by all Code Sponsors on a pro-rata basis. The Applications Panel and secretariat are completely independent of the operations of each Code Sponsor. The Applications Panel should consist of at least three members to be drawn from a pool of seven.

The Applications Panel process is paper-based. The Code Sponsor and the applicant will submit their cases, together with evidence, to the Panel secretariat within the given timescales, in line with the process set out in respective Code's Bye-Laws. The Panel will review the evidence before it, and make a decision as to whether the applicant may be granted Code membership in line with the Code's Bye-Laws. The Application's Panel's decision will be binding on the Code Sponsor and the applicant.

The operating process for the Applications Panel is attached in annex X.

4. Complaints Process

Code Sponsors must agree a consistent approach to registering complaints. Code Sponsors will ensure they provide adequate signposting of their complaints process to consumers.

If a business has moved between Codes, and a new complaint is raised relating to a contract signed while it was a member of the previous Code, the current Code Sponsor will investigate and seek to resolve the complaint.

If a business wishes to join more than one Code, it must follow the complaints process for the first Code they have joined. This should be identified and recorded on the MCS database.

MCS will, to the degree necessary and appropriate, share intelligence from its complaints log, which should include all complaints registered with CBs, with all Code Sponsors on a two-weekly basis. This information should be used by Code Sponsors in meeting their obligations in this MOU and respective Bye-Laws.

Businesses who have moved between Codes must agree to abide by investigations carried out by the new Code Sponsor if a complaint is registered that relates to a contract signed while the business was a member of another Code. Code Sponsors must ensure their Bye-Laws provide for this process.

5. Complaints Handling

Code Sponsors must work with MCS to ensure that where a complaint is raised with them it is referred to the right organisation for action. This might be a particular Certification Body or Code Sponsor or a combination of these, depending on the nature of the complaint.

In order to facilitate the way complaints are handled and the referral process, Code Sponsors must ensure data collecting is consistent and use the agreed complaints log template provided by MCS here:

<http://www.microgenerationcertification.org/consumers/complaints/complaint-registration-form>

Code Sponsors must include in their Bye-Laws and their Privacy Policy the scope to share relevant installer and consumer complaint information with other Codes and relevant stakeholders. Code Sponsors must ask consumers for their express permission to share information when the complaint is registered.

Non-Compliance Panel

If a Code Sponsor considers that a member has systematically breached the Code, and if its Disciplinary Process has failed to remedy the situation, the Code Sponsor may refer the member to the independent Non-Compliance Panel for a Hearing.

Code Sponsors must use the Independent Non-Compliance Panel, including any joint secretariat functions and facilities required to underpin it as agreed by the parties involved.

The costs for the operation and management of the Non-Compliance Panel, including any secretariat functions, will be shared by all Code Sponsors on a pro-rata basis. The Non-Compliance Panel and secretariat are completely independent from the operations of each Code Sponsor. The Non-Compliance Panel must consist of at least three members to be drawn from a pool of seven.

The originating Code Sponsor will fund each referral to the Non-Compliance Panel it makes. The Code Sponsor may apply to the Non-Compliance Panel to recover its costs in investigating non-compliance, convening a Hearing and providing evidence. The Non-Compliance Panel will decide whether to award them, whole or in part, or not.

The Non-Compliance Panel will meet when requested to do so by a Code Sponsor for the purposes of holding a Hearing. In such a case the Code Sponsor will make its charges of breach available, together with any evidence, to the member in question in line with the timeframes set out in the Bye-Laws. The members will have the right of reply to the charges, and to provide any supporting evidence, within the timeframes set out in the Bye-Laws.

The Non-Compliance Panel will hear the evidence presented by both the Code Sponsor and the member and make a decision as to whether there have been breaches of the Code or Bye-Laws. The Non-Compliance Panel will consider the facts against the requirements of each Code and its Bye-Laws.

Determinations of the Non-Compliance Panel are binding on Code members and Sponsors and will be published on the Code Sponsor's website.

If a member has already been before a Non-Compliance Panel Hearing, and has had conditions imposed on it, the member will be required to go back to a further

Hearing at which the Non-Compliance Panel will decide whether the conditions have been complied with or not, and which, if any, further sanctions are appropriate.

The operating process for the Non-Compliance Panel is attached in annex X.

