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## Renewable Energy Consumer Code

### 17th September 2024

#### Background Information

Renewable Energy Assurance Limited (REAL), a subsidiary of The Association of Renewable Energy and Clean Technology has operated a Code of Practice (Renewable Energy Consumer Code) approved under the Approved Codes Scheme since 2006.

The Code has been adapted over the years to reflect Government Initiatives, including the earlier Feed-in-Tariff incentive scheme (that is now closed) and the Domestic Renewable Heat Incentive (that closed 31 March 2022).

The Code covers businesses offering small-scale renewable and low carbon heat or power generation systems (e.g. solar PV and heat pumps), and products related to those systems (e.g. battery storage systems), to domestic consumers. REAL has a Primary Authority Partnership with Surrey Trading Standards, reinforcing their commitments to provide the highest level of support to members and maintain consumer protection in the sector. There are currently 5,070 members of the Code.

#### Audit Process

The audit was carried out remotely by a Trading Standards Practitioner from the Chartered Trading Standards Institute (CTSI).

The audit focused on the following areas:-

1. Outstanding actions/observations from last audit
2. Any planned changes to the Code or to the operation of the Code
3. Member application process, including checks carried out on prospective businesses
4. Member auditing - content and process, including general compliance with the code, staff training and dealing with consumer complaints
5. Sanctions for non-complaint member businesses
6. Any disciplinary cases in previous year
7. Consumer complaints process, including ADR
8. Customer satisfaction, information/complaints from enforcement agencies, and how this information is used to develop and improve the Code

## Audit Summary

The increase in applications began in September 2021 and continues to grow.

RECC provided detailed information for the audit in their pre-audit questionnaire and their 2023 Annual Report.

## Member Application Process

During 2023, 1791 businesses applied to join the Code, due diligence checks were carried out on these applicants by the RECC membership team, this represents almost a 30% increase in applications compared to 2022 (1387).

Of the applicants checked:-

- 1,661 were accepted as members of the Code
- 8 were accepted for a defined period of Temporary Code Membership
- 4 were rejected due to a connection with a previous code member
- 126 had their applications closed. (An application may be closed after the applicant withdraws their application when it is informed of issues identified by RECC or it has failed to pay the membership fee and/or respond to communications within a reasonable timeframe.)

The application process is in two stages:-

- **Stage One** - a full check of the business and any individuals associated with it, during which the veracity of the declarations made by the applicant are checked along with their due diligence checks. A joining fee of £120 is payable prior to application
- **Stage Two** - a full due diligence check of the applicant's documentation, including their model contract, performance estimates, the content of the applicant's website(s) and any social media pages

If an applicant does not meet the requirements of the Code at Stage One, their application is rejected. This process was introduced in 2020 and has reduced the time spent on an application if, for example, the applicant's business history means they are not fit and proper for Code membership.

Where an application progresses to Stage Two but does not meet the requirements of the Code, the applicant may be required to make changes to their procedures and documents, before being admitted to the Code.

For example, they may be required to:

- change their advertising and marketing materials
- adopt the model contract or change their contract terms and/or
- register with an insurance provider

Following the due diligence check, if there continues to be concerns about an applicant, dependant on the nature and seriousness of those concerns, their application may be:

- accepted subject to conditions
- accepted on a temporary basis, which may include being subject to conditions

- referred to the Independent Applications Panel (IAP)
- rejected without reference to the IAP

## **New Members**

Two new applications were provided as examples of the process and a review of the application and supporting material found that the Executive Team continue to maintain a high level of scrutiny.

The documentation provided is a valuable example of how the two stage process works. It also demonstrates how any prospective member will be challenged about the accuracy of the information they submit and that they will be asked for additional material when necessary.

The Executive Team demonstrated that an application may be refused if they believe the prospective member does not meet the criteria, with the rationale for the refusal being documented in a clear and concise manner.

