

ECO3: Improving Customer Protection - Energy UK response

6 August 2019

Introduction

Energy UK is the trade association for the GB energy industry with a membership of over 100 suppliers, generators, and stakeholders with a business interest in the production and supply of electricity and gas for domestic and business consumers. Our membership covers over 90% of both UK power generation and the energy supply market for UK homes. We represent the diverse nature of the UK's energy industry – from established FTSE 100 companies right through to new, growing suppliers and generators, which now make up over half of our membership.

Our members turn renewable energy sources as well as nuclear and gas into electricity for over 27 million homes and every business in Britain. Over 680,000 people in every corner of the country rely on the sector for their jobs, with many of our members providing long-term employment as well as quality apprenticeships and training for those starting their careers. The energy industry invests over £12.5bn annually, delivers around £84bn in economic activity through its supply chain and interaction with other sectors, and pays £6bn in tax to HMT.

Energy UK strongly believes in promoting competitive energy markets that produce good outcomes for consumers. In this context, we are committed to working with Government, regulators, consumer groups and our members to develop reforms which enhance consumer trust and effective engagement. At the same time, Energy UK believes in a stable and predictable regulatory regime that fosters innovation, market entry and growth, bringing benefits to consumers and helping provide the certainty that is needed to encourage investment and enhance the competitiveness of the UK economy.

These high-level principles underpin Energy UK's response to the Department for Business, Energy and Industrial Strategy's consultation on improving consumer protection in relation to the Energy Company Obligation (ECO3). This is a high-level industry view, and Energy UK's members may hold differing positions on particular issues.

Executive Summary

Energy efficiency is an enduring solution that helps consumers reduce their energy consumption, energy bills and can improve the comfort of their homes. It is also central to the UK's efforts to achieve a net-zero economy and society by 2050, as well as meeting the 2030 target under the fuel poverty strategy and the 2035 Clean Growth Strategy target of all homes being at least an EPC band C.

Energy suppliers have been delivering energy efficiency obligations in Great Britain for over two decades, and the sector is committed to achieving and delivering the latest iteration, the Energy Company Obligation (ECO), in order to improve the efficiency of the UK housing stock and address fuel poverty. As ECO is ultimately funded via customer bills, it is important that the overall policy design and implementation of ECO is deliverable and does not unnecessarily drive up costs.

Energy UK welcomes the publication of the consultation on improving consumer protection for energy efficiency measures. We strongly supported the findings and recommendations of the Each Home Counts review in 2016 and have since been heavily involved in the initiatives to implement its recommendations, including the Steering Groups for PAS2030:2019, PAS2035 and PAS2031:2019 as well as ongoing engagement with TrustMark. The incorporation of the TrustMark framework into ECO will help to ensure that the accountability for the quality and standards of an energy efficiency measure is placed on the industry responsible for installing it.

We recognise that as a result of the implementation of the Trustmark framework there will be additional costs introduced into ECO3. Indeed, we are already hearing concerns around increased costs in the supply chain in anticipation of the future changes. It is important that these costs are carefully controlled to support the underlying principle of the scheme to promote cost-effective implementation.

Detailed responses to the questions posed in the consultation document are set out below, while specific comments on the consultation Impact Assessment (IA) are attached as **Annex A**. Furthermore, Energy UK holds significant concerns about the following aspects of the proposals:

Timing and length of the consultation period

It is unacceptable that just four weeks have been allocated to allow for public consultation on these proposals, which have the potential to substantially change the industry. While the changes at first appear minor in terms of overall changes to the ECO3 Order itself, they involve significant costs to the ECO supply chain and will drastically affect delivery profiles for obligated suppliers and the supply chain. Key information such as the draft Statutory Instrument (SI) was published two weeks after the main consultation document, and we also note that three different versions of the consultation IA have been published during the consultation period, the latest providing just three working days to consider prior to the submission deadline.

Cost and proportionality of the changes

While the new standards are a welcome framework to ensure high quality installations and an improved customer journey, PAS2035 in particular is likely to add significant costs to the delivery of every measure type, estimated in the IA to be an additional £350 per insulation measure or around £200mn across the duration of ECO3. There are also other additional cost factors to delivering ECO3 that are either not accounted for properly in the consultation IA, or are not considered.