Appeals Panel

A Code member may appeal against a determination of the Non-Compliance Panel if it so wishes. They must lodge an appeal with the secretariat within 14 days of the determination being published, and must pay £1000 in advance to cover the costs of the Appeal Hearing. (This will be refunded if the Appeal is upheld.)

Code Sponsors must use the Independent Appeals Panel, including any joint secretariat functions and facilities required to underpin it.

The costs for the operation and management of the Appeals Panel, including any secretariat functions, will be shared by all Code Sponsors on a pro-rata basis. The Appeals Panel and secretariat are completely independent from the operations of each Code Sponsor. The Appeals Panel will only consider whether or not the Determination has been arrived at by following the correct process as set out in the Bye-Laws. It will not re-open the Non-Compliance Panel Hearing.

The Appeals Panel must consist of at least three members to be drawn from a pool of fourteen, being the joint pools for the Applications and Non-Compliance Panels. Members of the Appeals Panel will declare that they have not taken part in any other Panel at which the member was considered.

The operating process for the Appeals Panel is attached in annex X

Information Sharing

Code Sponsors under this MOU must agree to share appropriate information relating to Code members, complaints and non-compliance with all other Code Sponsors operating in the microgeneration sector, CTSI, CCAB, DECC, Ofgem, the MCS Administrator and MCS Certification Bodies where appropriate.

Each Code Sponsor will be required to adhere to an individual information-sharing protocol with DECC which will include time limits for Ministerial correspondence and Parliamentary Questions.

Each Code Sponsor must agree to adopt a common approach to information-sharing in relation to applications, complaints, non-compliance and disciplinary sanctions to maintain standards in the microgeneration sector.

Code Sponsors must make all relevant checks and share information with other Code Sponsors as appropriate. Code Sponsors must make freely available to all on their websites an up-to-date list of their members.

Termination of Membership

All Code Sponsors must notify the relevant Certification Body when members either leave or are expelled from their code.

Non-disparagement

Code Sponsors and their employees and related parties must undertake not to make misleading and inaccurate comments about other Codes, whether in writing or orally.

Declaration

We the signatories to this Memorandum of Understanding, agree to be bound by its terms under the oversight of the Consumer Codes Approval Board and Microgeneration Certification Scheme.

Code Sponsors may raise concerns about this MOU with CCAB where issues relate to Consumer Codes and to MCS for MCS related issues.

Annex X

Operating processes for the Independent Panels

Operating process for Applications Panel

1. Where the Code Sponsor rejects an application, the Code Sponsor writes to the Applicant specifying the reasons and informing them that they can opt to have decision reviewed by Applications Panel.
2. Applicant submits request for Application Panel review to Code Sponsor.
3. Code Sponsor notifies Panels Secretary that an Applications Panel meeting needs to be convened no less than 2 weeks ahead of this notification.
4. Panel Secretary contacts Panel Members to determine availability and provides Code Sponsor with the date for the meeting and the names of the Panel Members due to attend.
5. Code Sponsor writes to the Applicant in order to:
 - Confirm date of the meeting
 - Provide the Applicant with a summary of the reasons for rejection with any supporting documentation
 - Invite the Applicant to provide a written response to the reasons for rejection along with any supporting documentation
 - Provide a deadline by which this response needs to be provided to the Code Sponsor (7 days to prepare a response is a reasonable timescale)
 - Provide the Applicant with a reference to the appropriate section(s) of the Code Sponsor's bye laws relating to the Applications Panel
6. No later than 7 days before the Applications Panel meeting, the Code Sponsor forwards to the Panel Secretariat and to the relevant Panel Members the documentation supporting the Code Sponsor's rejection decision and the documentation supplied by the Applicant in support of its case.
7. Once the Applications Panel has received the documentation, should the Panel then request clarification or further information from the Code Sponsor, the Code Sponsor will notify the Applicant of the request and provide the Applicant with a copy of the Code Sponsor's response to the Panel. The Applications Panel shall only receive information or documentation that has also been provided to or by the Applicant.
8. Following the Application Panel's meeting, the Panel Secretary will send the Code Sponsor and the Applicant the full written decision regarding membership (including its reasons) as soon as practicable and within 14 days of the meeting.
9. In the case of the Panel overturning the Code Sponsor's decision, the Code Sponsor will write to the Applicant confirming membership status and will process the application as normal.
10. In the case of the Panel agreeing with the Code Sponsor's decision, the application is closed. There is no further provision for appeal. However, the Applicant is permitted to re-apply.

