



Green Deal or No Deal: The Renewable Energy Market and Trading Standards

Kate Urell

Lee Finch

GOUGH SQUARE CHAMBERS

Overview

- ▶ Consider the key issues for consumers and Trading Standards in relation to:
 - The Green Deal
 - Feed In Tariffs
 - Renewable Heat Incentives
 - Industry Codes and Regulators



The Green Deal

The **Green Deal** is a major Government programme to improve the energy efficiency of homes in the U.K.

The **Green Deal Plan** is a key component of the Green Deal and is enshrined in the Energy Act 2011:

- A unique type of loan, under which households, and in due course businesses and other organisations, can borrow money to pay for the cost of implementing energy efficiency measures and repay the borrowings as part of their electricity bills
- often referred to as a 'pay-as-you-save' (PAYS) scheme in that the up-front cost of implementing energy efficiency measures is financed out of the savings which result.

A Green Deal Plan is a novel and unique form of credit in that the Plan remains attached to a property's electricity account or meter:

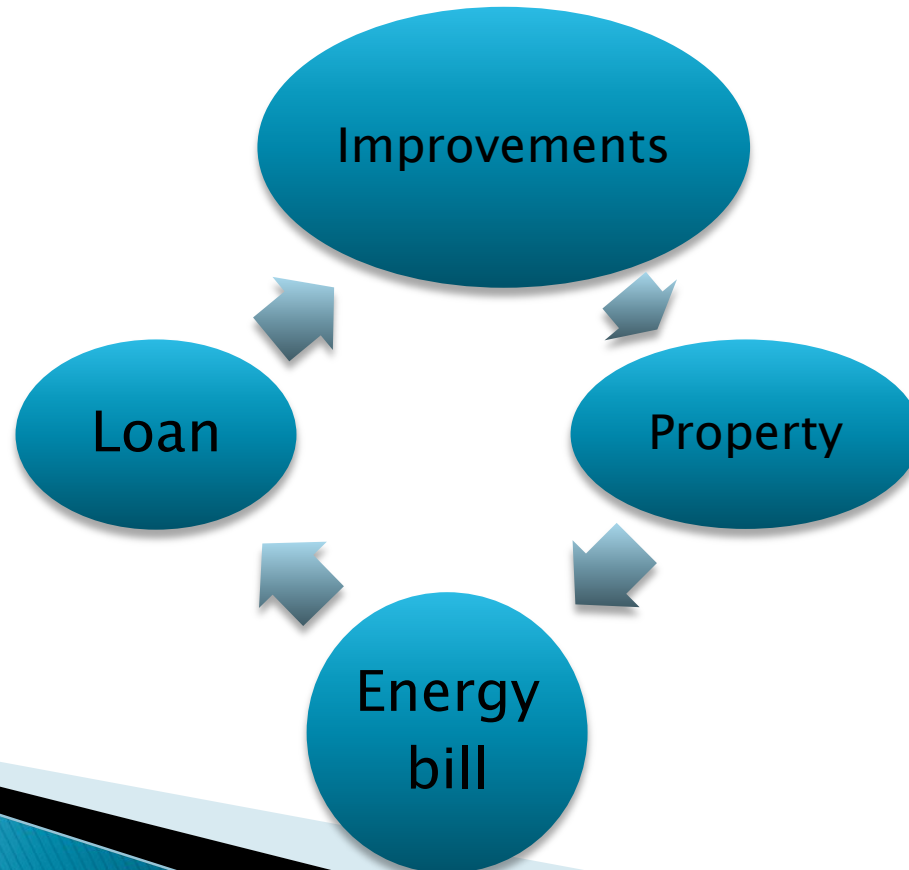
- repayments are the obligation of the person who is the bill payer at any point in time
- if the individual who pays the property's electricity bill moves out, the Green Deal Plan remains behind, attached to the meter, and the new bill-payer assumes responsibility for Plan repayments

A Green Deal Plan for a domestic property must be governed by the '**Golden Rule**' which aims to support this pay-as-you-save principle:

- repayments must not exceed the expected typical savings on energy bills as a result of installing the energy efficiency measures financed by the Plan
- enshrined in secondary legislation in the Framework Regulations

How it works

- ▶ Improvements will be paid for through the periodic energy bill for the property to the energy supplier, as agent and trustee for the Green Deal Provider (“GDP”).
- ▶ The bill payer for the time being is liable for the instalments for the period that he is the bill payer: s.1(6) Energy Act 2011
- ▶ Improvements funded by a credit agreement



The Green Deal customer journey



1. Assessment
2. GDP produces “Illustration for marketing purposes”
3. Finance application
4. Plan Documentation signed by Improver
5. Plan executed by GDP
6. Cooling off period
7. Improvements installed
8. Plan confirmed and Green deal charges start

The launch – January 2013

“Green Deal: Scheme aimed at making homes more energy efficient is launched.

