



Department
for Environment
Food & Rural Affairs

Waste Electrical and Electronic Equipment Regulations 2013

Guidance on submitting proposals for the Producer Compliance Scheme (PCS) Balancing System

February 2019



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Contents

Introduction	1
Timing	1
What will happen to information provided in proposals?	2
Submission of proposals	2
Evaluation criteria	3
1 - Proposed methodology for fulfilling the requirement of regulation 34 and dispersing requests to PBS members	3
2 - Proposed administration of the PBS	4
3 - Proposed timetable for implementation and operation of PBS	5
4 - Experience of proposed operator	6
5 - IT systems	6
Scoring system	7

Introduction

This document sets out how we will assess any PCS Balancing Systems (PBS) proposals submitted to the Secretary of State for approval.

From 2019, producer compliance schemes (PCSs) must join the government's approved PCS Balancing System (PBS). This will make sure that the costs of collecting waste electrical and electronic equipment (WEEE) when requested by local authorities are shared amongst all PCSs.

The Secretary of State must commence a review of the PBS by 1 January 2022. Schedule 8A Parts 1 and 2 set out the information to be included in a proposal for a PBS. Further details can be found in the Waste Electrical and Electronic Equipment (Amendment) (No. 2) Regulations 2018 available at:

http://www.legislation.gov.uk/ukxi/2018/1214/pdfs/ukxi_20181214_en.pdf

The 2013 Waste Electrical and Electronic Equipment (WEEE) Regulations provide that producers of electrical and electronic equipment (EEE) join a PCS. The PCS takes on their financial responsibilities for treatment, reuse, recovery, recycling and disposal of EEE they've placed on the market and which has become WEEE.

Timing

Proposals must be submitted in writing by 1 March 2019 in order to be considered and approved by the Secretary of State for the first period of mandatory PBS membership. Proposals received after that date will not be considered.

Proposers are encouraged to consult key stakeholder groups in developing their proposals prior to submission. All proposals received however will be published and subject to a consultation with interested parties (notably producers of EEE, WEEE treatment facilities, PCSs, local authorities, waste management companies and the re-use sector). The consultation will commence by 1 May 2019 – this will depend on the number of proposals received. The consultation period will be a minimum of four weeks. Following consultation, the Secretary of State will aim to announce the approved PBS by 1 August 2019. PCSs will have 30 days from the date of approval to join the PBS.

Guidance will be re-issued for any future consultations on a PBS.

What will happen to information provided in proposals?

Information provided in proposals, including personal information, may be subject to publication or release to other parties or to disclosure in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004 (EIR). Under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence and the treatment of commercially sensitive information.

If you want any information that you provide to be treated as confidential, including personal data, it would be helpful if you could explain to us why you regard the information as confidential or commercially sensitive. If we receive a request for disclosure of that 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 as binding on the Department.

Submission of proposals

Proposals should be submitted in writing to:
WEEE team
Department for Environment Food and Rural Affairs
Resources and Waste Team
Seacole Building
Ground floor
2 Marsham Street
London SW1P 4DF
Email: weee@defra.gov.uk

Evaluation criteria

Proposals should cover the following five broad areas, which have been developed to help organisations putting together their proposals. These areas will then be scored by Defra, taking into account comments received from the consultation, using the descriptors in the final section on the Scoring System. Those scores will be multiplied by the weighting and the highest scoring proposal will be selected.

Any proposal that is judged not to comply with regulations 34A and 34B and Schedule 8 Parts 1 and 2 will be rejected.

1 - Proposed methodology for fulfilling the requirement of regulation 34 and dispersing requests to PBS members

Weighting 5 = 20 marks available

Proposals should:

- set out a methodology for arranging for the fulfilment of the requirements of regulation 34 by one or more of its participating PCSs across each of the WEEE collection streams. The methodology should clearly set out how this would be arranged on the basis of either a one-off collection or of an ongoing service to a local authority designated collection facilities (DCFs) for a minimum of 6 months if requested by the local authority DCF;
- describe the mechanism by which a PCS can submit a received regulation 34 request to the PBS if it decides not to fulfil the request itself but to refer it to the PBS instead;
- describe how effective communication with the local authority that has submitted the regulation 34 request will be maintained;
- demonstrate that the proposed mechanism is consistent with the Code of Practice¹;
- set out what information must be provided by member PCSs taking on the regulation 34 requests referred to the PBS and how commercial confidentiality will be maintained;
- ensure that the cost of fulfilling any regulation 34 requests be shared between all participating PCSs on a market share basis. The market share for each participating

¹ <https://www.gov.uk/government/publications/waste-electrical-and-electronic-equipment-wEEE-collection-code-of-practice>

PCS will be calculated as A/B where “A” is the total amount in tonnes of EEE intended for use by private households and falling within one of the categories of EEE that has been placed on the market in the United Kingdom by all producer members of the scheme in question in the previous compliance period, or part of the previous compliance period; and “B” is the total amount in tonnes of EEE intended for use by private households and falling within the relevant category that has been placed on the market in the United Kingdom by all producers in the same compliance period used in “A”;

- describe the mechanism by which PCSs would pay for their market share of fulfilling regulation 34 requests, including evidence of auditing arrangements, to ensure invoices are reliable, and how commercial confidentiality will be maintained;
- describe the mechanism by which evidence of tonnage collected under a regulation 34 request submitted to the PBS would be allocated to participating PCSs on a market share basis and how that would be “issued” by approved authorised treatment facilities (AATFs) and “accepted” by PCSs on the Settlement Centre managed by the Environment Agency; and
- set out how PCSs and local authorities have been involved in developing the proposal and demonstrate how their views have been considered in its development.