Firstly, the IA assumes that around £965mn in lifetime bill savings from measures delivered under ECO2 will be counted as carry-over towards ECO3 targets, without factoring in the cost of delivering these measures. We do not consider this to be a fair treatment of the additional delivery suppliers undertook during the last phase of ECO2, which was carried out in large part to support the supply chain during the regulatory hiatus between ECO2t and ECO3.

This treatment also runs counter to the principles of the scheme, which is intended to incentivise cost effective delivery. In the initial consultation on ECO3, BEIS had indicated to suppliers that carry-over was a valid mechanism for meeting future scheme targets, and we are disappointed to see that obligated suppliers will effectively see no benefit from these efforts and expenditure if they are used to justify increased costs from PAS. If the policy had not been implemented, suppliers would not have incurred these costs and as such, we consider that carryover should be counted as part of the cost of delivering ECO3.

Secondly, the IA estimates a breach of the £640mn yearly average cost of delivering ECO3 in phases 3 and 4, which was estimated in the Final Stage IA for ECO3 last October. While the current IA assumes that obligated suppliers will be able to shift their delivery profiles to account for this, the current price cap and supply chain environment makes this less realistic.

Finally, we understand from our recent meeting with BEIS on 31 July that other proposals in the consultation document, including changes to First Time Central Heating (FTCH) eligibility, increased guarantee lifetimes and removing the 400% score uplift for broken boilers outside of the cap have not been accounted for in the consultation IA.

These changes will have significant material impacts on the overall costs of meeting scheme targets, and as such it is crucial that they are included in estimates of the total cost of delivering ECO3. Ofgem had earlier signalled that if estimates on the cost of delivering ECO3 changed in future, the Default Tariff Cap (DTC) methodology would be changed for account for this. Therefore, the final stage IA must provide an accurate reflection of all of the additional costs obligated suppliers are expected to incur as a result of the proposals in this consultation.

Additionally, given the costs that the proposals in the consultation document are estimated to be adding to the scheme and the effect this will have on the scheme, BEIS should commit to a full review of the scheme to assess its overall deliverability. This could consider changes to overall targets, scoring and eligibility to account for the changes in the cost of delivering the scheme.

Commencement of the Statutory Instrument

We hold significant concerns about the timing of the regulations coming into force, and consider the current draft SI risks causing another hiatus period for ECO delivery. The wording of the draft SI suggests that all businesses installing ECO measures will be required to be TrustMark-registered and lodge measures in the TrustMark Data Warehouse for all measures completed after the date of commencement, which is expected to be in late-November 2019.

This presents an extremely tight timeframe for all estimated 800+ businesses that install energy efficiency measures under ECO to become TrustMark registered. Given the new requirements will apply to measures completed after the commencement date, it is highly likely there are already measures underway that will be captured by these requirements. We understand from the meeting with BES on 31 July that this is the case, and that BEIS intends for the SI to apply retrospectively.

We do not consider it realistic that enough businesses will become registered within the next two months to avoid substantial cost increases due to a lack of registered businesses, a sharp reduction installation volumes, or both. There is a serious risk that the proposed approach could lead to another hiatus in delivery like that seen after the end of ECO2, where a number of installers permanently exited the market. This is still being felt in delivery of ECO3, and we are concerned that further uncertainty caused by retrospective legislative changes may further deter new entrants to the supply chain.

Additionally, the draft SI specifically refers to a measure being lodged in the TrustMark Data Warehouse. We consider this approach presents a significant risk to ECO delivery as the Data Warehouse is currently untested and it is not clear at this point whether the system will be able to cope with the high number of simultaneous users expected, and be sufficiently robust from a security and privacy standpoint. ECO3 delivery should not rely on a single point of failure, and we consider that the Order should not refer directly to the Data Warehouse to provide a level of flexibility in the event the system is not ready in time. We would also welcome seeing

the detailed functional specifications for the system and the completed Data Protection Impact Assessment, to determine whether there are any GDPR or privacy implications for suppliers.

