

Response to Energy Company Obligation 2017-2018 (ECO2t): ECO2t consultation part 2

Consultation Response Document

Publication date: 22 March 2017

Contact: ECO Team

Team: Energy Efficiency and Social Programmes

Email: eco@ofgem.gov.uk

Overview:

On 2 February 2017 we published a consultation seeking stakeholder views on our proposed administration of specific aspects of the extension to the ECO2 obligation period, which is intended to start on 1 April 2017.

This document summarises the responses to our consultation, and having reviewed all responses, details our final policy for the areas on which we consulted. We also set out where we were unable to incorporate suggestions made, and explain how and why we arrived at our final position.

The policies included in this document do not apply until 1 April 2017 and stakeholders should continue to refer to the ECO2 Administration and Delivery guidance documents for measures installed before this date.

Contents

Context	3
Consultation overview	5
1. Consultation responses	6
Appendix 1 – List of consultation respondents	13

Context

In summer 2016 the government consulted on an extension to the ECO2 obligation period, including changes to the structure and targeting of the scheme.

The response to this consultation was published on 30 January 2017 and includes confirmation of certain policy changes that were not included in the draft legislation published alongside the consultation.

Our ECO2t Part 2 consultation covered these outstanding areas, namely:

- **Flexible eligibility** – government has indicated that it intends to allow a portion of flexible eligibility delivery to non-fuel poor private tenure homes to facilitate multi-property projects for solid wall insulation. Local authorities will need to publish a statement of intent before they are able to provide declarations to obligated suppliers
- **CERO rural minimum requirement** – a sub-obligation amounting to 15% of CERO will be introduced for the extension to ECO2 that mandates delivery of measures to rural areas.

Our consultation closed on 16 February 2017. We have considered all responses and sought further advice, where appropriate, to finalise our position.

This document summarises the responses to our consultation and, having reviewed all responses, sets out our final policy for the areas on which we consulted. We also detail where we were unable to incorporate suggestions made, and explain how and why we arrived at our final position.

A summary of our consultation timelines for ECO2t and associated publications can be seen in Table 1 below.

Table 1 Summary ECO2t consultation process and publications

	ECO2t Part 1	ECO2t Part 2
Consultation launch	12 October 2016	2 February 2017
Consultation close	23 November 2016	16 February 2017
Publications following our assessment of responses	Consultation response ECO2t Part 1 Updated draft guidance, including deemed scores	Consultation response ECO2t Part 2 Final guidance (Administration and Delivery)
Publication date(s)	30 January 2017 10 February 2017	22 March 2017 11 April 2017

To give stakeholders as much clarity as possible on changes introduced by government as a result of their consultation, we have included additional detail in this consultation response document.

Useful links

BEIS Help to Heat consultation

<https://www.gov.uk/government/consultations/energy-company-obligation-eco-help-to-heat>

BEIS Help to Heat consultation response

<https://www.gov.uk/government/consultations/energy-company-obligation-eco-help-to-heat>

ECO2 amendment Order (2017)

http://www.legislation.gov.uk/ukdsi/2017/9780111154175/pdfs/ukdsi_9780111154175_en.pdf

Ofgem ECO2t Part 1 consultation response

https://www.ofgem.gov.uk/system/files/docs/2017/01/170131_eco2tparticonsultationresponse_published_1.pdf

Ofgem ECO2t Draft Guidance Update

https://www.ofgem.gov.uk/system/files/docs/2017/02/170210_ecotguidancepart1_updated_draft_guidance_final.pdf

ECO2 Order

The Electricity and Gas (Energy Company Obligation) Order 2014:

<http://www.legislation.gov.uk/uksi/2014/3219/contents/made>

ECO2 Guidance: Administration (V1.1)

<https://www.ofgem.gov.uk/publications-and-updates/energy-company-obligation-2015-17-eco2-guidance-administration>

ECO2 Guidance: Delivery (V1.1)

<https://www.ofgem.gov.uk/publications-and-updates/energy-company-obligation-2015-17-eco2-guidance-delivery>

Consultation overview

We received 21 responses to the ECO2t consultation Part 2, consisting of:

- nine from obligated suppliers
- two from trade associations
- six from local authorities
- two from consultancies
- one from an installer, and
- one from a product manufacturer.