Ministers claim it will bring about a revolution in energy efficiency – and provide a much needed boost to the economy” (The Mirror 28th January 2013)

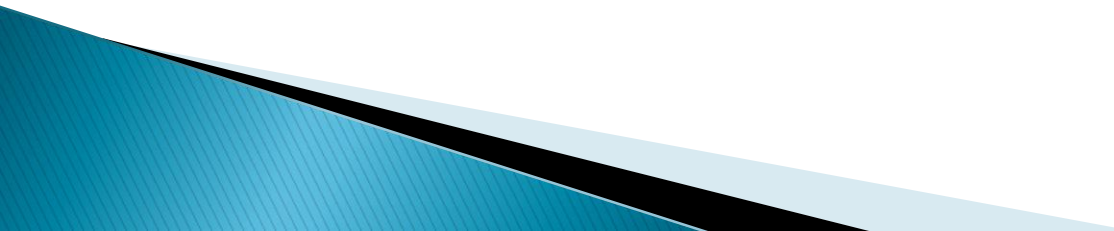
Deputy Prime Minister Nick Clegg: "The Green Deal will help thousands of homes stay warm for less. Those people will benefit from energy saving improvements – and their energy bills will fall....The UK green sector is a success story – it is the sixth largest in the world and has a crucial part to play in building a strong economy. The Green Deal will support thousands of jobs – not just over the next few years, but in the long-term."

6 months on – June 2013

Government's Green Deal scheme has 'a long way to go'

Energy minister Greg Barker said that he expected that the Green Deal plan will need "tweaking" after figures showing that no one is currently benefiting from the flagship loan scheme.

(The Telegraph 27th June 2013)



September 2013

Farce as just TWELVE homes sign up for Green Deal as owners are put off taking out loans to fund energy-saving measures

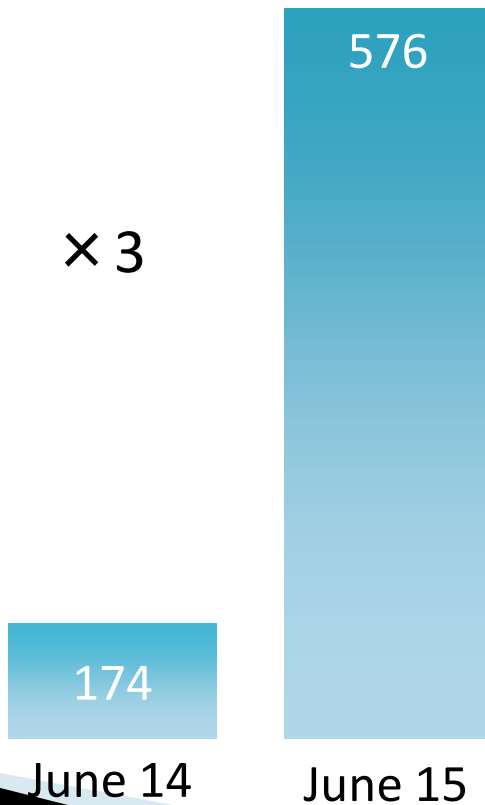
- ▶ Flagship policy was supposed to reach 10,000 homes
- ▶ But the real figures fall comically short of the target
- ▶ Energy Secretary Ed Davey insists the policy is 'extremely valuable'

(Daily Mail 20th September 2013)