Design of the transition period

We have additional concerns regarding the transition to the 2019 PAS standards, particularly around the risk of installers exiting the market for ECO measures due to the higher costs associated with PAS, and potential gaming by the supply chain in order to avoid conformance with the new standards as long as possible. This could be through the flexibility in the 12-month audit cycle under PAS2031, or possibly businesses changing certification bodies.

The proposed transition period will mean that some businesses in the ECO supply chain will have to conform to PAS2035 and PAS2030:2019 before others, which will create inequities between installers that are certified earlier than others and face higher delivery costs compared with their competitors. This also provides little incentive for installers to seek to become accredited to the 2019 standards before their competitors.

We consider that the transition period should mitigate this risk by either incorporating a fixed deadline at which point all installers are required to conform with the new standards rather than from the point they are certified, or incentives should be introduced to aid conformance, possibly in the form of a score uplift for installers accredited to the new standards for the length of the transition period.

We are also concerned that the draft SI indicates that suppliers will have to evidence conformance with the 2019 PAS standards during the transition period. Given the complexity of PAS2035, this will place significant additional administrative complexity on suppliers and increase costs. We would support a transition period, that instead required suppliers to evidence conformance with PAS2030:2017, with responsibility fully transferring to TrustMark when an installer is certified to PAS2030:2019 and PAS2035.

The transition to the requirement for all ECO measures to conform to the 2019 PAS standards would appear to apply to any measure completed once an installer is certified to the new standards, or on or after the transition date of 31 January 2021. However, it is not clear from the consultation document what would be considered the start of an installation of a measure. This could be the technical survey for an installation or the beginning of physical installation and should be clarified by BEIS, as it may otherwise place installers in a position where they are unable to conform to PAS2035 for measures started while it was not a requirement.

It will be important that TrustMark keeps the installation supply chain fully informed about how to become TrustMark-registered and how the transition towards the new TrustMark framework is expected to work. As part of this, published guidance from TrustMark (including a clear timeline) would be very helpful in ensuring that the supply chain fully understands what is expected of them and by when.

Lifetime of guarantees and warranties

The consultation proposes increasing the minimum lifetime of guarantees for almost all measures delivered under ECO3. We support the principle that all ECO measures should be backed by an appropriate guarantee that provides robust protection to consumers. However, we consider that some of the lengths proposed in the consultation and under TrustMark's improved financial protection requirements will likely lead to increased costs. Guarantees that are not proportionate to the lifetime of the measure may also lead to inadequate coverage due to caveats and exceptions.

We also consider that it is very unlikely that guarantees will be sufficiently available for the lengths of time required by TrustMark's financial protection requirements, especially in the case of room in roof and underfloor insulation. Measures such as underfloor and loft insulation need further PAS technical specifications before a suitable guarantee can be provided. We also consider that increasing boiler warranty lengths from 1 year to 6 years is disproportionate given boilers have a lifetime of just 12 years and will substantially increase the cost of providing this measure.

In some cases, we note that the length proposed for certain warranties such as boiler repairs and ESH measures can exceed the lifetime used for scoring the measure. To remedy this, either the warranty period should be reduced to the lifetime of the measure, or the lifetime should be extended to equal the warranty period. The latter approach would require a review of the overall ECO target, given measure lifetimes are a key variable.

The lengths of guarantees proposed are also disproportionate to practices elsewhere in the industry, such as the new build sector, where guarantees are typically 2 years for workmanship and 10 years for structural integrity. While we acknowledge there are different risks associated with retrofits compared to new builds, this risks creating a two-tiered market for energy efficiency measures between retrofits and new-builds, further increasing the risk that installers will exit the market for ECO measures.

Detailed responses to questions

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)?*

Incorporation of TrustMark into ECO3

Energy UK in principle supports the objectives underlying the proposal to incorporate TrustMark into ECO3, and requiring that installers of measures that are counted toward ECO targets are registered with TrustMark and work in conformance with PAS2030:2019 and PAS2035. Energy UK strongly supported the recommendations of the Each Home Counts review in 2016, and we are pleased that BEIS is moving ahead with regulations to ensure that energy efficiency measures promoted under ECO are delivered to a high standard of quality.

