

FITs Licensee Consultation

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Introduction

1. In the recent Government response document (Feed-in Tariffs Scheme Government Response to Consultation on Comprehensive Review Phase 2B: Tariffs for non-PV technologies and scheme administration issues¹) we indicated that a number of proposed changes required further consideration to ensure the final provisions are as effective as possible.
2. This consultation document considers each of the issues in detail and sets out our intentions. We welcome views on these proposals from FITs Licensees and from others that have an interest in the FITs scheme.
3. As explained in the response document, our intention is that the decisions made in light of this consultation will be implemented in the changes to the FITs Order and the Electricity Licensees Standard Conditions documents, which will be laid before Parliament in October 2012.
4. Subject to Parliamentary scrutiny, the decisions announced in the Phase 2B Government response will take effect from 1 December 2012. The changes resulting from this September 2012 consultation will also take effect from 1 December 2012, except in three cases:
 - 1) Licensee of last resort and mutualisation (Section 4)
 - 2) In-year entry for Voluntary FITs FIT Licensees (Section 5)
 - 3) Ofgem's enforcement powers (Section 6)
5. Following consultation, if DECC chooses to make the changes outlined in the three sections above they will be implemented from the start of the 2013/14 FITs year (1 April 2013) to ensure a smooth transition for these changes within the annual FITs cycle.
6. This consultation was announced on 11 September and will be open for a period of two weeks, closing on 25 September. Cabinet Office guidelines regarding consultations have recently been revised².

¹ www.decc.gov.uk/fits

² <http://www.cabinetoffice.gov.uk/resource-library/consultation-principles-guidance>

How to Respond

DECC invites interested parties to submit comments and evidence in response to these proposals. A template for responses is included at the back of this document, please email this to FITs.LicenseeConsultation@decc.gsi.gov.uk. Please respond by 25 September 2012.

Issued:

11 September 2012

Respond by:

25 September 2012

Territorial extent:

This consultation applies to England, Scotland and Wales only.

Confidentiality and data protection:

Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the access to information legislation (primarily the Freedom of Information Act 2000, the Data Protection Act 1998 and the Environmental Information Regulations 2004).

If you want information that you provide to be treated as confidential please say so clearly in writing when you send your response to the consultation. It would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded by us as a confidentiality request.

Quality assurance:

This consultation has been carried out in accordance with the Government's Consultation Principles, which can be found here:

<http://www.cabinetoffice.gov.uk/resource-library/consultation-principles-guidance>

If you have any complaints about the consultation process (as opposed to comments about the issues which are the subject of the consultation) please address them to:

DECC Consultation Co-ordinator
3 Whitehall Place
London SW1A 2AW
Email: consultation.coordinator@decc.gsi.gov.uk

1. Data collection

7. Feedback from the recent Phase 2B consultation was in favour of greater provision of more timely and location-specific data on generation and export from FITs installations. There are a range of potential uses for this data, for example: developing a better understanding of technology performance, seasonal and geographical variation. In addition, greater transparency will permit improved forecasting of expected costs under the scheme which will help the renewable energy industry, FITs Licensees, Ofgem and DECC to better plan costs and expenditure.
8. In the current system, each Licensee retains generation and export data (often in differing formats) and provides Ofgem with aggregate information on a quarterly basis. Ofgem use this information as part of the levelisation process³.
9. In the recent FITs Phase 2B consultation, 35% of respondents made suggestions on methods to collect individual installation-level data. The most frequently suggested method was to obtain the data directly from FIT Licensees as they collect meter readings on a regular basis in order to make payments. Other suggestions included collecting the data directly from generators via an online form, collecting the data via a third party, and creating a survey to be sent to a representative sample of generators only. There was also a broad consensus that the collection of this data will be more straightforward once smart meters have been rolled out.
10. Following consideration of these responses, we are minded to work with FITs Licensees and Ofgem to establish the most effective, low cost method to release generation data for all FITs generation sites (across each of the five eligible technologies) into the public domain.
11. We recognise that individual generators may not wish to have their generation and export data made available in a manner which would allow their individual site to be identified and there will also be legal requirements such as the Data Protection Act to which we will need to adhere.
12. The published data would be anonymised and/or only made available at an aggregated level, for example at a Local Authority/Parliamentary Constituency level or at other geographical levels. To ensure minimum burden to FITs Licensees and to gain maximum benefit from this information, our intention would be that the generation data could be matched to the Central FITs register⁴ to allow Ofgem, DECC and potentially third parties to analyse the data.

