

Comprehensive Review Phase 1: Consultation on Feed-in Tariffs for Solar PV

PERSONAL DETAILS

Respondent Name: Liz Lainé

Email Address: liz.laine@consumerfocus.org.uk

Contact Address:

Contact Telephone: 020 7799 7968

Organisation Name: Consumer Focus

Would you like this response to remain confidential? No

CHAPTER 2: PROPOSED TARIFF CHANGES FOR SOLAR PHOTOVOLTAICS

Q1: Do you agree or disagree with the proposed new tariffs for solar PV? Give reasons to support your answer.

Disagree

Comments:

Consumer Focus supports the review of the Feed-in Tariff (FiT) for solar PV at this time. The aim of the FiT is to overcome barriers to investment by providing a guaranteed return. It should not overcompensate investors, particularly as it is paid for through a levy on everyone's electricity bills.

We understand that the new tariffs will provide a return on investment sufficient to incentivise investment in areas with higher irradiance. As with any policy we are concerned about regional and national differences, but just as energy efficiency measures, and potentially the renewable heat incentive, will have greater benefit for homes in colder areas so solar PV will have greater benefit for homes in southern parts of the country.

However, we are concerned that the tariff for aggregated systems will prevent the installation of solar PV systems on social housing properties and the homes of vulnerable consumers. The assumed rate of return for the new tariffs includes the benefit of free electricity (valued by the avoidance of imported energy), which applies only to residents not any third party investor. This means that social housing schemes and others that help households out of fuel poverty have extremely marginal or negative rates of return after the additional application of the 20 per cent reduction for aggregated schemes.

Due to the social benefit of these schemes, and the equity of a FiT policy that only serves the 'able-to-pay' market, we believe that the community tariff (or tariffs) should cater for these schemes, to bring the benefits of decentralised energy to a wider group of consumers than is possible under the proposed tariffs. We understand that a viable tariff could still deliver a 30 per cent reduction on the current tariff level.

We are also concerned about the speed and scale of the cut in tariffs, having called for a tariff mechanism that responds to the market in our response to the initial consultation on the FiT mechanism. Renewable technologies are a long-term investment and consumers and social housing schemes cannot change their plans in as little as six weeks; and the industry and its investors cannot continue to function effectively with this cliff-edge approach.

Changes must give investors (in industry and in installations) confidence that while market costs may change, Government policy will deliver stable returns. Investor confidence was one of the initial goals of the FiT campaign and it is one Government must return to.

Finally, we are responding to the proposals in the context of the spending cap set by the Treasury as we agree that energy consumers cannot carry the additional costs of unexpected success of such a policy and growth in uptake.

It is the public purse that should carry the risk of public policy, not energy consumers' wallets. As an industrial policy the FiT was working by delivering 25,000 jobs, upskilling workers and driving the launch of hundreds of small businesses across the nations and regions. These economic benefits are shared with the Treasury. Rather than risk thousands of jobs and undermine investors' confidence in the low carbon transition, public spending could smooth the transition to a more cost-effective tariff rate. This could include support to introduce the lower tariff in stages over the coming four months, in order to:

- Limit losses to solar companies by encouraging installation of stock that was ordered in advance of the Government's announcement
- Address the damage that the sudden cut will have done to consumer confidence in the FiT mechanism
- Enable completion of social housing solar PV schemes, and the related range of social, environmental and economic impacts,
- Continue the transition to lower carbon decentralised energy generation
- Give consumers and investors confidence in how this scheme and others (eg Green Deal, ECO and RHI) will be managed in future

Q2: Do you agree or disagree with the proposal of applying the new tariffs to all new solar PV installations with an eligibility date that is on or after a reference date that comes before the legal implementation of those tariffs? Give reasons to support your answer.

Disagree

Comments:

We understand the time pressure behind the review, and support a change prior to April 2012, but Consumer Focus disagrees with the combination of short notice and the use of an eligibility date over which the consumer has no control.

From a policy perspective, we believe that maintaining the current tariff and dropping to 21p in April would see an even greater acceleration in uptake, with the potential for more misselling and putting more pressure on the FIT budget.