For over two decades, obligated energy suppliers have been at the forefront of promoting credits arising from energy efficiency measures as a result of successive supplier obligations. Regrettably this has meant suppliers taking on a role of policing quality and standards rather than relying on the existing quality and standards framework. As a result, suppliers have significant experience of working with installers, delivery partners and certification bodies. In ECO, obligated suppliers are required to carry out technical monitoring on the quality of installations. This requirement was introduced by Ofgem who saw a need to assure itself in regards to quality and standards of installations. Suppliers' experience with this approach has been increased delivery costs and ultimately the cost of bills for consumers.

With this in mind, we support the TrustMark requirement being implemented in such a way that ensures that the responsibility of obligated suppliers is limited to ensuring that any installers they contract with are TrustMark registered, therefore giving the confidence that any measure delivered by that installer conforms to PAS2030 and PAS2035. In the event that any quality or other issues arise from an installation delivered by a TrustMark registered business,

the responsibility for remediation should sit with the installer, guarantee provider, certification body or TrustMark, and should not affect a supplier's scores toward their scheme targets.

Exceptions for Demonstration Actions and Certain District Heating Measures

We agree that exceptions should be made for the few measures delivered under ECO that do not fall within the scope of PAS2030:2019, namely Demonstration Actions under the ECO3 Innovation route and certain District Heating measures. We are confident that quality assurance for these measures can be achieved through Ofgem's examination of Demonstration Action measures via the Technical Advisory Panel and the Heat Trust Scheme (or applicable quality regime depending on the heat source used) respectively.

Increased financial protection requirements

In principle, we support the notion that energy efficiency measures funded through ECO should be subject to robust financial protection requirements. While the vast majority of ECO installations are completed to a high standard, it is important that there are adequate safeguards in place to ensure households receive support when there is a need for remediation of a measure.

However, we question the value of increasing the guarantee length requirements for all ECO measures. This is likely to simply increase costs for these measures via increased insurance costs for the supply chain. We consider that between TrustMark's wider quality assurance framework, the requirements in the new PAS standards and the protections that apply to customer generally under the Consumer Rights Act 2015, there should be sufficient protection for households without increasing guarantee lengths.

Additionally, our members are not aware of six-year guarantees for non-complex measures being in place currently that would meet the increased requirements. Underfloor insulation (UFI) and loft insulation in particular need further technical specifications to be developed, detailing all requirements relating to their inspection before an appropriate guarantee could be provided. It is vital that BEIS identifies that suitable guarantees exist before committing to these requirements.

The lengths of guarantees proposed are also disproportionate to practices elsewhere in the industry, such as the new build sector, where guarantees are typically 2 years for workmanship and 10 years for structural integrity. While we acknowledge there are different risks associated with retrofits compared to new builds, this risks creating a two-tiered market for energy efficiency measures between retrofits and new-builds, further increasing the risk that installers will exit the market for ECO measures.

We also hold concerns about the proposal to increase the length of warranties for boilers from 1 year to 6 years, in particular. This is likely to add significant costs to boiler measures, which are one of the main measures delivered under ECO3 and an important driver to achieving the scheme's main policy goal of reducing fuel poverty. Given the lifetime of a boiler is only 12 years, a warranty for this length of time appears disproportionate. Additionally, many extended boiler warranties currently on the market include a requirement for the householder to have the boiler serviced every year. We question whether this will reliably take place under ECO, given the scheme's focus on lower-income households that may not have the available funds to have their boiler serviced annually. It would therefore be practical for an extended boiler warranty under ECO to have free servicing built-in, although we acknowledge this would further increase costs.

In some cases, we note that the length proposed for certain warranties such as boiler repairs and ESH measures can exceed the lifetime used for scoring the measure. To remedy this, either the warranty period should be reduced to the lifetime of the measure, or the lifetime should be extended to equal the warranty period. The latter approach would require a review of the overall ECO target, given measure lifetimes are a key variable.

As stated earlier, obligated suppliers should not be in a position of having to police the quality and standards of the supply chain. Currently, Ofgem publishes a list of suitable guarantees and suppliers can promote measures using a non-listed guarantee, subject to Ofgem being satisfied it meets the criteria for coverage and length. For the purposes of supplier compliance with ECO under the TrustMark regime, a measure installed by a TrustMark-registered business should be taken as a guarantee being in place. If any issues arise with the quality of the installation or presence of a guarantee, the responsibility to rectify the issue should lie with the installer, guarantee provider or TrustMark and not affect the eligibility or applicable lifetime of the measure under ECO after the fact.