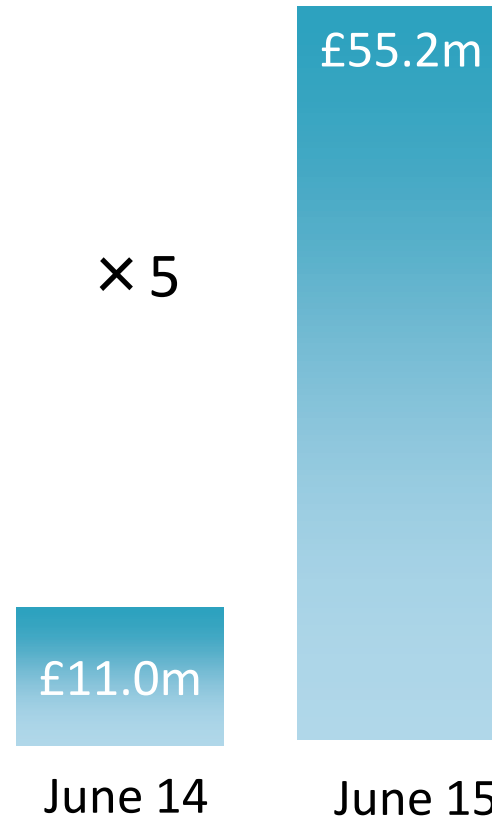
2015 Progress: step change over the last year

A three to five fold increase in volume and size

Weekly Plan applications



Ongoing Plan value



The issues – complexity?

Exclusive: Government's 'Green Deal' energy efficiency scheme is so 'complex' it deters homeowners from signing up

▶ Of 71,000 Green Deal assessments completed, so far only 961 households have signed up for Green Deal financing.

(The Independent 9th October 2013)

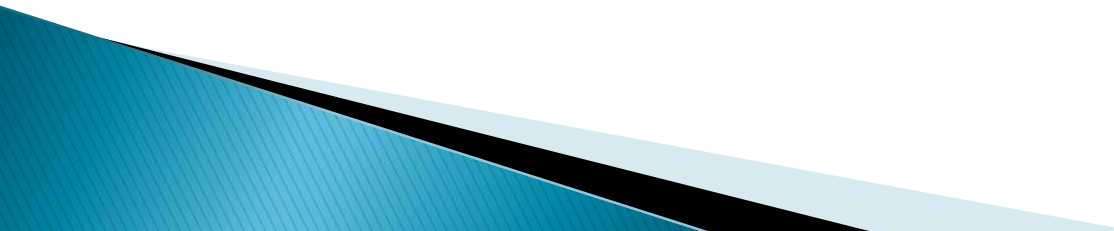
As at 21 June 2015: 15,519 plans



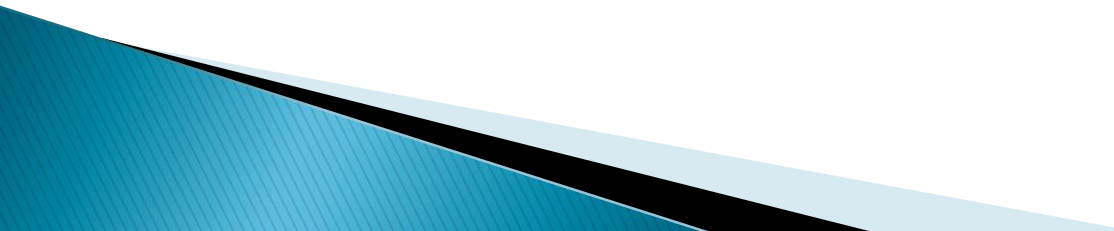
Legal Framework

- ▶ Marriage of the Energy Act 2011 and the Consumer Credit Act 1974
- ▶ Requirements for a Green Deal Plan in Energy Act 2011
- ▶ Requirements for a fixed sum loan in Consumer Credit Act 1974
- ▶ Novel concept of Bill Payer Liability: credit is repaid by the energy bill payer from time to time, irrespective of whether that person owns the property or not and irrespective of whether they had any part in signing up to and or installing the improvements.
- ▶ The challenge: creating an agreement that travels from bill payer to bill payer.
- ▶ S.1(5) Energy Act 2011 – trigger
- ▶ S.7 Energy Act 2011 - installation
- ▶ S.8 Energy Act 2011 - confirmation
- ▶ Reg 41 Framework Regulations
- ▶ Requirements of s.9 or s.10 Energy Act 2011
- ▶ S.189B Consumer Credit Act 1974

Number of providers?

