



Making a positive difference
for energy consumers

ECO: Energy Efficiency and Local
Directorate
Department for Business, Energy &
Industrial Strategy
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Email: eco@ofgem.gov.uk

Date: 06 August 2019

Dear Sir/Madam,

Ofgem's response to [ECO3 Improving consumer protection – Consultation](#)

Ofgem is the GB energy regulator and a non-ministerial government department. Our principal aim is to protect the interests of current and future energy consumers and energy efficiency is central to this aim. We are the administrator of the current ECO scheme. Energy efficiency has many benefits including reducing carbon emissions, reducing the cost of moving to a low carbon energy system, reducing consumers' energy bills, and in particular helping to bring vulnerable consumers out of fuel poverty.

We welcome the opportunity to respond to the Department for Business Energy & Industrial Strategy (BEIS) consultation on improving consumer protection. We have provided responses to all questions that relate to our administration of ECO and Ofgem's interests more widely.

Ofgem looks forward to continuing to work with BEIS to build on the success so far in moving to a cleaner, greener energy system. We see improved energy efficiency as a central pillar of this. Should you wish to get in touch with us please do so by emailing eco@ofgem.gov.uk.

Yours faithfully,

David Fletcher

Deputy Director, Policy Hub

ECO3 Improving consumer protection BEIS consultation questions with Ofgem responses

1.	<p>Do you agree with the proposal for the incorporation of TrustMark into ECO3 and, in particular, for installers to have to be TrustMark registered businesses to deliver eligible ECO3 measures, with the exception of Demonstration Actions and certain District Heating Systems (DHS) measures? In particular, do you agree that the increased financial protection requirements under the TrustMark Framework should apply in respect of ECO energy efficiency measures (except demonstration actions and certain DHS measures)?</p>
	<p>We agree with this proposal to incorporate TrustMark into ECO3. We have some concerns that the increased financial protection requirements will not apply to certain district heating system (DHS) measures.</p> <p>We agree with the principle that increased financial protection should be provided for all measures delivered under ECO3. We believe this will provide further protection to the consumer and help to mitigate the impact of delivery of measures that ultimately are found to have not been installed to PAS standards. However, we are aware that this has historically not been practical for some measure types. For example, we are aware that loft insulation has historically not been accompanied by an appropriate warranty due to the ease in which this could become invalidated through consumer behaviour. Similarly, smart thermostats are another measure which could easily be altered by the consumer. We encourage BEIS to consider how having a default requirement of minimum six year guarantees will work in practice. We await clarification from BEIS as to the regulatory basis for the new proposed financial protection regime.</p> <p>We understand that 'certain DHS measures' means DHS measures which are registered with Heat Trust or an equivalent standard to those provided by Heat Trust. As such Ground Source Heat Pump district heating connections which are not required to have any further consumer protection standards (ie a system which has a shared ground loop connection) will not be excluded and will be subject to the TrustMark requirements. We have concerns that by excluding DHS measures which are registered with Heat Trust or an equivalent standard from TrustMark, DHS will not have the same protection as other standard measure types. In our view the remit of Heat Trust is not comparable to that of TrustMark and does not provide an equivalent level of financial protection coverage. Trustmark provides financial protection for the installation of energy efficiency measures, whereas Heat Trust provides consumer protection for the contractual supply of heat. Heat Trust do not cover the installation of equipment, or offer any recourse for householders suffering the consequences of poorly installed heating systems. Furthermore, Heat Trust do not cover the installation of equipment such as a wet heating system, or provide any associated guarantees. Heat Trust aims to deliver the same level of consumer protection for the supply of heat, as is currently in place for gas and electricity markets.</p> <p>We will need to ensure that all measures notified to Ofgem have been installed by a TrustMark registered business, with the exception of demonstration actions and certain DHS measures. It is our intention to require that TrustMark registration numbers are notified to ensure that installation companies are registered with TrustMark to deliver ECO measures. We will work with TrustMark to ensure we have checks in place to verify this. We do not anticipate that this will be a significant additional administrative burden as we hope to automate these checks through the ECO Register.</p>