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

Based on the draft Framework Operating Requirements, Code of Conduct and Customer Charter released by TrustMark alongside this consultation, we consider that a requirement for installers of ECO measures to be TrustMark registered should give the necessary assurance that measures are delivered with conformance to PAS2030 and PAS2035.

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?*

We consider that, through TrustMark verifying through its registration and certification processes that installations are completed in conformance with PAS and appropriate guarantees are in place, solid wall, cavity wall and park home insulation measures should be able to receive the standard applicable lifetime. Again, obligated suppliers should not be put in a position of having to verify this is the case, as the responsibility for assurance and any later remediation should sit with TrustMark.

4. *Do you agree that underfloor and room-in-roof insulation measures should be accompanied by a 25 year or more guarantee under the scheme which not only meets the Trust-Mark financial protection requirements that apply to all ECO energy efficiency measures but also as a minimum meets the TrustMark "appropriate guarantee" criteria?*

We support the principle that all ECO measures should be accompanied by an appropriate guarantee that protects consumers and provides appropriate remediation or redress in the event there are issues with an installation.

However, we do not agree that room in roof insulation (RIRI) should be considered a complex measure. While we acknowledge that there have been past issues with the consistency of the installation of this measure, it is unclear how a comprehensive long-term guarantee for RIRI could be developed given that it is often made up of multiple measures with different materials. We are unaware of any suitable guarantees existing for RIRI currently, and requiring 25-year guarantees from October 2019 would mean it could effectively cease under ECO3.

We note that Ofgem has identified underfloor insulation (UFI) as a potential risk area for ECO, given the challenges to verifying whether the measure has been installed completely and correctly after the installation has been completed.

However, we also do not support requiring a 25-year guarantee for UFI. This length of guarantee is disproportionate given that the skillset required to install the measure is comparable with similar measures such as loft insulation, which would be subject to a shorter guarantee. There is a risk that a guarantee of this length would increase costs to the point that it would become uneconomical to deliver under ECO.

Additionally, we consider it unlikely that guarantee agencies would be willing to supply a 25-year guarantee for UFI measures. UFI is typically more accessible to the householder than other long-term guaranteed measures (such as solid wall insulation) and guarantors are more reluctant to guarantee such a measure for this length of time due to the risk of it being tampered with by occupants.

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

We do not consider that any other measures currently approved for ECO should be accompanied by a 25-year guarantee at this stage. However, we note that with the innovation route under ECO3, there may be a need to designate additional measures under complex measures that require a 25-year guarantee at some point in the future. We would welcome a mechanism in the regulations that would allow for further measures to be added, subject to an appropriate assessment of the impact on the scheme.

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?*

As stated in our response to Question 1, Energy UK is in support of a strong quality and assurance framework via TrustMark, and improved standards that lead to quality energy efficiency installations and an improved customer journey for households. Our position on the transition period is outlined in our response to Question 11.

7. *Do you agree with our proposed amendment to remove the 400% uplift for replacement boilers delivered outside of the broken heating system cap?*

The majority of Energy UK members believe that boilers and the replacement of broken heating systems remain an important support for fuel poor households. We acknowledge that allowing the score uplift for replacement boilers delivered outside the broken heating system cap was not part of the original policy intent of the scheme. The wider government policy framework on energy is also targeted towards decarbonisation of the economy in order to meet a net-zero target by 2050, and phasing out carbon-based heating sources is a key part of these efforts. However, we note that there are a number of factors that indicate retaining the uplift to act as a safeguard may be appropriate for the near-term, including:

- ECO3 delivery is below where BEIS had estimated it would be in the final stage IA, in part due to challenges with identifying a sufficient number of eligible properties for cavity wall insulation, which is presumed to be a large part of scheme delivery. Removing the uplift now may have significant impacts on delivery volumes.

