

28 Day Rule Suspension for Energy Services Contracts

EST Response

This is the response of the Energy Saving Trust (EST) to Ofgem's consultation on suspension of the 28 Day Rule for energy services contracts. This response should not be taken as representing the views of individual Trust members.

The Trust was established as part of the Government's action plan in response to the 1992 Earth Summit in Rio de Janeiro, which addressed worldwide concerns on sustainable development issues. We are the UK's leading organisation working through partnerships towards the sustainable and efficient use of energy by households and the road transport sector.

1. General Comments

EST welcomes the consultation and the proposal for a major trial in response to the recommendations of the ESWG. In particular we strongly support the key principles of the trial including:

- restriction of the trial to contracts which provide for energy services only,
- restriction to offers that support a significant level of energy efficiency improvement or renewable energy supply,
- a large scale, but limited trial. The proposed maximum number of 4% (or 50,000 where this is higher) customers will allow offers large enough to warrant marketing effort, without prejudicing competition in the kWh market,
- the two year trial duration,
- linkage of 28 day rule suspension to offers that include good quality energy advice, and
- comprehensive evaluation.

There remain a number of matters set out in the consultation document, which EST believes need to be amended. These concern the details of trial. However, they are important, as, in some cases, they risk undermining the basic principles of the trial.

Key concerns are as follows

2. Relevance to Community Heating Schemes (paragraph 4.19)

We welcome the decision to seek comment on this issue, which we raised as a potential concern with Ofgem in advance of the consultation document. In some cases, community heating schemes are operated by non-licensed suppliers, and so will not be affected. But, it is important that the trials do not unfairly exclude community heating schemes linked to electricity supply, where these are genuine energy services offered by licensed suppliers. Having examined the proposed definitions, most aspects seem 'community heating' friendly, but three areas are potentially problematic:

- the detailed rules on energy savings will need to include savings made outside the individual dwelling, e.g. through combined heat and power,
- the 15% threshold proposed is too high (see below), and
- the focus of customer protection on energy 'prices' rather than total 'bills' is especially problematic where the energy efficiency benefits relate to energy

(heat) outside the scope of the license (see comments on paragraph 5.12 below).

3. Definition of energy services (paragraph 5.9)

We strongly support the recommendation of the ESWG that trials should be restricted to offers providing a significant level of energy saving. To achieve this, we support the suggestion that audits and advice should be consistent with the Code of Practice set out by the Energy Efficiency Partnership for Homes. We also support Ofgem's view that the best approach to ensuring material energy savings is to set a threshold level, rather than requiring particular measures. We have three concerns about the definition proposed:

3a. The requirement that the package should be cost effective (paragraph 5.9.7)

We believe this is unnecessary and unhelpful. It did not form part of the recommendations of the ESWG. Indeed, the ESWG report explicitly considers measures that are well known not to be cost effective, e.g. photovoltaics. This requirement therefore has the potential to exclude renewable measures from the trials.

A requirement for cost effectiveness involves decisions on discount rates. If, as proposed, this choice mirrors consumer behaviour in energy efficiency markets, it will reinforce a barrier to energy efficiency that the trials seek to overcome.

Most energy efficiency measures installed are cost effective. However, some, for example solid wall insulation, as well as many renewable energy options, are not currently cost effective. Provided customers enter contracts fully aware of these facts, we do not believe they should be excluded from choosing these measures. Indeed, energy services packages offer a good opportunity to develop niche markets with 'green' customers and thereby expand markets and reduce costs.

We believe that the requirement for a good quality audit and advice is sufficient to allow customers to exercise their own judgement on this issue.

3b. The threshold of 15% (paragraph 5.9.6)

We believe that this is too high.