- ▶ By the end of the summer 2013 GDFC only had three active companies
 - ▶ Currently 65 Green Deal Providers (GDPs”) and 60 pending applications
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Cost?

- ▶ Interest rate
 - ▶ “The average rate for credit card borrowing is 17.5 per cent and yet our APR is 7.9 per cent for a £5,000 loan over 20 years.”
 - ▶ Cost neutral?
 - ▶ Impact on fuel poverty?
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Misselling/Fraud?

- ▶ **“Warning over conmen posing as Green Deal assessors”** (BBC, 10th May 2013)
- ▶ **“Which? Mystery shopper raises questions over Green Deal providers. Exclusive: Snapshot investigation uncovers ‘teething troubles’ with initial energy efficiency assessments”** (BusinessGreen 14th July 2013)

The Green Deal

Key Issues for Consumers and Trading Standards

- ▶ Misselling
- ▶ Misinformation & consumer understanding
- ▶ Monitoring the assessment process
- ▶ Legal liability & multiple bill payers



Feed In Tariffs

What are Feed In Tariffs?

- ▶ Incentive payments made to registered small scale electricity generators;
- ▶ These payments are in addition to any savings made on energy bills;
- ▶ There is a generation tariff (received purely for generating the electricity) and an export tariff (for any electricity fed to the national grid);
- ▶ In order to increase take up the tariffs were originally very generous but have decreased over time.



Feed In Tariffs

How do they work?

- ▶ Consumer installs MCS certified solar panels, wind turbine or other energy generator;
- ▶ Consumer registers for the FIT scheme with their energy company;
- ▶ The consumer “locks in” the FIT rate on the date that his valid application is received and is protected against future decreases in tariff;
- ▶ Payments are made for 20 years;
- ▶ The consumer receives (quarterly) FIT payments from their energy company based on the amount of electricity they generate and, if applicable, export.



Feed In Tariffs

Key Issues for Consumers and Trading Standards

- ▶ Under-performance/over-estimation;
- ▶ Delays in installation/registration;
- ▶ Associated credit agreements;
- ▶ Funding (potential assignment of rights);
- ▶ Risk of mis-selling (including high-pressure selling);
- ▶ Misunderstandings about how payments are made;
- ▶ Complicated interaction with Green Deal Agreements.



Renewable Heat Incentives

What are Renewable Heat Incentives?

- ▶ An incentive payment made by the government to individuals who install MCS certified renewable heat technology:
 - ▶ Biomass boilers;
 - ▶ Air and Ground Source Heat Pumps;
 - ▶ Solar Thermal Heating Systems;
- ▶ Tariffs vary according to the particular technology;
- ▶ The RHI scheme can work in conjunction with the Green Deal and FIT schemes;
- ▶ The domestic scheme launched on 9 April 2014.



Renewable Heat Incentives

How do they work?

- ▶ Consumers apply to Ofgem to join the RHI Scheme;
- ▶ The relevant tariff is “locked in” when a complete application is submitted;
- ▶ Payments are made through a central public body rather than energy suppliers;
- ▶ Payments are only made for 7 years;
- ▶ Most consumers will not need to install a meter.



Renewable Heat Incentives

Key Issues for Consumers and Trading Standards

- ▶ Complicated interaction with Green Deal and FIT scheme;
 - ▶ e.g. confusion over payment term;
- ▶ Complicated eligibility criteria;
- ▶ Ever present risk of mis-selling (including high-pressure selling);
- ▶ Funding
 - ▶ Mis-match between term of credit agreement and payment term
 - ▶ Assignment of rights?



Industry Self-Regulation

- ▶ Number of industry regulators, most notably the Renewable Energy Consumer Code (RECC)
 - ▶ Relationship with Trading Standards
 - ▶ Providing information to these regulators
 - ▶ Receiving information from these regulators
 - ▶ Impact on Enterprise Act claims brought by Trading Standards



Conclusion

Green Deal or No Deal?

- ▶ Green schemes can work to the benefit of consumers but:
 - ▶ Schemes are complicated;
 - ▶ Risk of misunderstanding caused by deliberate mis-selling or otherwise;
 - ▶ Potential for high-pressure sales techniques;
 - ▶ Consumers locking themselves in for many years during which their circumstances may change.



Any Questions?