- Boiler replacements are a highly sought-after measure by householders, and parts of the supply chain report that boiler measures act as a catalyst to securing agreement from householders to receive associated ECO measures, particularly insulation. As a result, insulation measures are being installed which would not otherwise be done, or be economic on their own.
- Boilers are a very effective measure for addressing fuel poverty, which has replaced carbon reduction as the primary policy intent for the scheme. While there are conflicts with wider government policy direction, ECO3 is due to end before the signaled phase-out of carbon-based heating sources in new-build homes by 2025.
- The current consultation estimates significant additional costs to the scheme from conformance to the 2019 PAS standards, and the present arrangements potentially provide a cost-effective mitigation.

For these reasons, we recommend that BEIS carefully consider the impact of removing the uplift outside of the cap to help to act as a safeguard to offset the upward delivery cost pressures associated with the introduction of the new TrustMark regime.

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

Energy UK is supportive of changing the lifetime assumption for any measure to make it more reflective of how long it will continue to perform in a property and as such, we support this proposal in principle. The consultation document set out that the increase in the lifetime assumption is to reflect that some First Time Central Heating equipment such as radiators and pipes last longer than boilers, which the lifetime assumptions have been primarily based on. However, it is not clear from the consultation document how this figure has been derived. We would welcome clarification about how the increase in the lifetime assumption to 20 years was calculated.

Additionally, we note that the proposed change to the lifetime assumption will have immediate effects in the supply chain and we expect that some installers may cease to deliver this measure until the new regulations have been laid, allowing for higher bill savings to be achieved. This may also affect delivery in future phases of ECO3 and should be accounted for in the final IA in the assumptions about the delivery profile of the scheme.

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

Yes, we agree with the proposal that First Time Central Heating measures should be eligible for PRS EPC band F and G properties. The justification given in the consultation document that the average cost of fitting First Time Central Heating is above the £3,500 cap set in the regulations in 2018 appears sound.

However, we also note that Energy UK's position in respect of the cost cap for PRS landlords is that it should be increased. In last year's consultation on the PRS MEES regulations, we supported a higher cap of £5,500, as this would cover a wider range of measures and mean more properties receive upgrades. BEIS's own impact assessment on the regulations estimated that fewer than half of EPC band F and G properties would be upgraded to band E or above under the current cost cap.

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

Energy UK supports including First Time Central Heating measures in LA Flex in-fill, however we question the reasoning for limiting this measure to those delivered under LA Flex. Expanded access to FTCH measures would also be consistent with the goals of the Fuel Poverty Strategy, as central heating connections are one of the most cost-effective ways to alleviate fuel poverty, particularly in rural areas. We would support First Time Central Heating in-fill being included in LA Flex and private homes, with an exclusion remaining for social housing to be consistent with heating sources generally being ineligible in these properties.

To ensure this proposal facilitates additional delivery, we would encourage the Government to consider how the in-fill rules could be simplified and made easier to understand. We consider that there could be an opportunity for the simplification of in-fill mechanisms through the Ofgem consultation, which is expected to follow the Government's response to this consultation.

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

Energy UK supports a transition period to allow time for TrustMark to register scheme providers, and in turn for scheme providers to onboard installers and assess their conformance with PAS2030:2019 and PAS2035. A transition period should help to minimise any disruption to the supply chain and delivery of ECO3, by giving time for installers to become familiar with the new standards.

However, we are strongly opposed to the design of the transition period as it is currently set out in the consultation document and draft SI. Upon commencement of the SI, all measures delivered under ECO will have to be installed by TrustMark-registered businesses and lodged in the Data Warehouse. This is an extremely tight timeframe for the 800+ businesses that deliver measures under ECO to become registered within the next two months. We consider this could create another hiatus period in ECO delivery, where installations cease due to a lack of suitably registered businesses to install measures.

The explicit requirement in the SI to lodge measures in the Data Warehouse also presents a significant risk to ECO delivery, given the system is currently in beta phase. Again, this could lead to a hiatus in ECO delivery if the system is not sufficiently robust to handle the volume of simultaneous users that will be using it, or if the system meets security or privacy challenges. We consider that the SI should be drafted in a way that does not directly refer to the Data Warehouse, to provide a level of flexibility to TrustMark if issues arise with the system to ensure ECO delivery can continue.