## **Independent Applications Panel (IAP)**

The IAP is shared by other Code Sponsors in the sector. If the Executive Team is unsure whether to accept a business as a member, they can refer the application to the IAP for review. If an application is rejected, the applicant has an option to have their application reconsidered by the IAP. Unsuccessful applicants are provided with a full explanation for the rejection and are permitted to reapply for membership. Reapplication may be subject to a reasonable period set by the IAP during which a reapplication will not be reconsidered. Any new application will be treated on its merits. The last time an application was referred to the panel was during 2021.

## **Withdrawal from membership**

For calendar year (2023 to 2024) approximately 100 members had their RECC membership cancelled or lapsed, 23 members had their Code membership terminated for non-compliance with the Code and/or Bye-Laws.

Membership cancellations must be conveyed to RECC with 14 days' written notice. RECC may refuse to accept a resignation in the interests of consumer protection and/or their continued membership is fundamental to the Executive's role administering the CTSI Code. This maybe if the Executive is aware that a consumer is shortly to commence an arbitration, if the Executive is formally mediating a complaint, or if the Code Member has been allocated for Audit. This is in accordance with the RECC Bye-Laws.

Each member who leaves the Code is provided with an exit letter confirming that they must immediately remove the RECC and CTSI Approved Code logo from all their documentation, their website(s) etc.

Three exit letters were supplied for the audit and the corresponding websites were examined. There was no evidence found of the erroneous display of the RECC/CTSI logo.

## **Monitoring Existing Members**

The monitoring activities allow RECC to gain an understanding of members' compliance with the Code and Bye-Laws. In 2023, 2,178 members had their businesses assessed for compliance with the Code.

*Compliance Survey* - In 2023 this new monitoring activity was introduced, aimed at low/no risk members. The survey asks members a short set of questions relating to their business model and activities to help RECC understand their level of compliance in key areas of the Code.

In 2023, 202 members were asked to respond to the Compliance Survey, 166 responses were received – a response rate of 82%.

Of the 166 responses received:

- 110 demonstrated compliance with the Code, no further action required.
- 56 required further actions to achieve compliance, all of which have since been resolved.

The RECC viewed the introduction and results of the Compliance Survey as very positive, with 66% of responses confirming compliance. The 56 non-compliant responses showed a range of potential issues, including inadequate deposit and/or workmanship warranty and/or public liability insurance arrangements, and using contractual documentation that does not comply with the Code.

The 36 members who did not respond to the survey within the prescribed timeframe were then made the subject of a Compliance Check.

*Compliance Check* - These consist of a top-level risk assessment analysis and generally the member is not involved in this process. A number of members for Compliance Checks are selected on a weekly basis, the selection is largely risk-based with small number of members selected on a random basis. During 2023 351 members were the subject of a Compliance Check, an increase of 61% compared to 2022.

The members were selected for several reasons, including:

- 216 members who would fall within the regular monitoring requirements;
- 56 members about whom 2 or more complaints were received over a particular period or about whom 1 complaint of particular concern was received; and
- 6 who'd had a large increase in installations within the previous two-year period.

Some of the most common areas of non-compliance were:

- failure to display the RECC and/ or Chartered Trading Standards Institute logos on websites.
- unsourced or substantiated claims made in online marketing materials, or using logos incorrectly and/or without authority.

- incorrect or inconsistent information about workmanship warranty insurance provided on the MID. Issues found were, in most cases, administrative issues rather than a member's failure to provide consumers with insurance.

The Compliance Team meets weekly to discuss the outcome of any Compliance Check and decide on next steps. If a Compliance Check identifies a low to medium risk, the member may be allocated for a Desk-Based Audit, a further Compliance Check in 3 to 6 months or it may be notified in writing of issues found. If the Compliance Check identifies a high risk, the member may be allocated to a Site-Based Audit or put into RECC's disciplinary process where there is a real risk of consumer detriment.