2 - Proposed administration of the PBS

Weighting 3 = 12 marks available

Where the operator chooses to appoint an independent administrator to undertake some of the PBS functions, references below to the operator can be taken to mean references to the administrator.

Proposals should:

- describe how the overhead costs of setting up and administering the PBS will be met, and what steps the proposer has taken to ensure value for money;
- describe the mechanism to be used for ensuring the environment agencies receive necessary evidence a PCS is a member of the approved PBS. Validation of membership of the PBS must not place significant additional burdens on the agencies;
- describe an appropriate mechanism for payments by PCSs for fulfilment of regulation 34 requests undertaken by the PBS including the mechanism for dealing with late or non-payment of outstanding amounts by PCSs;
- describe appropriate provisions for completion of pending obligations and for payment of sums arising under the PBS in the event of withdrawal of approval of the PBS. The proposal should also provide clear transitional arrangements for effective transfer of data from the previous PBS when approval is received for the

new PBS, as well as transitional arrangements for effective transfer of data to any new PBS which may be approved in the future;

- describe what information will be shared and with whom and what information will remain confidential. It will be crucial to demonstrate that commercial confidentiality is maintained whilst ensuring maximising transparency;
- consider the impact of and compliance with other relevant law. Specifically a description must be provided on how the proposal is consistent with competition law;
- consider sound contingency plans including cover for staff absence;
- provide evidence of the suitability of the proposed operator that will administer the PBS, and arrangements for necessary oversight and independent scrutiny and auditing arrangements;
- provide with the proposal clear Terms and Conditions for PBS membership;
- provide a copy of the proposed contract to be signed by PCSs and the PBS operator; and
- set out arrangements for effective monitoring of the PBS mechanism and its administration including provision of necessary information to Defra.

3 - Proposed timetable for implementation and operation of PBS

Weighting 3 = 12 marks available

Proposals should:

- provide a realistic and comprehensive plan for implementation and operation from the date of approval of the PBS;
- provide and facilitate for PCSs to be able join the PBS within 30 days of its approval including provision of a detailed timeline that includes reasonable notice to PCSs of the procedure. Provide that the PBS is fully operational within 30 days of its approval and ready to fulfil requirements of regulation 34;
- show a clear process for staffing the proposals;
- show a clear process for developing and implementing the IT systems; and
- demonstrate an understanding of project dependencies which could impact on the proposed timetable or bring it at risk.

4 - Experience of proposed operator

Weighting 2 = 8 marks available

Where the operator chooses to appoint an independent administrator to undertake some of the PBS functions, references below to the operator can be taken to mean references to the administrator.

PCSs and local authorities should have confidence in the proposed operators who should therefore demonstrate:

- qualifications and relevant experience of the proposed operator, including any person who is a director or partner in the proposed operator and any staff who are involved;
- a proven track record of managing client money and third party funds combined with practical experience of working in a regulatory environment;
- a clear strategy for identifying and effectively mitigating risks arising as a result of any conflicts of interest;
- relevant experience of setting up systems to allow data to be submitted and processed effectively;
- a robust understanding of the 2013 WEEE Regulations; and
- relevant experience of developing robust proposals for government.

5 - IT systems

Weighting 1 = 4 marks available

Proposals should demonstrate:

- appropriate IT systems, including backup systems and security systems;
- appropriate IT support.

Scoring system

Each proposal will be measured against the following criteria and awarded a score in line with the following descriptors. The score will then be multiplied by the weighting. The maximum score available is 56 marks.

0 - Unacceptable - Nil or inadequate response. Fails to demonstrate an ability to meet the requirement.

1 - Poor - Response is partially relevant and poor. The response addresses some elements of the requirement but contains insufficient/limited detail or explanation to demonstrate how the requirement will be fulfilled.

2 - Acceptable - Response is relevant and acceptable. The response demonstrates a broad understanding of the requirement but may lack details on how the requirement will be fulfilled in certain areas.

3 - Good - Response is relevant and good. The response demonstrates a good understanding of the requirement and provides sufficient details on how the requirement will be fulfilled

4 - Excellent - Response is relevant and excellent overall. The response is comprehensive, unambiguous and demonstrates a thorough understanding of the requirement and provides details of how the requirement will be met in full.