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CAS Response to the consultation on Energy Company Obligation (ECO3): Improving Consumer Protection (August 2019)

Who we are

The policy teams at Citizens Advice Scotland use research and evidence to put people at the heart of policy and regulation in the energy, post and water sectors in Scotland. We work with government, regulators and business to put consumers first, designing policy and practice around their needs and aspirations. We aim to represent the views of different consumer groups using evidence of consumer views and supporting research wherever possible.

Citizens Advice Network in Scotland

Citizens Advice Scotland (CAS), our 59 member Citizen Advice Bureaux (CAB) and the Extra Help Unit, form Scotland's largest independent advice network. Advice provided by our service is free, independent, confidential, impartial and available to everyone. Our self-help website Advice for Scotland provides information on rights and helps people solve their problems.

In 2017-18 the Citizens Advice Service network helped over 295,100 clients and dealt with almost 874,000 advice issues for clients living in Scotland. With support from the network clients had financial gains of over £138 million and our self-help website Advice in Scotland received approximately 3.2 million page views. On energy consumers issues in particular, we advised on over 41,000 energy-related issues in 2017-18, generating over £1.8m in client financial gain.

Our extensive footprint is important in helping us understand how issues impact locally and nationally across the country and the different impacts that policies can have in different areas.

General Comments

CAS welcomes the proposals for ECO3. The ECO scheme has helped deliver energy efficiency measures to vulnerable consumers in two other phases and we are pleased to see that BEIS is expanding consumer protections in its third iteration. In particular, we are pleased to see the incorporation of Trustmark into ECO3 to certify suppliers, make high quality standards more accessible, and redress for consumers easier. This makes sense given the wider industry move under Each Home Counts to integrate standards and protections under one certification mark got for RMI and energy efficiency sectors. Given that 66% of fuel poor households in Scotland are EPC F or G properties, we were very pleased with the proposal to expand the 'first time central heating scheme' to privately rented EPC F or G properties and the LA flex schemes. Below we answer the consultation questions for which we have relevant expertise, aiming to highlight the Scottish context.

While accreditation is an important component of consumer protection, it alone is not sufficient; it needs to be back up with monitoring and enforcement by an independent adjudicator. This is critical to ensure that the Trustmark scheme has teeth to sanction and enforce compliance which in turn leads to good outcomes for consumers, whilst also building credibility and trust.

While we are happy to see the integration of Trustmark with ECO3, we still have some concerns that the Trustmark Framework Operating Requirements (V2.0 draft) are overly vague in respect of section 9 'consumer safeguarding', section 6 and Annexe A. This risks making the requirements open to interpretation by installation companies and certification bodies which in turn could lead to inconsistencies in the way they are applied and enforced for consumers. For example 1.3.4 states 'Take appropriate steps when dealing with vulnerable people', but it doesn't state what steps. In relation to enforcement and sanctions, Section 7.2.1 states "the Scheme Provider should undertake a review to *consider potential application* of a sanction to immediately suspend and remove from the public register pending further investigation". The 'potential application of a sanction' could be highly subjective. We would welcome a tightening of the language in this regard. Over time it will be important that there is an independent review of Trustmark scheme periodically, to check whether the Operating Requirements are fit for purpose, and satisfactory from a consumer perspective.

Areas for improvement

On a more general point, we would like to identify some areas where we believe the programme as proposed could be improved:

- 1) The lifetime of a heating system should be equivalent to the shortest lived major component of the system. If a major part of the system, such as the boiler itself only lasts 12 years on average (as opposed to vent mechanism or radiator network, for example), the lifetime of the system should be equivalent that duration, otherwise it is somewhat misleading for the consumer who may expect it to last 20 years without incurring costs for replacement parts.
- 2) Consumers with electric storage heating should be included in the first time central heating scheme if they meet the ECO criteria for other measures, not only if their heating system is "100% broken or inefficient." 12% (292,000) Scottish households rely on electric heat as their primary heating source; 52% of these households are estimated to be in fuel poverty¹. These households would benefit from being eligible for more efficient and affordable heating systems regardless of tenure type (owner occupier or private rented).
- 3) Consideration of possible alternative models of procurement under ECO3 so that small and microbusinesses in remote and rural Scotland can still operate under ECO3, even if not directly Trustmark accredited, e.g. as a sub-contractor or under a framework agreement where commissioning is carried out by a Trustmark-accredited company. These small and microbusinesses may not be able to afford to be accredited under Trustmark nor absorb the costs of hiring/upskilling a retrofit coordinator. It is however important that small local contractors are not priced out of the market and can help to achieve ECO3 targets in off-gas, remote rural areas from a supply chain perspective, otherwise there is a risk of an urban bias were the 'low-hanging fruit' installations are prioritised. We urge BEIS to consider how these small and microbusinesses can be supported but still meet high standards of quality and consumer protection under Trustmark.

