

**Minutes of Cross Party Group in the Scottish Parliament on
Consumer Protection for Home Energy Efficiency and Renewable Energy**

Held on Tuesday 6th February 2018, at 18:00, CR6

1. INTRODUCTION FROM CO-CONVENOR

Clare Haughey MSP introduced herself and gave a brief clarification of the purpose of Cross Party Groups.

2. PRESENT AND APOLOGIES

MSPs: Clare Haughey MSP, James Dornan MSP, Kate Forbes MSP, Mairi Gougeon MSP

Representatives from the offices of Clare Haughey MSP (Sean Rodgers), James Dornan MSP (Richard Sullivan), Ivan McKee MSP (Allan Casey), Alexander Burnett MSP (Grace O'Keefe), and Stewart Stevenson MSP.

Non MSP Representatives (those highlighted in red are members of the CPG):

Adrian Simpson	Home Insulation & Energy Systems Contractors Scheme
Anne McLaughlin	Green Deal Action Group Glasgow North East
Bruce Clayson	Hamilton Citizens Advice Bureau
Colin Meek	RECC Monitoring
Craig Salter	Citizens Advice Scotland
David Burns	Wetherby Building Systems Ltd.
Helen Melone	Energy Action Scotland
Isabel McNicoll	HELMS Action Group Ayrshire
Jake Pilkington	Home Insulation & Energy Systems Contractors Scheme
James MacKay	University of Strathclyde Law Clinic
Karen Yuill	University of Strathclyde Law Clinic
Kieran White	University of Strathclyde Law Clinic
Lindsey Restrick	SSE
Lorna Mallon	Scottish Power
Louise Hampson	Hamilton Citizens Advice Bureau
Michelle Cullis	Scottish Power
Nicolle Walker	University of Strathclyde Law Clinic
Peter Randall	Solar Trade Association Scotland
Rosie Mears	Citizens Advice Scotland
Sarah Freshwater	Energy Savings Trust
Stuart McNicoll	HELMS Action Group Ayrshire
Gerry Chambers	HELMS Action Group Central Scotland

APOLOGIES

Apologies for absences were received from: Alex-Cole Hamilton MSP, Ivan McKee MSP, Ross Greer MSP and:

Emma Grant-McColm (secretariat)	Citizens Advice Scotland
Kate Morrison	Citizens Advice Scotland
Eva Groeneveld	Which?
Alex Anderson	Scottish Gas & Centrica
Linda Corbett	East Ayrshire Citizens Advice Bureau
Aleksandra Klassen	Solar Trade Association
Chris Clark	Solar Trade Association
Alan McAulay	Building Standards – South Lanarkshire Council
Joan McClure	Easterhouse Citizens Advice Bureau
Elaine Waterson	Energy Saving Trust
Laura McGadie	Energy Saving Trust
Kate Cunningham	Energy Action Scotland

3. MINUTES

Minutes of the Inaugural CPG meeting held on 4th October 2017 were accepted as accurate. Michelle Cullis proposed and Helene Melone seconded the minutes.

4. Discussion – Issues with the mis-selling of energy efficiency products – presentations from different stakeholders’ perspectives

4(a) Consumers/ Consumer Groups - Louise Hampson & Bruce Clayson of Hamilton CAB.

Louise Hampson & Bruce Clayson of Hamilton CAB gave a presentation on some of their clients’ experiences of HELMS (Home Energy & Lifestyle Management Systems). Many of their clients who had had rooftop solar installed did not own their own Feed-in-Tariff and, in some instances, had been charged, not just for energy they were using, but for the surplus they were feeding into the Grid. This was an issue relating to the wrong meter being installed by HELMS and the CAB had assisted several clients to have this resolved.

Green deal charges varying from 80p a day to almost £2. Due to the agreement between the Green Deal Finance Company, (GDFC,) and the power companies, customers must pay Green Deal charges first before their own electricity charges, even where they are disputing that they agreed to a finance plan.

CAB tried to complain to the Green Deal Ombudsman then the financial ombudsman on behalf of many customers. Complaints was left unanswered for a year, before being passed to the Green Deal Finance Company (GDFC). Some clients are only now starting to receive offers from the GDFC to reduce their outstanding Green Deal Plan account balances.