³ <http://www.ofgem.gov.uk/Sustainability/Environment/fits/Levelisation/Pages/Levelisation.aspx>

⁴ <https://www.renewablesandchp.ofgem.gov.uk>

13. In addition to the actual generation and export data, we would expect to gain access to the following associated information:
 - a. date/period for generation data
 - b. Installation's FIT ID (to permit matching to the Central FITs Register)
14. We would expect this information would be collected from Licensees on a quarterly basis, to match the current levelisation process. This process could be conducted by DECC, Ofgem or a third party.
15. We do not intend to make provision of this data a statutory requirement at this stage and are keen to progress this issue with Licensees in a voluntary manner, given the mutual benefits greater access will provide, specifically better access to data for interested parties and improved ability to forecast cash flow for FITs Licensees.

Q1	<p>Do you agree with the above proposals for improving access to data within the FITs scheme? Specifically, do the types of information and frequency present challenges to your organisation?</p> <p>If you are a FITs Licensee, please provide details of the best way that this information could be collected, and which format it would be made available. Please also explain the costs associated with providing the above data.</p> <p>Do you have views on who should collect this information and who should have access to this data, and at what level of detail?</p>
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2. Helping suppliers to manage the FITs cashflow better

16. DECC has received representations from a number of sources on the desirability of predicting and managing the cost of FITs for all Licensed Electricity Suppliers. FITs Licensees in particular have different arrangements for managing costs arising from the scheme, ranging from automated systems to spreadsheets.
17. To date, predicting the cash flow requirements of the scheme have been challenging, especially given the levels of solar PV deployment witnessed since late 2011.
18. DECC has provided estimates of deployment and costs but only at a high level. Accurate predictions regarding solar PV deployment have been especially difficult to make. There are signs that currently available tools for estimating generation (based on irradiation level) are out of date and may be underestimating annual generation in an average year.
19. Section 1 above explains how we intend to open up the FITs scheme to allow better access to data. Part of the rationale for doing so is to allow suppliers to better understand and predict expected cash flow due to the FITs scheme.
20. Our preference is to avoid changes to regulation and or the levelisation process – but we would welcome respondents views regarding what further support DECC could offer suppliers to improve cashflow, recognising the intent of Section 1.

Q2

What improvements would help suppliers to manage FITs cash flow?

3. Frequency of levelisation

21. The levelisation process currently takes place on a quarterly basis. This process ensures that the costs of the FITs scheme are managed in a fair way by ensuring that all Licensed Electricity Suppliers pay FITs costs in proportion to their share of the electricity market. Ofgem may carry it out more frequently than quarterly, though this has not yet been necessary.
22. When we asked about the frequency of levelisation in the Phase 2B consultation we received very few responses, the majority thought that the current arrangements were still fit for purpose. Levelisation still requires a significant amount of manual intervention and the current proposed changes to the treatment of tariff rates will require a period of bedding in before it would be possible to consider increasing the frequency of periodic levelisation.
23. In addition, Ofgem has recently consulted on the frequency of levelisation and have found that, of the 11 responses to the levelisation questions in the Supplier Guidance Consultation in 2011, all but one respondent was against moving levelisation from quarterly to a more frequent timescale. The main reason for this was the additional administrative burden and cost this would place on all Licensed Electricity Suppliers, but particularly FIT Licensees.
24. We do not see any reason to intervene further in this process at that time.

Q3

Do you agree there is no further reason to intervene in the levelisation process?

4. Licensee of last resort and mutualisation

25. A number of stakeholders, particularly Voluntary FIT Licensees, have raised concerns about the integrity of the scheme in the event of a failure of a FITs Licensee. This would have implications for both FIT Licensees and for FIT generators.
26. Under existing rules, if a supplier fails and their electricity customers are not otherwise transferred, arrangements are in place to ensure that they are transferred to an alternative supplier so there is no break in supply. These are referred to as the “Supplier of Last Resort” provisions. These provisions do not ensure that there is no break in FITs payments. This can mean generators may have a break in payments and some respondees to the Phase 2B consultation suggested that financiers may discriminate against certain FIT Licensees that they judge have a greater risk of failure.
27. Under the current FITs rules, we consider that it is not necessary to manage the transfer of FITs generators to new FIT Licensees, however, in the event of a FIT Licensee failure, it is appropriate that payments to consumers are protected. These arrangements would also mean that FITs payments to consumers would continue if a company entered into energy supply company administration⁵.
28. We therefore propose that to ensure continuity of FIT Payments, following the revocation of a supply licence, as part of a Supplier of Last Resort action - or for any other reason - Ofgem may set a transfer date that ensures that there is no break in payments. Because payments made under such an arrangement would be included in the levelisation process, we do not consider that this would disadvantage the receiving FIT Licensee. It may however be warranted to limit this obligation. Following consultation, if DECC chooses to make the changes outlined above, they will be implemented from the start of the 2013/14 FITs year (1 April 2013) to ensure a smooth transition for these changes within the annual FITs cycle.