A full list of respondents, except those that requested to remain anonymous, can be found in Appendix 1. All responses to our consultation, except those that requested to remain anonymous, can be viewed on our website.

Given the relatively short consultation period we also engaged directly with stakeholders at two events:

- The ECO delivery group held on 7 February which was attended by a mix of suppliers, installers, trade bodies and government representatives, and
- A Help to Heat flexible eligibility event held on 8 February which was attended by around 30 local authorities.

We used these events as an opportunity to brief stakeholders on the specific areas we were consulting on, discuss the consultation questions, and encourage stakeholders to formally respond. We also took note of any feedback received at these events, which is accounted for in our response, and would like to thank respondents and workshop attendees for their participation.

The following chapter considers each consultation question in turn. For each question, we summarise the overall stakeholder responses. We then present the points raised and respond to that feedback. This is followed by a statement to indicate the outcome of the consultation and whether we have changed our approach based on the feedback we received. We close each question with a summary of our final position. The final position includes any changes we made to our proposed policies as a result of the information we received.

In developing our final policy we carefully considered all of the points raised by respondents, even if they are not specifically mentioned in this document.

Any queries about our administration of the scheme should be directed to eco@ofgem.gov.uk.

1. Consultation responses

Question 1

Do you agree that an LA declaration should be dated prior to the date of installation of the measure?

Summary of stakeholder feedback and Ofgem's response

- 1.1. The majority of respondents agreed with our proposal that the Local Authority (LA) declaration should be dated prior to the date of installation of a measure. This is not a requirement in the ECO2 Order¹ but was intended to support the policy intent of the provision by ensuring that premises are targeted effectively. We wish to ensure there is effective engagement between parties prior to the installation of measures. This has led to us adopting a more flexible approach, as outlined below, but highlighting the need for pre-installation "consultation" between parties.
- 1.2. The ECO2 Order requires that an LA is "consulted" on the installation of measures. This must take place prior to the installation of measures. An LA cannot be "consulted" on measures that have already been installed.² It is strongly recommended that this consultation includes discussion on which households are considered by the LA to be eligible. To adopt a different approach (ie installing measures before there has been consultation with the LA) carries an increased risk of measures being installed in ineligible homes. BEIS's declaration template will include the requirement for LAs to confirm that they were consulted prior to the installation of the measure. This template will be published as part of BEIS' final guidance.
- 1.3. Several responses raised concerns that requiring declarations to be made before a measure is installed could lead to LAs having little sight of what measures are installed as a result of their declarations. Instead it was suggested that issuing declarations after measures have been installed could aid with reporting and general oversight for LAs. This may also help to ensure a smoother customer journey by avoiding declarations containing the same premises being sent to multiple suppliers/installers.
- 1.4. It is up to LAs and suppliers how they wish to interact with one another and when declarations will need to be produced. However, as described above, the requirement in the ECO2 Order to consult an LA on the installation of measures must take place before measures are installed.
- 1.5. It was also raised by some respondents that it is important for there to be some post-installation engagement with the LA for its own record keeping and reporting purposes. As for the declarations themselves, it is up to LAs and suppliers how they wish to interact with one another and what information is reported back to the LA about installations completed. The BEIS guidance on

¹ Any further references to the ECO2 Order are references to the ECO2 Order as amended by the Electricity and Gas (Energy Company Obligation) (Amendment) Order 2017.

² Article 16A (3)(b), 16A(4)(b), and 16A(5)(b).

flexible eligibility gives more detail on reporting both between suppliers and LAs, and LAs and BEIS.

- 1.6. Some respondents outlined that they did not support our proposal as they believed that ensuring the effective administration of flexible eligibility for vulnerable customers was more important than the timing of the declaration (eg ensuring that vulnerable customers do not receive contact from multiple parties on the back of a declaration being made). They outlined that the timing of the LA declaration should be down to negotiation between relevant parties. We agree that the customer journey for vulnerable customers is important. The amended approach outlined in our Final Policy section below allows for negotiation between parties.
- 1.7. Some respondents noted the word “or” appeared to be missing under 3.1(i) of the Part 2 draft guidance. We will address this in the final version of guidance.

