

Briefing

The Green Deal and Energy Company Obligation: Government Response to the November 2011 Consultation

Contact: Pippa Read

Team: Neighbourhoods

Tel: 020 7067 1092

Email: pippa.read@housing.org.uk

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This briefing is about the Government response to the consultation on the Green Deal and Energy Company Obligation (ECO), published on 11 June 2012.

1.0 Introduction

The Green Deal is the Government's flagship policy for improving the energy efficiency of homes and non-residential premises. In its basic form the intention is that the up-front cost of energy efficiency improvements will be met by a Green Deal provider, who will recover it over a period via a Green Deal charge linked to the electricity meter. Energy companies will also be required to subsidise some energy efficiency work through ECO, funded from a levy on customers' bills. Following a consultation in late 2011 and early 2012,¹ the Government has now published a document setting out its final decisions on how the Green Deal and ECO will work. The legal framework is being put into effect through a package of statutory instruments which have now gained Parliamentary approval.

The National Housing Federation is the voice of affordable housing in England. We believe that everyone should have the home they need at a price they can afford. That's why we represent the work of housing associations and campaign for better housing. Our members provide two and a half million homes for more than five million people. Each year they invest in a diverse range of neighbourhood projects that help create strong, vibrant communities.

2.0 Contents of the Government's response package

In addition to the main government response, items of note in the Government's response package² are:

- A final stage impact assessment
- The draft Code of Practice³
- A document on progress in setting up the Green Deal framework
- Further technical guidance and advisory documents for those taking part in the Green Deal supply chain.

3.0 Overview

The Federation's response to the consultation, and its other lobbying, has focused on four main sets of issues:

- Widening access for affordable housing to ECO funding and ensuring the process through which ECO subsidy passes from the energy companies to the sector, or their delivery partners, is fair, transparent and widely accessible
- How the mechanics of assessment, installation, payment and consent will work in affordable housing, with particular reference to encouraging the Green Deal framework to allow for, and take advantage of, the specific characteristics of the sector and its residents
- Ensuring the Green Deal is as cost-effective as possible a mechanism for financing work in the sector. This depends on how the costs of the process, and the cost of capital, compare with the direct and capital costs of other non-Green Deal approaches
- The successful transition from current subsidy programmes (CERT and CESP) to the Green Deal and ECO.

Federation view

The Federation has led the DECC social housing subgroup and has been actively promoting the sector's interests through discussions with Ministers and officials and other organisations with an interest in the Green Deal. As a result, there have been some significant and welcome changes in DECC's policy, notably:

- Access to the Carbon Saving element of ECO will no longer be limited to solid wall properties, which are poorly represented as a stock type in the sector. Subsidy will now also be available for work on hard to

treat cavities, which are well-represented, and for other measures which form part of packages with work on solid wall or hard to treat cavities

- There will be a new £190m ECO programme for Carbon Saving Communities, aimed at measures including cavity wall and loft insulation in low income areas (with a proportion to be used in rural areas) which will be open to social landlords
- DECC have firmed up some consumer protections (notably through a more robust occupancy assessment) and scrapped some of the industry burdens which would have unnecessarily added to costs (for example lifetime warranties and surety bonds)
- DECC's commitment to introducing a transparent market mechanism, or ECO 'brokerage', for allocating a significant proportion of subsidy has hardened.

On the other hand, DECC have not included in the final approach some important changes for which the sector had been arguing:

- Modifications to the Green Deal process to reflect the way the sector operates in a different regulatory and logistical environment to the owner-occupied or private rented sectors. Slightly separate process around, for example, consent and accreditation could have potentially made the Green Deal process much more cost-effective for social landlords
- Despite much better access to ECO in general, social landlords will not have access to the main ECO Affordable Warmth programme tackling fuel poverty.

Other issues remain unclear at this stage. These include precisely how the ECO brokerage will work, and whether, and on what terms, any of the £200m Government funding to support early take-up will be available for affordable housing. The Federation is actively involved in the policy discussions on both issues and will be responding to the consultation on ECO brokerage, which is planned for September.