	<p>We would also like to understand how the increased financial protection for all ECO measures will impact the current measure lifetimes. In particular, the current lifetime for a broken boiler or broken electric storage heater repair or replacement is between 1-5 years. It is worth noting that for these measure types a minimum six-year warranty would result in the warranty exceeding the current measure lifetime.</p>
2.	<p>Do you agree that incorporation of TrustMark into ECO3 is sufficient to demonstrate certification and compliance with the appropriate PAS standards?</p>
	<p>We have some concerns with this proposal.</p> <p>Whilst we have confidence in TrustMark to identify issues with compliance within the ECO industry, we still wish to retain functions under the ECO3 Order to support any investigation. We would want to retain the ability to reject measures where we are not satisfied that the measure is a qualifying action or that the score attributed to the measure is not representative. We imagine that this may be either as informed by TrustMark where an ECO measure is deemed to have not met the appropriate standards, or as a result of an internal suspected fraud investigation. We believe there may be some cases where it is not possible for TrustMark to remediate a measure, and therefore need a clear provision by which a measure not installed to the relevant standards can be rejected.</p> <p>We are concerned that as the requirement is for TrustMark registered businesses to be compliant with and certified to PAS, rather than the individual installer, then this may increase the risk of TrustMark registered businesses becoming phoenix companies in the industry. We believe that the responsibility to manage non-compliance and to mitigate the risk of phoenix companies will ultimately fall on TrustMark.</p>
3.	<p>Do you agree that incorporation of TrustMark into ECO3 is sufficient to allow all solid wall, cavity wall and park home insulation measures delivered under the scheme to receive the relevant standard applicable lifetime?</p>
	<p>We agree with this proposal.</p> <p>As per our response to the Energy Company Obligation: ECO3 consultation in 2018, we urge BEIS to ensure that the level of assurance provided by the financial protection requirements in TrustMark's Framework provide the consumer with at least the same level of protection provided by the current list of ECO3 appropriate guarantees. We want to ensure that any new financial protection requirements or guarantees accepted by TrustMark have undergone appropriate scrutiny prior to being accepted as compliant. It is our intention that following commencement of the ECO (Amendment) Order TrustMark will take full responsibility of the existing ECO3 appropriate guarantees including any future queries on those guarantees and Ofgem will no longer be responsible for the guarantees after this date. In anticipation of transferring responsibility of the ECO appropriate guarantees to TrustMark we will work with TrustMark to support their financial protection and guarantees framework including sharing our existing appropriate guarantee assessment criteria with TrustMark.</p> <p>As part of this, we would like to ensure that there are no exclusions that unfairly limit the guarantee. In addition, we would like to understand further what the process will be for protecting consumers if a guarantee can no longer be relied upon through no fault of the consumer (eg insolvency of the guarantee provider or underwriter), and if TrustMark will have a fund of last resort in place.</p>

In the interest of transparency, we request that BEIS sets out in the Government response the assumptions for the transition of ECO appropriate guarantees and how measures that received an appropriate guarantee prior to the ECO (Amendment) Order coming into force will be managed.

As outlined in our response to Q2, we still believe it will help protect the policy intent / consumer protection to retain functions under the ECO3 Order to support any investigation that results in the identification of non-compliant measures and for Ofgem to reject measures where an ECO measure is deemed to not have an appropriate guarantee or financial protection in place.