Position

- 1.8. We have amended our position to allow parties to agree the timing of the LA declaration. Notwithstanding this there is a requirement that LAs are “consulted” before measures are installed under this provision. Prior to notifying measures suppliers must make sure that the LA confirmed this on the declaration.

Final Policy

- 1.9. Local Authority (LA) declarations can be made before or after the installation of measures under this provision. Parties involved in flexible eligibility are free to negotiate when declarations should to be made.
- 1.10. There is the requirement to consult with LAs prior to the installation of measures. The ECO2 Order does not stipulate who must undertake this; however we anticipate that this will most likely be undertaken by the installer who installs the measure, or by the supplier who submits the measure to us. It is strongly recommended that this consultation includes discussion on which households are considered by the LA to be eligible. An LA cannot be “consulted” on a measure after it has been installed.
- 1.11. LAs will be required to confirm they were “consulted” prior to the installation of a measure. They will do so by checking the appropriate box on the LA declaration template. If this requirement is not met then the measure will not be eligible.

Question 2

Do you agree with our proposed administration of solid wall insulation in-fill?

Summary of stakeholder feedback and Ofgem's response

- 2.1 The majority of respondents agreed with our proposed approach for the administration of in-fill. However some respondents, without stating they disagreed with our approach, raised questions about how it would work in practice.
- 2.2 Some respondents raised concerns over how long an assessment of a household being Fuel Poor (FP), Low Income and Vulnerable to the effects of living in a Cold home (LIVC) or in-fill would be valid for, taking into account that there may often be a delay between an LA declaration being made and a project being initiated. There was concern over occupancy turnover in some housing being high, resulting in the characteristics of households named on a declaration changing. In recognition of this there is no requirement to reassess households once an LA has determined a household to be FP, LIVC or in-fill. We can clarify that any LA declarations made during the transition will be valid for the entire transition period (ie 1 April 2017 – 30 September 2018 inclusive), unless otherwise stated by the LA.
- 2.3 Some respondents requested clarity on the number of eligible in-fill properties should a proportion of the FP and LIVC properties named on the declaration not receive a measure. Declarations will be taken at face value and if the relevant percentages are met then any measures installed to the premises listed will be eligible. The FP or LIVC households named on a declaration do not need to receive a measure for the in-fill premises to be eligible.
- 2.4 One respondent suggested that in-fill percentages should be 50% across all property types. The in-fill percentages are included in the ECO2 Order and we do not have any discretion on this point.
- 2.5 One respondent felt there was a contradiction between BEIS and our guidance on whether Ofgem would check that the percentages of in-fill outlined on a declaration were calculated correctly. We may conduct an audit of a sample of declarations and check, depending on the property type, whether the appropriate in-fill percentages are met on the declaration.
- 2.6 One respondent felt we had not given sufficient detail on our administration of in-fill and that we appeared to be taking a light-touch approach. We have taken account of the fact that Flexible Eligibility as a policy mechanism is being tested during the transition period, limited to 10% of the HHCRO target. We are mindful of not placing excessive evidencing requirements on obligated parties as the intent is that LAs are relied upon to determine eligible customers. Burdensome requirements could potentially discourage uptake and we believe that our proposed approach strikes the balance between providing effective oversight and not being overly onerous on stakeholders. We would remind stakeholders that our main interactions are with obligated parties and that we do not have powers to regulate LAs.
- 2.7 Some respondents felt there was a contradiction between BEIS and Ofgem over whether a detached property could class as in-fill. We have discussed

this with BEIS and clarified that a detached property can be eligible for in-fill as an "immediately adjacent property" under the 66% eligibility route. In practical terms, for example, the middle of three detached properties could be eligible as long as the properties on either side were assessed to be FP or LIVC. We will update our guidance to reflect this.

