

Microgeneration Certification Scheme (MCS) consultation: Requirements for Appropriate Financial Protection

**Competition and Markets
Authority response**

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1. Introduction

- 1.1 The CMA is the UK's principal competition and consumer authority. It is an independent non-ministerial UK government department and its responsibilities include carrying out investigations into mergers and markets and enforcing competition and consumer law. The CMA helps people, businesses and the UK economy by promoting competitive markets and tackling unfair behaviour.¹
- 1.2 The CMA has undertaken a range of work in the green heating² and insulation sector over recent years. In particular, our May 2023 [review of consumer protection in this sector](#) assessed the effectiveness of the standards bodies that oversee quality and consumer protection standards for member businesses,³ as well as the consumer experience of buying green home heating and insulation products and businesses' practices in marketing and selling them. We identified concerns in these areas and set out key actions for the CMA, the sector, and for governments across the UK, to help ensure that people are treated fairly and protected. We also took direct action – producing guidance for [consumers](#) and for [businesses](#), and bringing an [enforcement case against Worcester Bosch](#) for its marketing of its 'hydrogen-blend ready' boilers.
- 1.3 The CMA welcomes the opportunity to respond to the [MCS consultation on proposed changes to its requirements for consumer financial protection](#). Our response is structured into two main sections: we first provide background on the CMA's previous work looking at the financial protections provided by standards bodies (including MCS), which identified the need to strengthen them to safeguard consumers more effectively,⁴ followed by responses to some of the consultation questions.
- 1.4 Our response, and the CMA's engagement with policy to promote green heating more generally, is motivated by the importance of building consumer confidence in this innovative sector, which is important to economic growth

¹ The CMA's statutory duty is to promote competition, both within and outside the UK, for the benefit of consumers.

² By 'green' heating, we mean low-carbon heating products that can help people heat their homes in environmentally sustainable and more energy efficient ways. They include heat pumps, solar products and biomass boilers.

³ The CMA defined 'standards bodies' as organisations that set quality and consumer protection standards, certify or accredit businesses against those standards and monitor compliance by businesses in the green heating and insulation sector. This includes MCS, TrustMark, two CTSI-approved Consumer Codes, and Competent Person Schemes.

⁴ See the [CMA's findings report](#), [Good Practice Principles for standards bodies](#), and [Update on the standards landscape](#).

and the transition to net zero. It is essential that people can trust businesses in the sector to treat them fairly; that they can make informed decisions about buying and installing products; and that they have confidence that they are protected from mis-selling and poor-quality installations. Consumer confidence and engagement is critical to drive effective competition in the sector, to incentivise firms to innovate and deliver better value.

- 1.5 The CMA is happy to discuss the contents of this response with MCS, and to continue to engage with MCS as it finalises its proposals.

2. Previous CMA work looking at the effectiveness of standards bodies financial protections

- 2.1 It is critical to the long-term success of the green heating and insulation sector and the transition to low carbon heating that consumers have a high degree of confidence and trust in the sector. Such confidence can be easily undermined, and consumers deterred from engaging with the sector, if they are not sufficiently protected, and have poor experiences of accessing redress when things go wrong. This might happen, for example, where: (i) unscrupulous traders' mis-sell green heating products by making misleading performance claims about potential cost savings, environmental and/or energy efficiency benefits; and/or, (ii) poor quality installations mean that consumers are left without home heating, deficient products and/or higher energy bills, until the problem can be rectified.
- 2.2 Preventing genuine harm through strong consumer protection is important in all markets, but it is particularly important in this sector where:
- Consumers are making infrequent purchases of expensive and complex products, involving relatively new technology that they may be unfamiliar with.
 - The cost of fixing problems is likely to be high and potentially disruptive; and
 - The products serve an essential need (home heating), and consumers can be left in a particularly vulnerable position when things go wrong that are not promptly and effectively addressed.
- 2.3 Whilst people have basic rights and protections under general consumer protection law when buying green heating and insulation products, it is important that there are additional safeguards in place given the potential vulnerability of consumers in this sector. Standards bodies can play a key role in providing such additional protections and safeguards for people, such as ensuring that businesses are competent to carry out the work, treat consumers fairly and provide mechanisms for people to seek redress if things go wrong (such as access to alternative dispute resolution).
- 2.4 The CMA's 2023 report found that the standards landscape in the green heating and insulation sector was complex (with numerous different bodies and schemes) and not working as effectively as it could be. Amongst other findings, our report highlighted that some post-installation financial protections

for consumers, such as insurance-backed guarantees (IBGs),⁵ can be limited in scope (for example, they may not extend to defects in the design of products) and contain important caveats and exclusions that consumers may not expect. We were also concerned that consumers may be unaware that IBGs only apply if a member business ceases to trade and do not help consumers in other circumstances such as where the member refuses to remedy a problem or no longer belongs to the standards body.

