



# Energy Company Obligation (ECO2t) Scheme

## Investigation Report - Final

Issue Date: 18<sup>th</sup> April 2019

Working in Partnership to Deliver Audit Excellence

# Executive Summary

## Background

A referral was made by the Section 151 Officer (David Powell) based on a letter of complaint from Powys Plumbing Group (PPG) that was sent to all Powys County Council Councillors on the 22<sup>nd</sup> January 2019. This made allegations that Powys County Council had committed widespread fraud with regards to the administration of the ECO2t scheme.

The Energy Company Obligation (ECO) is a government energy efficiency scheme in Great Britain to tackle fuel poverty and help reduce carbon emissions. It was first introduced in 2013, as an energy efficiency scheme that places legal obligations on larger energy suppliers to deliver energy efficiency measures to domestic premises. The ECO1 scheme ran between 1 January 2013 and 31 March 2015. A new obligation period was established under the Electricity and Gas (Energy Company Obligation) Order 2014. The scheme was then extended by the Electricity and Gas (Energy Company Obligation) (Amendment) Order 2017. The 2014 Order as amended by the 2017 Order were collectively called the ECO2 Order in this document. The extension to the obligation period ran from 1 April 2017 to 30 September 2018 and was referred to as ECO2t. The scheme is governed by Ofgem.

Definitions of parties Involved with delivery of ECO2t as provided by the Public Sector Housing Team:

- **ECO agent:** An entity that facilitates the application/survey process, connecting applicants with the council and enabling delivery of funded measures. Funding may be sourced direct from energy companies or via brokers. ECO agents can undertake installations direct or subcontract work to appropriately accredited installers. ECO agents may also employ canvassers and surveyors.
- **ECO Installer:** Accredited company who install ECO funded measures within the home. Installers require properties to have been surveyed and have funding in place prior to installation. Consequently, they are unable to independently deliver measures without a funding relationship with an ECO agent or energy supplier.
- **ECO Assessor/Surveyor:** An individual who undertakes property surveys using DEEMED scoring. This enables an ECO agent to calculate eligible grant value and make an application to a funding provider. Funders require sight of property survey prior to funding approval. Surveyors may also operate as canvassers.
- **Canvasser:** An individual who contacts clients to establish if they wish to be considered for ECO funding. Canvassers may facilitate completion of client application forms and are required to work with an ECO agent.

Note: The term 'ECO Agent' used by the Private Sector Housing Team is not formally recognised by the guidance. However, the term 'ECO Provider' is recognised by the guidance and has very closely aligned activities.

The obligated energy suppliers work with ECO Agents who commission ECO installers to introduce certain efficiency measures into the home, such as loft or wall insulation, or heating measures. For an ECO installer to be eligible to undertake work on the ECO2t scheme, they must meet the criteria defined by Ofgem, with the main one being they must be PAS2030 accredited, which allows them to undertake work under the Green Deal schemes. Unfortunately, this requirement precluded many local Powys installers from working on ECO2t.

For a measure to be completed, suppliers must provide Ofgem with a Local Authority (LA) declaration stating that the households listed in the declaration are either:

- living in fuel poverty (FP)
- living on a low income and vulnerable to the effects of living in a cold home (LIVC)
- non-fuel poor but located in an immediately adjacent building to, in the same building as, or in the same terrace as households identified by an LA as FP or LIVC (SWI in-fill).

The Department for Business, Energy and Industrial Strategy (BEIS) Local Authority guidance was available regarding ECO2t LA Flex, which was not prescriptive, but gave flexibility to allow Councils to create their own control and governance frameworks. Local Authorities are expected to manage and deliver schemes locally with cost being recovered by charging an administration fee. This necessitated a new way of working that supported the principles of an enterprising Council by providing services to ECO agents to enable the delivery of the Council's statement of intent whilst preventing and detecting potential cases of fraud and corruption.

ECO3 was launched nationally in October 2018, the accompanying BEIS guidance for Local Authorities was released 4 months later (February 2019).

Powys County Council have used the Welsh Assembly definition of FP for the purposes of this scheme, which states;  
*'A household in Wales is in fuel poverty if they spend 10% or more of their income on energy costs, including Housing Benefit, Income Support or Mortgage Interest or council tax benefits on energy costs'.*

To make a declaration, a LA must produce a Statement of Intent regarding its delivery of the ECO flexible eligibility provision. This Statement of Intent should be publicly available (e.g. published on a LA's website) so that it can be easily accessed by interested parties.