There is also still very little detail on the cost and availability of Green Deal finance. Though obviously critical this is not addressed in the Government response, since the Government sees it as principally for financing organisations to reach a view about their willingness to finance the Green Deal. A number of social landlords are involved in The Green Deal Finance Company (TGDFC), an aggregator vehicle which is intended to reduce the costs of finance. Discussions are currently under way about a potential contribution from UK Green Investments (UKGI), the precursor body to the Government's planned Green Investment Bank. The Federation is monitoring these discussions to see if we can facilitate developments.

4.0 Mechanics of assessment, consent, installation and payment

The Government has not fundamentally changed the approach set out in the November consultation document. Aspects of the process worth noting are:

- The production of a Green Deal Assessment Report (GDAR). The report will list the additional energy saving measures which could be installed in the property and their expected impact on fuel consumption. Assessors may be employed by an organisation which is also a provider, but accreditation of assessors and the Code of Practice are intended to ensure the assessment is impartial
- Assessment will consist of an enhanced Energy Performance Certificate (EPC), based on an improved Reduced data Standard Assessment Procedure methodology (RdSAP), and a bespoke occupancy assessment, which will indicate how performance and savings might diverge from the standard model
- A defined set of measures will be eligible to be funded under the Green Deal and receive ECO subsidy. The Government will list in regulations the measures permitted but add to that list new measures which are shown to be effective. There will be mechanisms for ensuring products installed meet the required standards
- Customers using the GDAR to secure quotes from as many Green Deal providers as they wish. There will be processes for accrediting providers to ensure they are competent and to provide protection and redress for consumers if something goes wrong

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- The Government sees a marketplace developing in which businesses and other organisations will be free to participate as assessors, financing partners, installers of measures, or any combination as they wish
- Installation of measures financed through the Green Deal can only be carried out by an accredited Green Deal installer. There are mechanisms for consumer redress if installation goes wrong or a provider becomes insolvent
- The amount of up front finance a consumer may be offered is limited by the 'Golden Rule.' Under the Golden Rule a consumer should pay no more in energy bills and Green Deal repayment than their expected energy bills without any energy efficiency work being carried out
- Installation will be subject to the consent of the bill payer and owner and, where appropriate, the freeholder and the local planning authority. There will be mechanisms for ensuring that incoming owners or tenants are aware of the existence of a Green Deal charge and redress if this does not happen
- The Green Deal charge will be collected through the electricity bill (since electricity supply is more universal than grid gas). There will be defined mechanisms for apportioning arrears between electricity supply and Green Deal payment, and to protect vulnerable consumers
- There will be a Code of Practice setting out the duties of different Green Deal participants, including assessors, installers, providers and certification bodies, the marketing and use of the Green Deal quality mark, customer complaints, dispute resolution and redress and penalties for breaches of the Code.

What has changed?

The approach as it will be enacted is different from the November consultation in the following ways:

Assessment

- The occupancy assessment was in its early stages of development at the time of the November consultation. Following a process which included good dialogue between DECC officials, the Federation and the social housing subgroup, it is now complete. The finished occupancy assessment gives welcome recognition to identifying and providing good advice to people with lower than typical current energy use, or who may be vulnerable
- Assessment will reflect regional weather variations
- The National Occupational Standards (NOS) and syllabus for Green Deal accredited assessors have been developed
- There will be improved protections for consumers: assessors will have to make it clear whether they are independent or acting on behalf of a provider and how they are being paid. Providers cannot withhold payment from an assessor if the occupier does not proceed with improvements
- Insurance cover will only be required for six years, rather than 25.

Measures, products and systems

- DECC have added 15 measures to the list qualifying to be part of the Green Deal⁴ – making a total of 45
- A wider range of measures will be eligible for ECO Carbon Saving subsidy (see below).

Green Deal provider and plan

- DECC have dropped their requirement on providers to obtain surety bonds. Instead liability for remedying defects will pass to the recipient of the Green Deal charge if the organisation which did the work ceases to exist
- Providers will have to take out insurance against product defects. This will be for a minimum of 5 years, except for cavity or solid wall insulation which must be for a minimum of 25 years. They will also have to insure against consequential damage to the property for at least 10 years.