- 2.5 To help address our concerns, the CMA published a set of [good practice principles for standards bodies](#) in the sector. These principles included the need for strong financial protections (*'Standards bodies to ensure that consumer deposits and guarantees are effectively protected and the terms of these protections are made clear to consumers'*). We called on standards bodies to review their practices against these principles and, where necessary, implement any changes to meet them. We engaged with several standards bodies to explain our principles and how they might be applied.
- 2.6 In February 2024, the [CMA published an update on progress made by standards bodies against our good practice principles](#). We found that overall, standards bodies had engaged positively, but more still needed to be done to improve levels of consumer protection – particularly to ensure smooth dispute resolution and strong financial protections. We encouraged standards bodies to continue to review their financial protection mechanisms to ensure they are fit for purpose, and to make any changes needed to address gaps in existing protections.

Specific engagement with MCS

- 2.7 In July 2023 the [CMA responded](#) to MCS's consultation on proposed changes to its scheme, which included proposals to implement new financial protections (we welcomed, in principle, the added protections for consumers that MCS was considering). We also set out several considerations to inform MCS's approach, to help ensure good outcomes for consumers through a high level of consumer protection. In October 2023 [MCS published its response to the consultation](#), setting out the scheme changes that would be taken forward, following a transition period. We welcomed MCS's intention to meet the CMA's good practice principles through the planned changes.⁶

⁵ Some standards bodies require member businesses to provide an IBG, which is an insurance policy that covers the original workmanship guarantee provided by the business. If the business is no longer trading, a consumer can make a claim under the IBG for any defects/problems relating to workmanship.

⁶ See Annex B of [MCS's response to its consultation on proposed changes to the scheme](#).

3. Responses to consultation questions

General comments

- 3.1 We agree with MCS that effective financial protection is one of the key drivers of consumer confidence in the sector and will help to encourage consumers to invest in green heating products for their homes.
- 3.2 We therefore welcome MCS's intention to strengthen the financial protections that its certified installers provide to customers, with the aim of ensuring that consumers can get things put right with their installations if their original installer is either no longer trading or refuses to remedy an issue within a reasonable timeframe.
- 3.3 In principle, and subject to our specific comments below, a number of the changes proposed by MCS to its minimum requirements for approved financial protection products could help to address gaps in existing protections previously highlighted by the CMA.
- 3.4 We also encourage other standards bodies to continue to review their financial protection mechanisms to ensure they are fit for purpose, and to make any changes needed.
- 3.5 As set out in our February 2024 update on the standards landscape,⁷ it is important that standards bodies take a holistic approach and consider the following broad factors to inform any changes to their financial protections (as well as other changes to their schemes), to help maximise their effectiveness and ensure good outcomes for consumers:
- The potential interactions of any changes with the wider standards landscape, to ensure they do not inadvertently lead to further complexity for consumers or unintended consequences for the sector.
 - The design and delivery of any proposed changes, including the ability to scale up changes given the expected expansion of the sector over time.
 - Early and ongoing evaluation to ensure that any changes have been implemented effectively and are delivering good outcomes for consumers.
- 3.6 More generally, to enable the green heating and insulation sector to grow, it is important that standards bodies' financial protection mechanisms are

⁷ See the [CMA's update on the standards landscape](#) (February 2024, at paragraphs 2 and 44-50).

sustainable and do not add significant financial burdens which might put off new entrants into the sector.

Responses to consultation questions

- 3.7 Our responses below focus on those aspects of the consultation questions most relevant to the CMA's previous work looking at the effectiveness of consumer financial protections in the sector.

Requirements

- (a) **To extend coverage to afford protection if an installer refuses or fails to deliver the remediation determined necessary as an outcome of the MCS complaints management process and if applicable, subsequent ADR.**
- 3.8 We welcome this proposal as it should help ensure that consumers are not left without any recourse where an installer is unwilling, or unable, to resolve problems with their installation.
- 3.9 However, we would welcome further clarification on how, or whether, the proposed financial protections will apply in situations where an installer is no longer part of the MCS scheme - in particular where they lose their MCS certification (either through its removal or voluntarily) before: (i) a consumer has discovered/reported the defect in their installation or escalated their complaint to MCS (or the relevant certification body); or (ii) MCS (or the relevant certification body) has concluded its complaints management process.⁸
- 3.10 We consider that it is important that it should apply in these circumstances to avoid consumers falling through the gap and being left without any recourse through no fault of their own. If the intention is for the financial protections to apply here, this should be made clear in the relevant definitions set out in the requirements to avoid any unintended loopholes.
- 3.11 MCS should also consider how to effectively 'hold to account' unscrupulous installers who refuse to remediate problems (or close down their business), knowing that it will be rectified under the financial protection product. Our understanding is that the new MCS Installer Agreement places contractual