Q4

Do you agree that the FITs scheme should be updated to ensure continuity of payments to generators in the event of the revocation of the a supply licence?

If not, please explain why you do not judge this to be a necessary requirement. If so, do you consider that there should be a limit on the period of liability?

⁵ The Government is in the process of introducing a special administration scheme – energy supply company administration - as a backstop to the Supplier of Last Resort arrangements. Further details can be found at

http://www.decc.gov.uk/en/content/cms/consultations/en_sup_rules/en_sup_rules.aspx

5. In-year entry for Voluntary FITs FIT Licensees

29. Under the FITs scheme as currently administered, entry of Voluntary FIT Licensees is linked to the annual notification of status which all Licensed Electricity Suppliers must provide to Ofgem by 14 February immediately preceding each FIT year each year. This has the general consequence of limiting access to the scheme; and more specifically, there is the issue that those which acquire a supply licence after the nomination date, need to wait the rest of the year before they can become a FIT Licensee, even if this was part of the reason for becoming a supplier.
30. DECC have been involved in discussions with Ofgem on this issue. Whilst seeking to avoid any unnecessary limitations on FIT Licensees wishing to participate in the scheme, any changes to the current process will impact the administration of the scheme. A process that would allow multiple entry points to the scheme in an annual period would impact the administrative procedures surrounding access to the Central FIT Register, submissions for Periodic and Annual Levelisation, and the annual declaration process currently undertaken by all Licensed Electricity Suppliers.
31. To improve access to the FITs scheme for new Licensed Electricity Suppliers, we could make changes to permit entry at any time; or to allow new entrants to nominate whether they want to be FITs FIT Licensees or not as part of the licensing process.
32. Following consultation, if DECC chooses to make the changes outlined above, they will be implemented from the start of the 2013/14 FITs year (1 April 2013) to ensure a smooth transition for these changes within the annual FITs cycle.

Q5	<p>Do you consider in year entry for FITs Licensees to be an important issue that should be considered as part of the current set of changes?</p> <p>If so, please explain why this change would be beneficial and what approach you feel is most appropriate.</p>
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6. Ofgem's enforcement powers

33. The majority of respondents to the Phase 2B consultation agreed that Ofgem should be granted increased powers of enforcement, particularly where this would help protect consumers. Following further discussions with Ofgem we propose that the FITs order should be updated to include the following additional enforcement powers.
34. Following consultation, if DECC chooses to make the changes outlined above, they will be implemented from the start of the 2013/14 FITs year (1 April 2013) to ensure a smooth transition for these changes within the annual FITs cycle.

a. Inclusion of conditions on accreditation

35. The Renewable Obligation Order (ROO) and Renewable Heat Incentive legislation permit Ofgem to attach conditions on accreditations granted by the Gas and Electricity Markets Authority. Our intention is to permit Ofgem to attach similar conditions within the FITs scheme.
36. Subject to the views of consultees, we propose that these additional powers should be included in the FIT Order. We also intend to alter the Standard Conditions of Electricity Supply Licences to require any conditions attached to an accreditation to be set out in the FIT Licensee's Statement of FIT Terms. This power would only apply in relation to new installations with an eligibility date on or after 1 December 2012.

b. Power to withdraw accreditation

37. This power would clarify and extend the Authority's power to withdraw an accreditation should it be necessary, by setting out the scope of the power in the FIT Order. Ofgem currently have similar powers as part of the ROO.
38. This power will be used in situations where the decision to grant accreditation was based on information which was incorrect, or if any condition attached to the accreditation has not been complied with or if an installation has been extended or modified in such a way that it would not be entitled to accreditation.