The Golden Rule

- Customers can only take out a Green Deal plan for more than £10,000 if they have received three quotes

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- Providers will have to secure written acknowledgement from low usage customers that their actual savings may be less than savings modelled on standard assumptions
- The interest rate in Green Deal plans must be fixed at the outset, but providers will have the option to offer a plan in which payments increase by 2% per annum.

Consent, disclosure and acknowledgement

- To ensure awareness of the existence of a Green Deal charge when properties are sold, standard wording must be included in sale contracts.

Installation

- The Government has dropped its proposal to require an annual review of accredited providers.

Consumer protection

- There will be a separate Green Deal Ombudsman, rather than complaints being handled by the existing Energy Ombudsman.

Federation view

DECC have clarified and improved their thinking on a number of points:

- The NOS, the occupancy assessment and the more robust process for ensuring low usage customers do not misunderstand the potential for savings should all reduce the risk we flagged in our consultation response that the process might lead to mis-selling and financial detriment to vulnerable residents
- Abandoning the proposed surety bonds for Green Deal providers should eliminate what would have been unnecessary costs for social landlords, given their lack of insolvency history and clear legal responsibilities for ongoing repair and maintenance of their properties. The scaling back of insurance requirements on assessors is similarly a step in the right direction, although we still feel this level of cover is unnecessary for social landlords (see below).

However, we would have liked to have seen other improvements to the proposed approach:

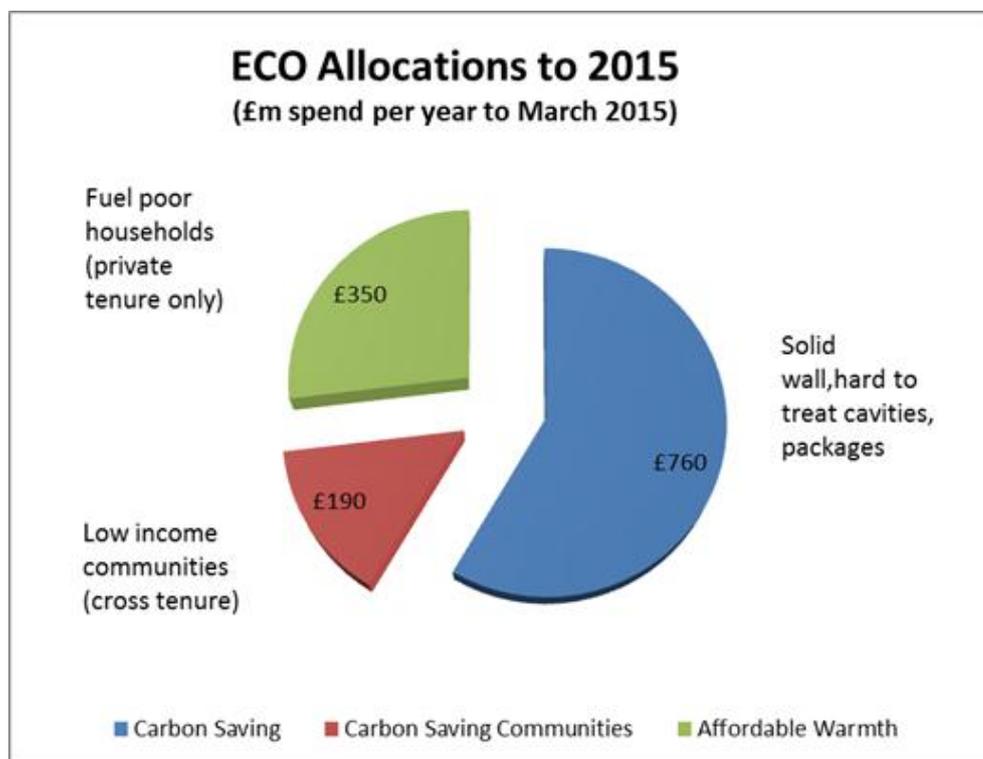
- The Federation recommended, through a working group convened by DECC, what we considered to be a workable approach to overcoming refusals of consent by small numbers of residents in blocks of flats where work can only practically be undertaken on a whole-block basis. These proposals were based on existing well understood and accepted approaches of consultation rather than consent. The Government has decided not to make any legislative provision on this front for the time being. The Federation will monitor the extent to which this turns out to be a significant obstacle to Green Deal work
- We continue to believe that requirements for insurance of Green Deal assessors and on Green Deal work are unnecessary for works commissioned by professional and well regulated social landlords. How such risk should be managed should be left to negotiation between landlords and their consultants and contractors, as would be the case on any other kind of works programme. Similarly, having to be formerly accredited as Green Deal providers seems overly onerous and costly considering the majority of Green Deal work is a natural part of associations' improvement programmes. Pre-accreditation through registration with the affordable housing regulator, the Homes and Communities Agency, could save time and cost.