*Audits* - When a member is allocated for an audit, it will be either desk-based or on-site, depending on the level of risk identified. The member is asked to submit some documents for review and complete a pre-audit compliance assessment, this includes a set of important legal declarations. Both audits are assessed against the same compliance areas though the questions asked may vary. Of the 50 audits completed in 2023, all failed in the first instance, 42 of which subsequently passed after demonstrating compliance, one was referred to non-compliance, and 7 remained open at the end of 2023 with minor outstanding issues. In most cases, RECC do not consider failing an audit as an indication of serious problems or consumer detriment. They feel that the audit is an opportunity for members to learn and make improvements in their day-to-day practices. Most issues found at audit were easily remedied.

RECC reviews and analyses the data gathered from their monitoring activities and sends communications to members about emerging trends or concerns and what can be done to mitigate these and prevent breaches of the Code. In April 2023 a communication was sent to all members that identified areas where it appeared that the requirements of the Code may not be fully understood. The communication provided guidance to help members better understand their obligations.

### **Members in the Disciplinary process**

In 2023, 282 members were invited to respond to evidence of potential breaches in accordance with the RECC disciplinary process. This represents a significant increase from 2022 (121).

17 members had non-compliance action invoked against them, of which

- 2 members had their Code membership terminated
- 10 cases were closed after the necessary action was taken to resolve the issues
- 4 were on-going at the end of 2023
- 1 failed to renew its membership before the issues were resolved

265 members were sent compliances notices, of which

- 1 had their Code membership terminated
- 1 failed to renew its membership before the issues were resolved
- 256 were able to resolve all issues and/or areas of concerned identified

- 7 were still ongoing at the end of 2023

In total, 23 members had their Code membership terminated in 2023 for non-compliance with the Code and/or Bye-Laws.

### **Marketing and Advertising by Member Businesses**

During audits, all marketing and advertising by members is checked. Most issues arise from claims and statements made, which are not adequately sourced or where there is not enough information explaining where the claim or statement has come from. Members are told how such claims should be amended.

It is mandatory for members to display the RECC and the CTSI Approved Code logo on all customer-facing marketing materials, including websites, and all contractual documentation provided to domestic customers. The requirement is made clear to new members and all logos are provided in various formats to make it easy for them to comply. Compliance with this requirement is checked as part of the Compliance Check and Audits processes, and members are required to take action where either logo is found to be missing from the relevant materials.

Following the 351 compliance checks made in 2023, 118 communications were sent to those found not displaying the required logos. This has been recognised as a common theme of non-compliance.

**Comment:**

RECC are awaiting CTSI to provide a combined RECC/CTSI logo showing the new Approved Code Scheme logo. Once received, a reminder email will be sent to members.

### **Terms and Conditions and other Pre-Contractual Information**

RECC provides extensive advice and guidance to members in relation to the drafting of contracts that are fair and transparent for consumers. RECC also provides a set of model consumer terms and conditions for members to use or adapt to their business needs.

All model documents have been reviewed by Surrey Trading Standards Department, the new Primary Authority for REAL.

RECC also offers advice to members concerning consumer contracts or suggest that members seek guidance from their local Trading Standards Department.

### **Customer Service Provisions**

RECC provides an exclusive comprehensive on-line training resource, including interactive training, for its members. The training resources cover the essential elements of consumer protection legislation and the Code. It is set out clearly and in a user-friendly format, with

real examples from the sector making it relevant to members. Any updates are communicated to members via their campaigns.

RECC can provide CPD Certification, therefore, members who pass the RECC online training resource exam will qualify for Continuous Professional Development credits.

RECC has commenced a series of webinar reaching out to members to engage with them on key aspects of the consumer journey. RECC feel it is important to provide members with the necessary tools to deliver a high level of service to consumers. The webinar series will consist of five modules following the consumer journey and will run over the course of 2024. Each session will be presented by an RECC expert and will be made available afterwards in the Members' Area of the RECC website.

## **Dispute Resolution Process**

Mediation is the first stage of the RECC dispute resolution process. It's undertaken in-house by the team of highly experienced and trained Dispute Resolution Officers who mediate between consumers and members to resolve a range of single issue and complex disputes. It incorporates a process for consumers who may be in vulnerable circumstances whereby a variety of extra measures can be implemented to support them throughout the process.