The LA is responsible for making the determination that a household is eligible (including SWI in-fill). Ofgem does not require suppliers to undertake supplementary checks to determine eligibility once an LA declaration is made. Contractors are entitled to rely on the LA having made an accurate assessment of eligibility. If Ofgem become aware of a LA making false declarations, or where it does not follow the targeting methodology outlined in its Statement of Intent, they will pass this information to BEIS.

Powys County Council charge a fee of £150 (£125 plus VAT) for every declaration they approve to cover administration costs associated with the scheme. This fee was payable by the agent and not the individual.

## Scope

To determine if Council Officers have acted reasonably in developing a strategy and delivering the vetting process in accordance with Ofgem requirements to ensure rigour around preventing and detecting fraud.

As part of the process, interviews took place with the following:

- Julian Preece – Private Sector Housing Team Leader, Powys County Council
- Oliver Denton – Housing Standards and Improvement Officer, Powys County Council
- Powys Plumbing Group

Supporting documentation was obtained and reviewed.

During this review, it must be noted that there were limitations in place that were outside of SWAP Audits control;

- SWAP Internal Audit only have the jurisdiction to require answers from employees of Powys County Council staff
- The relationship between the ECO Agent and the claimant is outside of the responsibility of the Council

# Conclusion

## **ECO Scheme**

The Council's approved statement of intent is in accordance with the ECO2t guidelines and rules, in that it prioritises those people experiencing fuel poverty who live in an energy inefficient property. The Powys Statement of Intent, like some other Welsh Local Authorities, contained a minimal number of qualifying criteria, whereas others had additional requirements. The regulatory framework that surrounds the ECO2t scheme is not prescriptive, flexible and open to interpretation. More prescriptive guidelines from BEIS/OFGEM would have provided a much more robust control over the effective spending of the funds.

## **Measures Delivered**

Powys was targeted by ECO Agents due to its rural nature and its high level of off-gas housing in Wales i.e. the high level of electric heating, LPG boilers and the high number of oil powered boilers in use. In Great Britain, there were 15,500 completed measures under ECO2t from January 2018 until September 2018. The County of Powys for the same period had over 2,000 completed measures. This is the equivalent of 13% of the total.

## **Responsibilities**

The responsibility for completing the assessment form accurately lies with the applicant and this is expressly stated in the Powys application process. Therefore, if that form has been incorrectly completed and signed by the applicant with the intention of gaining something to which they were not entitled, then they may potentially be committing a fraudulent offence. Allegations were made by the Powys Plumbing Group of widespread fraud; however, they did not provide any evidence to support these claims when given the opportunity. No evidence was found to suggest that Powys County Council employees have committed or been complicit in fraudulent or irregular activities. There is no formal contractual relationship between the ECO Agents and the Council for the service it provided. Notwithstanding, the Council have a moral responsibility as stewards to put systems in place to prevent and detect fraud.

## **Accurate Assessment of Eligibility**

The rules specified by BEIS require that the Council should determine household eligibility by making an accurate assessment. The Private Sector Housing Team developed a self-assessment process that allowed applicants (possibly guided by Surveyors) to simply claim eligibility without having to provide supporting information to corroborate the validity of their application. The Council's approach was to rely heavily on the applicant's assessment of the position and therefore not to undertake a suitable level of independent and robust checking to ensure an accurate assessment. In addition, there was an element of ambiguity because of a lack of guidance around definitions of income and fuel costs which would be required to determine fuel poverty. Therefore, it is the Auditor's opinion that a more robust process around financial eligibility would have offered more of a deterrent against potentially fraudulent or irregular applications.

## **Records**

The records maintained by in the Private Sector Housing Team were minimal. The analysis of cases has been made more difficult due to poor management records and initially the Council could not easily demonstrate cases where applications had been denied as a result of failing to meet the eligibility criteria. However, evidence has subsequently been provided to show incomplete and ineligible applications.