1. 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)?

- 1.1 We support higher quality and financial protections for consumers, especially vulnerable ones. We agree that Trustmark should be incorporated into ECO3

¹ Scottish Housing Condition Survey <https://www.gov.scot/publications/scottish-house-condition-survey-2017-key-findings/pages/5/>

and be required for businesses contracted to deliver installations under ECO3. However, this has the potential to be a complex regulatory process which will need to be fair and balance the interests of consumers and suppliers.

- 1.2 If DHS are to be excluded from the Trustmark requirement, then we accept that membership of the Heat Trust is a satisfactory interim solution as it's Code of Conduct includes adherence to customer service and complaints handling. We do not consider it sufficient to say that a supplier can "*demonstrate that they comply with equivalent standards to those provided by Heat Trust*" because there is no independent adjudication of complaints nor inspections as happens under Heat Trust membership. **However**, we stress that this should only be an interim solution while BEIS explores and implements the regulation of consumer protection for heat networks. We recognise that the regulation of heat networks is currently under review by BEIS following the conclusions of the CMA investigation in July 2018. There are devolved dimensions to consider in Scotland where the Scottish Government doesn't have the devolved power over consumer protection, but is considering introducing a new licensing body for heat network operators and developers. Regardless of who is elected to oversee consumer protection in heat networks, it is essential that consumer protection is regulated given the risk the consumers face in monopoly market with no choice. This is something we have called on [for a number of years](#), and we reiterate our appeal for regulation, price-control mechanisms and consumer protections. For further information, please refer to our report [Different Rules for Different Fuels](#)².
- 1.3 Increased financial protections should apply to all energy efficiency works, including ECO works, demonstration actions and DHS measures. In addition to increased financial protection, it should be made clear to consumers, that it is the supplier or company that holds the contract who is liable for works poor quality works (both installation and materials) and any damage caused during the installation, including paying for and organising remedial works.

² https://www.cas.org.uk/system/files/publications/different_rules_for_different_fuels_-_cfu_insight_report.pdf

Case Study: Client is disabled and was eligible for free insulation from her supplier, who put her in touch with an installer to have the works carried out. 8-12 weeks after the installation, Client's home began to show signs of damp, causing £6,000 of damage to carpets and walls. Client, who is deaf and cannot speak on the phone, emailed both her supplier and the installer, who sent an inspector out a few weeks later. The inspector identified that the insulation had not been installed correctly, and would have to be removed and replaced. Client has emailed her supplier to arrange for repairs, and they have directed her to the installer. The installation company has said that the required remedial work is too expensive to fix. Client has been emailing both companies since, with no resolution.

2. Do you agree that incorporation of Trustmark into ECO3 is sufficient to demonstrate certification and compliance with the appropriate PAS standards?

- 2.1 We agree that the incorporation of Trustmark in ECO3 is sufficient to demonstrate certification and compliance **if correctly resourced and monitored**. We are wary of potential “phoenix companies” using the Trustmark brand to install poor quality works, leaving vulnerable consumers worse off. Mis-selling and cold calling about energy efficiency products was the most reported nuisance call in 2018 according to Trading Standards Scotland, making up 47% of all nuisance calls in Scotland³.
- 2.2 A recommendation from the Scottish Government’s Short Life Working Group on Quality Assurance is the introduction of a Quality Mark (with an accompanying ‘quality assurance framework’⁴ with which to vet and verify installers) to certify installers under the Energy Efficient Scotland programme. This was consulted on earlier this year⁵. It is imperative that BEIS and the Scottish Government work together to ensure that the two schemes do not contradict each other and that regardless of the Mark, that robust consumer protection is in place. Without coordination between the two schemes, there is a risk that a consumer could fall between the gaps in consumer protection. Furthermore there is a risk that it generates confusion for consumer as to which certification body to go to lodge a complaint or seek redress.

