

To: Domestic Renewable Heat Incentive
stakeholders and other interested parties

Date: 23 March 2016

Dear Colleagues,

This document outlines our position in regards to the responses we have received to our consultation on recognising Microgeneration Certification Scheme (MCS) equivalence for the purpose of the Domestic Renewable Heat Incentive (RHI) Scheme applicant eligibility

On 2 December 2015 we opened the second stage of our consultation on ‘MCS equivalence’ for the Domestic Renewable Heat Incentive (RHI) scheme. This stage asked for views on the assessment process that a certification scheme claiming equivalence should complete. We also consulted on the Terms of Reference for the proposed Expert Assessment Panel and the use of EN ISO/IEC 17067 as a guide for how the scheme should be set up and structured.

The consultation period closed on 3 February 2016. We have now reviewed all responses and, where appropriate, these will inform the drafting of the final procedures and guidance that Ofgem will use when assessing equivalence.

The consultation period

During the consultation period we hosted three stakeholder engagement workshops:

- 12 January 2016 (Glasgow)
- 19 January 2016 (London)
- 27 January 2016 (London)

We would like to thank all stakeholders who provided feedback through those stakeholder engagement events. We received seven consultation responses that we have published alongside this document.

Summary of responses and our views

Some comments were received about MCS itself, its responsibilities and the success of the scheme. These comments are not within the scope of this consultation and therefore have not been addressed in our responses below.

The Scheme Requirements

a) *Separating the certification of installers and plant*

Some respondents expressed the opinion that a scheme should be recognised as equivalent not only if it fulfils the requirements of both an installer scheme and a product scheme, but also if it meets the requirements of one of those scheme types but not the other.

Were a product certification scheme able to be assessed as equivalent, a number of respondents felt that compliance with existing “European product standards”, coupled with “product-

related developments”¹ in the renewable heat sector, meant that the product certification scheme claiming equivalence could be assessed as an acceptable equivalent scheme.

Similarly, there was a suggestion that any scheme should be judged “by the benefits to consumers and the market”.

Our response: As stated in our response to stage 1 of this consultation: “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 equivalence requirements and therefore will continue to require both in our assessment criteria”. Whilst there may have been developments in the renewable heat sector, until these impact on the equivalence provisions in the Domestic RHI Regulations, we are unable to factor them into our decisions as to whether or not schemes claiming equivalence are indeed equivalent.

Any European standards used by a scheme claiming equivalence would have to be assessed against the relevant MCS standard in order for it to be assessed as equivalent and appropriate supporting evidence would have to be provided by the scheme wishing to cite these standards.

Additionally – whilst consumer protection and benefit is of paramount importance – it is only one feature of the concept of equivalence, not the sole consideration.

b) *Maintaining the rigour of industry standards and avoiding a ‘race to the bottom’ in terms of quality*

There was some concern amongst respondents that the introduction of equivalent schemes could create a “race-to-the-bottom” in terms of the quality of standards because the current MCS standards have been developed over many years with considerable input from a wide range of manufacturers, installers, trade associations, and professional bodies.

The concern expressed with having multiple versions of equivalent standards was that certification schemes may be unable appropriately to enforce the standards or “dilution across multiple schemes undermines the [standards’] commercial sustainability”.

Our response: All of the relevant installer standards are mentioned by MCS reference number (MIS 300x) in the Domestic RHI Regulations, along with two other standards used to calculate heat pump (MCS021) and solar thermal (MCS024) energy calculations and, ultimately, payments to applicants. The minimum EN and ISO product standards for each of the four eligible product families are also included within the Domestic RHI Regulations. When determining whether equivalence is achieved, we will assess how a scheme claiming equivalence will ensure installer, energy calculation and product standards are checked, verified and enforced. We would expect any standards developed as equivalent to MCS to use similarly robust techniques, encouraging contribution from a wide range of relevant stakeholders.

c) *Replicating the work done by UKAS and introducing unnecessary administrative burden on schemes claiming equivalence*

One respondent stated their expectation that assessment of equivalence should not “to any unreasonable degree duplicate the assessment work that would be carried out by UKAS on the certification bodies, or by the certification bodies of their clients”.

Our response: Ofgem is obliged to undertake this consultation and any subsequent assessment of equivalence in discharge of our regulatory obligations. We do not intend to introduce

¹ The two developments listed by respondents were: 1) Construction Product Regulations (CPR) that were re-set in 2013; and 2) Eco-design standards.

duplication, but we must satisfy ourselves that equivalence has been achieved in all relevant respects before any decision is reached.

The fundamentals of a certification scheme

d) *Equivalence vs ‘sameness’ in the application of EN ISO/IEC 17067*

It was noted by a respondent that MCS has evolved since its inception and that elements of it may now be perceived as ‘in excess of EN ISO/IEC 17067’.

Our response: It is accepted that MCS follows the fundamental guidelines of EN ISO/IEC 17067 and we also accept that a scheme claiming equivalence may have its own interpretation of how to achieve equivalent outcomes to MCS. We believe it is still possible for an equivalent scheme to follow the fundamental guidelines in their development of all the elements outlined in EN ISO/IEC 17067, such that they are able to deliver equivalent outcomes to MCS but in a different way.

One example of this is with complaints processing. An equivalent scheme may develop their own methods of carrying out this function which are different to those employed by MCS, but we will look for an open, transparent and robust complaints process with emphasis on customer satisfaction, that meets the fundamentals of EN ISO/IEC 17067 and can therefore properly be classed as equivalent to MCS in this respect.