N.B. Rather than arranging Applications Panel meetings on a case by case basis as in point 3, the Code Sponsor may also arrange a series of Application Panel meeting dates – for example bi-monthly

- in anticipation of meetings taking place. Note that the Code Sponsor and Applicants are not entitled to attend these meetings and the Applications Panel process is paper-based.

Operating process for the Non-Compliance Panel

1. Code Sponsor decides to refer Code Member to a Non-Compliance Panel Hearing following assessment of information received as part of the disciplinary process.
2. Code Sponsor notifies Panels Secretary that a Hearing of the Non Compliance Panel is needed no earlier than 28 days from the date of the notification.
3. Panels Secretary contacts Non-Compliance Panel Members to determine availability and provides Code Sponsor with the date for the Hearing and the names of the Panel Members due to attend the Hearing.
4. Code Sponsor writes to the Member in the form of a 'charge letter'. This letter notifies the Member that a Hearing will be taking place and confirms:
 - The time, date and location of the Hearing which must be no earlier than 21 days from the date of the charge letter
 - The 'charges' that the Code Sponsor is putting to the Non-Compliance Panel including specific reference to the breaches of the Code/bye-laws being alleged
 - The evidence for these charges with reference to the supporting documentation (which should be enclosed with the charge letter)
 - The option for the Member to attend the Hearing and a request for confirmation whether or not the Member will be attending and if so, who will be attending on their behalf
 - The option for the Member to submit documentation to the Non-Compliance Panel in support of its case
 - A date when this documentation needs to be submitted to the Code Sponsor which should be no later than 14 days before the Hearing date
 - References to the appropriate sections(s) of the Code Sponsor's bye laws relating to the Non Compliance Panel
5. No later than 14 days before the Hearing, the Member may submit documentation to the Non-Compliance Panel in support of its case.
6. No later than 7 days before the Hearing, the Code Sponsor may choose to respond in writing to the Member's submission.
7. No later than 7 days before the Hearing, the Code Sponsor will send all documents to the Panel Secretariat and to the Panel Members (clearly indexed and arranged). This will include the submission provided by the Code Member as well as that provided by the Code Sponsor.
8. If either the Code Sponsor or the Member wishes to claim for costs, this claim must be made to the other party no later than 24 hours before the Hearing.
9. Code Sponsor will arrange for the Hearing to be recorded.
10. Following the Hearing, the Panels Secretary will send the Code Sponsor and the Member the full written determination as soon as practicable and within 14 days of the Hearing. The determination will be published on the Code Sponsor's website.

N.B. Rather than arranging Hearings on a case by case basis as in point 2, the Code Sponsor may also arrange a series of Hearing dates – for example bi-monthly - in anticipation of Hearings taking place.

Operating process for the Appeals Panel

1. No later than 14 days after the date of the Hearing determination, the Member submits written notice of appeal directly to the Panels Secretary and copied to the Code Sponsor. This notice should include the grounds for appeal and the appeals fee.
2. Panels Secretary contacts Panel Members to determine availability and provides Code Sponsor and Member with the date for the Appeal Hearing.
3. Either the Panel Secretary or the Code Sponsor needs to take steps to obtain a transcript of the NCP hearing from the recording organisation.
4. The Code Sponsor may choose to submit a written response to the Code Member's notice of appeal and send it to the Panels Secretary and copied to the Code Member within 7 days of receipt of the notice of appeal.
5. The Member may reply to the Code Member's submission no later than 7 days following receipt. This should be sent to the Panels Secretary and copied to the Code Sponsor.
6. No later than 7 days before the Appeals Hearing, the Code Sponsor should ensure that all documentation relating to the Hearing from both the Code Sponsor and the Member has been received by the Panel Secretary and the Panel Members.
7. If either the Code Sponsor or the Member wishes to claim for costs, this claim must be made to the other party no later than 24 hours before the Hearing.
8. Code Sponsor will arrange for the Appeals Hearing to be recorded.
9. Following the Hearing, the Panels Secretary will send the Code Sponsor and the Member the full written determination as soon as practicable and within 14 days of the Hearing. The determination will be published on the Code Sponsor's website.