We think given the urgency of the decision-making, the impact on industry and consumer confidence and the relatively limited content of the consultation, DECC would have been better advised to undertake a shorter consultation, completing prior to a 'reference date', and to base decisions on contracts signed rather than completed installations.

The Government's proposal does not protect consumers who had signed contracts prior to the launch of the consultation but who had not yet had systems installed. This remains our principle concern, and was raised immediately with DECC at our first sight of these proposals.

Contracts – cancellation

We believe that at the time of the launch of the consultation there were consumers who had entered into a contract for the installation of a solar PV (of which they become the owner and thereby FIT Generator) where the contract:

- a. had an installation date of prior to 12 December 2011
- b. had an installation date of after 12 December 2011 or
- c. had no specific installation date

None of these groups is protected against the installers' inability to complete the installation by 12 December 2011, despite the benefit of the system's generation-related income falling by 50 per cent.

Firstly, most consumers will have paid a deposit on signing their contract.

In September we surveyed 2,600 consumers who have installed microgeneration. The majority (86 per cent) of consumers purchasing a system were asked to pay a deposit before installation.

However, the amount requested as a deposit varies. As shown in Figure 1, almost three-quarters (70 per cent) of installers ask for between 1 and 25 per cent of the contract price to be paid up front. One in 10 consumers are not asked to pay any percentage of their contract price as a deposit upfront, but a slightly larger minority (15 per cent) are asked to pay between 26 and 50 per cent of their contract price as a deposit upfront. Under the REAL Assurance Consumer Code consumers should pay no more than 25 per cent as a deposit.

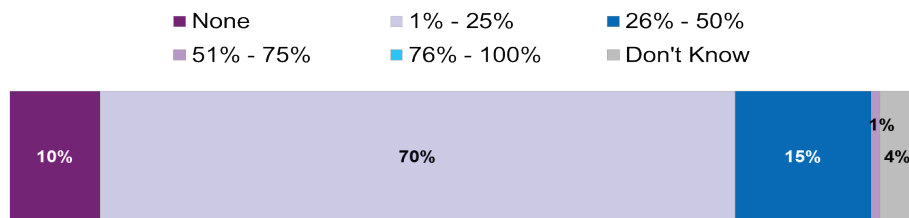


Figure 1: Proportion of contract value paid as a deposit by microgeneration consumers

The REAL Assurance model contract does not allow for a cancellation of contract due to major delay to installation (Clause 8.2.1), and whilst the customer is entitled to cancel the contract if there are major delays to delivery, it appears they can only get their deposit refunded if the delays are within the installer's control.

Contracts – compensation

Where the Model Contract has an installation date which is before 12 December 2011 and that installation date is not met, the position appears to be that the customer can:

- a. cancel the contract – where the reason is because the delivery of the goods is delayed or
- b. ask for compensation – if the delay in the installation date is significant or unreasonable and is caused by factors within the installer's control

It is not stated in this model contract how compensation would be calculated. It may therefore be possible in these circumstances for a customer to claim that any compensation payable should be calculated by reference to the [potential] loss arising as a result of a lower FiT being applicable.

However to make such a claim, the consumer would have to prove all of the following:

- a. that the delay in the installation date was significant or unreasonable
- b. that the loss being claimed is not too remote, in other words that it is a loss which flows naturally from the breach or which was in the contemplation of the parties at the time the contract was made as a probable result of the breach
- c. that the loss was caused by the breach of contract – the customer must prove that it was the breach of the contract caused the loss rather than any other event occurring

Each case would, and will have to be considered on its merits, but we fear that it will be difficult for consumers to prove their loss on the basis of the above tests, particularly (b) as the change in the tariffs was unexpected.

If consumers have been sold PV on the basis of a 'beat the deadline' claim (Figure 2 overleaf) after the launch of this consultation then they are likely to be in a better position to meet these tests as the installer will have understood, or could have predicted, the pressure facing the supply chain.

They may also be able to prove that the installer misled them on the deadline (see Figure 3 below).