⁸ 'Refusal' is defined in the draft requirements as '*Written refusal from an Installer to complete the remediation deemed necessary as a conclusion of the MCS complaints management process and ADR, or the failure of the Installer to undertake the necessary works within 45 days of being notified.*' Clause 1.2 of the draft requirements further states: '*Failure to deliver remediation shall be determined by an Installer not completing the prescribed remediation work within 45 days of any ruling.*'

obligations on installers to adhere to scheme requirements and will remain in force even when an installer loses, or decides not to maintain, their certification. But it is unclear how MCS will enforce these obligations in practice.

(b) To extend coverage to include failures in design, as well as installation workmanship.

3.12 We welcome the proposal to extend the scope of the financial protection to include remediation for failings in the design of the installed system (so as to ensure an installation's compliance with MCS design requirements), in addition to faults or defects caused by failings in the workmanship of the installation.

3.13 We note that clause 2.2 of the draft requirements says that the protection *'shall support the remediation of an installed system in line with its design performance, as set out in the contract between the installer and consumer.'* Our understanding is that where an installed system fails to perform as promised (in the contract) due to a defect in its design - for example, where the heat pump was not sized correctly and this impacts on the performance of the system - remediation of the defect to resolve the performance issue would be covered under the financial protection (consistent with what is set out in the installer's written guarantee for the system's design). We encourage MCS to explicitly confirm this in the requirements.

3.14 For clarity and to avoid disputes, it is important that it is made clear to consumers what the written guarantee (and associated financial protection) for the system's design covers, and the design standards/requirements it is based upon, as set out in the installer's contract with the consumer for the installation.

(c) To extend the period of cover for an installation to not less than 6 years from completion, compared to the current 2 year minimum

3.15 We welcome the proposal to extend the period of cover to a minimum of 6 years from completion of an installation, which would be consistent with the current financial protection requirements under Competent Person Schemes,⁹ as well as being generally in line with a consumer's statutory rights if there is

⁹ Condition 17 of the Conditions of Authorisation for Competent Person Schemes requires the scheme operator to ensure consumers are provided with appropriate financial protection to put work to dwellings right, which is non-compliant with the Building Regulations, where the original installer cannot do so (because they are no longer trading). Financial protection must be provided for a minimum of six years from the date of completion for work to dwellings.

a defect or fault with their installation due to poor workmanship.¹⁰ We would suggest the appropriateness of the minimum period of cover for financial protection products is kept under regular review to ensure that it is adequate (for example, by reference to complaints and claims data on the number of consumers reporting installation and design related problems with their products that fall outside of the minimum 6 year period).

(d) Only reasonably restrict the limit of remediation costs in line with the original contract and not be limited to less than £20,000

3.16 It is important that there is careful consideration of the appropriate level of any limit to the full cost of remediation to ensure it is adequate,¹¹ and for there to be clear guidance for financial protection providers on what is considered to be 'reasonable' in the context of limiting remediation costs in line with the original contract. We further note that claims in relation to costs arising from matters outside the scope of the original contract for the installation, such as consequential damage to a property, can be excluded or limited. We would suggest the appropriateness of the scope and level is kept under ongoing, regular review.

3.17 It is also important that any limit in remediation costs (in terms both of value and what costs are covered in any claim) are made clear to consumers, and that it is clearly explained that the financial protection product does not affect the consumer's statutory rights to redress or damages that may go beyond the stated limits (in line with clause 3.3 of the draft requirements).

Structure and governance

3.18 We agree with MCS that in determining what constitutes an appropriate financial protection product and in giving approval, it is essential to comprehensively assess (and continue to regularly monitor) the governance arrangements in place so as to ensure the ongoing financial stability of the financial protection - including ensuring there are sufficient funds to meet potential claims, and that consumers can still benefit from the protection if the provider were to fail or the product was otherwise no longer available. It is

¹⁰ Under the law of England and Wales and Northern Ireland, the limitation period for bringing a breach of contract claim is six years from the date the breach of contract took place (ie when the services were carried out). In Scotland, the period is five years.