## **EPC Checking**

An examination of a sample of records found that 21% of the properties (21/100) did not meet the EPC requirements as a result of their current rating (B/C/D rating), yet the applications were still approved by Powys County Council. One case (1%) exists where there is no record of the application. Three applications (3%) were missing key elements and therefore should be considered as incomplete. And a further 11 cases (11%) were found where the applicant clearly applied using the EPC self-assessment matrix route because they stated they did not have an EPC. Checking found that they did in fact have an EPC rating of E, but that the Private Sector Housing Team had determined that the applicant would gain eligibility on the grounds of vulnerability (E rated EPC and over 60 years of age). It is Auditors opinion that even though the applicants were probably eligible, these applications should have been returned as 'Incomplete' requesting resubmission as the required agents checks on vulnerability were not undertaken.

## **Approved Agents List**

The Private Sector Housing Team stated that they produced a list of ECO Agents, which was based on green deal approved accredited companies that had expressed a wish to work in the area. Whilst Powys County Council did not actively promote the use of any provider, the selection process did restrict the number of ECO Agents that could operate in Powys. It was stated that this list was produced on a first come first served basis. Therefore, it is the Auditors opinion that the selection process lacked structure and transparency and could not demonstrate that all eligible Provider/ Eco Agents had been treated equally.

A detailed examination of the list found that 18 out of 19 nominated providers were on the Green Deal Approved List (Green Deal Oversight and Registration Body (ORB) list), but there was one ECO Agent that did not meet the stated qualifying criteria. Powys County Council were aware of this but continued to promote them via its promotional literature issued to perspective applicants. The Auditors can see no demonstrable and justifiable reason why this Eco Agent was allowed onto the nominated list and other possible more eligible organisations have been precluded. Whilst the Private Sector Housing Team maintain that the Company did not have to be Green Deal approved, the Auditors have not been presented with any clear rationale to justify why 18 out of 19 were selected using one criterion and 1 was selected using a different criteria.

### **Local Economy**

The Council has a corporate objective to support the local economy. There was only 1 ECO Agent in Powys that met the criteria defined by Ofgem to independently deliver ECO funded measures. The Private Sector Housing Team stated that no other local ECO Agent existed/expressed a desire to be included on the list. It was also stated by the Private Sector Housing Team that some agents on the list that made use of local contractors to undertake installations.

### **Finance**

The administration of the ECO2t scheme generated £231,898 (1855 LA declarations) for the Council that could be used to support other Council activities after administration costs have been deducted. There is a minor discrepancy between the number of measures delivered (2048) and the number of measures billed (2018). It is unclear why these figures are not the same, but the Private Sector Housing Team need to reconcile the declarations listing to the invoices raised.

The Council's approach to the identification of debt relies heavily on those that owe the debt to make the Council aware of the need to collect it. Clearly this is a conflict of interest which increases the risk of the Council failing to raise invoices. Outstanding Debt as at 15/04/ 2019 was £20,352 or 163 LA declarations. The ECO2t scheme closed on the 30<sup>th</sup> September 2018 which gives concerns over the likelihood of the recovery of the debt. A number of these debtors are ECO agents that may require declarations for future ECO Schemes. Therefore, it would be considered prudent that LA declarations for ECO3 should only be processed for ECO agents that have cleared their outstanding levels of debt.

The Council had no influence over the delivery of the measures, but under current arrangements it was committed to undertake the eligibility assessment. The Council absorbed the cost of processing 1782 applications for which the Council was unlikely to be compensated. It is the Auditors opinion that future schemes, whenever possible, should transfer the financial risk to the Agent and make them pay a fee on the production of the eligibility certificate rather than after the delivery of the measure. This approach would have generated a further £267K additional revenue, although this would have probably lowered the number of speculative claims.

### **Opinion**

In conclusion, the Council and its residents have significantly benefitted from the implementation of the ECO2t scheme. The Council's approach to the vetting of claims did not demonstrate due diligence and did not deter or prevent the approval of fraudulent claims. All parties involved in the scheme i.e. applicant, agents, contractors and the Council are mutually benefiting from maximising the volume of measures approved. However, the Council as the stewards of the activity should ensure that only cases are approved that legitimately comply with an evidential based assessment process. This will ensure the Council fulfils its moral obligation in that it improves fuel poverty for those who need it most whilst reducing carbon emissions.