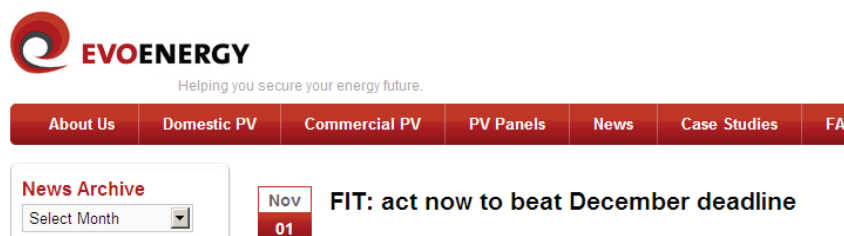


Figure 2: EVO Energy, encouraging new investors, 1 Nov 2011

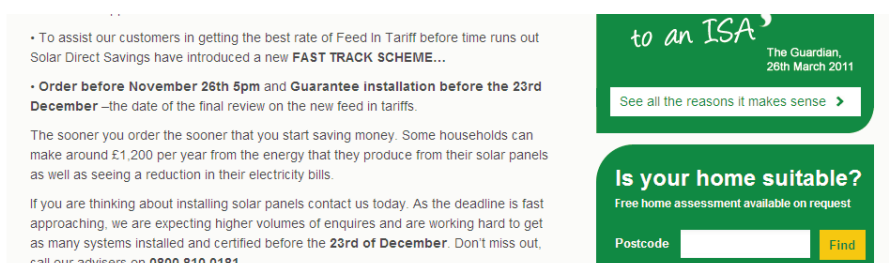


Figure 3: Solar Direct Savings, misleading consumers on deadline, 16 Nov 2011

Compensation is mentioned in the REAL Assurance model contract, but it is unclear as to what the customer may need to do to claim such compensation or how any such compensation may be calculated.

Consumers with an installation date set for after 12 December appear unlikely to be able to cancel or claim compensation unless the installer delays that installation date. Again, consumers would have to prove their claim for loss against the three tests above.

It appears there is no remedy available for consumers whose contract does not include an installation date.

Consumers are highly unlikely to be protected by their contracts, as even the model contract from the industry's Consumer Code did not foresee these circumstances. Therefore the Government's approach to consumer protection is reliant on clear communication, a responsive supply chain and installers' processing of paperwork to deliver contracted systems in time.

Communication

The success of the FiT is the engagement of thousands of individual households and hundreds of small businesses. But this also means the message had to get out quickly across a network of organisations, some of which will be better equipped than others to update websites and other marketing material. And there will still be old marketing material circulating. Whilst a range of consumer-facing organisations and industry itself has sought to advise consumers on the impact of the changes, the message is confusing:

- The eligibility date is one that the consumer has no control over

- The date is prior to the end of the consultation – causing uncertainty (perhaps the cause of the misleading information in Figure 2 above)
- Consumers have been told that the FiT is reliable and no changes will be made retrospectively – but if consumers have already signed a contract they will see this as a retrospective move.

Eligibility date

If systems are not installed and the request for accreditation received by a FiT licensee by 12 December then consumers will get the new tariff from 1 April 2012, even if the consumer signed the contract prior to the announcement of the tariff change and eligibility is.

We think this is unacceptable as it is the consumer who will carry the cost if the eligibility date, even though the delivery of goods, their installation and the processing of paperwork is not in their control.

The processing of paperwork is of particular concern:

- DECC notes the backlog in MCS registrations in paragraph 32 of the consultation
- Our recent survey of 2,600 microgeneration consumers¹ found the biggest cause of dissatisfaction to be the registration for the FiT, and delays relating to the paperwork were two of the top three biggest issues
- REAL Assurance has told us there have been instances of accredited installers holding back the MCS certificate in order to give them power over consumers in disputes over payment. This goes against the Consumer Code.

The eligibility date must be within consumers' control and therefore we want it to be based on the date of contract, not the completion of paperwork.

If not, we expect to see thousands, perhaps tens of thousands, of claims for compensation where installations are not completed in time to meet the eligibility date proposed by DECC.

¹ Consumer Focus (2011) Keeping FiT, <http://bit.ly/uUyAdl>

Q3: Do you agree or disagree with the proposed reference date of 12 December 2011? Give reasons to support your answer.

Disagree

Comments:

We understand the reasons for acting quickly, as the more notice the more potential for pressure-selling and more consumers claim an incentive that overcompensates them for their investment.

