

Energy UK response to the Ofgem consultation on the Energy Companies Obligation (ECO): changes to the Guidance for Suppliers

22 September 2014

Introduction

Energy UK is the trade association for the energy industry. We represent over 80 members made up of generators and gas and electricity suppliers of all kinds and sizes as well as other businesses operating in the energy industry. Together our members generate more than 90 per cent of the UK's total electricity output, supplying more than 26 million homes and investing in 2012 more than £11 billion in the British economy.

Suppliers are committed to achieving and delivering the targets Government has set for ECO as cost-effectively as possible while complying with Ofgem's rules and keeping customer service at the forefront of all their activities. Following Government's announcement of a restructure of ECO, suppliers made commitments to reduce customer bills¹ whilst still delivering ECO. Since the commencement of ECO, energy suppliers have worked to install over 680,000 measures² which have been approved by Ofgem.

Energy UK's response to Ofgem's consultation on the Energy Companies Obligation (ECO): changes to the Guidance for Suppliers. We would be happy to discuss any of the points made in further detail with Ofgem or any interested party if this is considered to be beneficial.

Executive Summary

Energy suppliers are committed to achieving and delivering the targets Government has set for ECO. The industry is working with Ofgem and DECC to make sure the scheme helps as many people as possible in the most cost-effective way.

Energy UK strongly believes that ECO works best when it is run as efficiently and effectively as possible. In order to achieve that, it is important that there is clear and specific Supplier Guidance in place. We welcome the opportunity to provide feedback and would like to note our thanks to the Ofgem team for organising industry workshops and involving market participants over and above the obligated parties. We believe that wide consultation is necessary since ECO involves a wider supply chain compared to previous obligations.

¹ <http://www.energy-uk.org.uk/publication/finish/3-factsheets-and-guides/1106-eco-changes-major-energy-suppliers.html>

² Ofgem's Energy Companies Obligation (ECO): Compliance Update (Issue No. 14) - <https://www.ofgem.gov.uk/ofgem-publications/89750/ecocomplianceupdateseptember2014.pdf>

Key Points:

Proposal to further evidence Building Regulation unnecessarily

We strongly disagree with the proposed requirement for obligated parties to further evidence compliance with Building Regulations. Demonstrating compliance with PAS 2030 infers compliance with Building Regulations, therefore this proposal is unnecessary. Energy suppliers have been working with Ofgem and the wider industry to identify ECO operational challenges including quality issues in all installations. Whilst there is agreement that the quality of installations can and needs to be improved, we do not believe, based on energy suppliers' experience, that instances of poor quality installations would be prevented by providing an additional certificate indicating a measure was installed according to Building Regulations.

If energy suppliers were required to further demonstrate compliance with Building Regulations, irrespective of which of the three proposed options were chosen, we believe it would lead to an increase in programme administration time to obtain the approvals and report in line with the one month notification period. The associated risk of non-compliance and a potentially significant increase in costs would ultimately have an impact on consumer energy bills. Furthermore, due to the difference in Building Regulations between Scotland and England and the fact that the approval options can differ by region, we believe this proposal to be extremely complex and largely unworkable.

High quality of installations is paramount, however, ECO is an element of and not the whole of the energy efficiency market. As such, our members operate in a wider environment along with a variety of other trades. We believe that improvements in the energy efficiency market cannot come only from ECO obligated parties. This is why the ECO Industry Fraud Prevention and Compliance Committee, where Ofgem and ECO obligated parties participate, is driving wider stakeholder engagement. The Committee believes that their meetings can be used as an opportunity to hold further discussions on the quality of installations with various parties – who are the most appropriate to assume responsibility and indicate robust processes to ensure quality and monitoring.

Where there are issues in relation to the poor quality of installations, these will also be picked-up through technical monitoring and can be addressed accordingly. In the longer term, if Ofgem do not believe that PAS accreditation can be relied upon, Ofgem should engage with the PAS accreditation bodies to strengthen the accreditation process and ensure there are sufficient sanctions in place to act as a deterrent to poor quality workmanship.

