

Energy Efficiency

Empowering Consumers,
Encouraging Growth



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Summary

The energy efficiency sector is important, and has the potential to provide significant benefits to consumers, business and the environment.

Consumers need to be confident that they have the information they need to purchase energy efficiency products and that businesses across the sector are complying with the law.

We have identified certain practices, carried out by some businesses, which may fail to meet legal obligations, and could undermine consumer confidence and growth in the sector. These relate to three areas:

- information for consumers and sales practices
- contracts, paperwork and cancellation
- quality and installation issues.

Our concerns arise from practices carried out to varying degrees by some businesses in the sector. If good practices are not applied consistently by all businesses, this has the potential to undermine consumer confidence. The OFT is therefore working with its Government, enforcement, regulatory, industry and consumer partners to promote a consistent level of good business practice, and greater consumer awareness, which will help to drive growth and increase consumer confidence.

“Energy efficiency can reduce energy bills for households and businesses, and can boost the economy in a sector with great potential for future growth, driving innovation in the process”

[DECC's Energy Efficiency Strategy](#)



The OFT and its enforcement partners have and will continue to take action as appropriate to deal with any serious concerns. As a result of this review, the OFT has:

- opened an investigation in the sector which focuses on business practices that raise particularly significant concerns
- written to over 50 of the leading businesses in the sector to advise them of the issues in this report and asking them to ensure they are providing consistently good standards to consumers
- published compliance guidance for businesses in the sector
- published guidance for consumers purchasing energy efficiency products.

There are further sources of guidance and advice for consumers and businesses in the sector. These are set out in 'Useful Links' on page 36.

Introduction

Why does it matter?

Energy efficiency is at the heart of the Government's approach to tackling climate change and ensuring safe, secure and affordable energy supplies. According to The Department for Energy and Climate Change's (DECC) [Energy Efficiency Strategy](#), published in November 2012, the energy efficiency sector in the UK had sales of £17.6 billion in 2010/11, with sales growing by over four per cent, per year in the UK since 2007/08, and projected to grow by around five per cent, per year between 2010/11 and 2014/15.

Energy efficiency is an area of growing interest and enquiry for consumers. For example, Consumer Direct received around 13,000 contacts about double glazing, insulation and solar panels between November 2010 and November 2011, and Consumer Direct and Citizens Advice received over 14,000 contacts about these markets between November 2011 and November 2012.

“ Everyone benefits when energy is used more efficiently – consumers save money, demand is reduced and environmental impacts are minimised.”

Energy: A strategic Framework for Northern Ireland

Understanding the sector and the potential for harm

“ The average domestic solar PV system costs around £7,600 ”

The Energy Savings Trust

Energy efficiency products

Energy efficiency products can have substantial benefits for consumers. They can reduce bills and improve the comfort of homes. In some cases, consumers may even be able to earn money through installing certain types of energy efficiency products under government schemes. However, energy efficiency products can be complex or not always well understood. In some cases, the quality of these products can only be verified after installation and in some cases it is difficult to observe quality at all. These issues were highlighted in our [Off Grid Energy market study](#) (in respect of microgeneration products) and our [Call for Evidence on home insulation](#). Added to this, the money that people invest in energy efficiency products can be substantial (for example, according to the [Energy Saving Trust’s advice on solar panels](#) (Photovoltaics - PV) the average domestic solar PV system costs around £7,600).

Selling energy efficiency products

As energy efficiency products are sold for use at home, sales are often carried out in consumers’ homes. Although ‘doorstep selling’ can be an effective way of accessing and engaging with consumers, it can also carry the risk that people may feel pressured into buying something that is not right for their needs and is not good value for money, or where they do not understand their cancellation rights.

Accurate information leads to consumer confidence

The nature of energy efficiency products and the way they are sold highlights the importance of consumers having clear and accurate information and sufficient time to make fully informed choices about which products are suitable for their needs. Consumers also need to be confident that the business with which they are dealing is complying with the law, and they need to understand their rights and know to where they can turn if things do go wrong. If consumers cannot be confident about their purchases, or do not have sufficient information, they may experience significant harm, financial and otherwise, which could undermine consumer confidence and damage business growth.

Consumers drive competition when they are empowered to shop around through access to accurate information about products and offers in the market. For example, well-informed consumers are able to identify goods and services that offer value for money, thereby encouraging businesses to compete keenly on price and quality. This is further illustrated by the diagram in Figure 1.