5.0 Access to ECO

Through ECO the Government is obliging the energy companies to find measures, funded by levies on customers' bills, to cut carbon and reduce fuel poverty. Like the current mechanisms of CERT and CESP this will be expressed in terms of outcomes to be achieved, not a fixed monetary contribution. This should

incentivise energy companies to find the most cost-effective way of meeting their obligations, hence minimising their impact on customers' bills.

The Government is assuming the obligations placed on energy companies will require spending of about £1.3bn a year to March 2015, compared with about £1.5bn a year under the current CERT. There will be three obligations, as shown in the chart below:



Note: spending figures are estimates. The obligation will be expressed in terms of CO₂ savings or heating cost reductions. Actual spend will depend on the prices at which obligated energy companies can secure measures from providers.

The Government is now firmly committed to introducing a brokerage trading mechanism for allocating ECO to projects. It is closely consulting with energy companies and other stakeholders, including the Federation, and plans to publish a further short consultation in September. The brokerage will most likely take the form of an electronic trading platform through which obligated energy companies and businesses wishing to deliver subsidised energy efficiency work can offer, or bid for, obligation at a certain rate.

What has changed?

The two main changes are:

- Widening the scope of Carbon Saving ECO. As well as solid wall insulation (internal or external), it will now include hard to treat cavities (defined as cavity walls in eligible high rise buildings or narrow cavities - less than 50mm cavity width), system build homes with pre-fabricated concrete construction or with metal frame cavity walls and homes with cavity walls constructed from random stone (as opposed to bricks or other manufactured blocks). It will also support packages including solid wall or hard to treat cavity insulation and other measures⁵
- Introducing the new Carbon Saving Communities Obligation. DECC envisage this supporting conventional cavity wall and loft insulation, on a neighbourhood basis, in the 15% of Lower Super Output Areas from the Index of Multiple Deprivation. Reflecting Federation concerns about arbitrary boundaries in CESP, DECC will allow some spillover into properties outside qualifying areas, so programmes can tackle identifiable neighbourhoods. To try and ensure that rural households are not disadvantaged, suppliers will be obliged to deliver 15% of this obligation to rural, low income households with a population size under 10,000. To

qualify for this assistance a rural household should be in receipt of a qualifying benefit or tax credit under the ECO Affordable Warmth eligibility criteria.

Taken together, the two fuel poverty obligations (fuel poor households and low income communities) account for some 40% of estimated ECO spend. This is up from the 25% assigned to fuel poverty in the consultation proposals.

The Government's commitment to ensuring a high proportion of ECO is allocated through a brokerage has hardened since the beginning of the year and this will now apply to all elements, not just Carbon Saving ECO.

Federation view

We strongly welcome the changes which have been made to ECO eligibility, particularly the Carbon Saving element, in response to the arguments and evidence put forward by the Federation, the DECC social-housing sub-group and our members more broadly. The new definition of Carbon Saving ECO should assist members particularly in securing subsidy for non-traditional build stock, with scope to be creative about including other ways of preventing heat loss. The new Carbon Saving Communities obligation may be of particular interest to members with ambitions to deliver area programmes (including in rural areas) involving their own stock and stock in other tenures. DECC have helpfully learned lessons from CESP about the perverse effects of sticking rigidly to Super Output Area boundaries.

