

To: Domestic Renewable Heat Incentive
stakeholders and other interested parties

Date: 31 July 2015

Dear Colleagues,

**Response to our consultation on recognising Microgeneration Certification Scheme (MCS)
equivalence for the purpose of Domestic Renewable Heat Incentive (RHI) scheme applicant eligibility**

On 20 March 2015 we consulted on the features that a certification scheme would need to demonstrate for us to recognise it as equivalent to MCS. We also sought your views on the criteria and assessment methodology we could use to assess equivalence.

The consultation period closed on 29 May 2015. We have now reviewed all responses and, where appropriate, these will support the drafting of our second consultation in which we will be setting out the detailed equivalence criteria, requirements and assessment methodology that, when finalised, Ofgem will use to assess equivalence.

The consultation period

During the consultation period we hosted three stakeholder engagement workshops. On 19 and 20 May 2015, we held workshops in London and, on 22 May 2015, we held a workshop in Glasgow.

We would like to thank all stakeholders who provided feedback through those stakeholder engagement events. We received 13 consultation responses which we have published alongside this document. The responses and feedback received were useful and we have summarised the responses below, also providing our response in each case.

Summary of responses and our views

The Microgeneration Certification Scheme (MCS)

- 1.1. Some respondents questioned the need for an equivalent certification route to MCS and expressed concern that the existence of such a route could lead to watering down of standards.

Additional concerns were raised in regards to:

- whether the MCS requirement is in contravention of EU legislation
- perceived MCS bias in the Domestic RHI Regulations and the need to maintain equivalence to MCS
- the impact an equivalent scheme may have on MCS (and vice versa) especially in regards to the development of standards and intellectual property
- the creation of additional bureaucracy and confusion within the industry and for consumers that equivalent schemes may have on the market
- the availability of data to the industry and the need for cross scheme communication for effective administration
- the breadth of the consultation and its focus on only the Domestic RHI scheme requirements and not all subsidy schemes.

Our responses: We recognise these concerns and have raised them with the Department of Energy and Climate Change (DECC), DECC have confirmed that the MCS requirements are not in contravention of EU legislation. As administrators of the Domestic RHI scheme for DECC, we must administer the scheme in accordance with the Domestic RHI Regulations as they are currently written and cannot go beyond their scope.

The Domestic RHI Regulations require us to assess evidence provided to us by applicants for the purpose of obtaining Domestic RHI accreditation, whether that evidence is provided by MCS or an equivalent scheme. We must therefore be able to recognise if a scheme and the plant and installers certified under that scheme, which have been used in support of an application meets the equivalence requirements of the Domestic RHI Regulations.

Through the second of this two stage consultation process we intend to set out the requirements which we believe a scheme would have to meet to be recognised as equivalent and produce a robust and transparent assessment methodology to allow us to assess this.

The second consultation, which we aim to publish in the autumn of 2015, will provide an opportunity to comment on these detailed criteria, requirements and our assessment methodology.

Chapter three - the consultation process

- 1.2. Some respondents commented that this is a complex and technical subject and that response rate may be limited by lack of engagement with industry, and that we should also weight responses according to the experience of the respondent concerned.

Our response: We have reviewed all comments on their own merits and based on our understanding of the legislative and certification landscape. For the second part of our consultation we'll update our contact list to include the stakeholders that expressed an interest in our first consultation to ensure we contact as many relevant stakeholders as possible.

- 1.3. Many respondents agreed that a two-stage consultation process was a sensible approach but some thought more time should be taken to review what is a complex and commercially sensitive area.

Our response: Due to the complexity of the subject we are extending the second of this two stage consultation from 4 to 8 weeks in duration. This consultation process is to help us determine the criteria and assessment methodology we would use to make an assessment of MCS equivalence. Following the conclusion of this process we would work closely with any scheme that approached us seeking recognition of MCS equivalence and review how the equivalence assessment methodology works in practice. We'll look to continuously improve the assessment methodology and update it if necessary based on practical experience.

Chapter four and five - Scheme principles and features

- 1.4. Some respondents were concerned by the requirement for an equivalent scheme to have UKAS accreditation under EN 45011 or ISO/IEC 17065:2012 for reasons of free trade and suggested that there could be alternative professional body membership routes. It was also noted that it is not the certification scheme itself that is accredited under these standards but the scheme's conformity assessment bodies (certification bodies), and that it is the certification bodies that grant certification for the scheme's compliant products and installers.

Our response: Accreditation under EN 45011 or ISO/IEC 17065:2012 is a requirement of the Domestic RHI Regulations and we must administer the scheme accordingly. We note the point that it is the scheme's certification body, not the certification scheme, that is accredited under these standards and therefore we will look to address this in the second stage of the consultation following discussions with DECC.

- 1.5. ISO/IEC 17067 guidance was also brought to our attention as MCS was developed in accordance with these guidelines. The document '*EA Procedure and Criteria for the Evaluation of Conformity Assessment Schemes by EA Accreditation Body Members*' was also highlighted to us.

Our response: We will review the ISO/IEC 17067 guidance and '*EA Procedure and Criteria for the Evaluation of Conformity Assessment Schemes by EA Accreditation Body Members*' documents and take them into consideration as appropriate when redrafting the guiding principles and key features of an equivalent scheme.