¹¹ We note that [MCS's response to its 2023 scheme development consultation](#) said, in the context of the summary of responses to proposals to implement new financial protections, that '*concerns were raised in relation to the average cost of a Ground Source Heat Pump installation being above the proposed £20,000 limit for the cost of remediation.*'

also important that approved financial protection products are compliant with any relevant regulatory requirements.

- 3.19 We also agree, in the context of evaluating whether the financial protection products are delivering good outcomes for consumers, that MCS should have access to each provider's claims data.

Implementation

- 3.20 In moving to implement new minimum requirements for approved financial protection, MCS should continue to have regard to the considerations set out at paragraph 3.5 of our response above.
- 3.21 In particular, MCS should consider how its proposed changes would interact with existing financial protections provided by other standards bodies such as TrustMark, Competent Person Schemes, and CTSI-approved Consumer Codes, to minimise the risk of potential duplication and confusion for businesses who are members of multiple bodies, as well as confusion for consumers.¹²
- 3.22 More generally, we note that MCS intends to implement the new financial protection product requirements as soon as possible, irrespective of the deployment of its redeveloped scheme. While this is a matter for MCS, we recognise that there are likely to be trade-offs between taking a phased approach to the scheme redevelopment (by introducing strengthened financial protections as soon as possible to benefit consumers, potentially before other changes are ready to be deployed) and implementing all of the key changes at the same time. However, we consider that there is merit in MCS looking at new financial protections holistically alongside all of the other key elements of the redeveloped scheme – including the focus on 'delivered quality', a new risk-based surveillance model, a centralised customer complaint management process, and more direct oversight of an installer's consumer protection obligations through MCS's Customer Commitment – and how they fit together and mutually reinforce each other, so as to deliver good outcomes for consumers. Taking a holistic approach to changes in the standards landscape was one of the key principles we had identified for standards bodies in our green heating work.
- 3.23 In particular, for the new financial protections to be most effective, it is important that the MCS complaints management process is as straightforward as possible for consumers and that outcomes - including any necessary

¹² See the [CMA's update on the standards landscape](#) (February 2024, at paragraph 41).

remediation - are reached within a reasonable timescale. This is especially so given green heating products serve an essential need, and consumers can be left in a particularly vulnerable position when things go wrong that are not promptly and effectively addressed (poor quality installations can mean that consumers are left without home heating, or higher energy bills, until the problem can be rectified).

What else MCS should consider as it moves to implement new requirements for financial protection

Protections for deposits and advance payments

- 3.24 While we note that the proposed financial protection requirements do not make mention of protection for deposits and advance payments, the [Customer Commitment](#) for the redeveloped MCS scheme requires installers to tell consumers how their deposit is protected (Clause 4g).
- 3.25 We consider that it is important that MCS continues to afford protection for deposits and any further advance payments made by consumers, should a certified installer cease to trade before completion of the installation (for example, to recover deposits paid for work that does not proceed because of a failure of the installer). See Principle 5 b. of the CMA's Good practice principles for standards bodies.
- 3.26 We would therefore welcome further clarification from MCS on how it intends for customer deposits and any other advance payments to be protected.

Installations that were not registered with MCS when they should have been

- 3.27 We note that MCS stated in its 2023 consultation on proposed changes to its scheme that it was considering if and how it might extend proposed new financial protections to cover situations where an MCS-certified installer failed to register an installation with MCS when they should have done.¹³ The CMA was strongly of the view that consumers should not be disadvantaged because of an installer's failure to register the installation.¹⁴
- 3.28 We remain of the view that MCS should give consideration to extending the requirements for financial protection to cover such installations.

¹³ For example, where an MCS-certified installer has ceased to trade after taking a deposit from a customer but failed to register the installation with MCS.

¹⁴ See paragraph 48 of the [CMA's response](#) to MCS's consultation on its proposed scheme redevelopment (July 2023).

Other comments on specific draft requirements

Excluding or limiting claims relating to a device within a manufacturers' guarantee period

- 3.29 We note that clause 2.5 of the draft requirements seeks to exclude or limit claims '*relating to a device within a manufacturers' guarantee period*'. Our understanding is that the intention of this clause is to exclude or limit claims that relate to manufacturing faults or defects (as opposed to problems arising from the poor-quality installation or design of the device/system), which will be covered under a manufacturer's product guarantee for a certain period of years (whereby the manufacturer will repair or replace the device free of charge).
- 3.30 We think it is important that there is clear guidance in place for financial protection product providers, complaints-handlers, and consumers in relation to this, otherwise there is the potential for delays in determining whether a defect is due to incorrect installation and/or design of the system or a manufacturing fault (and hence who is liable for the remediation), prolonging the time taken to resolve the problem for the consumer.