

Government Response to FITs Licensee Consultation

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Introduction

1. A total of 17 responses to the consultation were received, 15 FITs Licensees (9 voluntary and 6 mandatory) and Ofgem responded. Virtually all respondents replied to every question. DECC would like to thank respondents to the consultation for using the supplied templates and for complying with the short consultation period. We intend to arrange a further meeting to discuss specific points arising.
2. The following summary provides an explanation of the decisions made following consultation and a summary of the views of respondents to each of the eight questions posed.

Summary of decisions

1. We intend to create a new power for Ofgem to enable FIT generators to receive continuity of FIT payments following the termination of a FIT licensee's electricity supply licence, for example due to insolvency. It is our intention that this will come into force from 1 April 2013.
2. We intend to permit Ofgem greater flexibility regarding managing the levelisation process which will allow for mutualisation of a shortfall in the fund, an interest fee to be levied on late payments and for the ability to allow late payments to be managed between years. These changes will also be implemented from 1 April 2013.
3. We intend to grant Ofgem the powers to attach conditions to accreditation and preliminary accreditation, these changes will come into effect from 1 December 2012.
4. We will initiate a working group comprising of DECC, Ofgem and willing FITs Licensees to take forward work relating to increased provision of data from the FITs scheme.
5. We will keep lines of communication open to all Licensed Electricity Suppliers regarding the scheme.
6. We do not intend to alter the way in which FITs payments are made at this time, although we understand that there is a desire amongst some Licensed Electricity Suppliers for Government to set costs on an annual basis this request was not universal and other activity is underway to improve the predictability of the scheme.
7. We do not intend to permit in year entry to the scheme at this time.
8. We do not intend to create a requirement for minimum timing of payments to generators.
9. We do not intend at this time to prescribe more detailed criteria for determining whether a certification scheme is equivalent to MCS.

Summary of responses received

1. Data collection

3. This proposal received strong support from respondents. Only two respondents did not support greater provision for access to data within the FITs scheme itself, one of these indicated an alternative sampling approach which will be investigated by DECC.
4. Based on this response, we intend to progress a voluntary disclosure of information noting that several respondents were concerned about data security and suggested that a secure transfer method be established (as opposed to emails and spreadsheets).
5. There was a universal preference for data to be collected as part of the levelisation process and Ofgem have indicated that they are willing to act as an intermediary in this process. All parties wish to minimise any costs resulting from this additional voluntary commitment. We therefore propose to establish a working group to conduct a more detailed cost benefit analysis of how this data can be obtained.

6. DECC believes that a better level of granularity of the data will permit a combination of generation and site data which will increase understanding of how generation levels vary throughout the year and on which geographic basis. There is no policy intention behind this move which would seek to implement regional tariff levels based on this data. As noted by the majority of respondents, this information combined with the weekly installation level reporting and degression policy will permit a much more predictable cost profile of the scheme in future years.
7. One respondent noted that this information will also be of interest to non-FITs Licensees.

2. Helping suppliers to manage the FITs cashflow better

8. A number of respondents made specific suggestions regarding cash flow, the majority agreed that the process outlined in Q1 would be of benefit and many noted that the new degression policy would reduce the risk that has previously been associated with estimating costs of the scheme (several pointed to the recent increases in levelisation payments).
9. Several licensees noted that there were significant variations between quarterly levelisation levels and that this variability made cash flow difficult to manage. Clearly this volatility will not be improved by better data resolution and a number of respondents suggested the volatility was a result of some installations not being included in the levelisation process every quarter. They suggested that participation in quarterly levelisation be made compulsory to ensure there were not large variations in the amounts required to be paid out. Although we do not intend to make changes to the levelisation process at this time (see summary of Q3 responses below) we are concerned by this issue and will investigate further.
10. Three respondents requested that DECC make an annual statement indicating estimated costs for the scheme which would then be adjusted at year end. While DECC does not intend to implement this suggestion at this time we would like to work with all Licensed Electricity Suppliers to consider how greater stability can be established going forward, noting that several steps have been taken to help assist this approach, notably the degression policy and weekly statistical reporting as well as the provision of late payment penalties (see response to Question 6).
11. DECC and Ofgem expect FIT Licensees to reconcile FIT payments to generators using the Periodic Levelisation process, and not to delay that reconciliation until Annual Levelisation. We are aware that some FIT Licensees do not take this approach and this was raised by a number of respondents. This has the effect of creating considerable uncertainty as to the potential liability of Licensed Electricity Suppliers with regards to payments into the Periodic and Annual Levelisation Fund. DECC will be working with Ofgem to ensure that these FIT Licensees assist in delivering a more predictable cash flow position.