We also note that it is difficult to fully support the Data Warehouse without seeing a beta system in place, or understanding further how it is intended to operate. With this in mind, we would welcome seeing the detailed functional specifications for the system and the Privacy Impact Assessment to determine any GDPR or other privacy implications for suppliers.

Additionally, it is not clear for the purposes of the transition what would constitute the 'start' of a measure. The transition period appears to require that ECO measures completed once an installer is certified, or on or after 31 January 2021 would have to be installed in accordance with the 2019 PAS standards. We would welcome clarification on this point, as if technical surveys of measures are captured by the transition, the supply chain could be placed in a situation where they are unable to comply for a measure officially 'started' before a business is accredited to the 2019 PAS standards.

According to the draft SI, suppliers will be required to evidence conformance with the 2019 PAS standards during the transition period. We expect this will increase administration costs for suppliers given the complexity of PAS2035 and the greater evidencing requirements involved. As an alternative, we recommend that the transition period retain the requirement for suppliers to evidence PAS2030:2017, but for the responsibility for checking PAS2030:2019 and PAS2035 conformance to sit with TrustMark from the point of certification to those standards.

We also hold concerns about the intended approach of the transition to require installers to conform to PAS2030:2019 and PAS2035 from the point they are assessed to be in conformance with the standards by a certification body, and its potential effect on the availability of PAS-conforming installers in the supply chain, the risk of gaming or avoidance behaviour and the associated impacts on the costs of delivering the scheme.

We understand that the transition period will involve UKAS first certifying certification bodies (which include, but is not limited to, TrustMark scheme providers) to PAS2031. After being certified to PAS2031, certification bodies will assess installers on their conformance to PAS2030:2019 and PAS 2035, based on the timing of their annual certification cycle. PAS2031 requires certification bodies to assess conformance with relevant standards within an approximate 12-month surveillance cycle that cannot exceed 16 months. As the transition period is effectively backdated to the publication of PAS2030:2019 and PAS2035, and additional time is needed for UKAS to complete PAS2031 certification, this leaves a potentially small window in practice to certify all businesses.

We see a risk in this approach as it puts any installer that undergoes certification earlier in the transition period at a disadvantage, as they will be required to conform to the latest standards and incur the associated additional costs of compliance. This could lead to businesses exiting the ECO supply chain, meaning fewer installers and increased costs.

It could also create an incentive among the supply chain to avoid becoming certified to the newer standards for as long as possible, which under the timelines set out above could be almost the entire length of the transition period in some cases. This would in turn increase the costs of delivering the scheme as there would be fewer registered installers in the supply chain for ECO measures.

We are also concerned about the risk of gaming within the supply chain through businesses shifting scheme providers to avoid conforming to the new standards for as long as possible. There are currently 32 scheme providers listed on TrustMark's website and of these, 25 appear to cover measures approved under ECO3, with multiple scheme providers for each measure type. It is important that the transition does not create a situation that allows businesses to seek to avoid conformance in this way.

As an alternative to the transitional arrangements set out in the consultation document, we propose that the transition end date of 31 January 2021 be a fixed deadline, from which point all TrustMark-registered businesses should be required to conform to the standard. This would address the 'first-mover' disadvantage borne by businesses that are certified early in the transition period. While we accept there is a risk of businesses putting off certification until being near to the deadline, this could be mitigated by a well-managed programme of certification over the duration of the transition period, with oversight from TrustMark.

Alternatively, BEIS and Ofgem could explore implementing a percentage-based score uplift, to apply from the point they become certified until the end of the transition period, for installers that conform to the new standards. This would give an advantage and incentive for installers to act, while securing buy-in to the improved quality assurance regime. We consider that such an incentive would be relatively straightforward to administer, given that information lodged in TrustMark's Data Warehouse would signal whether a measure had been lodged with conformance to 2017 or 2019 standards.

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.

Our comments on the consultation IA are attached as **Annex A**.

For further information or to discuss our response in more detail please contact Steve James on 020 7747 2969 or at steve.james@energy-uk.org.uk.