Furthermore, industry has been working together through the established ECO Reporting Working Group to ensure there is consistency and standardisation in the information that energy suppliers collect from the supply chain for ECO measures. Energy suppliers strongly believe this has been a worthwhile exercise, and by introducing new requirements such as the Building Regulations sign-off, could provide confusion within the supply chain.

Insulation and District Heating Systems

An additional area of concern for energy suppliers is that cost-effectiveness is not proposed to be a valid reason for not insulating a property when installing District Heating. At the Ofgem organised workshop on this issue, suppliers and representatives from Local Authorities and installers stressed that cost-effectiveness is a valid consideration which affects a number of large-scale projects, as district heating projects tend to be. We would urge Ofgem to accept cost-effectiveness as a valid reason to not insulate a property when installing district heating and consider each case on merit.

We would like to highlight that energy suppliers are in an unusual position as a result of the changes to ECO. The first set of changes relate to the current obligation period (1 April 2014 and extending to 31 March 2015). Suppliers are asked to comment on Guidance that will effectively apply retrospectively, a most unusual and potentially costly way of re-designing an obligation. However, Energy UK would like to thank Ofgem for issuing its consultation so soon after Government laid its amending ECO Order on the 22 July 2014. Furthermore, energy suppliers have welcomed the opportunity to work with Ofgem to allow being able to continue reporting measures on a voluntary monthly basis from April 2014 to when legislation is in force ("interim period").

We would be happy to discuss our response further. If so required please do not hesitate to contact me.

Natalie Scarimbolo
Policy & Operations Co-ordinator (Energy UK)
Natalie.Scarimbolo@energy-uk.org.uk

Energy UK responses to individual questions

Question 1

1a) Do you agree that insulation of a cavity wall must be installed to at least 50% of the total exterior facing wall area of the premises in order to support a secondary measure?

Yes.

Please see further details in response to Q1b.

1b) Please give reasons for your answer (including any alternative suggestions for an acceptable minimum threshold).

Energy UK believes this proposal is in line with existing rules; suppliers must install 100% of a measure at a premises unless there are reasonable grounds for not doing so.

However, energy suppliers would caution against additional administrative burden of evidencing when less than 100% of a measure is installed. The industry standardised template (Declaration of Conformity and Completed Installation [form](#)) captures this information adequately, and this proportion is used as part of the ECO score calculation, all of which is checked through technical monitoring.

Further evidence of the proportion of a measure is not required and no additional information should be requested by Ofgem at audit. No additional forms of evidencing would benefit the supply chain as this would result in no changes with current practices.

1c) Do you agree that roof-space insulation must be installed to at least 50% of the total roof-space area of the premises in order to support a secondary measure?

Yes.

Please see further details in response to Q1b and Q1d.

1d) Please give reasons for your answer (including any alternative suggestions for an acceptable minimum threshold).

Energy UK believes this proposal is in line with existing rules, and further reasons are provided in response to Q1b. In relation to roof-space insulation, it is felt there should be a consistent way of measuring the roof-space area. We would request that Ofgem publish guidance and a best practice guide to achieve this.

Question 2

2a) Do you agree with the reasons we are proposing for judging why any of the roof-space or exterior-facing wall area cannot be insulated?

In principle, there is agreement from energy suppliers to the proposed reasons for judging why any of the roof-space or exterior-facing wall area cannot be insulated. However, we ask that Ofgem are not overly prescriptive in setting out the reasons within the Guidance and retain some degree of flexibility in allowing energy suppliers to put forward reasons as and when they arise which Ofgem can consider on a case-by-case basis.

Energy suppliers acknowledge that District Heating Systems (hereafter referred to as DHS) are required, and DHS should not be installed unless there is adequate insulation present in the premises or there are reasons for judging that any roof-space or exterior-facing wall area cannot be insulated.

While we agree premises forming part of a DHS should also be insulated, it is not always practical to do so, for technical or financial reasons. Suitability needs to be assessed on a case-by-case basis. For example, the need to insulate a large high-rise building could put a viable DHS project in jeopardy due to the associated cost implications. Suppliers are better placed to provide Ofgem with a set of calculations to assess cost-effectiveness models, therefore Energy UK is not putting forward an example for Ofgem to consider further.