N.B. The Panel Members sitting on an appeal must be different from the Panel Members who formed part of the Non-Compliance Panel which made the original decision.

**Qualifying information relating to
CCAB Memorandum of Understanding and RECC Bye-Laws**

Page	Item	Clarification / supplementary information / variation that will apply to RECC
3	<p>Introduction</p> <p>"Code Sponsors must undertake not to admit as members of their Code a business which: has a pre-existing complaint or complaints registered with another Code Sponsor, has had its application for membership rejected by the Independent Applications Panel, is in the Disciplinary Process of another Code Sponsor, has had its membership of another Code terminated by the independent Non-Compliance Panel or owes another Code Sponsor membership or other fees."</p>	<p>RECC's understanding is that this is intended as a summary only and the actual obligations as to members which must not be admitted are detailed more fully on page 4 of the MOU.</p>
4.	<p>2. Applications process</p> <p>"Checks must include insolvency checks and the trading history for all listed Directors, their relatives and executive management roles for the previous five years."</p>	<p>RECC intends to continue to use its definition of those individuals against whom checks are required, as follows:</p> <p>""individuals closely associated" with the Applicant include its directors, partners, shareholders, senior staff (regardless of job title), any other individuals closely associated with it and close family members. Where the Applicant is a sole trader, this includes the Applicant itself. Whether a person is an "individual closely associated" with the Applicant is to be judged from the point of view of a reasonable third party."</p>
4	<p>2. Applications process</p> <p>"Code Sponsors must not admit new businesses to their Code if there are outstanding complaints about the business registered with the existing Code Sponsor or if business is in an</p>	<p>As to complaints, RECC confirms it will not admit new members where there are outstanding complaints registered with another Code Sponsor. For the avoidance of doubt, RECC's understanding is that this relates only to pre-existing unresolved complaints as described below.</p>

	<p>existing Code Sponsor's Disciplinary Process."</p>	<p>By "complaints", RECC's understanding is that this refers to complaints from consumers.</p> <p>By "outstanding" RECC understands this to mean "unresolved" in circumstances where the consumer desires a resolution. This is contrary to the position on page 3 of the MOU which suggests that any pre-existing complaint registered with a Code Sponsor would bar admission. Where a complaint is "resolved", both the consumer and the member must agree this is the case. An "unresolved" complaint, this is a complaint that either the member, or, more likely, the consumer, still considers to be unresolved, even where the other party's view is that the complaint is resolved.</p> <p>RECC also observes that Code Sponsors will only be able to comply with these requirements if the information supplied to them by other Code Sponsors is accurate and complete, and is provided and updated in a timely fashion.</p>
4	<p>3. Applications Panel</p> <p>"In cases where Code Sponsors refuse an application, applicants may request access to the Independent Applications Panel who will decide whether the initial decision was justified."</p>	<p>In RECC's Bye-Laws, RECC may refer an application to the Applications Panel where it is not satisfied with the application; or RECC may make a decision on the application itself. Applicants are not able to request access to the Applications Panel to decide whether an initial decision made by either RECC or the Applications Panel is justified. However, there is no bar to Applicants re-applying unless the Applications Panel has considered their case and directed that applications from that named Applicant need not be considered by RECC for a specified period of time. RECC does not intend to change this process as a result of the MOU.</p>
4	<p>3. Applications Panel</p> <p>"A decision of the Applications Panel may not be appealed, although the applicant will be permitted to re-apply for membership."</p>	<p>Under RECC's Bye-Laws, there is no bar to Applicants re-applying unless the Applications Panel has considered their case and directed that applications from that named Applicant need not be considered by RECC for a specified period of time. RECC does not intend to change this process as a result of the MOU.</p>