3. Frequency of levelisation

12. Of those who responded, two requested more frequent levelisation, all others noted that a change to this process would incur significant costs which would outweigh the benefit of any cashflow improvement gained. We do not consider a more frequent process to be of significant importance at this time.

4. Licensee of last resort

13. All respondents supported this proposal, with the strongest support coming from smaller FITs Licensees. We circulated the proposed approach and thank those that made specific suggestions to improve the drafting. We will continue to work with FITs Licensees and Ofgem to implement this new policy, with the intention that this commences from 1 April 2013.
14. Respondents did request that the policy be clear, quick and as low cost as possible. There would be no net impact on the levelisation process as the number of generators would remain constant.

5. Mutualisation

15. Increased flexibility for Ofgem to manage shortfalls that may arise in the levelisation pot as a result of failure by a Licensed Electricity Supplier were supported. We therefore intend to create mutualisation arrangements to allow Ofgem to re-calculate the fund to take account of any shortfall that may arise from the failure of a licensee for FITs, this will take effect from 1 April 2013.
16. A further suggestion received from Ofgem has separately been suggested by a small number of licences. They indicate that the levelisation process could be made more flexible to allow late payments to be managed between years (which is not currently possible). As per section 7, we will also implement the provision to permit Ofgem to require that penalty interest charges are paid on late payments, in a similar manner to the ROO (Renewables Obligation Order). We intend to permit this increased flexibility subject to further development of these proposals between DECC and Ofgem.

6. In-year entry for Voluntary FITs FIT Licensees

17. No respondents had strong views on in year entry; several saw no reason not to provide this option for new market entrants who should be given the option to chose to become a FITs Licensee and most suggested that the levelisation period would be the best time for entry (i.e. 4 opportunities a year). However, of those that commented on this question, most noted that the cost due to increased scheme complexity (especially relating to levelisation) should be considered.
18. We do not therefore consider in year entry to be a priority and do not propose offering in year entry at this time, noting especially that such a change would create significant costs in alterations to the administration process for the scheme.

7. Ofgem's enforcement powers

19. All respondents welcomed the additional powers which we intend to grant Ofgem as the scheme administrator. These new powers will have the same controls regarding their use as the current set of powers.
20. Some respondents noted that mitigating or other circumstances should be taken into account in relation to the power to suspend payments, such as the length of the delay in payments. Some respondents also requested a clear appeals process for the late payment penalty, while one respondent suggested a tiered approach to late payments could be taken. Some respondents raised suspension of payments and questioned if all due payments should be repaid if the generator is un-suspended.
21. One request was that a more robust complaints process be developed especially relating to the powers to suspend payments (as this may not be under the FITs Licensees control).
22. Our intention is to draft these powers as per the consultation, noting a number of specific comments which we will strive to incorporate. These powers will come into effect on 1 December 2012.

8. Minimum timing for payment

23. No respondents considered quicker payments to be a priority, with several respondents noting that that the "vast majority" of generators were happy with quarterly payments and that they had not received a single complaint regarding this issue.
24. In addition, most respondents were at pains to point out that due to restricted cash flow, they were required to wait for quarterly levelisation payments before making payments to generators. As a result, inclusion of a minimum period would require a change to the levelisation process which received very limited support from respondents as noted in the summary of Q3. In addition, one respondent noted that a move to monthly payments would lead to a tripling of administration costs.
25. We do not see a strong rationale for altering the current FITs payments process but will continue to monitor complaints in case this issue requires further consideration in the future.

9. MCS or Equivalent

26. There was unanimous support from all respondents that the current ad hoc process for determining whether a certification scheme is equivalent to MCS was sufficient and that a new provision to create a standard process was not a priority at this time. We will continue to keep this issue on the agenda for future reviews of the scheme. If an alternative to MCS was established, we would commit to informing licensees.

10. Respondents to Licensees Consultation

Mandatory Licensees

1. SSE
2. British Gas
3. EDF
4. Eon
5. RWE Npower
6. ScottishPower

Voluntary licences

7. Ecotricity
8. First utility
9. Good Energy
10. Green Energy UK
11. Haven Power
12. ISupplyEnergy
13. Opus Energy
14. Smartest Energy
15. Tradelink Solutions

Other respondents

16. Ofgem
17. Hydroplan