A great deal of the section of this presentation given by Bruce Clayson was spent looking into the legislative background of the Green Deal, and a number of Acts were mentioned – e.g. The Energy Act 2011, the Financial Services and Markets Act 2000, the Consumer Credit Act 1974 and some of its amendments. Mr Clayson offered the opinion that this legal complexity did not best serve the interests of the consumer and would benefit from addressed by the relevant legislature, with a view to simplifying.

These pieces of legislation were the subject of a request from the CAB for Advocates opinion, on the Feed in Tariff Agreements in particular, in order to support of their clients. The crucial question being – were the company who benefited from the Feed in Tariff, PV Solar UK Investments Ltd; acting as a legal supplier of credit at the time?

Mr Clayson noted that PV Solar were the subject of a panel hearing by the industry monitoring group, RECC, in July 2017. They were removed from the group due to misleading customers.

4(b) Businesses selling energy efficiency products - David Burns of Wetherby Building Systems Ltd.

David Burns of Wetherby Building Systems Ltd. gave an overview of the whole process at Wetherby, which has been in business for 30 years and currently is involved in external wall insulation contracts in approximately 1,000 homes per month across the UK.

Mr Burns said that Wetherby supplied HELMS with a lot of their external wall insulation materials. However, the Green Deal contractor had all of the control. Wetherby could only check the houses they were told about by HELMS. The Green Deal worked through individual houses throughout Scotland; it was difficult for anyone outside of HELMS to know which houses were being worked on.

The expectation from the consumer is that the contractor deals with the building warrant, however these companies didn't need to have the building warrants, there wasn't agreement from local authorities. Mr Burns said that there were good and bad aspects to the Green Deal initiative. It had been open to abuse from contractors and things were installed incorrectly.

The fuel poverty and energy efficiency programmes funded by the Scottish Government applied to many non-traditional house types, where measures needed to be fitted correctly in line with the house type. Building warrants need to be in place before progressing with the installs. Homeowners don't have this knowledge and Mr Burns felt that some contractors preyed on this lack of knowledge. Many went ahead without the correct consents and then tried to get them retrospectively.

Wetherby has been working with Ivan McKee to advise and support customers in Glasgow who have encountered issues with Building Warrants following the collapse of HELMS.

As a significant provider of Green Deal related insulation products, Wetherby would like more oversight of projects, to sign off contractor work before issuing a guarantee, to ensure consumers are protected.

4(c) Energy providers - Lorna Mallon of Scottish Power.

Lorna Mallon of Scottish Power reminded the meeting that the UK Department for Business, Energy and Industrial Strategy Call for Evidence on the Green Deal and the Green Deal Code of Practice was still accepting submissions.

Lorna gave the meeting an overview from the perspective of the energy supplier on the issues encountered as a result of the Green Deal. The energy supplier does not have much control or ability to interfere in the terms of the Green Deal agreement between the provider and the customer.

During the process the energy supplier will receive two calls from the Green Deal provider. The first is to confirm the customer account details and check that they do not have excessive arrears. The second call is to confirm that a Green Deal Plan has been signed and to give the power company the Plan ID assigned to the customer. This is then used to direct Green Deal charges from the customer to the Green Deal Finance Company.

The power company sees none of the paperwork relating to the agreement. Customers who are in dispute with GDFC as a result of HELMS type situations have been put into dispute for a limited time. However, where customers inform them that they are disputing their Green Deal Plan agreement and are only willing to pay the electricity portion of their bill, effectively withholding Green Deal payments, the power companies are duty bound to apportion any monies received must be apportion "pari passu," – on equal ranking. In such cases this has inevitably led to some customers accumulating significant arrears.

Suppliers would like to have more involvement in the process. As only certain energy suppliers have the licence to take part in the Green Deal, this limits customer choice when shopping around for better core electricity tariffs.

5, Question and Answer session.

Stuart McNicoll of the HELMS Action Group Ayrshire asked Scottish Power representatives if they got to see an actual copy of any Green Deal Agreement, as signed by their customer, before applying the Green Deal charge to their electricity account. Lorna Mallon confirmed that they don't and reiterated the process described above regarding the two calls they would receive from the Green Deal provider.