- 2.8 Some respondents sought clarity regarding whether in-fill is in addition to the 10% allowance for flexible eligibility under HHCRO. We would like to clarify that flexible eligibility, including in-fill, is limited to 10% of a supplier's HHCRO. The total cost-savings of measures installed to premises identified as FP, LIVC and in-fill combined cannot exceed 10% of an obligated supplier's phase 3 HHCRO (ie ECO2t). Where the carbon savings for a supplier's flexible eligibility exceeds the 10% limit we will revoke our earlier approval of some of the flexible eligibility measures with total savings equal to the amount by which the limit was exceeded. If we are required to revoke approval of measures we will work with suppliers to select which measures this will apply to. It is important to note that these measures may be eligible for carbon emissions reduction obligation (CERO) or another element of HHCRO and could be re-elected as such.
- 2.9 Some respondents outlined that we should make it clearer in guidance that in-fill is for private domestic premises only. We will address this in final guidance.
- 2.10 Some respondents wanted clarity on how to report schemes where households are identified as eligible for different reasons, for example a block of flats that is considered eligible through a mixture of Help to Heat eligible consumers, LA Flex (including in-fill) and CERO. Measures installed to flats identified as Help to Heat or CERO eligible should be notified as such and no connection needs to be made between these measures and any LA flex measures installed in the same block. Measures already notified under Help to Heat eligibility or CERO cannot be included on a declaration to support in-fill. We may undertake checks to determine if this has occurred. Any remaining measures delivered through LA flex must meet the relevant in-fill requirements. For example, if some households in the block of flats are identified as in-fill, these must be supported by the required number of FP or LIVC households in the same block of flats in the LA declaration.
- 2.11 Properties in a block not eligible under help to heat or LA flex could be considered for CERO measures.
- 2.12 One respondent asked for clarity where a FP/LIVC property identified in an LA declaration was notified as Help to Heat eligible and whether this would affect the validity of a declaration in relation to Solid Wall Insulation (SWI) in-fill. We can clarify that, for this scenario, it will not affect the eligibility of the in-fill property as long as the FP & LIVC percentage requirements are met in the initial declaration. We will take the percentages recorded on LA declarations at face value and will not subsequently check under which obligation measures are actually notified by a supplier.
- 2.13 One respondent outlined that it should be down to the supplier or installer to determine the in-fill properties, not the LA. The ECO2 Order only allows an LA to make a declaration and as such, only LAs can determine properties as eligible for in-fill. However, suppliers and installers are free to discuss potential in-fill with LAs as part of their consultations.

Position

- 2.14 We will continue with the approach consulted on, with the clarifications outlined.

Final Policy

- 2.15 Local Authority (LA) declarations, including those with in-fill, will remain valid for the entire ECO2t period (ie from 1 April 17 – 30 September 18 inclusive) unless otherwise stated by the LA. There is no requirement to reassess households once an LA declaration has determined a household to be fuel poor (FP), low income and vulnerable to cold (LIVC) or solid wall insulation (SWI) in-fill within this period.
- 2.16 In-fill forms part of the flexible eligibility cap of 10% of the total home heating cost reduction obligation (HHCRO) target. Once all measures are approved we will carry out an assessment of a supplier's flexible eligibility measures before we determine whether a supplier has achieved its HHCRO. Where the carbon savings for a supplier's flexible eligibility exceeds the 10% limit we will revoke our earlier approval of some of the flexible eligibility measures with total savings equal to the amount by which the limit was exceeded. If we are required to revoke approval of measures we will work with suppliers to select which measures this will apply to. It is important to note that these measures may be eligible for carbon emissions reduction obligation (CERO) or another element of HHCRO and could be re-elected as such.
- 2.17 SWI in-fill is only available to private domestic premises (social housing is excluded).
- 2.18 There is no requirement for households identified as FP or LIVC on a declaration to receive a SWI measure to support the delivery of SWI to properties identified as eligible for in-fill.
- 2.19 Should any of the FP or LIVC properties be removed from a project for any reason, this does not invalidate any of the properties identified as in-fill on the same declaration. This assumes the original LA declaration is valid and has the appropriate percentage of FP or LIVC properties.
- 2.20 Only LAs can determine properties as in-fill.

Question 3

Do you agree with our proposed administration of evidencing that the LA has published a statement of intent and that it includes the minimum required information?