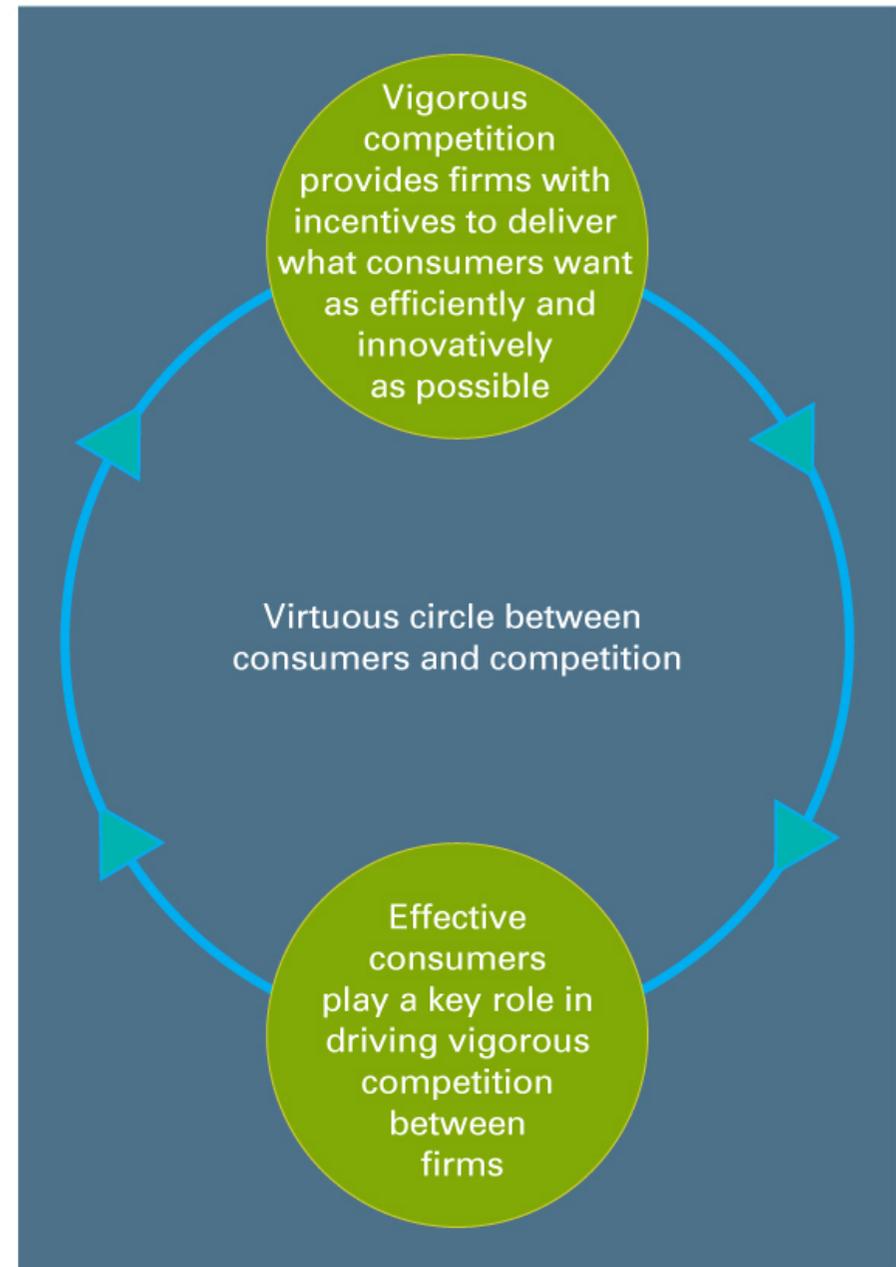


Figure 1: Virtuous circle between consumers and competition

The energy efficiency landscape

The OFT and the sector

The OFT's mission is to make markets work well for consumers. This includes the energy efficiency sector. Markets work well when businesses are in open, fair and vigorous competition with each other for the consumer's custom. The OFT pursues this goal in a number of ways, including by taking enforcement action under competition and consumer law, equipping consumers and businesses with the knowledge they need to protect against and avoid unlawful practice, and encouraging businesses to improve their trading practices by educating them about their duties under the law and encouraging self-regulation.



The OFT made commitments in its 2012-13 Annual Plan to prioritise work relating to a number of cross-cutting themes including:

- vulnerable consumers and consumers challenged by the adverse economic climate
- high innovation markets.

These are both directly applicable to the energy efficiency sector. The OFT has identified the energy efficiency sector as an area of specific interest, given its growth, strategic relevance and rapid evolution. The sector has also been identified as an emerging risk area in the OFT's strategic assessment, which has been developed to take a longer-term look at risks to UK consumers and markets.

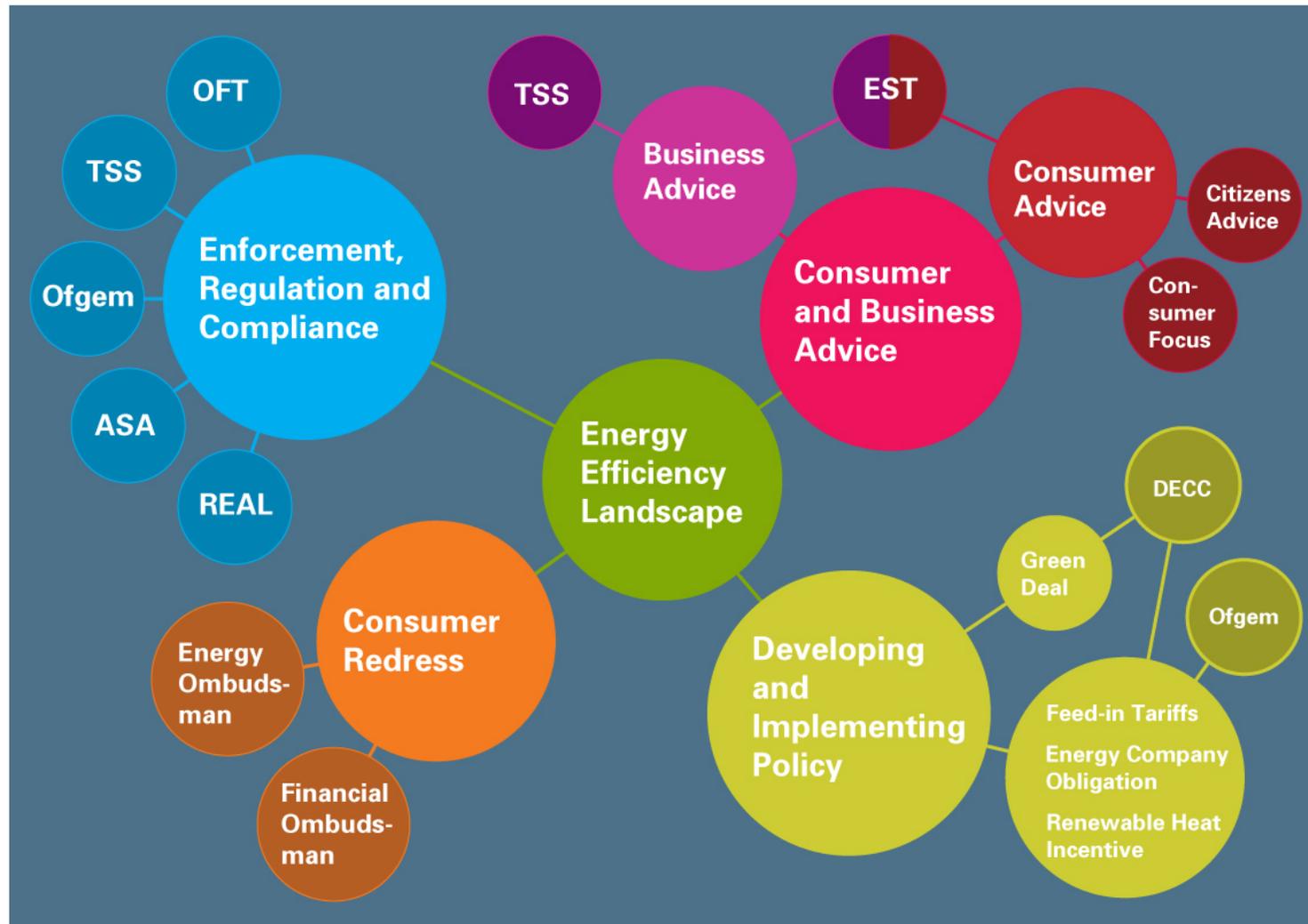
It is important that the sector is working effectively so that consumers get a good deal and to encourage business growth. Over the last year we have been carrying out a programme of work consisting of:

- a consumer protection review looking at consumer issues across the sector; this report summarises the findings of the review
- a Call for Evidence into the home insulation market, triggered by submissions that the market may not be working as well as it could. Some of the key findings related to quality and suitability of installation, redress and certification of insulation products. The OFT made recommendations to Government and industry in respect of its findings
- partnership working with different organisations involved in the sector, including government departments, enforcement bodies, regulators, consumer organisations and trade associations, to address consumer and competition issues within the sector.

The OFT's programme of work, and in particular our consumer protection review, builds on a range of previous OFT activities. Further details of this previous OFT work can be found in 'Landscape Detail' on page 29.

The wider landscape

In addition to the OFT, there are a number of other organisations that play important roles within the Energy Efficiency sector in terms of developing and implementing policy, enforcement and regulation, and providing advice and redress. The diagram in Figure 2 below sets out the key players in the landscape. More detail is available in 'Landscape Detail' on page 29.



Key

DECC - Department of Energy and Climate Change

TSS – Trading Standards Services

Ofgem - Office of the Gas and Electricity Markets

ASA – Advertising Standards Authority

REAL - Renewable Energy Assurance Limited

EST - Energy Saving Trust Foundation

Figure 2: Key players in the Energy Efficiency landscape

Our consumer protection review and findings

Our review

In carrying out our consumer protection review of the sector we analysed information from a range of sources including:

- consumers' experiences of buying energy efficiency products
- our enforcement and regulatory partners, including TSS, the ASA and Ofgem
- consumer organisations such as Citizens Advice, Consumer Focus and Which?, and trade associations in the sector
- information provided to us during our Call for Evidence on home insulation.