However, we disagree with the date because a number of consumers and social housing providers will have signed contracts in good faith but installers will not be able to install by the deadline due to circumstances outside their control.

These circumstances could include the pressure that the announcement put on supply of goods, or bad weather.

Consumers could also miss out due to circumstances that are neither in their control nor those of the installer, such as getting planning consents or consents from freeholders. While consumers would be advised by most advice agencies to get consents in place before signing a contract, it will be down to individual contracts how they protect consumers who do not yet have these consents in place.

Again, the date should relate to actions within the control of consumers as they will carry the cost of missing the deadline, and should relate to the signing of contracts not the completion of paperwork.

Q4: Do you agree or disagree with the proposal to introduce new multi-installation tariff rates for all new solar PV installations that meet the definition set out above and have an eligibility date of on or after 1 April 2012? Give reasons to support your answer.

Agree and Disagree

Comments:

We agree that multi-installation rates should reflect the economies of scale achieved by these installations.

However, we also recognise that the FiT currently primarily benefits people who are typically in social group AB and are professionals or newly-retired professionals, usually aged over 55. Their homes are often large detached properties in rural locations (often off the gas grid) (EST research to be published in an upcoming Consumer Focus report)

This is not a fair policy unless microgeneration is also made accessible to people on lower incomes and in rented properties. We do not see urban living as a barrier to microgeneration, the barrier is much more likely to be a function of property type, tenure and (perhaps) foreseen length of residency. Similarly younger people will be deterred by their income, tenure and again the foreseen length of residency.

We think the following action is needed to overcome these barriers:

- Include a multi-installation model in the design of the new community tariff, albeit with restrictions on the use of revenue to ensure the community gets additional benefits from the systems
- Incorporate the value of FITs in EPCs to help consumers recoup the value of the investment at the point of sale or rental

Q5: Do you agree or disagree with the proposed multi-installation tariff rates? Give reasons to support your answer.

Agree and Disagree

Comments:

As for Q4. We agree that multi-installation rates should reflect the economies of scale achieved by these installations, but believe that a viable model must be developed to bring the benefits of onsite generation to vulnerable communities and communities who deliver wider social and environmental benefits.

CHAPTER 2: PROPOSAL TO STRENGTHEN THE LINK BETWEEN ENERGY EFFICIENCY AND FITS

Q6. Do you agree or disagree with the proposal that for solar PV attached to a building, eligibility for the standard tariffs proposed in chapter 2 should be contingent on a minimum energy efficiency requirement being met? Do you have views on whether such a requirement should apply in relation to all buildings or just to dwellings or non-domestic buildings? Give reasons to support your answer.

Agree

Comments:

Consumer Focus has long advocated a closer tie between renewable energy incentives and energy efficiency. This is because the latter is just as vital to the delivery of the nation's renewable energy targets, with the added benefit that it saves consumers money through the direct impact on their use and the indirect impact of reducing the nation's generation