Annex A: Comments on BEIS Impact Assessment

Energy UK noted the publication of the consultation Impact Assessment (IA) alongside the ECO3 improving consumer protection consultation. We would like to make the following comments on the IA, and would welcome these points being addressed in the final stage IA:

Costs from PAS and estimates on overall scheme delivery

We have noted a discrepancy in the revised estimates for the scheme in the third iteration of the IA. The estimates have been updated to separate delivery costs from administration costs, and provide a new estimate for costs during phase 1 of ECO3. However, while this has meant lifetime bill savings for phase 1 have increased to £505mn, estimated remaining savings needed to meet the overall target are unchanged from the original estimates.

Treatment of ECO2 carryover

The IA assumes that around £965mn of lifetime bill savings from measures delivered under ECO2 will be counted as carry-over measures towards ECO3 targets. We do not consider this to be a fair treatment of the additional delivery suppliers undertook during the last phase of ECO2, which was carried out in large part to support the supply chain during the regulatory hiatus between ECO2t and ECO3.

This treatment also runs counter to the principles of the scheme, which is intended to incentivise cost effective delivery. In the initial consultation on ECO3, BEIS had indicated to suppliers that carry-over was a valid mechanism for meeting future scheme targets¹, and we are disappointed to see that obligated suppliers will effectively see no benefit from these efforts if they are used to justify increased costs from PAS. If the policy had not been implemented, suppliers would not have incurred these costs and as such, we consider that carryover should be counted as part of the cost of delivering ECO3.

Impact on cost envelope

As detailed in the IA, the estimated increase in costs to the scheme from complying with PAS2030:2019 and PAS2035 is significant, adding an estimated £350 to the average cost of an insulation measure, which makes up the majority of measures delivered under ECO3. There is limited ability for suppliers to mitigate these cost increases due to the challenges facing the energy sector.

The IA estimates that delivery costs will breach the £640m average cost for ECO3 in phases 3 and 4 of the scheme. While the IA acknowledges this, the analysis assumes that obligated suppliers will be able to adjust their delivery profiles to mitigate these costs. We consider that there is far less ability for obligated suppliers to shift their delivery profiles compared with previous schemes due to the Default Tariff Cap, which assumes a £640m per year spend on ECO. There is also considerably less flexibility in the supply chain due to the number of installers exiting the market as a result of the hiatus period.

Additionally, the 17p per LBS estimate in the IA for phase 1 is a direct result of the regulatory hiatus period between ECO2t and ECO3, which saw significant challenges to the supply chain due to no scheme being in place. As a result of this, many installers may have reduced prices to remain competitive in a smaller market for energy efficiency measures. We do not consider that the average cost seen in this phase is fully representative of the expected costs of

¹ BEIS (2018), Energy Company Obligation ECO3 2018-2022: consultation document, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/696448/ECO3_consultation.pdf

delivering ECO3 in the later phases. Additionally, it does not appear that the IA has weighted the delivery mix of measures. This could increase costs in further phases if more expensive measures remain to be completed.

Treatment of other costs

The IA does not appear to consider technical monitoring costs. This could be a significant additional cost to delivery during the transition period, given that according to TrustMark's implementation timeline, Ofgem is expected to continue this function until the end of 2020, alongside the piloting being undertaken by TrustMark.

FTCH, guarantee and warranty changes

The IA does not appear to model the impact of the increased financial protection requirements, the requirement to use 6-year boiler warranties and the associated scheme changes being proposed alongside incorporating TrustMark into ECO3.

Consideration of ECO costs in the Default Tariff Cap methodology

Without changes to the Default Tariff Cap methodology to account for the increase, there is extremely limited ability for suppliers to meet the additional costs that are likely to incur as a result of this consultation, and we would strongly support Ofgem making such amendments. We note that in its decision on the Default Tariff Cap in November 2018, Ofgem noted that concerns around the implementation of a Quality Mark driving up supply chain costs were raised by stakeholders at the time. Ofgem also indicated that they would use any updated forecast to set the allowance for ECO in future.²

With this in mind, it is important that the above issues raised are fully accounted for in the final stage IA.

² Ofgem (2018), Default Tariff Cap: Decision Appendix 5: Policy and Network Costs, <https://www.ofgem.gov.uk/ofgem-publications/142164>