With respect to the building warrant situation, Bruce Clayton of Hamilton CAB pointed out that, under Section 5 of the 2011 Act, any agreement must have a repayment term that has the agreement of "the improver." The improver is deemed to be the householder and that would hold in respect of building warrant applications. Mr Clayton suggested that, in respect of planning and building warrant applications, consideration should be given to designating the provider as the improver.

Mr Jake Pilkington of the Home Insulation & Energy Systems Contractors Scheme pointed out that, under the Companies Act, Directors have a duty of care and must act with independence to ensure that their Company acts within the law. In his opinion the situation described regarding the experience of HELMS customers suggested that the complexity of the various Acts governing this type of situation could possibly be masking malpractice and fraudulent behaviour.

Bruce Clayton of Hamilton CAB agreed that Company directors have fiduciary duties which attract legal sanctions if not adhered to.

Mr Pilkington of the Home Insulation & Energy Systems Contractors Scheme expressed his disbelief that the UK government would consider resurrecting the Green Deal scheme.

Convenor Clare Haughey asked if anyone could evidence good experiences of the Green Deal Scheme.

David Burns of Wetherby Building Systems Ltd advised that he had overseen many external wall insulation projects where all the relevant warrants and regulations had been adhered to and the workmanship was satisfactory. A problem did exist during the period of the Green Deal where some providers had a lack of knowledge of the Scottish building warrant process.

Mr Colin Meek of RECC Monitoring advised that he had seen some very good practice in this area in the English Midlands and Manchester. He felt that adequate qualitative auditing procedures were required and he expressed concerns regarding the effectiveness of the Green Deal Code of Practice.

In response to a question from Alan Casey regarding how many unaffected or satisfied Green Deal customers Scottish Power were aware of, Lorna Mallon of Scottish Power advised that was difficult to answer as they would only know when a customer was in dispute with the Green Deal Finance Company when they called regarding their Green Deal related arrears.

Peter Randall of the Solar Trade Association Scotland remarked that the Consumer Credit Act was a robust piece of legislation and probably a good route for pursuing a remedy for affected customers.

Bruce Clayton advised that one route for a remedy could be the potential illegal supply of credit. However, the way in which the Green Deal had been incorporated into the CCA and other legislation made it difficult to navigate a clear route to resolution.

Craig Salter of Citizen's Advice Scotland advised that, whilst there was evidence of poor practice in many areas, some data doesn't adequately capture the actual experience of customers.

Convenor Clare Haughey asked if there were any suggestions for discussion topics for future meetings of the Group.

Gerry Chambers, of HELMS Action Group Central Scotland and the office of Clare Haughey MSP, advised that the Green Deal Oversight Body had expressed an interest in the work of the Group and would welcome input into the call for evidence on a new Green Deal Code of Practice. Perhaps consideration could be given to inviting that body, or even the Green Deal Finance Company itself, to a future meeting.

Isabel McNicoll of the HELMS Action Group Ayrshire gave a view from a HELMS customer perspective of the sales practices of the company's representatives, and relayed some of the experiences of other Group members.

Allan Casey, from the office of Ivan McKee MSP, advised that the main issue in Glasgow North and North East was with External Wall Insulation, (cladding,) and that in almost all cases no building warrants had been applied for and customers were not made aware that these were required. He asked if was the same in Ayrshire.

Isabel McNicoll of the HELMS Action Group Ayrshire confirmed that this was an issue in Ayrshire. Further to enquiries she had made, Ayrshire Council had intimated that they were not aware of HELMS work in the area. They advised that they would try and be as helpful as possible; that warrants could be obtained retrospectively but that could cost the homeowner up to double the normal fee. The Ayrshire group were considering contacting the Council Leader and investigating the possibility of going for a collective consent.

Allan Casey expressed the view that, given the scale of the issue and the potential numbers of Local Authority Building Standards departments involved, it would perhaps be better to look at the issue of retrospective warrants for this specific issue collectively, nationwide.

Louise Hampson of Hamilton CAB advised that South Lanarkshire Building Standards department had been very helpful to some her affected clients.

Convenor, Clare Haughey MSP, drew the meeting to a close. She advised that minutes would be circulated in due course and that suggested themes for future meetings would also be circulated.

Provisional timescale for next meeting – end of May 2018