For this consultation, we agree with the development of Quality Assurance criteria for suppliers, both through Trustmark and the Scottish Quality Mark.

³ Trading Standards Scotland (2019) Pg. 13 - Scottish Government Call Blocking Project Evaluation Report

⁴ <https://www.gov.scot/publications/quality-assurance-short-life-working-group-report/>

⁵ <https://www.gov.scot/publications/energy-efficient-scotland-consultation/pages/4/>

However, if the aim is to integrate the Quality Assurance criteria with existing standards and develop Energy Efficient Scotland Programme specific criteria where lacking, then we would ask for confirmation as to how this information will be easily accessible to consumers and suppliers for both Trustmark and Scottish Quality Mark. CAS supports the Quality Assurance criteria to be contained in a public-facing, central, comprehensive and accessible format. Communication of criteria and the consistency of the message being delivered is key to both programme's success.

- 2.3 We would like to highlight that due consideration must be given to how sub-contractors operate under Trustmark to ensure that the same technical quality and customer service standards are adhered to by sub-contractors. It is important that sub-contractors are also monitored and periodically inspected under Trustmark to ensure compliance with PAS standards, and thus within the envelope of robust consumer protection.

3. 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?

- 3.1 The wording of this question is somewhat confusing. It is unclear whether the term 'relevant standard applicable lifetime' refers to a metric e.g. by which to measure carbon savings, or the duration of a warranty period. If it is the latter, it is important that warranty covers both the insulation product as well as the installation itself (i.e. the workmanship) and that a consumer can lodge a complaint about either or both during the entire lifetime of the warranty through a single simple pathway of redress. If the original installation business has gone out of business within the period of the warranty, then there should be a mechanism by which a customer can still seek warranty cover from an alternative, certified business. This is akin to a 'supplier of last resort' model or an insurance scheme where there is cover for a customer, in the event that a business folds during or after installation, or within the warranty period.

More generally we agree that a properly resourced Trustmark is a positive step towards ensuring that solid wall, cavity wall and park home insulation measures are installed correctly with high quality products. We welcome Trustmark publishing trusted suppliers on its website and adopting a clear and easy to identify quality mark for both installers and products.

- 3.2 The problems that can arise for consumers when an energy supplier or installer goes out of business and cannot fulfil its obligations or offer consumer redress must be addressed. We found in our [Bad Company](#) report

that many customers of the company HELMS face significant detriment because there is limited route to redress in this situation when a company no longer exists to remedy problems⁶. Trustmark administrators will need to have a process in place to handle this situation and still provide satisfactory complaints resolution and redress, and ensure that the risk of 'phoenix' businesses is mitigated as best possible..

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 Trustmark financial protection requirements that apply to all ECO energy efficiency measures but also as a minimum meets the Trustmark "appropriate guarantee" criteria?

4.1 We agree that all insulation measures should have a 25 year guarantee accompanied by financial protections and should meet the "appropriate guarantee" criteria. These requirements should be clearly stated and made accessible to the consumer. The results of a YouGov poll⁷ we carried out earlier this year identified that 22% of Scottish consumers who had purchased energy efficiency products were not aware of the terms and conditions they were agreeing to, any cooling off periods or any potential cover if purchase was made by a credit card. Although ECO measures are not purchased by consumers directly, but consumers deserve just as much access to redress if something goes wrong. Trustmark should serve as a one-stop-shop for consumers for these and all other ECO measures.

5. Are there any other complex ECO measures that you think should be accompanied by a 25 year or more guarantees which as a minimum meets the Trustmark "appropriate guarantee" criteria?

5.1 As they are delivered to vulnerable consumers, all ECO measures should be accompanied by a 25 year minimum guarantee and meet the Trustmark "appropriate guarantee" criteria. A simple measure should not mean a poor quality one. We urge Trustmark and ECO3 to safeguard more than a six year minimum for every measure, and to not trust the market to provide suitable guarantees, as this runs the risk of leaving vulnerable consumers with subpar workmanship and products. By treating all measures in the same way with a 25 year minimum guarantee, this helps to standardise the approach and message to the consumer is simpler and consistent.