4.	Do you agree that underfloor and room-in-roof insulation measures should be accompanied by a 25 year or more guarantee under the scheme, which not only meets the Trust-Mark financial protection requirements that apply to all ECO energy efficiency measures, but also as a minimum meets the TrustMark "appropriate guarantee" criteria?
	<p>We agree with this proposal.</p> <p>We believe that guarantees are essential to reducing the risk of poor quality installations in ECO and we welcome requirements for appropriate consumer protection standards for underfloor insulation (UFI) and room-in-roof insulation (RIRI) measures. We believe this will reduce the risk of poor quality installations and issues such as cold bridging and problems with the airflow in the space under the floor, and condensation and sliding in RIRI installations. Ultimately this will provide more confidence in the retrofit industry by providing an additional level of assurance. We would want to ensure that any financial protection requirements or guarantees accepted by TrustMark for UFI and RIRI have undergone appropriate scrutiny prior to being accepted as compliant.</p> <p>Since the start of the ECO3 scheme in December 2018, we have seen a significant rise in the delivery of UFI measures and reports of poor quality UFI installations. Similarly, in 2016 concerns were raised in relation to the standards of installation on some RIRI measures. As a result we published a clarification in July 2016 and conducted an investigation on RIRI measures to monitor compliance.¹ We would welcome additional consumer protection for both of these measure types.</p> <p>We believe that any measure which is subject to standards relating to the installation of the measure should be accompanied by an appropriate guarantee or financial protection to provide suitable protection to the consumer.</p> <p>We intend that upon commencement of the ECO (Amendment) Order we will withdraw the published list of ECO3 appropriate guarantees from our website and TrustMark will take over responsibility for ensuring financial protection for measures subject to the TrustMark requirements. In the interest of transparency, we request that BEIS sets out the assumptions for the management and responsibility of ECO appropriate guarantees in the Government response.</p>
5.	Are there any other complex ECO measures that you think should be accompanied by a 25 year or more guarantee which as a minimum meets the TrustMark "appropriate guarantee" criteria?
	<p>We agree that a consistent approach should be taken and that all measures referred to in PAS should have appropriate consumer protection in place either through financial protection or through an appropriate guarantee.</p> <p>As outlined in Q1, we are aware that there may be issues with the introduction of financial protection requirements for all ECO measures and the default requirement of minimum six year guarantees for these measures.</p>

¹ <https://www.ofgem.gov.uk/publications-and-updates/room-roof-insulation-riri-measures-under-energy-company-obligation-eco>

6.	Do you agree that, to the extent they would apply to demonstration actions and certain DHS measures exempt from the TrustMark requirements, the current ECO3 requirements should be updated to move to the new PAS standards (PAS 2035:2019 and PAS 2030:2019) subject to similar transitional arrangements to those set out in paragraph 15 above?
	We agree with this proposal and believe that the new PAS standards should also apply to demonstration actions and DHS measures which are registered with Heat Trust or an equivalent standard to those provided by Heat Trust. We intend to update our technical and score monitoring question set to reflect this change. The assessment of demonstration actions will ensure that measures are being delivered to the new standards.
7.	Do you agree with our proposed amendment to remove the 400% uplift for replacement boilers delivered outside of the broken heating system cap?
	We do not have a view on this proposal, we will update the deemed scores in line with the outcome of the Government's consultation decision.
8.	Do you agree with our proposal to change the measure lifetime assumption for first time central heating measures to 20 years?
	We do not have a view on this proposal. We note the changes to the measure lifetime for first time central heating and will update our administrative approach to accommodate this.
9.	Do you agree that first time central heating (FTCH) should be eligible in PRS EPC Band F&G rated properties?
	We do not have a view on this proposal. We note the changes to introduce first time central heating as an eligible measure in PRS EPC Band F&G rated properties and will make any appropriate changes to the deemed scores and our guidance documents.
10.	Do you agree that first time central heating (FTCH) should be included in the LA-Flex in-fill?
	We do not have a view on this proposal. We note the changes to LA Flex in-fill and will update our administrative approach to accommodate this.
11.	Do you agree with our transitional arrangement for proposed changes?
	<p>We have some concerns regarding the proposed timelines for the changes.</p> <p>We would need a minimum of three months between the publication of the Government's consultation decision and the proposed policy changes coming into force. This is the standard timeline for Ofgem to administer changes to the ECO3 deemed scores, the ECO Register and the guidance documents. We also think this would provide adequate time for industry to make the required changes to their IT systems.</p> <p>It is our intention to support TrustMark with the transition of technical monitoring, offering advice and input into the development of the new monitoring framework. As part of this, we will share data with TrustMark through a data sharing agreement to support the development of their data warehouse and to inform monitoring rates.</p>

12.	The Government invites views on the general requirements set out in this consultation and the illustrative draft of the amending ECO3 Order, once available.
	<p>Technical monitoring</p> <p>We expect that the administration of technical monitoring will be transferred to TrustMark completely after 31 January 2021, following the PAS transition period. We intend to work with TrustMark to handover technical monitoring during the transitional period to mitigate any transitional issues on the supply chain. We expect that inspections for both technical and score monitoring should happen at the same time and will aim to help facilitate this process to reduce the overall costs of the scheme.</p> <p>As outlined in Q1, we urge BEIS to clearly outline in the Government response Ofgem’s continuing role in monitoring DHS and any other measures outside of the Trustmark monitoring regime.</p>