

## **High level recommendations for Ofgem on the administration and operation of the future Green Gas Support Scheme, as well as improvements to the digital services<sup>1</sup>**

This document sets out what the REA and its members would like to see from Ofgem delivery and administration of the future Green Gas Support Scheme (GGSS). It includes a list of high-level recommendations which stem from several lessons learned from the delivery and operation of the Non-Domestic Renewable Heat Incentive Scheme.

We hope these recommendations can feed into the development of the GGSS and its administration as early as possible, so that the scheme can be delivered to high standards and in line with industry expectations.

As a general point, and as already highlighted to Ofgem senior officials during the roundtable hosted for REA members on 24<sup>th</sup> September, Ofgem approach to applications should change. There continues to be a perception that the regulator when reviewing applications do so on the basis of trying to find faults and or evidence of gaming, rather than vetting applications positively and pragmatically to ensure they meet the scheme requirements. Applicants and accredited users on the Green Gas Support scheme should not be treated as 'fraudulent until proven innocent'.

### **Application/accreditation process**

- **Issue: currently applications take several months to be approved. Some have reported delays of over 23 months. In some cases Ofgem took 12 months to process TG applications from stage 2 to stage 3.**

### **Recommendations:**

- We would expect that all applications for registration are granted **within 3 months** from application submission.
- **Queries should be bundled up together** as much as possible to speed up the process.
- The **clock should not be reset** every time a new query is raised, whether substantive or not as this is often the cause of significant delays.
- It was also suggested that the scheme could have GGSS Licensees (licensed gas suppliers / shippers) under the GGSS in a similar way FIT Licensees operate under the FIT Scheme and that this would help streamline the process by passing some of the admin burden / responsibility on to the suppliers. These would have a commercial incentive to deliver an efficient process (e.g. do monthly payments, streamlining of processes, be the first point of contact with Ofgem etc.). This is probably a matter for BEIS and something we can feedback in our response to the Green Gas Levy Consultation.

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<sup>1</sup> Please note that the sections relevant to the digital services have been highlighted in blue, as we are aware there is a dedicated team at Ofgem currently looking at this particular aspect.

- Issue: there isn't always clarity up front on all the requirements and their legal interpretation (for example, what represents 'commissioning'). When there is ambiguity, the applicant will be often told to obtain their legal advice and the outcome of this costly exercise is still at risk of being different from Ofgem legal team's final interpretation. In addition, this enables individual OFGEM people to apply the guidance differently.

#### Recommendations:

- There needs to be **clarity upfront** on all application requirements and documents required at the time of applying.
- Also, there needs to be a **clear interpretation of the legal detail** (e.g. on what represents commissioning) and share of this information. It was suggested this could be delivered through either:
  1. a mechanism by which legal ambiguities are clarified by instructing Ofgem legal advice/Ofgem own solicitors and ensuring this cost is paid for by BEIS (ie BEIS should cover the admin cost of Ofgem as well as the cost of their legal clarification advice since they are the ones who laid the regs). This would also reduce the uncertainty and unpredictability around the system costs and the legal risk of a different outcome from the participants' solicitors Ofgem's own solicitor's interpretation. It could be communicated to participants through quarterly or monthly clarification note from Ofgem to all participants on any rising ambiguity ie Ofgem figure out the answers internally first and then they let everyone know
  2. Alternatively, this could be dealt through a decision taking working group that includes Ofgem and BEIS (given that the ambiguity is often caused by way BEIS regs are written). This could be similar to the EA's EoW Status Panel.
- Ofgem should **avoid requesting copies of commercial documents** (lease, to civils, to funding and feedstock) as these could render that information subject to an FOI request, putting confidential information in the public domain. Confirmation from a legal firm or the developer of the existence of these contracts should suffice.
- Issue: approving and making changes to Fuel Measurement and Sampling Questionnaires (FMSQs) is a lengthy process and very often the cause of significant delays in the application process, especially when it is not a standard FMS.
- There have been cases where Ofgem have rejected an FMS because a user added many feedstocks: Ofgem have been actively managing this to ensure only feedstock that definitely will be used are added to the FMS. This is an unnecessary restriction that should be removed. Also, Ofgem by now have the answers for most of the feedstock classification (waste vs residue for example) and there are very few companies that are using new or novel feedstocks.