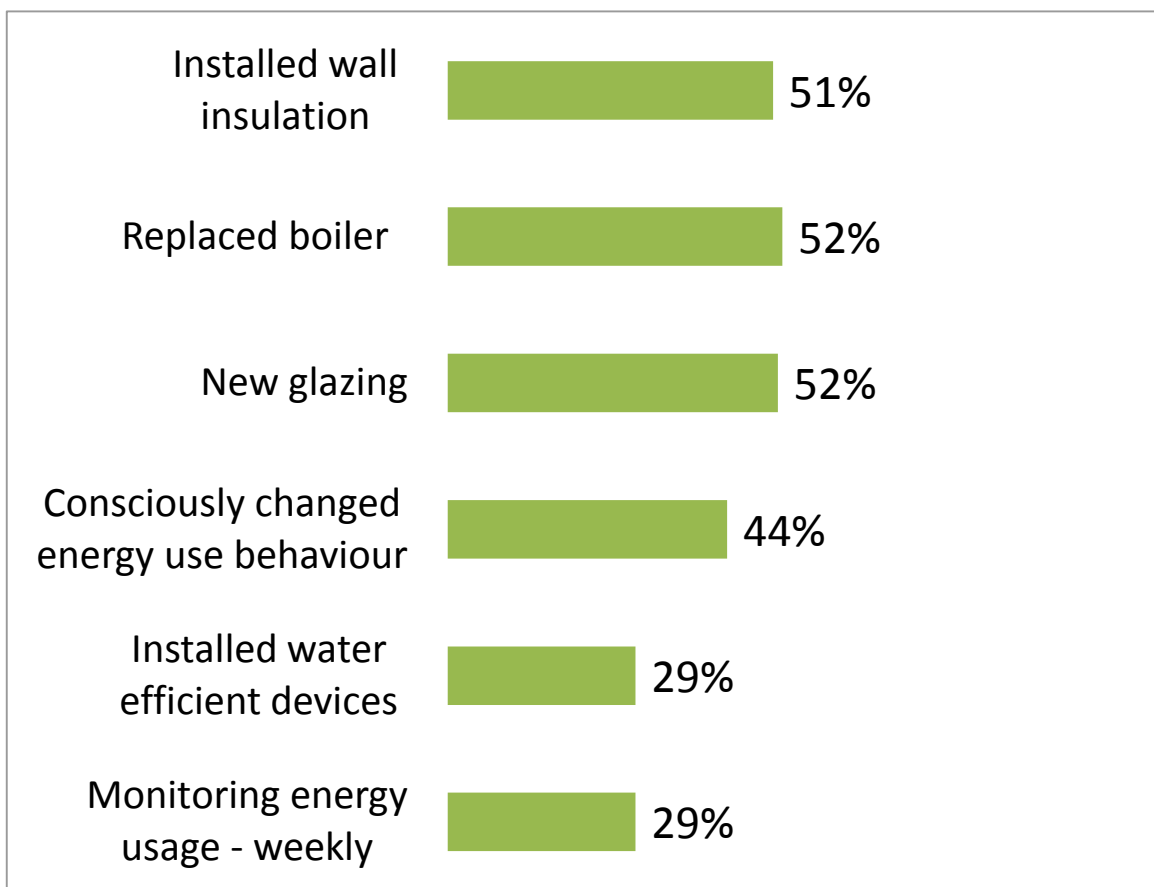
capacity needs.

We believe that the requirement should apply to both dwellings and non-domestic buildings. Almost all properties could improve their energy efficiency, and save money by doing so.

We understand there are concerns that this will have a significant impact on the attractiveness of a 4.5 per cent return, particularly for older, colder properties. This will be the cause of concern for the microgeneration industry, but we believe that consumers need messages like this to tell them that energy efficiency matters.

We also understand from research undertaken by the Energy Saving Trust (published by Consumer Focus in its *Keeping Fit* report) that people who are close to installing renewable technologies, or who have already installed them, have often also introduced other energy efficiency measures into their homes, notably replacing their boiler, installing new glazing, wall insulation and water efficient devices (Figure 4). People also claim to have changed their behaviour to be more energy efficient and to pay closer attention to their energy use by monitoring usage on a weekly or monthly basis.

Figure 4: Energy efficiency measures installed by consumers who have installed renewable technologies



Q7: Which of our two lead options for the energy efficiency requirement – requiring a building to achieve a specified EPC rating , or requiring the installation of all measures that are identified on an EPC as potentially financeable under the Green Deal – do you prefer for (1) dwellings, and (2) non-domestic buildings? Give reasons to support your answer.

Comments:

We are commenting only on (1) dwellings.

We support the use of an energy efficiency requirement based on cost-effective measures, as calculated for the Green Deal.

Consumer Focus advocates the development and delivery of a strategy to improve all homes to target standards of EPC band B, or in the case of 'hard to treat' homes, EPC band C. The standards were developed in the research behind our 2009 report *'Raising the SAP'* and were selected on the basis that they would ensure the vast majority of households living in improved homes could enjoy 'affordable warmth' and no longer live in fuel poverty.

We also successfully advocated the use of the EPC as part of the Green Deal advice programme, to start building a clear and consistent cross-Government tool to communicate the value of energy efficiency to consumers.

Use of a minimum EPC band is attractive for its simplicity, but it is a target that will be more difficult for some homes to meet than others. Further, as DECC identifies, it will not encourage homes to go further than EPC C.