Having reviewed this information, we prioritised our focus on three markets (double glazing, insulation and solar) where we identified a range of largely similar and recurring issues carried out by some businesses. However, this should not be taken as an indication that these issues are not present in other markets within the energy efficiency sector.

The OFT's response to these issues

The OFT has taken a number of steps in response to these issues, using a range of the tools available to it. We have:

- opened an investigation in the sector which focuses on business practices that raise particularly significant concerns
- written to over 50 of the leading businesses in the sector to advise them of the issues in this report and asking them to ensure they are providing consistently good standards to consumers. In sending these advisory letters, we are not suggesting that these particular businesses are breaching the law
- issued compliance guidance aimed at businesses across the sector. We are also working with some trade associations in communicating this guidance to their members
- issued guidance to consumers to help them when purchasing energy efficiency products. We are also working with our consumer partners in communicating this guidance to consumers
- been working in partnership with different organisations involved in the sector, including government departments, enforcers, regulators, consumer organisations and trade associations, to highlight issues and support further action going forward.

The next three chapters set out the main issues of concern that we have identified; the steps that businesses can take to ensure compliance, and guidance for consumers to help them make confident, informed purchases. These concerns relate to:

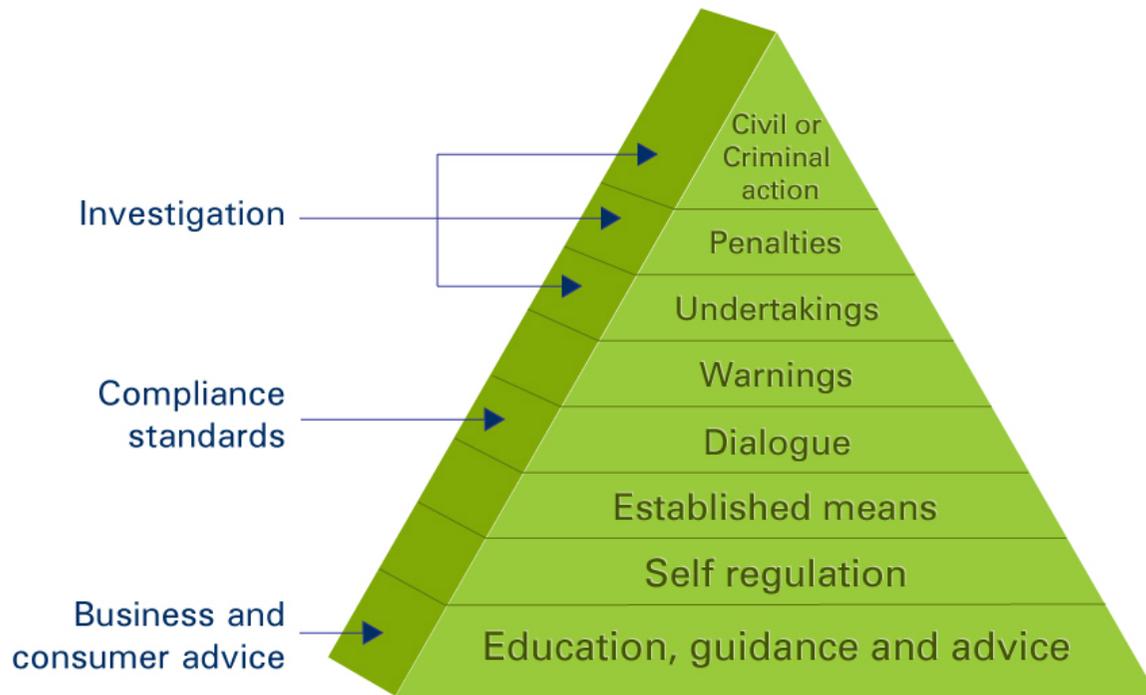


Figure 3: OFT Compliance tools

- information provided to consumers and sales practices
- contracts, paperwork and cancellation
- quality and installation issues.

Some of the practices identified in this report may breach the Consumer Protection from Unfair Trading Regulations 2008 (CPRs). The OFT, TSS and the Department of Enterprise, Trade and Investment in Northern Ireland (DETINI) have powers to take civil and criminal enforcement action in respect of breaches of the CPRs. Ofgem can also take civil enforcement action under the CPRs. This report does not cover additional obligations that might arise under any sector-specific regulation or that may apply in addition to general legal requirements, such as those contained in codes of practice or conduct or accreditation schemes.

Information and sales practices

Overview

Energy efficiency products can be complex or not always well understood, and consumers do not purchase them regularly. The financial investment can also be significant. It is therefore vital that consumers are given accurate information before deciding whether to purchase energy efficiency products. If consumers are given inaccurate or misleading information about energy efficiency products, for example about the potential benefits they might expect or about the cost, their decisions about whether to buy particular products may be distorted and they may buy products that they do not need or that are not suitable for them. This can result in consumers failing to realise the potential benefits, such as lower energy bills and warmer homes, which could be available if they were to purchase the right energy efficiency products for their needs.

“The nature of energy efficiency products and the way they are sold highlight the importance of consumers making informed purchases and knowing their rights.”

Doorstep selling

The OFT's Doorstep Selling Campaign aims to make older people aware of the risks of inappropriate selling techniques, to educate them about their cancellation rights and to ensure they are aware that they have the same rights even if they ask a salesperson to come to their home, for example where a trader initially makes contact by phone and the consumer arranges a follow up with a meeting in their home.

As domestic energy efficiency products are made for use in consumers' homes, doorstep selling, where businesses sell products to consumers directly on their doorstep or by coming into their homes, is a common method used by businesses in the sector to sell their products to consumers. This is a legitimate sales practice and in many cases can be a useful way of encouraging more active engagement from consumers who may not otherwise consider purchasing energy efficiency products, and who may miss out on the potential benefits they offer. However, some doorstep selling techniques have the potential to be unfair to consumers, for example where they put consumers under pressure to make an immediate decision on whether to buy a product or where salespeople spend several hours in consumers' homes.

Information provided to consumers

Consumers can be encouraged to purchase energy efficiency products because of their potential benefits in reducing costs or the availability of a subsidy or grant. For example, DECC's research summary '[Understanding Potential Consumer Response to the Green Deal](#)' found that surveyed participants from a representative sample said they would be encouraged to make their home more energy efficient if it led to a reduction of costs (46 per cent), at the availability of a subsidy or grant (32 per cent), if they had convincing information that installing

measures would lead to a warmer home and lower energy bills (24 per cent) and if they received information from a trusted source on how to reduce energy use (19 per cent). Reduced costs, lower energy bills and warmer homes are all benefits that consumers can enjoy if they install the right energy efficiency products in their homes. Similarly, there are subsidies and grants available to certain consumers depending on their circumstances. However, we found that currently, consumers are sometimes given potentially misleading or inaccurate information about these issues, for example, how much energy they may save by, or generate through, installing particular products or their eligibility for a grant or subsidy.

DECC's research summary also found that consumers may be more attracted to products which are linked with trusted sources, such as a local council or the Government. We found that in some cases consumers were given potentially misleading or inaccurate information about businesses' affiliations to public or private bodies, for example businesses claiming to be linked to the Government or a local council when this was not the case. Although the Government or another body may provide funding for consumers to install certain energy efficiency products in their home, this does not necessarily mean that a business offering, supplying or installing such products is directly approved or backed by the Government or that body.