It would effectively require savings of approximately 2 MWh/year of electricity or 4 MWh/year of gas. Many major energy saving measures cannot, alone, reach this level – condensing boilers, top-up loft insulation, micro-CHP and typical photovoltaic installations are good examples. Only cavity wall insulation achieves this level, and even then not in all properties. In many cases it will only be practical or cost effective to install one such major measure, for example an efficient heating system in a house without cavities or with pre-filled cavities.

The result of the proposed 15% threshold, especially if linked to a requirement for cost effectiveness, will be to limit the trials largely to homes with unfilled cavities. We do not believe this is appropriate. It would discriminate against both the occupiers of 'hard to treat' properties and those people who have already undertaken insulation. It would also limit the sizes of trials to well below 4% (as the cavity wall insulation market is currently only marginally above 1% of homes annually and is unlikely to double over the period of the trial).

We believe that the threshold should be set so that energy services offerings that involve one major measure qualify for the trial. This was the view of the Energy Services Working Group and we see no reason to depart from that principle. We suggest that this is likely to mean a threshold of 10%. Any higher number risks undermining the potential of the trials to make a significant contribution to developing energy service markets.

3c. Financing rules (paragraph 5.9.9)

The ESWG recommendation was that a ‘no up front cost’ financing option should be offered, but not necessarily accepted by the customer. The consultation document proposes that at least two-thirds of the cost would have to be on credit. This would deter the (perhaps significant) group of customers who are credit averse.

We agree that suspension of the 28 Day Rule is only appropriate where the supplier is taking on a major additional responsibility for energy efficiency. The consultation document implies that, without any financing package, the customer has no additional benefits. This is not necessarily correct. Customers would still get the benefits of a free audit, supplier arranged installation, supplier involvement (through e.g. guarantees) in their energy provision, and a one-stop-shop approach to lower energy costs. The trial rules should ensure that the supplier guarantees the proper functioning of the measures throughout the lifetime of the contract. This would address the issue raised in paragraph 5.12.8 of the consultation.

We accept that it would be unreasonable for a supplier to avoid taking responsibility for financing measures by offering only high interest rate options. We would be happy for qualification for the trial to require an offer of a reasonable interest rate.

We therefore propose that the trial should allow inclusion of customers who are offered, but refuse a financing package, provided that they have a full energy audit and the supplier guarantees the measure over the lifetime of the contract.

4. Customer protection (paragraph 5.12)

EST recognises that proper customer protection is a key issue for the trial. However, as an organisation, we do not specialise in this area. We therefore do not have a strong view on the merits of different forms of price guarantee.

However, we believe that the forms of customer protection need to be consistent with the aims of the trial. An energy services approach is that it combines supply of energy units with installation of energy saving measures. The merit of this is that, where cost effective, this offers a means to reduce customer bills. It is reduced customer bills and/or the provision of other forms of sustainable energy, **not** lower prices, that is the policy objective (and the subject of Ofgem’s primary duty).

EST therefore opposes the proposal that the only acceptable forms of customer protection in energy services packages should focus on energy prices. We accept that the ESWG recommended that energy costs should remain unbundled from energy efficiency financing costs. But the key issue for the consumer is the sum of the two, not the energy price.

We therefore believe that the approaches that are allowable to satisfy customer protection concerns should include methods that refer to the total bill, for example that the supplier guarantees the total bill in real terms remain lower than the historic bill over the lifetime of the contract.

5. Other issues

5a. Approach to the Trial

Does the proposed suspension of the license change after 2 years prejudice long term contracts signed within that period?

5b. Objectives of the Trial (paragraph 4.6)

We agree that the principle objectives should relate to sales of energy services packages and customer protection. We believe that environmental objectives and the promotion of competition (by increasing contract diversity) should be added. Both are issues relevant to Government objectives and Ofgem's statutory duties.

5c. Independent Second Opinion

We agree that consumers should have the right to a second opinion on the recommendations of the energy audit, at no upfront cost. However, we do not think that suppliers should be required to promote this actively; instead there should be quality control of the supplier's audit to ensure a reliable product.