#### Recommendations:

- There should be as much **upfront approval as possible of FMS questionnaire** e.g. Ofgem should allow participants to have a much wider choice of feedstocks on the FMS (even though they may not use them immediately). We would recommend the 'review period' is removed for Ofgem and that **a predefined list of feedstock categories** is introduced.
  - The classification of a feedstocks as wastes or residues has now been done for a number of years, with relatively few producers wanting to use new / novel materials, so we should have already most of the answers, possibly with some caveats. There should be **a public register available with a list of approved feedstocks**. An additional option could be **an approved list managed by a third party on behalf of the industry**, in the same way as the Sustainable Fuel Register (SFR) was set up for non-BSL feedstocks a few years ago. This alternative has worked well, and it would take some of the burden off Ofgem and allow the industry to make a more consistent approach in terms of classifications and reporting. A central feedstock register could hold definitive classifications, Fuel Classification Consideration (FCC) questionnaires, and GHG data for all approved feedstocks which could then be shared with members (i.e. operators) when they sign up to the register. This would give industry more control and a stronger position in gaining approval, and we would recommend the costs of such a register should be borne by BEIS.
  - If operators are using feedstocks such as wastes taken on ad-hoc basis, there should not be a need to demonstrate to Ofgem through a biogas apportioning tool calculation that to show the GHG number is correct, especially for feedstocks for which a contract has not been signed yet. Getting obsessed about knowing in advance that a potential feedstock is going to pass is way beyond what this protocol meant to do.
  - There should be **consistency** in the way feedstocks are assessed: some feedstocks have been approved easily from some officers at some sites, and some others have not. Different officers interpret the regs differently.
- **Issue: the fact that the technical review happens before the FMS review is a cause for delays in the processing of the applications.**

#### Recommendations:

The process should be changed so that the technical review and the FMS review are carried out in parallel to avoid duplication of queries and speed up the process.

#### **Managing the relationship and communications with Ofgem**

- **Issue: The application process is often slow because applicants find it extremely difficult to get hold of the relevant people at Ofgem to raise their queries or seek clarifications. Applicants have found that where they are able to have a dialogue with a person at Ofgem upfront, this helps speed up the process and avoid delays.**

#### Recommendations

- There should be a **key account manager** that you can speak to, discuss the application with, a gatekeeper who is in charge of the job and that does not assume the applicant is 'fraudulent until proven innocent'. The mindset/attitude of the gatekeeper is also seen as very important, as well as the willingness to have a constructive dialogue that helps move things forward. We appreciate the cost of employing a key account manager across all new schemes may be significant, but given their complexity, biomethane projects supported under the GGSS should be targeted for this kind of approach. The application process seems to be working very well under the Feed-In Tariff Schemes so there are lessons to be learned there. The FIT reviewers are said to be helpful and willing to get through the application quickly. They tend to bundle all the questions/queries together and they offer a call to clarify any outstanding issues.
- Ofgem officers need to be **accountable**. If they are reviewers, they should take responsibility for going back / replying to queries, not diverting those to a general enquiry line or taking a very long time to respond.
- Rather than returning a compliance audit report long after the audit (e.g. one year), Ofgem should employ some expertise upfront that can provide assessments by video calls.
- There need to be procedures in place to ensure newly appointed personnel taking over the review after a staff change have full access to any discussions held with the applicant and decisions made previously. This would avoid inconsistencies and different interpretation of the rules when personnel changes, and would minimise time allocated to respond to queries already addressed previously. An online data management system (see section below) should facilitate this.

## Visibility & transparency, data management

### Issues:

- Ofgem data management system is obsolete. Lots of information is currently lost in emails. There is no central system that is visible to the operator who tells the applicant where they are in the process, what is outstanding, and enables them to access any documents that have been uploaded in the past. Several operators have said they are asked the same query repeatedly as information stored in emails becomes lost or forgotten. Ofgem may have their own check list but this is not visible to users. It isn't possible to re-access files and parts of the application once it has been submitted, so it can be difficult to applicants to refer back to specific points without this access and also makes it difficult to track changes, if an additional user is picking up an application in the absence of the SuperUser, for example.
- Ofgem's checklists when approving registrations are not visible. Ofgem officers must be working through a methodical list of things to tick off. It is currently not clear when various points have been assessed to Ofgem's satisfaction e.g. it is understood that registration won't be completed until everything is confirmed, but it would still help to see that (say) 18 out of 20 issues have been resolved. For example, the decision on whether an application has been properly made has huge implications for tariff start date and therefore tariff you will receive. That should be confirmed fairly early on in the process,

even if it takes longer to close out the other points that Ofgem needs before granting registration.