If businesses give misleading information to consumers or fail to provide them with important information this may result in a breach of the CPRs. Advertising and marketing material should also comply with the UK [Advertising Codes](#). The ASA can consider where advertisers are not complying with the UK Advertising Codes and can refer advertisers that refuse to work with the ASA and persistently make misleading claims to the OFT to consider legal action.

Energy efficiency products are sometimes sold to consumers on credit. Businesses must comply with all legal obligations under the Consumer Credit Act 1974 (as amended)(CCA).

The CPRs also apply to commercial practices relating to credit. Borrowers, in particular those who may be vulnerable, should not be targeted with credit products that are clearly unaffordable or unsuitable for them, or subjected to aggressive or oppressive behaviour or coercion. The OFT can take enforcement action in relation to breaches of the CCA.

Case study

Lancashire TSS took action in February 2012 under the Consumer Protection from Unfair Trading Regulations 2008 (CPRs) against GP Contracts Limited, trading as Vistec Energy (Vistec) for misleading consumers. In this case, consumers thought they were agreeing to an energy efficiency survey, but were then given sales presentations for replacement windows, insulation and other energy-saving products.

Vistec also made claims that Government grants of up to 70 per cent were available to help with the cost of replacement windows when, in fact, no such grants existed. Instead Vistec salespeople inflated prices so that big discounts could be applied to make the final price look like a bargain. Vistec pleaded guilty to 10 offences under the CPRs and agreed to pay fines and costs of more than £16,000.

Sales techniques

We were concerned to find certain sales techniques employed in the sector that might unduly influence consumers and potentially impair their decision-making. Of particular concern is where businesses engage in these techniques when dealing with consumers with obvious vulnerabilities, such as the elderly and those suffering from physical or mental impairments. We heard about high pressure selling techniques such as salespeople staying in consumers' homes for several hours – for example, sometimes around three hours. Another problem we heard about was doorstep selling in areas where consumers had indicated they did not want to be cold called.

Which? report

In July 2010, **Which?** reported on its investigation into double glazing sales tactics. The report highlighted concerns about potentially misleading claims (for example about links to and approval by Government), discounted prices offered if consumers signed up immediately, and lower prices offered if consumers took out credit deals.

REAL report

In October 2011, REAL [published details of its concerns about sales practices used in the solar market.](#)

This included concerns about salespersons remaining in homes for several hours, heavy discounting of prices during sales visits, claims about limited availability of products and targeting elderly consumers.

We also found that in some cases consumers were told that certain prices or discounts were only available if they bought immediately, putting them under pressure to make a purchase straightaway.

The CPRs prohibit aggressive practices, which includes practices that intimidate or exploit consumers, or use harassment or coercion.

What businesses should do

No Cold Calling Zones and stickers

Since around 2001, many Trading Standards Services across the UK have introduced No Cold Calling Zones (NCCZ). These were traditionally established in areas where intelligence identified there was a particular problem with cold calling traders. Some Trading Standards Services are now moving towards a SuperSticker initiative, where a clearly displayed SuperSticker at individual properties indicates that the householder does not want to be cold called by doorstep traders. Traders can still post marketing material through the letterbox at a home within a NCCZ or displaying a SuperSticker but it is then up to the householder to decide if they wish to take matters further. Businesses can get advice on No Cold Calling Zones from their local Trading Standards Service.

Give accurate, honest and clear information to consumers –

Consumers need accurate information about energy efficiency products so that they can make fully informed decisions about whether to purchase particular energy efficiency products. Businesses should not mislead consumers about, for example, the potential performance of products, including the potential savings or other benefits consumers may enjoy, or consumers' eligibility for grants or subsidies. Businesses should make clear to consumers whether they are signing contracts or, for example, agreeing to a quote or a survey to be carried out.

Give honest information about affiliations to public or private bodies –

Consumers may be more attracted to products that are linked with trusted sources, such as a local council or the Government. Although the Government or another body may provide funding (for example a grant or subsidy) for consumers to install certain energy efficiency products in their home, this does not necessarily mean that a business offering, supplying or installing such products is directly approved or backed by the Government or that body. Falsely stating to consumers that a business is affiliated with any public or private body, for example a local council or the Government, is strictly prohibited under the CPRs and may result in prosecution.

Make sure sales techniques are fair – Consumers should not be pressured or coerced into buying products and should be given plenty of time to make their decisions. Businesses should not employ high pressure or aggressive sales techniques when selling to consumers or pressure them to make a decision on whether to buy products within a

short timeframe. All of the above practices could be considered aggressive selling practices that may breach the CPRs. Businesses should therefore ensure they have robust training in place so that their representatives do not engage in such behaviour.

Take extra care when dealing with vulnerable consumers – Businesses should not seek to exploit vulnerable consumers, and should take steps to ensure vulnerable consumers are sold to appropriately, for example making appointments at reasonable times of day (not late at night), asking a family member to be present or not staying for long periods of time. Businesses should have robust procedures in place to help salespeople identify vulnerable consumers, particularly the elderly or those suffering from physical or mental impairments, and ensure that all company representatives are trained in how to deal with them appropriately.

Respect a consumer's decision to say 'no' – Businesses' representatives should not outstay their welcome and should leave immediately if asked to do so by a consumer. Where consumers indicate they do not want to be contacted again, businesses should respect this. Ignoring requests to leave a consumer's home or not to return and making persistent and unwanted sales calls are strictly prohibited under the CPRs and may result in prosecution. Businesses and their representatives should also respect stickers or signs indicating that consumers do not want to be cold called, and should check whether areas are designated as no cold calling zones.

How consumers can help themselves

Double check the facts – Consumers should always check what they are told about products before committing to a purchase. This includes checking whether a product is suitable for their home or whether there is an alternative that may be better for them, whether they understand the costs involved (including the upfront price and any ongoing costs such as for maintenance or warranties), and whether businesses are linked to or endorsed by a particular organisation – consumers could, for example, contact the organisation in question to see if the business is linked to or endorsed by it. In addition, consumers can contact the Energy Saving Trust for advice on energy efficiency products before agreeing to make a purchase.