Energy suppliers may be providing information on cost-effectiveness models in their individual responses or further arguments as to why Ofgem should consider applying a cost effectiveness test on a case-by-case basis and set a £/tCO₂ threshold over which insulation does not need to be installed with DHS schemes.

2b) Are there any other scenarios where the exterior-facing wall area of a premises being connected to a DHS cannot be insulated?

In addition to the existing examples provided in Ofgem's Supplier Guidance and the proposed reasons for judging that any part of the exterior-facing wall area cannot be insulated (i.e. technical reasons such as the wall cannot support external wall insulation, planning restrictions, inability to gain access to necessary work areas, or refusal to consent from the occupier (or landlord as appropriate)), we believe that cost-effectiveness should be included.

Please see further details in response to Q2a.

2c) How can suppliers demonstrate for compliance purposes that the exterior-facing wall area cannot be insulated?

Demonstration for compliance purposes as to why the exterior-facing wall cannot be insulated varies depending on the reason why insulating the wall is not possible.

If the exterior-facing wall area cannot be insulated due to refusal to consent from the occupier (or landlord as appropriate), energy suppliers would use the industry standardised template (Declaration of Conformity and Completed Installation [form](#)) which already captures this information.

If there are technical reasons not to insulate (such as the wall cannot support external wall insulation), energy suppliers may seek a Chartered Surveyors survey to evidence this.

If the property is listed as an English Heritage Site, suppliers can easily demonstrate this to Ofgem as the building/premises will be categorised as listed and information on what alterations can and cannot be made will be readily available.

If cost-effectiveness is recognised as a reason for not insulating the premises when installing DHS, there will need to be a test to demonstrate this. Energy suppliers may be providing information on cost-effectiveness models in their individual responses.

2d) Are there any other scenarios where the roof-space area of a premises being connected to a DHS cannot be insulated?

In addition to the examples provided in response to Q2b in relation to wall insulation, legal reasons should be included in relation to why a roof-space area of a premises being connected to a DHS cannot be insulated. Examples for Ofgem to consider include the following:

- a. The roof-space of a flat may be the balcony of the flat above therefore it is not possible to insulate;
- b. Protected species inhabit the loft space, therefore it is not possible to insulate; or
- c. Planning permission is required and the time it would take is prohibitive to the work being undertaken.

Suppliers would urge that an exhaustive list of reasons for not insulating a premises is not provided in the Ofgem Supplier Guidance to give flexibility. There are many unknown possible reasons for not insulating, and suppliers would like Ofgem to consider examples on a case-by-case basis when applying for an ex-ante consideration of a proposed scheme.

2e) How can suppliers demonstrate for compliance purposes that the roof-space area cannot be insulated?

Demonstration of compliance for roof-space areas is the same for exterior-facing wall areas, therefore please see further details in response to Q2c.

2f) Are there any additional factors that can affect the decision on whether or not to insulate a premises?

Energy UK notes that there will be occasions where in a high-rise building, mixed ownership (e.g. part privately owned – part council owned) will create significant issues with obtaining agreement from all parties involved, especially where cost is involved. This will result in projects not being realised as there will be no way to part-insulate. The cost of planning permission could become a problem if planning becomes a method of evidencing.

Energy UK would also like to suggest that there will be times when installing DHS in solid wall properties where it is more sensible to install the DHS before the SWI as there could be a risk of compromising the effectiveness of SWI. For example if there are pipes, cables or ground work that needs to be done to or around the walls for the DHS, this should take priority before cladding a wall otherwise the EWI could be compromised.

Overall we would urge Ofgem to continue considering DHS projects on a case-by-case basis, to ensure that the rules do not prejudice potential installations.

2g) Do you agree that, where the roof-space area or total exterior-facing wall area of the premises are insulated to less than 100% but more than a specified minimum level, a DHS connection should be eligible where the remaining area cannot be insulated?