5.	<p>4. Complaints Process</p> <p>"If a business wishes to join more than one Code, it must follow the complaints process for the first Code they have joined. This should be identified and recorded on the MCS database."</p>	<p>RECC observes that information sharing between the Code Sponsors may also be necessary to enable the correct complaints process to be followed. There should be no bar on a second Code investigating a complaint which arose whilst the member was a member of a different Code, as this may be relevant to disciplinary processes.</p>
5	<p>5. Complaints Handling</p> <p>"In order to facilitate the way complaints are handled and the referral process, Code Sponsors must ensure data collecting is consistent and use the agreed complaints log template provided by MCS here: http://www.microgenerationcertification.org/consumers/complaints/complaintregistration-form."</p>	<p>RECC intends also to continue to use its own complaints form available at: https://www.recc.org.uk/complaint-form</p>
6	<p>Non-Compliance Panel</p> <p>"If a Code Sponsor considers that a member has systematically breached the Code, and if its Disciplinary Process has failed to remedy the situation, the Code Sponsor may refer the member to the independent Non-Compliance Panel for a Hearing."</p>	<p>The reference to a failure to "remedy the situation" is ambiguous. Under RECC's Bye-Laws, the purpose of the disciplinary procedure is not limited to achieving a remedy to consumer complaints or remedying behaviour which is in breach of the Code. In addition, disciplinary procedures may be used to deal with breaches of the Bye-Laws themselves, or of Conditions or Consent Orders. An important aspect of this is to hold the member to account for its actions to ensure that high standards of consumer protection are maintained in the sector. As the reference to "systematic" breach recognises, members may have carried out breaches which cannot be remedied, or have behaved in a way which is sufficiently serious to justify termination of membership or other sanctions, whether or not the underlying issues have since been remedied.</p> <p>The reference to "systematic" breach of the Code is not the test used in RECC's Bye-Laws before a member can enter the disciplinary procedure. Any breach of the Code, the Bye-Laws, a Consent Order or Condition can lead to disciplinary action in some form or another, although the action</p>

		<p>taken will depend on the seriousness of the alleged breach.</p> <p>RECC does not intend to change these processes as a result of the MOU.</p>
6	<p>Non-Compliance Panel</p> <p>"The Code Sponsor may apply to the Non-Compliance Panel to recover its costs in investigating non-compliance, convening a Hearing and providing evidence. The Non-Compliance Panel will decide whether to award them, whole or in part, or not."</p>	<p>Under RECC's Bye-Laws, there are detailed rules about recovery of costs. The member may also apply to recover its costs from RECC. RECC does not intend to change these processes as a result of the MOU.</p>
6-7	<p>Non-Compliance Panel</p> <p>"If a member has already been before a Non-Compliance Panel Hearing, and has had conditions imposed on it, the member will be required to go back to a further Hearing at which the Non-Compliance Panel will decide whether the conditions have been complied with or not, and which, if any, further sanctions are appropriate."</p>	<p>Under RECC's Bye-Laws, where conditions are imposed, the member will generally be required to go back to a further Hearing, and always where the Non-Compliance Panel ordered this at the time of making the conditions, or where RECC is not satisfied that the conditions have been complied with. In other circumstances there does not always have to be a further Hearing (unless the Non-Compliance Panel otherwise orders) if RECC is satisfied that the conditions have been fully complied with.</p> <p>RECC does not intend to change this process as a result of the MOU.</p>
7	<p>Appeals Panel</p> <p>"A Code member... must pay £1000 in advance to cover the costs of the Appeal Hearing. (This will be refunded if the Appeal is upheld.)"</p>	<p>The fee for an appeal before RECC's Appeals Panel is £1,500. There is no automatic provision for this fee to be refunded if the appeal is upheld. However, the member (and RECC) can apply to the Appeals Panel for their costs, and the Appeals Panel could order the appeals fee to be repaid to the member, as part of its costs, if the Appeals Panel considered this to be fair and reasonable in all the circumstances.</p> <p>RECC does not intend to change this as a result of the MOU.</p>

7	Information Sharing	As discussed, RECC is happy to comply with the information-sharing requirements. Information sharing between Code Sponsors should be subject to the terms of a Non-Disclosure Agreement, and will require an amendment to RECC's Bye-Laws. I
		will forward a draft of such a Non-Disclosure Agreement shortly. RECC is currently seeking a Resolution to make the necessary change to its Bye-Laws.
5 and 7	Annexes	RECC will shortly send over drafts of the Annexes for operating processes for the Applications Panel, Non-Compliance Panel and Appeals Panel.

Informal Information Sharing Protocol

Parties

This Protocol is agreed between:

- Renewable Energy Assurance Limited (which operates the Renewable Energy Consumer Code (RECC))
- Home Insulation and Energy Systems Assured Contractors Scheme (HIES)

Introduction

The purpose of this informal agreement is to outline how and when information will be shared between the parties for the purpose of protecting the interests of consumers.