- 1.6. Some respondents asked for clarification on how similar outcomes to those produced by MCS by an equivalent scheme would be identified and the extent to which an equivalent scheme would need to match MCS in scope. Concern was raised that requirements in MCS standards not relating to specific technologies were not sufficiently considered. Additional concerns were raised in regards to the development of standards, the required rigour of equivalent standards and maintaining the equivalence of developed standards. We were also asked to clarify who would be the arbiter if there was reasonable doubt as to whether a scheme's standards were equivalent.

Our response: The Domestic RHI Regulations require Ofgem to determine whether a scheme is equivalent or not. We recognise that the development, implementation and maintenance of standards are complex issues and will look again at all the MCS standards and how we propose to consider equivalence in regards to standards. In the second part of our consultation we intend to explain our assessment methodology, setting out what we will be looking for in more detail.

- 1.7. Respondents were concerned by our proposal for an equivalent certification scheme to cover both products and installers.

Our response: Due to the wording of the Domestic RHI regulations and the nature of MCS we consider both plant and installer certification an integral part of MCS equivalence for the purpose of Domestic RHI eligibility and therefore will continue to require both in our assessment criteria.

- 1.8. Questions were raised in regards to the European Construction Products Regulations (CPR) (EU) No 305/2011 and how a scheme could be structured. For example whether an Installer certification body approved by an EU member state in partnership with a product certification body and a Chartered Trading Standards Institute (CTSI) approved code of practice would be equivalent to MCS.

Our response: We would assess any scheme claimed to be equivalent to MCS for the purpose of Domestic RHI recognition on a case by case basis following our assessment methodology. The composition of the scheme and how product certification is incorporated with installer certification would be part of that assessment.

- 1.9. Some respondents raised concerns in regards to the accountability of equivalent schemes and who they would ultimately be overseen by.

Our response: The responsibility for accreditation under EN 45011 or ISO/IEC 17065:2012 is held by UKAS in the UK and EA and ILAC across Europe. We recognise that oversight is an area of particular concern and will investigate this further.

- 1.10. Some respondents highlighted to us that liability protection for MCS is not £10 million as stated in the consultation, and that an equivalent scheme should not be required to have a specific amount. It was also brought to our attention that insurance backed workmanship warranties are a Renewable Energy Consumer Code requirement and not an MCS one. Clarification on how the Alternative Dispute Resolution (ADR) directive 2013/11/EU would affect an equivalent scheme was also requested.

Our response: We accept that we stated the incorrect liability figure and will amend this. We will also make clear that an equivalent scheme's levels of liability protection needs to be equivalent not necessarily identical depending on the remit of the alternative scheme. We will look to review workmanship warranties and ADR requirements and will amend the forthcoming consultation appropriately.

- 1.11. Many respondents highlighted the importance of consumer protection in any equivalent scheme and the need for a scheme to include membership of a relevant CTSI approved consumer code.

Our response: Consumer protection is very important and membership of a CTSI approved consumer code is a requirement of the microgeneration installation standard MCS 001. We will therefore look for any equivalent scheme to MCS to have a membership of a similar CTSI approved consumer code as a requirement for installers.

- 1.12. Several respondents raised the need for raising quality and standards within industry, the need to reduce complaint levels and highlighted the need for training and development of competencies.

Our response: We agree that this is an important area and would engage with any equivalent scheme on the topic, but we cannot ask more of an equivalent scheme than what is provided by MCS.

Chapter Six - Scheme Criteria Assessment

- 1.13. Many respondents highlighted the need to make sure that assessment processes and methodologies should be as straightforward and clear as possible, and that time scales for recognition are reasonable. A number of respondents also highlighted the difficulty of assessing equivalence without requiring excessive similarity.

Our response: We agree that these points are very important and will make every effort to ensure that this is the case. We will review our criteria and methodologies carefully as we are assessing equivalence not similarity.

- 1.14. Some respondents highlighted to us that the resources and competencies needed to manage the assessment of MCS equivalence would be considerable. Notably for initial assessment of equivalent functions, for the assessment of ongoing maintenance of equivalence and for the assessment of whether the scheme was actually delivering equivalent installations.

Our response: We acknowledge these concerns and have raised them with DECC. In the following consultation we will expand upon our assessment processes.

- 1.15. Several respondents suggested that a scheme may want to submit their proposal to Ofgem in the early stages of development possibly before the prerequisites were in place but with plans to achieve them.

Our response: We intend to publish extensive equivalence criteria, requirements and our assessment methodology that an organisation developing an equivalent scheme should refer to. We would also be open to informal discussions in regards to our MCS equivalence requirements prior to a scheme applying for recognition.

We are now developing our detailed equivalence criteria, requirements and assessment methodologies which we will publish in the second part of the consultation. We believe this will give stakeholders and interested parties the opportunity to comment on the specifics of what we propose will form the basis of equivalent scheme assessment. It's our intention that Part 2 be allocated around an eight week consultation period, starting in autumn 2015, to review the equivalence criteria and assessment methodologies we have assembled at that point in time.

Consultation responses:

1. Consulting with purpose - Gideon Richards
2. CoolSky Ltd - Patrick Davis
3. HETAS
4. HIES
5. NAPIT
6. Qualitick
7. Scottish Government
8. SELECT the electrical contractors association Scotland
9. Solar Trade Association
10. Sustainable Energy Association
11. The chartered institute of plumbing and heating engineering
12. UKAS
13. Vaillant Group UK