The terms of reference for the assessment panel

e) *The European dimension*

Respondents correctly pointed out that we did not expressly refer in the previous Part of the consultation to “information and exchange from European Institutions” in terms of learning from Europe-wide expertise on European standards.

Our response: We will include in the terms of reference for the panel a requirement to consider wider precedents from outside the UK.

f) *Access to MCS standards*

Respondents expressed a desire for the current MCS standards that are specifically mentioned in legislation to remain open source and publically-available.

Our response: Ofgem does not control access to the MCS standards and therefore has no influence on whether or not they remain in the public domain. Any discussion about access to, or licensing of, the MCS standards will need to be taken up with the MCS Service Company Limited.

g) *Review of standards against MCS procedures and non-duplication of work undertaken by certification bodies on their clients*

Some respondents suggested that Ofgem’s proposed review of standards against MCS procedures would be an unnecessary step that would be more appropriately carried out by a Certification Body.

There was also a concern that – in assessing equivalence – Ofgem would be duplicating some of the assessment work already undertaken in accrediting certification bodies. i.e. by UKAS.

Our response: We do not agree that it is solely the responsibility of Certification Bodies to review standards against MCS. As standards are a specified requirement for equivalence, Ofgem must assess them on that basis.

We believe we can trust the accreditation process of UKAS, or any equivalent EU body, but they have indicated to us that their assessment will only go so far. Therefore we will need to supplement that work in order to fully assess equivalence as outlined in the stage 2 consultation document. For example, we will not look to demonstrate that a body meets the requirement to be UKAS-accredited, as UKAS will have already provided that assurance.

UKAS, or their equivalent, will assess the involvement of any Certification Body and the scheme it is associated with. Details such as frequency of certification, the ability to demonstrate equivalence, etc. will be a matter for the scheme owner to determine in the first instance and then it will be for Ofgem to assess if this is equivalent to MCS.

Qualifications and experience that would qualify a person for consideration on the assessment panel

h) Panel representation

Respondents raised a number of useful considerations for representation on the panel including the need for:

- Specific technical qualifications
- Technical expertise across all of the technologies to be assessed
- Relevant practical experience
- International representation (to allow for consideration of precedents from outside of the UK)
- Relevant legislative and regulatory understanding
- Independence & impartiality

There was also a recommendation to consider using the the Building Regulations Advisory Committee (BRAC) guidelines on setting up expert panels.

Our response: The panel make up will broadly follow the suggestions made by respondents. The recommendations are gratefully received, as is the reference to BRAC guidance on setting up expert panels. We will also ensure that people with appropriate consumer protection knowledge are engaged in the work of our assessment panel.

The proposed assessment process

i) The consumer-driven approach

Most respondents expressed concern about the possibility of the equivalence assessment process being initiated by a consumer applying to the Domestic RHI scheme with respect to the impact of the delays associated with the assessment of a scheme claiming equivalence on the applicant experience.

Our response: We understand these concerns however, while it remains our strong preference that an initial approach is made by a scheme representative, we have no power to refuse or prohibit an approach from an applicant to the Domestic RHI scheme.

That said, any scheme claiming equivalence must also demonstrate their efforts to promote a positive applicant experience as part of their equivalence and therefore it is recommended that a scheme claiming equivalence consider this in advance of any potential consumer application.

j) The outcome of technical audits and remedies for insufficient installations

A comment was made about how Ofgem would respond if the outcomes of a technical audit from part 2 of the equivalency assessment process were judged insufficient.

Our response: In situations where non-compliance has been identified, we will look to see how that scheme proposes to address non-compliance with their installation standards and how they will ensure the installer remedies the work to achieve full compliance. This will help us verify that both the Certification Body, and the associated Certification Scheme, work together to resolve any non-compliances they encounter.

k) Ongoing maintenance of equivalence

Several respondents expressed interest in understanding the requirements for maintaining equivalence to MCS and how this was expected to be achieved.

Our response: In EN ISO/IEC 17067 section 6.6 it shows a clear need for scheme maintenance by the scheme owner. We would expect that as part of the normal maintenance tasks the scheme owner, understanding the need to maintain equivalence with MCS, will incorporate ongoing maintenance of equivalence within their normal business activities.

l) Additional administrative burden

Several respondents raised concerns that the entry to the market of an equivalent scheme would “add an extra burden on the proposed scheme, MCS and other key industry stakeholders such as installers and manufacturers”.

Our response: This consultation is intended to create an appropriate approach to assessing equivalence. We will – wherever possible – look to minimise administrative burden on any scheme claiming equivalence and others. However we must ensure a robust, resilient and repeatable process is employed, however the wider impacts of the existence of equivalent schemes is outside our control.

m) Transition of an equivalent scheme into the marketplace

One respondent raised concerns around the entrance of a new scheme into the market place and the possible confusion it could create for consumers. There were also concerns about lack of market capacity for an equivalent scheme and a risk that a consumer may be left in limbo when utilising the services of an equivalent scheme whilst it undergoes assessment of whether it is equivalent or not.

Our response: We recognise all these concerns and will endeavour to avoid the pitfalls outlined. We have strongly suggested that the first approach to us is by the scheme and not one of their customers. However, as stated previously, we are unable to reject an approach by an applicant and will advise them that assessment of the scheme that provided their certificate (a) will take a significant amount of time and (b) that the scheme may fail our assessment. We would look to work with any scheme claiming equivalence to MCS to ensure they advise their clients, and potential clients, of their status as ‘undetermined’ in respect of equivalence until the successful conclusion of our two-part assessment process. While we anticipate any increase in equivalent schemes to be led by innovations or changes in the market, our role is to support robust administration of the Domestic RHI scheme in line with the state of the market.