The parties operate Consumer Codes of Practice approved by the Chartered Trading Standards Institute (CTSI). As these operate in the same market sector, CTSI has established a Memorandum of Understanding, which requires in certain circumstances the sharing of information between the parties.

Circumstances when the parties **will** share information

Information Sharing purpose	Limitations
We will act to support law enforcement agencies to ensure that they are fully informed of any consumer complaints, trading history or other information that is relevant to their enquiries.	Trade Secrets & Manufacturing Processes*
We will act to share information between the parties to ensure informed decision making to discharge obligations under our respective Codes of Practice and Bye-Laws and the Memorandum of Understanding, including in relation to: <ul style="list-style-type: none">• applications by any person or business to become a member of a Consumer Code of Practice;• complaints made against a member of a Consumer Code of Practice;• monies owed by a member to the parties;• any non-compliance with the Consumer Code of Practice or its Bye-Laws by a member, including any disciplinary sanctions against the member; and• monitoring of members' compliance with the Consumer Code of Practice.	Trade Secrets & Manufacturing Processes* Information may be anonymised to protect identities of mystery shoppers or those attending sales training anonymously.
We will act to support the independent panels established by the operators of the Consumer Codes of Practice (including the Applications Panel, Non-Compliance Panel and Appeals Panel).	Trade Secrets & Manufacturing Processes*
We will act to support the Certification Bodies, Microgeneration Certification Scheme, Chartered Trading Standards Institute, Citizens Advice Service and Government to resolve any	Only to the extent required to address the individual complaint.

complaints concerning members of our respective Consumer Codes of Practice.	Trade Secrets & Manufacturing Processes*
We will act to support civil servants to respond to Ministerial and Parliamentary Correspondence.	Only to the extent required to address any individual identified complainant or (where aggregate information is requested) de-personalised.
We will act to support local authorities to respond to Councillor Correspondence.	Trade Secrets & Manufacturing Processes*

* A trade secret or manufacturing process is as defined in EU Directive on the protection of undisclosed know-how and business information (trade secrets) against their unlawful acquisition, use and disclosure EU/COM/2013/0813

Circumstances when the parties **will not** share information

Information Sharing	Requirements
Unless we are ordered to do so by a court or formal notification of a statutory power, we will not share information concerning trade secrets, manufacturing processes, product design or innovation, intentions or market opportunities of any members of the Consumer Codes of Practice.	Court Order. Notification in writing of statutory powers.
Unless we are ordered to do so by a court or formal notification of a statutory power, if an individual has expressly asked us to keep a matter in confidence, we will only share that information with their express consent.	Express consent of the person asking that the matter be held in confidence. Court Order. Notification in writing of statutory powers.
Unless we are ordered to do so by a court or formal notification of a statutory power, if any information relates to a consumer, we will only share that information with their express consent.	Express consent of the consumer to whom the information relates. Court Order. Notification in writing of statutory powers.
Unless we are ordered to do so by a court or formal notification of a statutory power, or in the circumstances outlined in this information sharing protocol, the party receiving information will not provide it to any third party without the express consent of the party supplying the information. For these purposes, "third party" does not include the subject of the information, for example a business applying to join a Consumer Code of Practice or a member of an existing Code of Practice.	Express consent of the party supplying the information. Court Order. Notification in writing of statutory powers. In accordance with information sharing protocol.

Data Protection

Each party will be responsible for ensuring compliance with the requirements of the Data Protection Act 1998 for any information shared under this protocol.

Purpose

Any information shared under this protocol will only be used for the purpose identified and not for any other purpose without the express consent of the party supplying the information. The information shared will only be kept for as long as is necessary to discharge the purpose identified.

Review

This protocol will be subject to regular review (at least annually) between the parties to ensure that it is operating effectively. In addition, the parties will record and report actions under the protocol as a part of their annual reports on the operation of their respective Consumer Codes of Practice.

Contact Details

Renewable Energy Assurance Limited	Home Insulation and Energy Systems Assured Contractor Scheme
25 Eccleston Place London SW1W 9NF	Astley House 29 Queens Road Chorley Lancashire PR7 1JU
There will be named contacts between the parties as follows:	
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Virginia Graham virginia@recc.org.uk	Tony Allen t.allen@hiesscheme.org.uk