⁶ https://www.cas.org.uk/system/files/publications/bad_company_citizens_advice_scotland.pdf

⁷ Link - To be published on our website

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?

6.1 We agree that Trustmark should have vigorous standards and that ECO3 requirements should adhere to the highest quality and consumer standards possible. As the new PAS standards will determine the quality criteria for the industry, we agree that ECO3 requirements should be updated to reflect these 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?

7.1 We do not feel that we can answer this question thoroughly with the information given in the consultation and accompanying documents, and request that BEIS provide more detail about their reasoning for this change. We are concerned by the proposal to remove the 400% uplift for replacement boilers and we would discourage BEIS from doing so because boilers are a key means by which to improve a property's EPC rating, and thus reduce a household's energy bills.

7.2 The reason cited for the removal of the cap is to ensure that the measures supported under ECO3 are in line with its focus on energy efficiency; however we argue that boiler upgrades are inherently about energy efficiency. Insulation can only improve the EPC rating of a property so far. As shown by the figure below, modern and efficient boilers are meaningful upgrades to Scottish housing stock. Removing the 400% uplift could remove modern and efficient boilers from the measures installed in vulnerable homes through ECO3. For many homes in Scotland this will limit the property's EPC band to E or D. As stated in BEIS' March 2018 consultation on ECO3, "*Without this (400%) uplift, analysis suggests delivery will fall significantly short of this cap and homes with broken boilers may be left without ECO support*⁸." In light of this, CAS strongly urges BEIS to give more detail on its proposal to remove this cap, so that we are able to respond more thoroughly.

7.3 We estimate that around 900,000 boiler upgrades (to modern standards) are required in Scotland to bring properties up to an EPC band C minimum.

⁸ BEIS, 2018 https://beis.gov.uk/citizenspace.com/home-local-energy/eco3-2018-2022/supporting_documents/ECO3%20consultation.pdf

8. Do you agree with our proposal to change the measure lifetime assumption for first time central heating measures to 20 years?

8.1 It is not clear where and how the 20 year lifetime assumption for a 'first time central heating system' is derived. CAS acknowledges that the boiler is not the only component of a heating system; ancillary vents and wet distribution systems – radiators or underfloor heating - are also components. As such any lifetime assumption should be limited to the shortest lived component of the system. A gas-condensing combi boiler has a typical lifespan of 12 years. If a consumer must expect to replace a major component of a system such as a boiler after 12 years, then they should not be lead to believe that their heating system will last for 20 years as this is simply mis-leading. Consumers should be given clear, accessible information about how to use their new heating system, how long each component will last, and how to raise issues or complaints about the system with Trustmark or the relevant body.

9. Do you agree that first time central heating (FTCH) should be eligible in PRS EPC Band F&G rated properties?

9.1 We welcome this proposal. In Scotland, 25% of all households and 27% of Private Rented Sector households are estimated to live in fuel poverty. Furthermore 292,000 households in Scotland are dependent upon electric-heating of which 52% are estimated to be in fuel poverty given the higher unit price of electricity as compared with gas⁹. 1.6 million homes in Scotland that are not currently connected to gas are within 23 meters of the grid and could be connected at relatively low cost. Expanding this initiative to the private rented sector would hugely benefit these households, as homes within 23 meters of the gas grid are more likely to be high rise flats and are more likely to be occupied by a private tenant, and 66% of Scottish households in fuel poverty live in EPC band F and G properties¹⁰. The high cost of using electric heating is [consistently](#) one of the most pressing concerns of households that rely on it, and there is a perception that high costs are unavoidable and inevitable when using electric heating¹¹. Our *Hardwired Problems* report found that

⁹ Scottish Housing Condition Survey <https://www.gov.scot/publications/scottish-house-condition-survey-2017-key-findings/pages/5/>

¹⁰ *Taking the Temperature*, CAS, 2018

¹¹ https://www.cas.org.uk/system/files/publications/hard-wired_problems_-_delivering_effective_support_-_11-10-2018_0.pdf

“Some consumers are receiving mixed messages about their heating from different organisations such as energy suppliers, installers of energy efficiency measures, governments, the regulator and support agencies, adding to confusion.” (pg. 5)