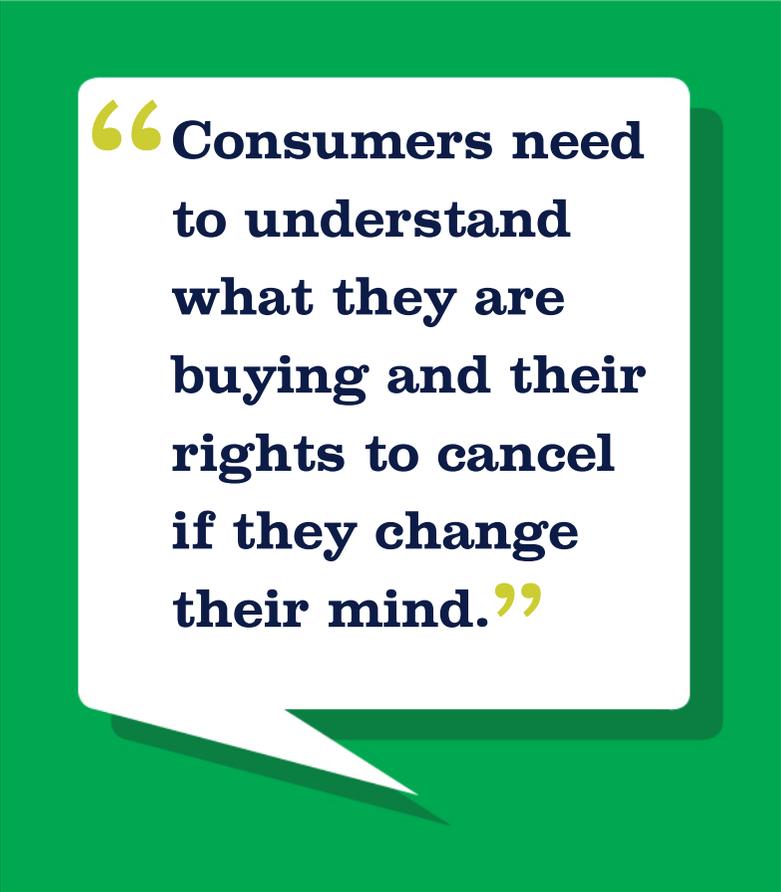
Take time to make a decision – Consumers should not feel hurried into making decisions and should shop around with different businesses to make sure they get a good deal. They are not obliged to let salespeople into their homes and can ask salespeople to leave their home and not to return or contact them again at any time. If salespeople refuse to leave, or businesses refuse to stop contacting consumers, then they may be committing a criminal offence under consumer protection law. Consumers should bear this in mind and contact Citizens Advice if this happens to them.

Contracts, paperwork and cancellation

Overview

Energy efficiency products can be complex or not always well understood, not bought regularly and the cost involved in buying them can be significant. Therefore it is important that consumers understand what they are signing up to and have sufficient time to read documents before they commit to a purchase. Where sales of energy efficiency products take place away from business premises, particularly on the doorstep or in consumers' homes, consumers have specific legal rights to change their minds and cancel contracts within seven calendar days and receive a full refund of any money paid, provided work has not already started.

We found that consumers may not always be given accurate information about, or may not always understand, the paperwork they are being asked to sign. In some cases, information provided to consumers was not sufficiently clear or prominent, or they did not understand what they were signing or agreeing to. For example, in some cases consumers thought they were signing for quotes or surveys of their homes but in fact signed purportedly binding contracts. We were also concerned to hear that consumers may not always receive accurate information about their statutory cancellation rights and in some cases these statutory cancellation rights may not have been respected, for example, consumers being unable to obtain refunds of deposits.



“Consumers need to understand what they are buying and their rights to cancel if they change their mind.”

What businesses should do

Make sure that your paperwork and documents are clear and that you tell consumers about important contract terms –

Businesses should ensure that any documents they give to consumers are clear and intelligible, and help consumers understand the nature and implications of the documents they are being asked to sign. In particular consumers should be told whether they are being asked to sign a contract for installation to start.

Giving misleading information or failing to provide important information to consumers about paperwork and contracts may breach the CPRs. In addition, the Unfair Terms in Consumer Contracts Regulations 1999 require standard contract terms to use plain and intelligible language. Important contract terms, particularly those which may disadvantage consumers, must be clear, prominent and actively brought to consumers' attention. To ensure compliance, as a matter of best practice, businesses should consider using larger fonts and bold text to highlight important information for consumers.

Make sure you tell consumers about their statutory cancellation rights –

Consumers must be given a written cancellation notice containing specified information when they enter into the contract. If the cancellation information is set out in the contract then it must be prominently displayed in a box. We would suggest that, as a matter of best practice, businesses use a larger font in bold for the heading Notice of the Right to Cancel. The OFT strongly recommends that businesses draw consumers' attention to their cancellation rights and explain them when they sign a contract. Figure 4 below shows the minimum information that must be included in a Notice of the Right to Cancel'.

Respect statutory cancellation rights – Consumers who enter into contracts worth more than £35 in their home or on their doorstep can usually cancel in

Case study

Fife TSS took action against a home improvements company, based in Scotland, under relevant consumer protection legislation following complaints alleging the company's failure to rectify faults, provide refunds and provide statutory cancellation rights to consumers. Following formal consultation with the business under the Enterprise Act 2002, the business provided undertakings to Fife Council in August 2012 that it would exercise care and skill when undertaking work, supply goods of satisfactory quality and within a reasonable time, carry out remedial work within a reasonable time and provide cancellation rights to all consumers.

writing (including by email) within seven calendar days. If they cancel, they are entitled to get back any money they have already paid, including a deposit. Work should only be started during the cancellation period with the consumer's written consent, and consumers should not be put under pressure to agree for work to start unnecessarily early. We strongly recommend that businesses explain the consequences of starting work during the cancellation period to the consumer. Under the Cancellation of Contracts made in a Consumer's Home or Place of Work etc Regulations 2008 (CCCHRs) all of this information must be set out in the Notice of the Right to Cancel. If consumers do not give written consent for work to start during the cancellation period, they can cancel and will not have to pay anything. If they do agree in writing for work to start during the cancellation period they can still cancel, but may have to pay a reasonable amount.

Figure 4: Example of cancellation notice

NOTICE OF THE RIGHT TO CANCEL

[Name of trader][Contract reference number][Date of notice]

You have a right to cancel this contract. You can do this by delivering or sending a written cancellation notice to us within seven calendar days of receiving this Notice. You can send the cancellation notice to us by email if you want. You can also use the cancellation form provided below, but you do not have use it.

Your cancellation notice is treated as being served as soon as it is posted or sent to us, or in the case of an email from the day it is sent to us.

The cancellation notice should be delivered or sent to:

[Name of person] [Postal address] [Email address]

If you agree in writing for the performance of this contract to start before the end of the seven-day cancellation period then, even if you cancel, you may be required to pay for the goods or services supplied to you.

If you have entered into a related credit agreement, then that agreement will also be automatically cancelled when you cancel this contract.

CANCELLATION NOTICE

(Complete, detach and return this form ONLY IF YOU WISH TO CANCEL THE CONTRACT.)

To: [trader to insert name and address of person to whom notice is given.]

I/We (delete as appropriate) hereby give notice that I/we (delete as appropriate) wish to cancel my/our (delete as appropriate) contract [trader to insert reference number, code or other details to enable the contract or offer to be identified. He may also insert the name and address of the consumer.]

Signed
Name and Address
Date

How consumers can help themselves

Know what they are signing – Consumers should check whether they are signing a contract or just agreeing to a survey or a quote. They should give themselves enough time to read all the paperwork and ask questions if they are unclear about anything. Consumers should not sign if they are unsure about doing so.

Be aware of cancellation rights – Consumers should be aware of their cancellation rights and ensure they follow the correct procedure when cancelling. If they want to cancel they must let the trader know in writing, which includes by email, within seven calendar days of being given a cancellation notice by the business. When cancelling, consumers should keep a copy of their letter or email as proof of cancellation. If a business does not provide a Notice of the Right to Cancel and cancellation form, then the contract is unenforceable.

Think carefully before agreeing for work to start quickly – Consumers can agree for work to start within the seven calendar day cancellation period if they wish. However they should think carefully before doing so as they may have to pay a reasonable amount if they later change their minds and cancel the contract.

Quality and installation issues

Overview

Once consumers have purchased energy efficiency products, they have a right to expect that they will be installed properly, that products work and that their properties are not damaged as a result of poor quality workmanship or negligence. Energy efficiency products should also be suitable for the properties in which they are installed.