The final stage of the process is the Renewable Adjudication Service which was launched on 5 July 2023. To ensure its independence, the service is administered on RECC's behalf by the CEDR Services Ltd. A consumer can apply for adjudication if their dispute has not been resolved through mediation or in some instances without use of mediation

In 2023, 447 complaints were registered with RECC. Of these, 237 fell within RECC's remit, 312 were about businesses who were members in 2023, 115 were about former Code Members who were members when the consumer signed the contract and 20 related to businesses who had never been members of the Code. Complaints against current or former members were handled through the dispute resolution process, except for complaints about former members where the business is no longer trading or where the business has become a member of another CTSI approved consumer code.

Of the 5,070 Code members in 2023, only 240 had a complaint registered against them, meaning that 95% of members did not have a complaint registered against them in 2023.

In 2023, RECC resolved 152 disputes, an 87% increase from 2022. The means of resolution were:

116 by mediation (76%)

- 69 by informal mediation
- 47 by formal mediation

36 by arbitration and adjudication (24%)

Disputes resolved through informal mediation took an average of 2 weeks to resolve, and almost 50% were resolved in 1 week or less. Disputes resolved through formal mediation took an average of 6 weeks to resolve, and 26% of these were resolved in 3 weeks or less.

**Comment:**

In 2023, a total of 447 complaints were registered which represents a 15% increase from 2022. This increase in complaints is in line with expectations given the significant increase in members over the same period.

**Arbitration**

The RECC Renewable Adjudication Service was launched in July 2023, replacing the arbitration service previously available to members and consumers.

In 2023, 91 consumers were offered the option of achieving a resolution to their dispute through this final stage of the process. Of this number, 44 consumers applied for either arbitration or adjudication, and 36 progressed to final decisions. This total represents 24% of the total disputes resolved in 2023. Of the 36 disputes resolved, 32 were by arbitration and 4 were by adjudication.

A total of £110,286 was awarded to consumers with successful claims at arbitration or adjudication. Of the 36 decisions, 29 claims succeeded and 7 failed. Of the 29 successful claims, the average amount awarded per claim was £3,676, and the highest amount awarded was £22,799. Most of the decisions were solely financial (21), whilst in 8 cases consumers were awarded a financial and non-financial remedy. Non-financial outcomes include the provision of documentation, specific performance directions to complete installations or the rescission of invoices. In 7 cases, members were required to issue the complainant with an apology.

**Customer Satisfaction and Feedback**

Consumers of RECC members can leave feedback via the Consumer Satisfaction Questionnaire available on website: <https://www.recc.org.uk/feedback>.

The questionnaire enables consumers to express their level of satisfaction with the service received from the RECC member. It covers all aspects of the Consumer Code, including selling techniques, customer service, cancellation rights, warranties, and insurance arrangements. All responses are confidential and are analysed by RECC to identify emerging trends and ensure that members comply with the Consumer Code.

**Comment:**

RECC acknowledge that very few responses are received and that they need to explore ways to encourage consumers to find the questionnaire and complete it.

RECC's Dispute Resolution Team also have a Consumer Satisfaction Survey. The aim is the use the survey to gather feedback to improve processes by identifying what consumers



think RECC does well and any areas for improvement. These are measured against the key elements of the dispute resolution process. The survey contains thirteen questions which cover the key areas of the dispute resolution process, including complaints registration form, information given about the dispute resolution process, the mediation process and the resolution reached. Consumers are also asked to provide general comments about their experience at the end of the survey. They are invited to provide feedback at the end of the mediation process via a link which is included in the final email.

## **Conclusion**

RECC continue to be diligent and demonstrate admirable commitment to the Code and removing risks of consumer detriment. Applications for membership have continued to increase and RECC have taken steps to ensure that they can continue to monitor applications and members to their usual high standards.

RECC uses a variety of communication channels to share information with members, 3 newsletters were published for 2023. They provide members with the latest innovations, policy updates, news in the industry and other matters relevant to renewables and consumer protection.