# Recommendations

1 Vetting Process		
The Council should implement a fit for purpose and robust vetting process for future ECO schemes that are based on independent evidence and ensure an accurate assessment of eligibility.	Priority Score	1
Agreed Action	Timescale	Before ECO3 Implementation
This is a fundamental principle of the new guidance issued by BIES in February and will need to be incorporated into any ECO3 scheme adopted by Powys. Income & Awards or Robert Owen could determine applicant fuel poverty under ECO3 (if adopted) as opposed to applicant self-assessment.	Responsible Officer	
2 Documentation		
The Council should keep adequate records to support the outcome of their decisions.	Priority Score	2
Agreed Action	Timescale	Before ECO3 Implementation
The Council will ensure a more robust record keeping system is employed.	Responsible Officer	
3 Approved Agent Selection		
The Council should define the criteria used for the selection of contractors and ensure that these are robustly applied during the selection process.	Priority Score	1
Agreed Action	Timescale	Before ECO3 Implementation
Procurement Services have been consulted and will be involved with selection of agents utilised with ECO3 in Powys should a scheme be adopted.	Responsible Officer	

4 ECO Agent Selection Anomaly		
There is a lack of clarity around the selection of one company as they do not appear on the accreditation website. Therefore, the Council should consider obtaining an opinion from Ofgem/BEIS to seek clarification about the legitimacy of using an agent that was not Green Deal approved.	Priority Score	1
Agreed Action	Timescale	Before ECO3 Implementation
Not Agreed. The company in question do not need to be Green Deal Oversight and Registration Body (Green Deal ORB) accredited as they do not independently install measures or provide finance. Their subcontracted delivery partners hold these accreditations instead.	Responsible Officer	

5 Approved Applications		
Given the concerns of the Auditors on the accuracy of ECO2t assessments, the Council should undertake a review of past claims to ensure those approved were in fact eligible. Those cases where the errors occurred in the checking process, which resulted in measures being delivered to ineligible applicants, should be referred to the Regulator.	Priority Score	1
Agreed Action	Timescale	Before ECO3 Implementation
	Responsible Officer	

6 Billing Discrepancies		
Given the discrepancy over the number of measures delivered (2048) and the number of measures billed (2018), the Council should investigate the reason for the difference and arrange to invoice agents for any unbilled completed measures.	Priority Score	1
Agreed Action	Timescale	Before ECO3 Implementation
Agreed	Responsible Officer	

7 Outstanding Debt		
The Council has outstanding Debts with Eco Agents who may require declarations under future ECO schemes. Therefore, the Council should consider withdrawing the LA declaration service from those ECO Agents until outstanding invoices have been settled.	Priority Score	1
Agreed Action	Timescale	Before ECO3 Implementation
Agreed	Responsible Officer	

8 Income Collection Criteria		
The Council undertook a significant amount of work in producing declaration certificates for measures that will not be delivered. Therefore, the Council should review its charging policy to ensure that agents are billed upon the issue of the declaration certificate.	Priority Score	1
Agreed Action	Timescale	Before ECO3 Implementation
This was a fundamental principle of the ECO3 proposal shared with the Powys Plumbing Group who accepted this proposal by the Council. Any revised ECO3 Statement of Intent presented to Cabinet for approval will have this process included.	Responsible Officer	

9 ECO3 Scheme		
ECO2t declaration certificates are only valid for ECO2t measures. Therefore, the outstanding ECO2t declarations should not be considered as eligible for the ECO3 scheme.	Priority Score	1
Agreed Action	Timescale	Before ECO3 Implementation
Agreed	Responsible Officer	

# Findings and Outcomes

## Investigation

### Findings

#### **Scheme Interpretation**

Ofgem and BEIS are the governing bodies responsible for ECO2t Scheme. They have numerous documents that relate to how the scheme should be operated by all parties involved in the process, including the Local Authority responsibilities. These instructions allow for a flexible interpretation by each LA, as a result of this, each LA can decide how much input it would like to have in the process including the content of their Statement of Intent. This document defines the requirements that each household must meet in order to be considered for the scheme. Powys County Council have based their Statement of intent on the template issued by BEIS. However, the Private Sector Housing Team removed large portions of the model form when they developed their own internal processes. The model form contained additional information that could have been used in a much more robust checking process. Both the BEIS and Powys County Council Sol forms which are attached. It is the Auditors opinion that the rules and requirements defined within Powys County Council's Statement of intent fall within the remit of the BEIS/ OFGEM guidance issued.