- **For premises, not including those within a multi-storey building which is not located on the top floor**

Energy suppliers believe that there should not be a specified minimum level for premises not including those within a multi-storey building which is not located on the top floor. If insulation needs to occur, suppliers would seek to insulate as much of the premises as possible, thereby negating the need for a minimum. Under the current process, suppliers need to provide evidence to Ofgem as to why 100% of

a measure is not installed using the Declaration of Conformity and Completion Installation industry standardised template.

Suppliers argue that cost-effectiveness is a valid reason for not insulating the premises when installing DHS. Please refer to responses to the previous questions for more information. Suppliers would like to treat each premises and DHS scheme on an individual basis, where possible.

2h) Do you agree that this minimum level should be set at 50%?

Please see the response to Q2g for further information.

Question 3

3a) Do you agree with our proposal to require evidence that the installation of a measure complies with Building Regulations? Please give reasons for your answer.

No.

Energy UK strongly disagrees with the proposal to require evidence that the installation of a measure complies with Building Regulations as a means of improving the quality of installations. There is agreement that the quality of installations can and need to be improved, but suppliers doubt that collecting another declaration would deliver the desired improvement.

Energy suppliers are increasingly concerned that ECO compliance has meant that obligated parties are put in the position of policing other industries involved in the energy efficiency market. This has been particularly prevalent with technical monitoring. Overall, we strongly believe that other industries working in ECO should have strong and robust processes independent of ECO. This would help the Administrator with checking compliance and ultimately there should be no or little need for technical monitoring, which is designed to police the work of industries other than the obligated parties.

The quality of installations is a wider issue that extends beyond ECO. To help improve the quality of installations, DECC and Ofgem need to liaise with stakeholders and agree on ways to ensure compliance as well as recourse when a company is not delivering measures to a high standard. Discussions with the supply chain, particularly with installers and the appropriate certification bodies are required to ensure improvements to the quality of installations. Transforming PAS 2030 could be a way of improving quality and energy suppliers believe that a pan-industry discussion on PAS 2030 could be helpful involving Ofgem, DECC and the supply chain.

Through the ECO Industry Fraud Prevention and Compliance Committee (EIPFCC), participants (which include Ofgem and ECO obligated suppliers), are driving wider stakeholder engagement and this existing forum could be used as an opportunity to hold further discussions on the quality of installations with various parties, such as concerns with the current PAS 2030 accreditation

From a technical monitoring perspective, the quarterly results do not suggest there are issues with complying with Building Regulations; however it is agreed that if there are issues in relation to poor quality installations, these will be identified through technical monitoring. Energy suppliers believe that Ofgem is in a unique position to highlight where the quality of installations is an issue. Whilst suppliers acknowledge that Ofgem cannot identify individual installers' failure rates, it is felt that this information can be shared with DECC for further consideration and possible recourse.

Energy suppliers must already ensure that the installation of a measure is carried out in accordance with the relevant standards. All ECO installations must be carried out by a PAS-certified installer, where the measure is referred to in PAS. Whilst it is acknowledged that PAS does not expressly evidence compliance with Building Regulations, to achieve PAS accreditation for cavity wall insulation for example, an installer must carry British Board of Agrément (BBA) accreditation to install that particular

measure. BBA then provide reassurances by assessing manufacturers' products, systems and procedures to ensure they are fit for purpose, therefore confirming Building Regulations' compliance.

For measures such as solid wall insulation, part of the existing guarantee is to submit the BBA certificate for the building warrant, which in turn confirms compliance with Building Regulations. For boiler installs, this needs to be registered with Gas Safe. If installers are members of CIGA's self-certification scheme, Building Regulations have to be complied with – this relates to a majority of cavity wall insulation installers.

Of the three proposed forms of evidence to demonstrate compliance, the building regulations compliance certificate issued by a Competent Person Scheme (CPS) is the only workable solution. However it must be noted that there is no such scheme in operation in Scotland and in some parts of England, and as a result, this could significantly impact the geographical delivery profile under ECO. Furthermore, CIGA record if a measure has been carried out by CPS so this is already being captured for some measures.

The other proposed options by Ofgem – an approval certificate by a building control body or by Approved Inspectors – will have a significant impact on ECO delivery. Firstly, they would increase compliance costs and would therefore adversely impact on consumer energy bills. Secondly, they would put energy suppliers' compliance at risk as obtaining the certificate within the one month notification period would be unachievable. These options would also put an undue burden on Building Control departments, and add the inconvenience of another site visit for consumers.