c. Power to suspend payments

39. We have been made aware of instances whereby accredited installations have operated in absence of all necessary legal consents. In this instance, we consider it inappropriate for the installation to receive FITs support.
40. We propose that, where Ofgem is advised by an authority whose express responsibility it is to grant the necessary consent, Ofgem will inform the relevant FIT Licensee that FIT payments are to be suspended. Once Ofgem is informed by that same authority that the necessary consents are now in place, Ofgem will inform the Licensee that payments can recommence.
41. The payments will recommence based on generation from the date of suspension.

d. Suspension from Central FIT Register (CFR)

42. In a similar manner, to the power to withdraw, we propose to give Ofgem a broader power to suspend entries on the CFR (without the need for information coming directly from the FITs Licensee) while investigations are ongoing.

e. Powers associated with preliminary accreditation

43. The decision to permit some generating stations to receive preliminary accreditation in advance of commissioning creates the situation whereby Ofgem require related powers to remove or withdraw preliminary accreditation.
44. This could, for example, be due to any material change regarding the installation as constructed versus the original proposal. We would intend for these powers to be aligned to similar powers within the ROO.

f. Powers to amend provision on late payments

45. At present, apart from Ofgem's main enforcement powers, there is no specific penalty if FIT Licensees are late in making payments to Ofgem as part of the levelisation process. We are minded to incorporate a provision to permit Ofgem to require that penalty interest charges are paid on late payments, in a similar manner to the ROO.

Q6	Are the additional powers explained above suitable to improve the management of the FITs scheme and are there any concerns you would seek to raise with permitting Ofgem to take these powers.
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7. Minimum timing for payment

46. The Standard Licence Conditions state that payments must be made to a FIT generator at least on a quarterly basis, unless otherwise agreed.
47. We have received representations which indicate that some stakeholders do not feel this requirement is satisfactory and would like to see an improvement, to provide income certainty to generators.
48. Given the large number of FITs generators, the current process does not appear to be causing significant concern though we would welcome further views on whether a shorter minimum standard is desirable.

Q7	Should FIT Licensees be required to ensure FITs payments are processed more quickly than present? If so, what do you think would be an appropriate minimum period? If you represent a FIT Licensee, please provide an indication of the costs would incur from such a change.
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8. MCS or Equivalent

49. The FITs Phase 2B consultation indicated that we were considering whether to specify in the FITs legislation criteria which must be met by alternative accreditation schemes in order to be treated as equivalent to MCS for the purposes of MCS-certified registration. It was thought that this might provide greater certainty for generators and operators of any alternative accreditation schemes, and avoid it becoming necessary to determine whether an accreditation scheme is equivalent to MCS on a case by case basis.
50. We have received no indication that an alternative to MCS has been established or is in the process of creation. Given the large scope of work to complete implementation of the Phase 2B decisions, we are proposing not to make any changes to the FITs legislation regarding alternatives to MCS at this time.

Q8	Do you have significant concerns that the MCS or Equivalent clarification will not be addressed at this time?
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Response Template

Please return to FITs.LicenseeConsultation@decc.gsi.gov.uk by 25 of September 2012

Name	
Organisation Name	
Is your Response Confidential	Yes / No
If yes, please explain reasoning	

Q1	<p>Do you agree with the above proposals for improving access to data within the FITs scheme? Specifically, do the types of information and frequency present challenges to your organisation?</p> <p>If you are a FITs Licensee, please provide details of the best way that this information could be collected, and which format it would be made available. Please also explain the costs associated with providing the above data.</p> <p>Do you have views on who should collect this information and who should have access to this data, and at what level of detail?</p>
Q2	<p>What improvements would help suppliers to manage FITs cash flow?</p>

Q3	Do you agree there is no further reason to intervene in the levelisation process?
Q4	Do you agree that the FITs scheme should be updated to ensure continuity of payments to generators in the event of the revocation of the a supply licence? If not, please explain why you do not judge this to be a necessary requirement. If so, do you consider that there should be a limit on the period of liability?
Q5	Do you consider in year entry for FITs Licensees to be an important issue that should be considered as part of the current set of changes? If so, please explain why this change would be beneficial and what approach you feel is most appropriate.

Q6	Are the additional powers explained above suitable to improve the management of the FITs scheme and are there any concerns you would seek to raise with permitting Ofgem to take these powers.
Q7	Should FIT Licensees be required to ensure FITs payments are processed more quickly than present? If so, what do you think would be an appropriate minimum period? If you represent a FIT Licensee, please provide an indication of the costs would incur from such a change.
Q8	Do you have significant concerns that the MCS or Equivalent clarification will not be addressed at this time?