We also consider DECC's stronger commitment to a brokerage, which we have fostered through our active membership of the DECC brokerage group, a major potential opportunity for the sector. Social landlords are well placed to plan large scale programmes of work with a high level of certainty of delivery. This may place them at a considerable advantage to providers seeking to market work to individual owner-occupiers, who will find it much more difficult to judge the scale and cost of their programme of work at the stage when they need to bid for subsidy. We are, however, pressing strongly for associations who do not wish to become Green Deal providers, but instead deliver similar energy efficiency and fuel poverty improvements through conventional funding and delivery mechanisms, to be able to bid for subsidy on an equal basis.

We put forward strong arguments to open up the Affordable Warmth (fuel poor households) ECO pot to affordable housing. The fact that it remains closed off, combined with Carbon Saving ECO including no 'distributional safeguard' as an incentive for funnelling uptake to low income customers, makes it vitally important that Government adequately monitor, on an on-going basis, information about those receiving ECO subsidy. The Federation will be encouraging DECC to put mechanisms in place for effective monitoring and will be tracking these developments closely.

7.0 Transition

The Government remains committed to launching the Green Deal in October 2012, albeit with a 'soft launch' and a phased introduction. The main next steps⁶ of note are intended to be:

- August 2012: Those interested in becoming providers, assessors, or installers can apply for approval from certification bodies
- October 2012: Green Deal and ECO legal frameworks in place:
 - Energy companies may start agreeing ECO subsidy (though they are not required to). Any spending before the end of the CERT and CESP obligations in December 2012 may be set off against those obligations. The ECO brokerage is intended to commence to facilitate this.
 - Green Deal assessors and providers operational i.e. can market but cannot offer Green Deal plans
- January 2013: Systems for electricity companies to bill Green Deal charges to customer accounts will go live. Green Deal plans can be offered.

What has changed?

The Government seems to have recognised risks to the supply chain by allowing more scope for ECO subsidy for cavity wall insulation in the Carbon Saving and Carbon Saving Communities obligation and by smoothing the transition from CERT and CESP.

Federation view

It is very difficult to say how rapid and successful take-up of the Green Deal will be, both generally and in affordable housing. On the one hand, the mechanism should offer opportunities for associations to fund such work off balance sheet, with residents contributing to the cost through an affordable regular charge. Federation lobbying has secured much better access to ECO subsidy than the Government was initially proposing, which should help in making some schemes viable. As such, several associations have publicly committed to becoming Green Deal providers and more are likely to follow this route at a later stage or undertake work as significant procurers in partnership with others.

On the other hand, while we do not think the requirements for becoming a Green Deal provider would typically present substantive difficulties for associations, whatever role is adopted the new framework will add time and cost. There will be an important, and potentially challenging, process of talking through the concept with residents and winning their understanding and agreement. Federation research, in conjunction with consultancy Behaviour Change and the Green Deal Network, illustrated how important a government endorsed Green Deal marketing campaign and launch could be in promoting understanding and trust in the initial concept, paving the way for further work by other private, public and third sector organisations. The Federation will continue to work with DECC on this point. Above all, only time and experience will begin to show the cost of Green Deal finance for associations, which will be a very critical determinant in developing viable programmes.

8.0 Contact

If you have any questions or queries related to anything in this briefing please contact Pippa Read, Policy Leader – Sustainable Environments, on 020 7067 1092, pippa.read@housing.org.uk

¹ The Federation's response can be viewed and downloaded from: [Federation GD response](#)

² All documents can be viewed and downloaded from: [Government GD response](#)

³ The draft Green Deal Code of Practice is subject to Parliamentary scrutiny. It was laid before Parliament pursuant to section 39 of the Energy Act 2011 ("the Act") on 28 June. Pursuant to section 39(3), (5) and (6) of the Act it must lie in Parliament for forty days, and during this forty day period either House of Parliament may resolve that the Code of Practice not be approved. If no such resolution is made, the Secretary of State intends to issue the Code at the end of the 40 day period, pursuant to section 39(5) of the Act. It will apply to Green Deal providers, Green Deal assessors, Green Deal installers and Certification Bodies.

⁴ The complete list is at Annex A of the Government response document.

⁵ This is provided the packages are installed within 6 months (before or after) of the main measure and, if the main measure is solid wall insulation, it covers at least 50% of the external surface area.

⁶ There is a fuller description of the next stages of the process in the DECC document on progress in setting up the Green Deal, available from: [GD next stages](#)