Summary of stakeholder feedback and Ofgem's response

- 3.1 The significant majority of stakeholders agreed with our proposals to administer the requirements around the publication of a statement of intent (SoI) and the contents of that SoI.
- 3.2 Many respondents highlighted the need for LAs to have strict version control of their SoI to account for any updates made during ECO2t. They also commented that the version number, and publication date, of the SoI should be captured in the LA declaration. BEIS will provide further guidance on what should be included in the SoI and the policy intent of LA flexible eligibility in its guidance note which is due to be published prior to 1 April.
- 3.3 Many stakeholders requested clarification around what would happen to measures should an SoI be found not to meet the policy intent. They also asked who should check the SoI. As outlined in our guidance, we will not assess the content of the SoI except for checking that it contains a methodology for targeting eligible households. It is for LAs, and suppliers to an extent, to satisfy themselves that the SoI outlines a suitable methodology for targeting households living in FP or LIVC. Suppliers must be able to demonstrate that the SoI contains a methodology for targeting and that the SoI was published prior to an LA declaration being made. For the purposes of assessing measure eligibility this is all we will require from suppliers at audit.
- 3.4 If Ofgem finds that the SoI was not published before the LA made a declaration, any measures notified under flexible eligibility would not be eligible and we would look to reject the measures listed in the relevant declaration(s). Similarly, if the SoI is found not to contain a methodology that targets FP and LIVC households we will reject measures based on that SoI. However, these measures may be eligible for CERO, or another element of HHCRO, and could be re-elected as such.
- 3.5 Several stakeholders requested clarity on what information suppliers will need to retain for audit. For the purposes of meeting our requirements, suppliers will need to provide on request the LA declaration(s), and the version of the SoI the LA declarations were based on.
- 3.7 Two stakeholders requested clarity on LA delegation, where a LA delegates functions to another LA. The delegated LA providing the declaration on behalf of another area or LA should satisfy itself that it has sufficient authority to make the SoI and/or LA declaration. Where one LA has delegated functions to another, this should be confirmed in the SoI.

Position

- 3.8 We will continue with the approach consulted on, with some clarifications.

Final policy

- 3.9 To make local authority (LA) declarations, an LA must publish a statement of intent (SoI) regarding its delivery of the flexible eligibility provision. This SoI should be publically available (eg published on an LA's website) so that it can be easily accessed by interested parties.
- 3.10 For the purpose of assessing measure eligibility we will only require at audit that suppliers are able to evidence that:
- a. the SoI was published prior to any LA declarations being made by that LA, and
 - b. the SoI includes a methodology on how the LA intends to target fuel poor (FP) and low income and vulnerable to cold (LIVC) households.
- 3.11 It is best practice for suppliers to check that the methodology is reasonable and meets the BEIS policy intent.
- 3.12 The supplier can provide evidence of the above by:
- a. producing a screenshot of a published and dated SoI
 - b. producing a hardcopy of the SoI, or
 - c. any other means agreed with Ofgem.
- 3.13 Suppliers are entitled to rely on the LA having made an accurate assessment of eligibility. However, if Ofgem finds that the SoI was not published before the LA declaration was made or that the methodology for targeting is not included in the SoI we will look to reject the measures included in the relevant declarations, ie those linked to that version of the SoI. However, these measures may be eligible for the carbon emissions reduction obligation (CERO), or another element of the home heating cost reduction obligation (HHCRO), and could be re-elected as such.
- 3.14 There should be clear version control of the SoI including version number and the date of change. Suppliers should be aware that an LA may update its SoI and publish a later version. In such circumstances the supplier should obtain assurance from the LA that it published the relevant version of the SoI prior to the date the LA declaration was made. Stakeholders should refer to BEIS guidance for further details.
- 3.15 An LA can provide declarations for households not within its administrative area under certain circumstances. For example, this includes where an LA delegates some functions to another LA, where the LA providing the service is best placed to make a determination of the eligibility of a household. The LA providing the declaration on behalf of another area or LA should satisfy itself that it has sufficient authority for making the SoI and/or LA declaration. In practice this will require all parties to co-sign the SoI including confirmation that an LA was acting on behalf of another.
- 3.16 BEIS will publish a separate guidance note for LAs. This will provide guidance on the content of SoIs, version control, information on targeting and templates for the SoI and declarations.

Appendix 1 – List of consultation respondents

- Anthesis Group
- Association of Local Energy Officers - North West (ALEO)
- Bristol Energy
- Cenergist
- Dartford Borough Council
- Durham County Council
- East Hampshire District Council
- E.ON
- EDF
- Energy UK
- First Utility
- Keepmoat
- Leeds City Council
- Liverpool City Council
- Mineral Wool Insulation Manufacturers Association (MIMA)
- Npower
- OVO
- Rockwool
- Scottish Power