



hies

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MCS Equivalence under DRHI Consultation
OFGEM
9 Millbank
LONDON
SW1P 3GE

Dear Sir,

Proposals for determining 'equivalence' for the MCS under DRHI

Thank you for providing us with an opportunity to comment on proposals for the criteria for determining equivalence for the Microgeneration Certification Scheme under the Domestic Renewable Heat Incentive. Please find below our response to the consultation.

This response is not considered to be confidential and we intend to publish our response on our website www.hiesscheme.org.uk, so we would not consider this restricted under the Freedom of Information Act 2000. In addition, we would ask that any quotes taken from our response are used in the context in which they are intended and we would be happy to advise if the context is not clear.

About Us

The Home Insulation and Energy Systems Quality Assured Contractors Scheme (HIES) is the most comprehensive consumer protection organisation in the industry. We are totally dedicated to ensuring consumers are protected and have peace of mind. HIES ensures the best consumer protection comes as standard and all our services are completely free of charge to consumer.

We operate a comprehensive consumer code of practice that has recently received endorsement from the Chartered Trading Standards Institute at stage one of the Consumer Codes Approval Scheme (see www.tradingstandards.gov.uk/consumer_codes).

*A Member of The Quality
Assurance Ombudsman Scheme*



Quality Assurance
Ombudsman

Nick Ross, former BBC Watchdog & Crimewatch Presenter and our ambassador said: "With HIES you get accredited installers, independently backed guarantees even if the firm refuses to help you or goes out of business, free access to industry inspectors, professional mediators and – if you're still unsatisfied – a highly regarded Ombudsman who can settle your dispute with the power of the law behind him."

Overview

We broadly welcome the proposals in the consultation paper. We have a number of observations on the specific proposals.

We consider that the proposals would be significantly aided if placed in the context of European Law. As they stand, we doubt that OFGEM has a great deal of discretion on many of the scheme characteristics as these would be determined by reference to European Standards and the Renewables Directive. As a fundamental principle of EU law, if a body has been approved as competent in one member state by the competent authority of that member state, they must be free to operate unencumbered in all member states.

In our view, MCS equivalence is likely to derive from a body approved under those European Standards. The only remaining derogation for the United Kingdom is to determine how that body integrates with the UK consumer protection regime. In the present case, that is determined by the operation of a code of practice approved by the Chartered Trading Standards Institute (CTSI). HIES is aiming to be the operator of such a code of practice from July 2015.

CTSI operate a robust vetting process for the operators of approved codes of practice overseen by an independent Board. The core criteria for approval broadly match the non-technical aspects of the scheme criteria set out in your consultation paper – the technical aspects being adequately covered by the European Standards.

The net effect of this is that:

A body approved by an EU member state/UKAS + a CTSI approved code of practice is, *de facto*, equivalent to MCS. There is little else that OFGEM can do to further discriminate.

Of course, it needs to be open to a UK-based entity to apply to the UK competent authority (which we believe to be UKAS) to reach the required standards and, if it so desires, to operate a CTSI approved code of practice or (perhaps more likely) partner with an organisation that operates a CTSI code of practice.

Again, it seems to us that OFGEM has little legal scope to object to that.

We would be of the view that, if any organisations at all were to be tempted to seek MCS equivalence, the process would need to be completely streamlined and of minimal burden – both on the organisation, installers, consumers and OFGEM. The absence of certainty over the future of the DRHI is likely to mean that candidates will be slow in coming forward, but OFGEM are right not to rule out the possibility that they may.

If OFGEM disagree with our assessment regarding the EU/UK-based competent authority assessment as set out above, we accept that OFGEM will need to establish its own criteria for assessment. In such circumstances, we are of the view that the proposals set out in the consultation

paper are proper, appropriate and robust. However, as stated above, we think they are unnecessary, unduly create additional regulatory layers and potentially are in breach of Single Market principles.

We would be happy to help you further with your consideration of this matter. Please feel free to contact me.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Tony Allen', with a stylized flourish at the end.

Tony Allen
Consumer & Government Affairs Consultant