If Ofgem does decide to introduce this additional level of compliance, energy suppliers would request that Ofgem provide guidance in relation to individual measures for which compliance with Building Regulations would be required, and explain why existing forms of evidencing compliance in relation to those measures are not adequate. We also request that Appendix One ("Documents and data to be made available on request") is updated to reflect these changes. Consideration should also be given to how suppliers are required to demonstrate compliance with Building Regulations in Scotland, as these can differ quite significantly from Building Regulations in England and Wales.

3b) If this requirement was introduced, how could compliance be demonstrated?

Please see the response to Q1a for further information.

3c) Are you aware of any other means of evidencing compliance with building regulations other than those listed (for either the installation or the product and system, or both)? If so, please provide details.

No.

3d) Do you think we should introduce this requirement from the date version 1.2 of the guidance takes effect or for the next ECO obligation period (2015-2017)? Please give reasons for your answer.

Although energy suppliers disagree with introducing this additional compliance requirements, if Ofgem was to introduce the proposed forms of evidence, we strongly urge that this introduction does not take place until the next ECO obligation period (i.e. ECO 2: 2015 – 2017) at the earliest.

Before introducing any new requirements, energy suppliers request that Ofgem assesses how compliance with Building Regulations is evidenced in relation to boilers, wall insulation and glazing, and whether there are any gaps in evidence collation. Ofgem should clarify why existing forms of evidencing (e.g. CIGA guarantee for cavity wall insulation) are not adequate before placing any additional requirements on energy suppliers.

If such a change is introduced, the supply chain will need as much time as possible to adjust and prepare for compliance with this new requirement.

Energy suppliers are happy to continue these discussions with Ofgem if required.

Question 4

4a) Please provide any further comments on the changes to our DRAFT guidance document (version 1.2).

Energy UK would like Ofgem to consider the following points or areas of clarification prior to finalising the next version of the Supplier Guidance.

- ▶ **Data protection:** In order to justify the reasons for energy suppliers to hold and retain data, Ofgem should include this as a specific requirement in the next version of the Supplier Guidance.
- ▶ **Tax credits:** Further clarification would be welcomed on the addition under Tax Credits which states 'or that they receive the maximum amount of tax credits'. Energy suppliers would request that Ofgem includes how this should be evidenced.
- ▶ **CSCO and CSCO Rural postcodes:** We urge Ofgem to provide the latest list of CSCO, CSCO Rural and CSCO Adjoining Postcodes to suppliers as soon as possible.
- ▶ **Boiler Replacement Warranty:** We note the additional requirement to include a warranty with any boiler replacements installed under surplus actions from January 2015 onwards. As the next version of the Supplier Guidance will cover the period up until March 2015, Ofgem should include information in the guidance on warranty specification.
- ▶ **Inflator/Deflator:** Ofgem should confirm how the inflator/deflator scores will be applied for surplus actions installed before 1 April 2015, and whether it will be a requirement on suppliers to provide further information/evidence for boiler warranties in particular. Can Ofgem confirm how the scoring on surplus action will be applied?
- ▶ **RdSAP v9.92 and DECC's Call For Evidence on the Proposed Conversion Factor:** Energy suppliers must have clarity on the process of applying the conversion factor within this version of the Supplier Guidance as there is concern that the new version of RdSAP may be implemented prior to the ECO scoring software tools are approved. In the event that scoring tools are not approved in time, Energy UK would encourage engagement with Ofgem and DECC to agree an alternative solution. Discussions have already commenced between Energy UK and DECC, but we would like Ofgem involvement and guidance where possible.
- ▶ **Technical Monitoring:** Energy UK has previously mentioned that if an EPC/GDAR is lodged, energy suppliers should not be required to check this again at technical monitoring stage since this industry has its own assurance processes.
- ▶ **Declaration for Social Housing Properties:** Energy suppliers believe that Landlord's declarations should be acceptable for Social Housing Properties where they are insulated before CIGA guarantees are issued.