- There is far greater transparency from DfT in relation to the RTFO – on their classification of feedstocks as product/waste/residue but also on their expectations and procedures for evaluating third party documents they receive (e.g. in particular their procedures in relation to proof of compliance with sustainability criteria).
- Under the RHI all communications seem to be via email to one person, the SuperUser. However, often in large projects there are several people involved so they key people don't get the information. Feedback from Ofgem on Sustainability Audits is sent to only one person who is often not actively involved in the audit so this leads to long delays in responding which can stop RHI payments. Sustainability auditors don't receive the queries directly from Ofgem. It would improve efficiency if all approved stakeholders could be communicated with directly. The same applies to applications and queries with FMSQ. We have heard multiple stories of sites being asked to provide the same information several times which is inefficient and really slows the process down.
- Members have reported significant issues with the current system being unable to retain uploaded documents, even when these were uploaded by Ofgem personnel.

#### Recommendations:

- Ofgem should ensure **multiple people can be contacted**, not just the SuperUser, so that the information can be received directly by the relevant person within the company.
- There should be a **central data dashboard or similar online system** ie an information management tool that can be accessed by both Ofgem and the applicant, enables to see where the applicant have got to within the process and downloading of all the documents previously uploaded (e.g. audits etc) and sends relevant text alerts when there is a query so that the applicants can respond promptly. This way everyone involved can track what is required, what has been provided, what is outstanding. It is inefficient to do this via email.
- Lessons should be learned from the **greater transparency provided from Dft in relation to the RTFO**.
- It should be **visible to the applicant when various requirements have been assessed to Ofgem's satisfaction** e.g. for the applicant to be able to see how many issues have been resolved and Ofgem confirms early in the process at what point the application is considered properly made even if it takes longer to close out the other points that Ofgem needs before granting registration.

#### **Payments**

- **Issue: It is not uncommon for members to experience significant delays multiple times before being able to receive RHI payments, with one member reporting a 1 year and 7-month delay from the point the full application was passed.**

#### Recommendations

- Payments should ideally be made **30 days post submission**. This is a timeframe that seems to be working well under FITs. 8 weeks is too long on gas that you would have injected 3 months before.
- The provision of information / evidence on the meter data is often the cause of payment delays. Ofgem could check that the data supplied ties up with the data in Gemini<sup>2</sup>. Ofgem could be given **access to the Gemini system** (e.g. the applicant could provide them with their registration code or they could be given access by Xoserve) and they would then only need to check that the totals of gas injected are broadly in agreement with what was agreed in the FMSQ.
  - It should be noted that the regulator's access to the grid system operator's online system is already in place in other countries of Europe. As an example, in the Netherlands and Denmark the subsidy and guarantee of origin (GoO) system are integrated into the system operator's processes so that meter readings can be taken directly from the primary source e.g. GEMINI in the UK. This removes a level of administration from the producer and increases the reliability of the data used in the subsidy and GoO systems. We would be happy to provide further detail on this if needed.
  - Access to Gemini will be important in any case when the green gas levy on gas suppliers is introduced, as this will have to be related to how much green gas is injected in the grid. It is worth noticing that BEIS [consultation](#) on the Green Gas Levy, recently released, specifies that the biomethane producers quarterly submissions will be checked against volume data on biomethane injected in the quarter, suggesting that provision of Ofgem access to Gemini is already being considered by BEIS.
- It was suggested that to avoid delays in payments, Ofgem could adopt **a balancing payment mechanism** where applicants are paid for eleven months, or three quarters of the year on a quarterly basis, and have a compliance check (e.g. by accessing Gemini data) with a reconciliation process at the end of the year: if there is a non-compliance Ofgem will either not pay until it balances out or pay proportionally less. A strict timetable for closing any queries would need to be adopted to ensure any outstanding amount retained by Ofgem can be paid. The current system is punitive, especially for small businesses, as a minor query can block the payments.

## Meter changes

- **Issue:** Meter changes are often the cause of significant delays under the RHI (unlike under FITs where this process is a lot more straightforward) and this is seen from applicants as a burdensome and lengthy process which is not justified by the associated risks of overpayment. Members explained that under the RHI if a meter breaks in the middle of a quarter, applicants need to provide data estimates and supply photos, and it takes a long time for Ofgem to approve. Applicants will not be

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<sup>2</sup> Online system used by National Grid and its business associates to manage the transport of gas through pipelines.

allowed to inject unless the network is happy with the meter, its accuracy and calibration.

Recommendations:

- Ofgem should encourage applicants to use online meters that can be accessed remotely. These meters are checked and regulated by another side of Ofgem anyway under the GSMR and so this verification process is being duplicated.
- All information that is provided for the grid entry unit, which is already sent to National Grid, could be made available. Ofgem can see how much has been injected every date through the Distribution National Control Centre (DNCC) information and this can be broadly compared with meter readings.