9.2 BEIS has specified in this consultation that households with electric storage heating would only be eligible for this scheme if their electric storage heating is “100% broken or inefficient.” We suggest two points:

Old inefficient storage systems can be very costly to run, not least because consumers can be confused over how to use controls and what the periods of off-peak electricity are. However we also recognise that:

i) for some consumers, electric storage heating is preferable to other types of heating, perhaps because they’re used to it and,

ii) that there are some new models of energy-efficient electric storage heaters on the market that can be affordable to run¹². We don’t make any judgements on the quality or efficiency of these products; this should be judged by technical experts. However we encourage BEIS to consider how these products should be treated under ECO3 in order to make a distinction over what is deemed ‘inefficient’. We suggest that BEIS define ‘inefficient’ in simple terms that make it easier to distinguish which systems are, or are not deemed efficient under FTCH, ECO3 e.g. by age, by brand/model, energy efficiency rating, Coefficient of Performance (ratio) if expressed in a manufacturers label). Thinking of inefficiency in terms of its projected running costs for consumers is also a possibility using a methodology such as RdSAP, which takes into account different climatic regions of the UK – important given Scotland’s colder climate and correspondingly higher heating costs.

10. Do you agree that first time central heating (FTCH) should be included in the LA-Flex in-fill?

10.1 Local authorities, when adequately resourced, are well positioned to provide ECO upgrades. Many LAs have an added advantage of previous pilot schemes in their area. Requiring FTCH included in LA-flex programs to be carried out by Trustmark certified local installers could help favour local businesses outside of the most populated areas.

¹² CAS makes no endorsements of particular products as we are as commercially impartial. We are aware of some energy efficient storage heaters such as the [Dimplex Quantam heater](#) or technology that assists those with DTS meters (see Connected Response Ltd), but there are likely to be many more on the market.

10.2 In Scotland, including first time central heating in this scheme could help LAs effectively deliver energy efficiency and heating upgrade standards required by Energy Efficiency Scotland, and enable them to go beyond insulation measures and install more efficient and affordable heating. [Scottish programmes](#) such as LHEES (Local Heat and Energy Efficiency Strategy) and HEEP-ABS (Home Energy Efficiency Programme Area Based Scheme) focus on large scale holistic installations that often install measures in entire multi occupancy buildings or blocks of homes at a time¹³. These strategies seem well aligned with the holistic approach of PAS-2035 and Trustmark.

11. Do you agree with our transitional arrangements for all proposed changes?

11.1 We agree that the transitional arrangements proposed in the consultation allow adequate time for industry to prepare. As noted in point 2.2, over this same time period the UK Government and the Scottish Government should collaborate over the interaction between Trustmark, ECO3 and a potential new Scottish Quality Mark, and prepare for how to communicate messages publically and to industry about the co-existence of two certification schemes, so as to avoid confusion.

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.

12.1 CAS welcomes efforts to strengthen consumer protection under ECO. However, as the Scottish supply chain is different from the supply chain elsewhere in the UK, we would like to express concerns surrounding the costs of the Trustmark for Scottish small and micro businesses.

12.2 As previously mentioned, Scottish government is considering developing a Scottish quality mark to be used in the Energy Efficient Scotland programme, as per a recommendation by an independent Short Life Working Group. If the Scottish quality mark has a similar fee schedule to the Trustmark accreditation process, many small and microbusinesses, particularly in rural areas, could be priced out of the scheme. Many businesses, especially on the Islands, are not officially part of accreditation bodies that could spread the cost of joining Trustmark or a quality mark across businesses. These small businesses would additionally struggle to absorb the cost of upskilling or hiring a PAS-2035 compliant retrofit coordinator. In remote and rural areas,

¹³ <https://heatandthecity.org.uk/project/scotlands-energy-efficiency-programme-seep-pilot-evaluation/>

these small and micro businesses may not act through an intermediary as they might be the only contractor in their area. We therefore urge BEIS to consider what support it could offer to small and micro installation businesses to assist with the cost of accreditation, and/or consider different models of procurement under ECO3 which could support smaller, local businesses within a given geographical area e.g. Frameworks of contractors. As previously mentioned, due consideration must be given to how sub-contractors operate under Trustmark to ensure that the same technical quality and customer service standards are adhered to by sub-contractors, and that sub-contractors are also monitored and periodically inspected.