However, as with any home improvement or repair work, things can go wrong, especially where reasonable care and skill are not exercised. Where problems occur, the financial detriment, stress and inconvenience for affected consumers can be substantial.

Problems with quality or installation, or unsuitability of particular products for consumers' homes can result in consumers failing to realise the benefits on offer from energy efficiency products through reduced effectiveness of the installed products.

We were concerned about cases where consumers had experienced problems with the quality of the services or the products they received. This included certain businesses failing to deliver what they had agreed, lengthy delays before products were installed and damage that may have been caused to properties when products were installed. The Sale of Goods Act 1979 (SOGA) and Supply of Goods and Services Act 1982 (SGSA) apply to contracts for the supply and installation of goods. Goods must match their description, and be of satisfactory quality and fit for purpose, for example they should be suitable for a consumer's property.

“ If products are unsuitable or not installed properly, energy performance may suffer or damage to consumers' homes may occur. ”

Services must be carried out with reasonable care and skill. Breach of these implied terms gives consumers the right to take action against businesses for breach of contract, as well as giving them additional rights relating to repairs, replacements and refunds.

Case studies

Consumer magazine **Which?** reported in April 2011 that it had invited eight companies to assess for cavity wall insulation (CWI) a house that its expert surveyor deemed unsuitable for this due to cracks in the external walls and its location in an extremely wet and exposed area – factors which industry guidelines warn could lead to damp in houses with CWI. All eight said the house was suitable for CWI and none warned that CWI might put the house at risk from damp.

In the **OFT's** Call for Evidence on home insulation, some respondents, including some manufacturers and some building professionals, noted that standard insulation materials were sometimes used where more expensive, specialist materials would be more appropriate (and cost effective in the long-run). Related to this, some respondents reported that installation of unsuitable insulation in homes can make them more susceptible to damp (resulting in damage to the building fabric and furnishings).

What businesses should do

Make sure goods are of satisfactory quality and that they are installed properly – Businesses are responsible for ensuring that the goods that they provide are of satisfactory quality and, where a contract includes the installation of products, for ensuring that installation is done with reasonable care and skill (including where the work is done by a sub-contractor). In cases where there is no specific date agreed for installation, businesses must ensure installation is done within a reasonable time.

Respect consumers' statutory rights when there are problems – Consumers are entitled to remedies where goods do not match the description given to them, are not of satisfactory quality, or are not fit for purpose. They may also be entitled to terminate the contract and seek a free repair or replacement or a full or partial refund or compensation, depending on the circumstances. Consumers can seek redress up to six years after they purchase the goods (five years from the discovery of the problem in Scotland). Businesses should ensure they are aware of and respect these rights, and should not insist that consumers rely on manufacturers' guarantees and warranties instead of exercising their legal rights.

Deal with complaints promptly, effectively and in a professional manner – As with any product which involves an element of home improvement, there is a possibility that problems may occur following installation. After-sales practices must be fair under the CPRs and in judging what is fair the law has regard to the standard of practice that can properly be expected of businesses. Businesses should have effective consumer complaints procedures, preferably set out in writing, to ensure that complaints are dealt with in an honest, professional and reasonable manner.

The OFT's [Sale of Goods Act Hub](#) provides comprehensive and up to date guidance on the Sale of Goods Act for retailers and business support organisations.

How consumers can help themselves

Be aware of rights in case installation or other work goes wrong – If products are faulty, do not match the description given by businesses, work is not completed within a reasonable period of time or without reasonable care and skill, then consumers may be legally entitled to a refund, a repair or replacement or compensation. Exactly what consumers are entitled to depends on the circumstances so they should make sure they are aware of their rights. Citizens Advice can provide advice for consumers in such circumstances.

Consumers should check whether they have any guarantees or warranties for the products they have purchased, as these may offer additional redress to that provided under SOGA and SGSA. However, manufacturers' guarantees or warranties do not replace or limit consumers' legal rights. Consumers should note that they can rely on their legal remedies against the seller of a product rather than the guarantee or warranty if they wish, and remember that businesses cannot insist that they use a manufacturers' guarantee or warranty instead of exercising their statutory rights.

Landscape detail

The OFT's work

As noted earlier, the OFT's programme of work, and in particular our consumer protection project, builds on a range of previous OFT activities, including:

- Enforcement action leading to [undertakings from the directors of Solar Technik Limited and Ultimate Energy plc](#), that they would not, in the course of business, breach certain consumer protection legislation.
- Enforcement action leading to [undertakings from the Smart Energy \(UK\) Limited and its directors](#) that they would not, in the course of business, breach certain consumer protection legislation.
- Enforcement action leading to [undertakings to the Court of Session in Scotland from MB Designs \(Scotland\) Limited](#) that it would not breach certain consumer protection legislation such as to harm the collective interest of consumers
- [Approval of the Renewable Energy Assurance Limited \(REAL\) code of practice](#) under the OFT Consumer Code Approval Scheme (CCAS). REAL's Consumer Code covers the sale, contracting, installation and servicing of small-scale energy generating systems including solar electricity, solar water heating, small-scale wind electricity and ground and air source heat pumps. It is the first code in the energy sector to be approved under the CCAS.
- [Off-grid Energy, an OFT market study](#), which examined whether the market for the supply of energy to the four million households who are not connected to the mains gas grid was working well for these consumers. The study looked at issues within the microgeneration industry, among others, and identified several features of this industry that made misselling a particular risk.



- The [Home repairs and improvements research project](#), which looked at consumers' and businesses' attitudes and behaviours in this sector. Following this work, the OFT produced a strategy paper, identifying key areas for consideration by the consumer protection community, and issued guidance and top tips for consumers and businesses.
- The [Doorstep Selling Campaign](#). The campaign was launched jointly with the Trading Standards Institute in their National Consumer Week in November 2012 and aims to make older people aware of the risks of inappropriate selling techniques, to educate them about their cancellation rights and to ensure they are aware that they have the same rights even if they ask a salesperson to come to their home, for example where a trader initially makes contact by phone and the consumer arranges a follow up with a meeting in their home. Energy efficiency is one of the two sectors on which the OFT focused its campaign.
- Working with Citizens Advice to provide advice to consumers about installing insulation in their homes as part of the Citizens Advice [Big Energy Saving Week](#).
- The [Sale of Goods Act hub](#), which provides comprehensive and up to date guidance on the Sale of Goods Act for retailers and business support organisations.

Other organisations

In addition to the OFT, there are a number of other organisations that play important roles within the energy efficiency sector in developing and implementing policy, enforcement and regulation, and providing advice and redress.

Policy

Department of Energy and Climate Change (DECC)

DECC is the UK government department responsible for sustainable energy. Its four key priorities are saving energy with the Green Deal and supporting vulnerable consumers, delivering secure energy on the way to a low carbon energy future, driving ambitious action on climate change at home and abroad and managing our energy legacy responsibly and cost-effectively.

Enforcement, regulation and compliance

Trading Standards Services

Trading Standards Services' (TSS) role is to protect consumers and traders. It carries out its functions by advising consumers and dealing with consumer complaints, investigating offences, prosecuting offenders and enforcing legislation, and providing guidance for businesses.

TSS have previously taken action in the energy efficiency sector, for example prosecuting individuals and obtaining undertakings from businesses in respect of breaches of consumer protection law.