Other changes that were mentioned as cause of delays:

- Change of authorised signatory details and change of bank account details. Again, this for some members have been a very lengthy and burdensome process. With modern systems it shouldn't be difficult to set up/ change bank account details even by phone. This is standard procedures with banks and when this has been set up the bank often send you a notification by text.

### **General auditing and compliance**

- Issue: The auditing process has been used by Ofgem to argue about decisions that had already been taken at the point of registration.
  - Recommendation: Audits must not be used to re-argue decisions already settled at the time of registration
- Issue: Unannounced audits can be difficult to manage especially if the plant is undergoing maintenance work
  - Recommendation: There should be a minimum notice period provided to applicants to ensure they don't have to suspend important maintenance work
- Issue: The same documents are requested from the auditors every year even when these should already be held by Ofgem:
  - Recommendation: An **online dashboard** as suggested above would address this issue as all documents could be uploaded and downloaded from the system prior to an audit.
- Issue: Some requirements are unclear and have in some cases resulted in non-compliances. An example is when a meter is changed but the applicant has not updated their Single Line Diagram (SLD). It is actually not very clear that this need doing. Also, very often the person who oversees the site is not the person who has overseen Ofgem application so they wouldn't know.
  - Recommendation: There should be more clarity on under what circumstances SLDs need to be amended

- Recommendation: In general, **Ofgem should prioritise areas where there is really a risk of overpayment**, rather than focusing on minor details like the SLD, which are not likely to result in over payment.
- **Issue: Things reported as 'remarks' in audit reports (as opposed to non-compliances) have been sometimes treated as non-compliances by Ofgem officers.**
  - Recommendation: A remark should not be treated as a non-compliance. Corrective actions should be required for non-compliances only.
- **Issue: Again, it was noticed that Ofgem officers are not consistent in the way they assess participants and some officers have been giving arbitrary deadlines to take actions/follow ups.**
  - Recommendation: There should be consistency in the way participants and different sites are assessed and no arbitrary deadlines should be given.

### **Independent scrutiny for the administrator of the Scheme**

- **Issue: Currently Ofgem are set up to be their own judging jury for the delivery of the Scheme. There is no external scrutiny unless their decisions are challenged through Judicial Review. There is no visibility of an Ofgem complaints process.**
  - Recommendation: It is paramount the GGSS has a **process of external scrutiny** of Ofgem decisions that does not require the Scheme participants to risk hundreds of thousands of pounds for a judicial review.

### **Dual participation of Biomethane plants under the NDRHI or GGSS and RTFO**

In their recent consultation on the closure and future proof of the non-domestic Renewable Heat Incentive (NDRHI), the Government has proposed an amendment to NDRHI payment calculations for biomethane to allow producers registered under the RHI to flexibly access the Renewable Transport Fuel Obligation. We anticipate that similar flexibility will be allowed under the new Green Gas Support Scheme, as set out in BEIS recent consultation on the future support for low carbon heat.

The REA very much welcomed this proposal, as this is something we have been advocating for a long time. We agree with the consultation document's analysis that the current situation restricts the potential for producers to benefit from diversified revenue streams and can disincentivise production from some plant. We anticipate this change will result in significant additional biomethane injection from existing biomethane injection facilities as well as enabling any new projects joining the scheme to optimise their output.

It will also make more biomethane available to the transport sector than has been supplied to date.

Recommendation: As highlighted in our response to the above BEIS consultations, **we recommend that a central registry of green/low carbon gas injection data, based on secure and independent data provided by the existing GEMINI system.** Green/Low Carbon gas producers could then access this registry, provide verification of GHG values and

allocate volumes of gas to different support schemes (ie the RTFO, RHI or GGSS). Administrators of the RTFO, RHI, GGSS and Guarantees of Origin could all receive information from this registry which would eliminate the risk of double counting. Relevant bodies should discuss who is best placed to operate such a registry and work together with the aim of minimising administration costs across all support schemes as well as the compliance cost to the gas producers. Clear rules will be needed on the interaction of the obligation and any disclosure to customer of GHG levels of gas supplied (which should/must be done via a GoO system).

We also recommend that the GGSS register is able to have third party access on view only mode, so that the Guarantee of Origin schemes can access accounts and check numbers if necessary.

### **Training Ofgem**

**Issue:** Members have reported that some of the Ofgem reviewers and in some instances the auditors contracted by Ofgem lacks the necessary competence / knowledge of the sector.

#### Recommendation:

Industry would be happy to support Ofgem and provide training to help the regulator to have a better understanding of the technicalities, as well as the business models and potential significant financial repercussions and cashflows issues generated by delays in the approval process and payments.