We therefore support the use of an energy efficiency requirement based on cost-effective measures, as calculated for the Green Deal. We also note that DECC expects this to have a more beneficial impact on carbon emissions.

However, we do not agree with DECC's assumption that using the Green Deal cost-effectiveness as a mark of eligibility will not have an impact on uptake (IA, para 48). We think it will because of the hassle of installing measures and due to uncertainty over the Green Deal scheme. Further, consumers are highly unlikely to install £10,000 worth of renewable technologies when its payback is reliant on the details of a scheme (the Green Deal) not yet launched.

We also believe an interim solution is needed for 2012/13 as installers will not be able to advise consumers on the types of Green Deal service that will be available, as no providers are obliged to offer the service. We think it appropriate to introduce a minimum standard based on EPC F and G for this interim period, as it enables a public conversation about the use of EPC to encourage and require action but solutions are straightforward and relatively affordable.

Q8: Under the first option for the energy efficiency requirement, do you agree or disagree with the proposal that the EPC rating required to be achieved should be level C or above? Give reasons to support your answer.

Disagree

Comments:

If an EPC band is to be used (we support the use of 'Green Dealable' measures) then we support a mid-term target of level C (2014 onwards) and a longer-term target of level B (2016 onwards). In the shorter term, particularly in advance of the introduction and market-testing of the Green Deal, we support a rising standard from EPC E in April 2012 to EPC D in April 2013.

This approach would give the property market and owners notice of the importance of EPCs, allow for the impact of the energy efficiency standard to be understood and incorporated into the calculation of future FIT rates, and for refinement of the ECO and Green Deal to ensure they are accessible to all.

In particular, we believe that the ECO is best spent on eliminating fuel poverty. By requiring a minimum standard for FITs (paid for through a levy on energy bills) that for older homes will require solid wall insulation (also paid for through a levy on energy bills), we are concerned that ECO funds will be largely spent on wealthier households and exacerbating, rather than halting, the current inequity of the FIT scheme.

Q9. Do you agree or disagree with the proposal that, for a transitional period only, all solar PV installations attached to a building should initially qualify for the standard tariff, and their continued eligibility for that tariff should be conditional on the building to which the PV installation is attached achieving the energy efficiency requirement within a specified period? Give reasons to support your answer.

Agree

Comments:

Consumer Focus agrees that the energy efficiency measures should not be required in place prior to the installation of the PV installation.

We agree that energy efficiency measures should be installed within a specified period to a) incentivise uptake and b) assist management of the impact of FITs on energy bills.

Q10. Do you agree or disagree that this transitional arrangement should apply to installations with an eligibility date on or before 31 March 2013, and that the specified period should be 12 months from the installation's eligibility date? Give reasons to support your answer.

Agree and Disagree.

Comments:

We support the specified period of 12 months and we are concerned that installers and consumers will not be given sufficient notice of the final eligibility requirements.

Therefore, we want the eligibility date based on the date of contracting, not of installation. This is because consumers need to be told about the energy efficiency requirement and the eligibility period as part of the pre-contractual discussions, and those who sign up prior to 1 April 2012 but have the system installed after 1 April 2012 must not lose out due to the retrospective impact of Government decision-making.

Q11. Can you identify any other issues, besides those discussed in this chapter, in relation to the implementation of an energy efficiency requirement for (1) dwellings, and (2) non-domestic buildings?

Comments:

There needs to be further consideration as to how the energy efficiency requirement is applied to outbuildings, such as garages and barns.

There will be exceptional buildings whose energy efficiency (measured by actual use) is not currently reflected in SAP modelling. Registration processes must allow for innovation. They must also allow consumers to install smaller renewable systems than are affordable under Green Deal, or would be required to meet EPC C (depending on the application of the energy efficiency requirement).

The requirement will also need to cater for instances where a single meter covers a mix of domestic and commercial use, particularly for its application by micro-businesses.

DECC says that it will be the responsibility of the FIT licensee or Ofgem to check the EPC but we want to understand the process if the check finds that the minimum standard is not met. We also want to understand how the quality of EPCs will be enforced. Whilst the method and assessor skills are under review, it is vital that the quality of EPCs is independently monitored and enforced as they become a driver for related Government policies.