Advertising Standards Authority (ASA)

The ASA is the UK's independent regulator of advertising across all media. It applies the UK Advertising Codes. The ASA's work includes acting on complaints and proactively checking the media to take action against misleading, harmful or offensive advertisements. The ASA can refer advertisers who refuse to work with it and persistently make misleading claims to the OFT to consider legal action.

In the energy efficiency sector, the ASA has adjudicated on a number of complaints in relation to claims about certain energy efficiency products, for example about the amount of money consumers may receive from generating energy ([ASA Adjudication on Everest Limited](#)) and the energy savings consumers may get from installing particular products ([ASA Adjudication on Danfoss Heat Pumps UK Limited](#) and [ASA Adjudication on ACS Renewable Solutions Limited](#)).

Office of the Gas and Electricity Markets (Ofgem)

Ofgem promotes competition and, where appropriate, regulates the monopoly companies which run the gas and electricity networks. Ofgem's priorities include promoting competitive gas and electricity markets and regulating them so that there is adequate investment in the networks, and contributing to the drive to curb climate change and other work aimed at sustainable development. Ofgem has powers to investigate licence holders that breach certain consumer protection law.

Renewable Energy Assurance Limited (REAL)

The REAL Consumer Code was set up by the Renewable Energy Association and is currently approved under the OFT's Consumer Codes Approval Scheme. REAL's members are firms selling or leasing small-scale renewable or low carbon heat or power generation units who have agreed to comply with the REAL Consumer Code. Businesses signing up to the code agree to abide by the standards set out in the code and can display the REAL logo. REAL monitors its members' compliance in a number of ways, including audits and compliance spot checks, consumer satisfaction surveys, mystery shopping and analysing complaints about REAL members.

Gemserv

Gemserv is a specialist market design, governance and assurance service provider, which provides advice to competitive utility and environmental markets and their participants. Gemserv will run the new Green Deal Oversight Body and will be responsible for the registration of assessors, installers and providers and monitoring compliance with the Code of Practice under the Green Deal. Gemserv will provide these services with REAL for the next three years.

Advice

Citizens Advice

The Citizens Advice service helps people resolve their legal, money and other problems by providing confidential advice and information, and by influencing policymakers. This includes providing advice for consumers on a range of energy-related issues. Citizens Advice ran the [Big Energy Savings Week](#) in October 2012 – a national campaign aiming to inform consumers about what they could do to cut down energy bills and help make them more affordable.

Consumer Focus

Consumer Focus is the current statutory consumer champion for England, Wales, Scotland and (for postal consumers) Northern Ireland. It can investigate consumer complaints of wider interest, open up information from providers, has the power to conduct

research and the ability to make super-complaints to the OFT about failing services, which the OFT must then publish a response to within 90 days. Consumer Focus carries out a range of work regarding energy efficiency issues, for example its research report [Jobs, growth and warmer homes](#), which was published in November 2012. This research estimated that significant Government energy efficiency infrastructure investment could reduce energy bills in treated homes by at least £200 per year. In April 2013, the Citizens Advice service will take responsibility for, and be funded to deliver, general consumer advocacy and education, taking on responsibility from Consumer Focus for representing consumers' interests in unregulated sectors. At the same time, Consumer Focus will be restructured to become the Regulated Industries Unit (RIU), initially with responsibility for postal services and energy in England, Scotland and Wales, for post in Northern Ireland and for water in Scotland. In 2014, the RIU will transfer to Citizens Advice and, in Northern Ireland, responsibility for consumer issues in relation to post will transfer to General Consumer Council of Northern Ireland.

Energy Saving Trust Foundation (EST)

The EST gives advice to communities and households on how to reduce carbon emissions, how to use water more sustainably and how to save money on energy bills. It publishes reports and research, for example [Here comes the Sun: a field trial of solar water heating systems](#), which found that solar water heating systems have the potential to work well in the UK when installed properly and controlled adequately by the user, and [Trigger points - a convenient truth](#) into promoting energy efficiency measures in homes, which found that 85 per cent of homeowners express a willingness to stretch refurbishment budgets for energy efficiency. The EST also provides a range of advice services for businesses, such as accreditation, certification, and energy monitoring and technology field trials.

Which?

Which? is a product-testing and consumer campaigning charity and publisher that engages in advocacy campaigns on various consumer protection issues and aims to promote informed consumer choice in the purchase of goods and services. It has published a range of research and advice, for example: [How to buy solar panels](#), [How to buy double glazing](#), [How to buy loft insulation](#) and [How to buy wall insulation](#). Which? also carries out investigations and has done so in the energy efficiency sector, for example in relation to double glazing, insulation, Solar PV ([Which? investigation into Solar PV](#)) and Solar water heating panels ([Which? investigation into Solar water heating](#)).

Redress

Ombudsman Service: Energy (OSE)

The OSE is a free, independent service dealing with consumer complaints about energy companies involved in providing gas and/or electricity that have joined the Energy Ombudsmen scheme. The OSE has been approved by Ofgem and under it consumers can complain to the OSE, with the OSE deciding whether a company must take any action. The OSE can require energy companies to take certain steps to put matters right, including making financial awards of up to £5,000. The OSE can deal with complaints about a range of issues, including microgeneration and Feed-in Tariffs.

Financial Ombudsman Service (FOS)

The FOS independently settles complaints between consumers and businesses providing financial services. The FOS considers complaints about a range of issues including loans and consumer credit in respect of around 80,000 businesses that have a standard consumer credit licence issued by the OFT for consumer credit activities.

Green Deal Ombudsman

In June 2012, DECC announced the appointment of the Ombudsman Services Limited as the provider of the Green Deal Ombudsman and Investigation Service. This is a free service for consumers who cannot reach an agreement with their Green Deal Provider over a complaint. Ombudsman Services Limited currently also run the Ombudsman Service: Energy, and is responsible for the provision of redress and consumer protection in the Green Deal. It will investigate complaints and determine redress for consumers. Depending on the type of complaint, following an investigation, the Ombudsman may refer cases to the Secretary of State for determining redress or imposing sanctions.

Government policies and initiatives

There are a number of existing and forthcoming Government policies and initiatives that impact on the sector, including:

Feed-in Tariffs (FITs) – The FITs scheme was introduced on 1 April 2010, aiming to allow people to invest in small-scale low-carbon electricity (solar PV systems), in return for a guaranteed payment from an electricity supplier of their choice for the electricity they generate and use as well as a guaranteed payment for unused surplus electricity they export back to the grid. New tariff levels for solar PV installations were set from 3 March 2012, and a new energy efficiency requirement for solar PV installations was introduced from 1 April 2012. [Further changes to future tariffs were made on 24 May 2012](#), effective on 1 August 2012, and a cost control measure was also introduced from 1 November 2012.

Green Deal – this is a new Government scheme aimed at allowing consumers to make energy-saving improvements to homes or business premises without having to pay all the costs up front. The scheme lets consumers pay back the costs, up to the limit of the estimated energy savings, through electricity bills over time. Consumers will be able to start installing energy saving improvements under the Green Deal from January 2013.

Energy Company Obligation (ECO) – The ECO is designed to complement the Green Deal for households. It requires energy suppliers with more than 250,000 domestic customers to provide subsidies to measures that will generate a certain level of carbon or notional bill savings over the lifetime of the measures. ECO applies to carbon saving measures that are cost effective but where Green Deal finance alone will not cover their upfront cost, insulation measures in low income communities and providing measures to low income and vulnerable consumers that reduce the notional cost of heating their properties. Ofgem has been appointed to administer ECO from October 2012 to March 2015.

