

**Ofgem Simplification Plan 2014-15**  
**Response from Gavin King-Smith**  
**Received by email 1 June 2014**

Dear Sirs

I am responding to your request for input to your Simplification Plan as described by yourselves below

"On upcoming work, the 2014/15 Plan will set out commitments for the year ahead. In particular, we propose to focus on:

- aspects of our work in relation to independent suppliers and generators, for example around compliance and licensing options
- how we might review processes to enable greater consistency, for example in interconnector regulation and in work on European network codes
- continuous improvement, working with others through our participation in the UK Regulators' Network (UKRN) established to enhance coordination across regulated sectors, and internally, for example in further evolution of the offshore regime.

We also want your views on what more we could do to simplify, clarify and make our regulation work better. Anything included in the Plan should further the principles of better regulation, so we are looking in particular for actions that could help us to be more proportionate, accountable, consistent, transparent or targeted in how we work. Suggestions must be capable of delivery by Ofgem, as we cannot make commitments for others."

The views below are based on my experience as a sub-50kW hydropower generator under RO and ROO-FiT applying both for these subsidies and for REGOs. They are also based on many examples of other generators' experiences with Ofgem in my role for 3½ years as administrator of the Micro Hydro Association. They relate solely to Ofgem's regulation of small scale hydropower schemes.

My comments are based on the only government guidance available on how regulators should operate (your own stated principles are in line with this guidance although I observe that your governing body GEMA is excluded from the legislation which led to the guidance): "principles of better regulation and code of practice"\*:

*be proportionate and targeted:* **set up procedures which direct your staff to spend the majority of their time examining and monitoring the hydropower schemes with the greatest probability of causing any significant impact** on abusing benefits from the FiT.

At present, your staff fiddle while Rome (possibly) burns - I can furnish examples which have caused me and others extreme and wholly unnecessary frustration and wasted time and effort. There is likely to be an **opportunity here for reducing Ofgem staffing** and at the same time **achieving better targeted results by ensuring compliance of the larger scale schemes.**

*be accountable:* **publish information on the amount of work done in regulating hydropower and the results in terms of non-compliance discovered and action taken;** also **publish information on your accreditation of schemes showing actual energy generated** by different renewable technologies (available from electricity suppliers through FiT records), not just scheme capacities which give no indication.

Also **publish information on the applications for accreditation in your pipeline** - there have been discrepancies between the published figures and the actual position owing to delays in the accreditation process.

*be simple*: **condense the requirements for collecting information about small scale schemes** to the basic facts you need under the FiT legislation to keep on record - this could be simply achieved with a one-page form and turned round very quickly.

*be consistent*: **openly publish the discretionary measures** you can apply where there is a reason to do so and exercise them accordingly;

**engage with other agencies**, in particular environment agencies, planning authorities involved in regulating hydropower schemes **and remove duplication** (Ofgem and all these authorities unnecessarily request similar information).

*be transparent*: **openly publish the processes** by which you assess applications for accreditation (both for new schemes and amendments to existing schemes) and the timescales and work involved in carrying out your duties.

*fulfil your purpose* "Our principal objective when carrying out our functions is to protect the interests of existing and future electricity and gas consumers.": the interests of existing and future electricity consumers will be met by **encouraging the development of (safe and environmentally sensitive) hydropower, not by constraining such development.**

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\*from Better regulation Delivery Office April 2014:

The statutory principles of good regulation can be viewed in Part 2 (21) on page 12:

[http://www.legislation.gov.uk/ukpga/2006/51/pdfs/ukpga\\_20060051\\_en.pdf](http://www.legislation.gov.uk/ukpga/2006/51/pdfs/ukpga_20060051_en.pdf)

## 21 Principles

(1) Any person exercising a regulatory function to which this section applies must have regard to the principles in subsection (2) in the exercise of the function.

(2) Those principles are that—

(a) regulatory activities should be carried out in a way which is transparent, accountable, proportionate and consistent;

(b) regulatory activities should be targeted only at cases in which action is needed.

The code for (most) regulators is found

at <https://www.gov.uk/government/publications/regulators-code>

It states:

1. Regulators should carry out their activities in a way that supports those they regulate to comply and grow
2. Regulators should provide simple and straightforward ways to engage with those they regulate and hear their views
3. Regulators should base their regulatory activities on risk
4. Regulators should share information about compliance and risk
5. Regulators should ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply
6. Regulators should ensure that their approach to their regulatory activities is transparent

**Proportionality**

Regulators should intervene only when necessary. Remedies should be appropriate to the risk posed, and costs identified and minimised.

**Accountability**

Regulators should be able to justify decisions and be subject to public scrutiny.

**Consistency**

Government rules and standards must be joined up and implemented fairly.

**Transparency**

Regulators should be open, and keep regulations simple and user-friendly.

**Targeting**

Regulation should be focused on the problem and minimise side effects.

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Yours faithfully

Gavin King-Smith

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