Renewable Heat Incentive (RHI) – The domestic RHI scheme would support households to move away from using fossil fuels for heating and to contribute to the UK's target on renewable energy deployment by 2020. Under the current proposals any consumer wishing to replace their current heating system with a ground source heat pump, air source heat pump or biomass boiler would be able to receive a subsidy from the Government to help them with the costs of financing that installation, providing the installation meets the eligibility criteria also set out in legislation. Solar thermal systems would also be eligible for support. DECC's public consultation on its proposals for the domestic RHI scheme closed on 7 December 2012.

In addition, the Government is also providing support for household renewable heat through the Renewable Heat Premium Payment scheme (RHPP) which provides money towards the up-front costs of installing renewable heat equipment. For information about the RHPP please refer to the Energy Saving Trust (EST) which administers the scheme on behalf of DECC.

Useful links

Guidance for businesses

Wise up when selling energy efficiency products – OFT guidance for businesses

www.oft.gov.uk/energyefficiency

OFT guidance on consumer law

www.oft.gov.uk/business-advice

The Energy Saving Trust provides advice and services for organisations

www.energysavingtrust.org.uk/Organisations

Guidance for consumers

Guidance is available from the Citizens Advice website (www.citizensadvice.org.uk) or by calling 08454 04 05 06 or 08454 04 05 05 for Welsh speaking advisors. Consumers in Northern Ireland should contact Consumerline on 0300 123 6262.

Advice on energy saving products and generating energy is available from the Energy Saving Trust website

(www.energysavingtrust.org.uk) or from the Energy Saving Advice Service on 0300 123 1234.

Wise up when buying energy efficiency products – OFT guidance for consumers

www.oft.gov.uk/energyefficiency

Know your rights – it's your doorstep (OFT guidance on doorstep selling)

www.oft.gov.uk/OFTwork/consumer-protection/campaign11-12/doorstep

OFT consumer guidance

www.oft.gov.uk/consumer-advice

References

A list of all the weblinks included in this report

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DECC's Energy Efficiency Strategy

www.decc.gov.uk/en/content/cms/tackling/saving_energy/what_doing/eedo/eedo.aspx

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Energy: A strategic Framework for Northern Ireland

www.detini.gov.uk/strategic_energy_framework_sef_2010_-3.pdf

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OFT Off Grid Energy market study

www.oft.gov.uk/OFTwork/markets-work/off-grid

Call for Evidence on home insulation

www.oft.gov.uk/OFTwork/markets-work/othermarketwork/energy-efficiency/energy-call-for-evidence

Energy Saving Trust's advice on solar panels (Photovoltaics - PV)

www.energysavingtrust.org.uk/Generating-energy/Choosing-a-renewable-technology/Solar-panels-PV

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DECC's research summary 'Understanding Potential Consumer Response to the Green Deal'

www.decc.gov.uk/assets/decc/11/consultation/green-deal/3586-green-deal-understanding-consumer-resp.pdf

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UK Advertising Codes

www.cap.org.uk/Advertising-Codes.aspx

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REAL Report 'Our battle with the Cowboys' details concerns about sales practices used in the solar market

www.realassurance.org.uk/news/real-our-battle-with-the-cowboys

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OFT Sale of Goods Act hub

www.oft.gov.uk/business-advice/treating-customers-fairly/sogahome

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OFT press release 'OFT obtains undertakings from directors of solar water heating companies'

www.oft.gov.uk/news-and-updates/press/2007/148-07

OFT press release 'Solar heating company to improve practices after OFT intervention'

www.oft.gov.uk/news-and-updates/press/2009/74-09

OFT press release 'Undertakings to the Court of Session in Scotland from MB Designs (Scotland) Limited'

www.oft.gov.uk/news-and-updates/press/2008/3-08

OFT press release 'OFT approves consumer code of practice for the renewable energy sector'

www.oft.gov.uk/news-and-updates/press/2011/119-11

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OFT Home repairs and improvements research project

www.oft.gov.uk/OFTwork/markets-work/othermarketswork/home-repairs

OFT Doorstep Selling Campaign

www.oft.gov.uk/OFTwork/consumer-protection/campaign11-12/doorstep

Citizens Advice Big Energy Saving Week

www.citizensadvice.org.uk/index/aboutus/bigenergysavingweek/besw_insulate.htm

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ASA Adjudication on Everest Limited

www.asa.org.uk/Rulings/Adjudications/2011/9/Everest-Ltd/SHP_ADJ_156482.aspx

ASA Adjudication on Danfoss Heat Pumps UK Limited

www.asa.org.uk/Rulings/Adjudications/2011/8/Danfoss-Heat-Pumps-UK-Ltd/SHP_ADJ_157342.aspx

ASA Adjudication on ACS Renewable Solutions Limited

www.asa.org.uk/Rulings/Adjudications/2011/8/ACS-Renewable-Solutions-Ltd/SHP_ADJ_141588.aspx

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Consumer Focus report 'Jobs, growth and warmer homes'

www.consumerfocus.org.uk/news/energy-efficiency-investment-is-one-of-best-ways-to-boost-the-economy-new-research-reveals

Energy Savings Trust Foundation report 'Here comes the Sun: a field trial of solar water heating systems'

www.energysavingtrust.org.uk/Publications2/Generating-energy/Here-comes-the-sun-a-field-trial-of-solar-water-heating-systems

Energy Savings Trust Foundation report 'Trigger points - a convenient truth'

www.energysavingtrust.org.uk/Publications2/Corporate/Research-and-insights/Trigger-points-a-convenient-truth

Which? advice guide 'How to buy solar panels'

www.which.co.uk/energy/creating-an-energy-saving-home/guides/how-to-buy-solar-panels

Which? advice guide 'How to buy double glazing'

www.which.co.uk/home-and-garden/home-improvements/guides/how-to-buy-double-glazing

Which? advice guide 'How to buy loft insulation'

www.which.co.uk/energy/saving-money/guides/how-to-buy-loft-insulation

Which? advice guide 'How to buy wall insulation'

www.which.co.uk/energy/saving-money/guides/how-to-buy-wall-insulation/wall-insulation-faqs

Which? investigation into Solar PV

www.which.co.uk/energy/creating-an-energy-saving-home/guides/how-to-buy-solar-panels/how-to-buy-solar-pv

Which? investigation into Solar water heating

www.which.co.uk/energy/creating-an-energy-saving-home/guides/how-to-buy-solar-panels/how-to-buy-solar-water-heating-panels

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The Feed-in Tariffs scheme

www.decc.gov.uk/en/content/cms/meeting_energy/Renewable_ener/feedin_tariff/feedin_tariff.aspx

Changes to the Feed-in Tariffs scheme

www.decc.gov.uk/en/content/cms/consultations/fits_rev_ph2a/fits_rev_ph2a.aspx

The Green Deal

www.decc.gov.uk/en/content/cms/tackling/green_deal/green_deal.aspx

The Energy Company Obligation

www.decc.gov.uk/en/content/cms/tackling/green_deal/gd_industry/eco/eco.aspx

The Renewable Heat Incentive

www.decc.gov.uk/en/content/cms/meeting_energy/renewable_ener/incentive/incentive.aspx