#### **Council Vetting Responsibilities**

Powys County Council charge a fee of £125 plus VAT for each completed measure which is payable by the agents; this is an admin fee to cover the accurate determination of eligibility, production of the declaration certificate as well as the administration associated with fielding calls from clients, agents and other enquiries and complaints. There is no formal contract in place that specifically defines what is expected from Powys County Council during the verification process. Furthermore, no evidence was provided to the Auditors to demonstrate that Powys County Council have a defined internal process they follow in order to ensure the applications are correctly verified before issuing the declaration.

The official guidance states that;

*'The LA is responsible for making the determination that a household is eligible (including SWI in-fill). Ofgem does not require suppliers to undertake supplementary checks to determine eligibility once an LA declaration is made. Suppliers are entitled to rely on the LA having made an accurate assessment of eligibility'*.

The guidance explicitly states the Council is responsible for determining an applicant is eligible based on the criteria it has approved in the Statement of Intent. In addition, there is an expressed responsibility that the Council should have made an accurate assessment of eligibility.

## Application Process

Powys County Council have opted for the low threshold approach in terms of qualification criteria, with the minimum requirements defined on their Statement of Intent. This was based on the Welsh Government fuel poverty definition along with the EPC rating (in conjunction with the client vulnerability criteria). The Auditors examined 8 Welsh Local Authority 'Statement of Intent' and found that 4 had a similar scheme to Powys. The remainder had specified more stringent qualifying criteria such as income thresholds and more detailed financial information. Powys' Statement of Intent' conforms to the Ofgem scheme requirements.

The application form is split into 3 parts;

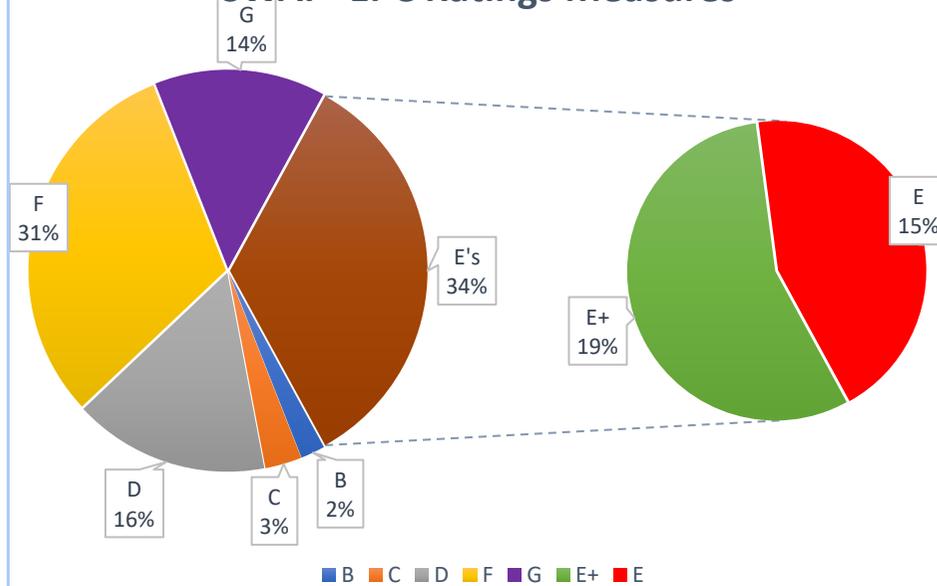
- **Part 1** is the fuel poverty section; this is a simple a circling of yes or no to declare if your household is in fuel poverty. There is no requirement to submit any financial details or supporting documentation.
- **Part 2** refers to the EPC rating (if available) of the property. The property should be F or G rated to qualify, if it is rated as 'E' then additional vulnerability criterion needs to be met. In order to qualify this can be based on age, health or having children in the house. If the vulnerability is medical related it should be authorised by a doctor, if it is age or child related it is approved by the surveyor and not Powys County Council. If there is no EPC rating available for a property, or the current EPC has expired, then the applicant must complete a short matrix which was adapted from approved BEIS guidance and details items such as number of bedrooms, type of insulation etc. The applicant needs to score 10 to 14 points with a vulnerability or 15 or more in order to qualify. This information is not verified by Powys County Council.
- **Part 3** is the declaration section where the applicant signs to confirm all the details are correct, it also states that if a false declaration is made, they may be prosecuted.

Powys County Council have adopted the approach that if a household has submitted a signed self-certified application stating their circumstances meets the criterion for the scheme, no further financial checks are required. Although not a requirement, Powys County Council opted not to include any additional financial checks to ensure fuel poverty upon receipt of the signed completed application.

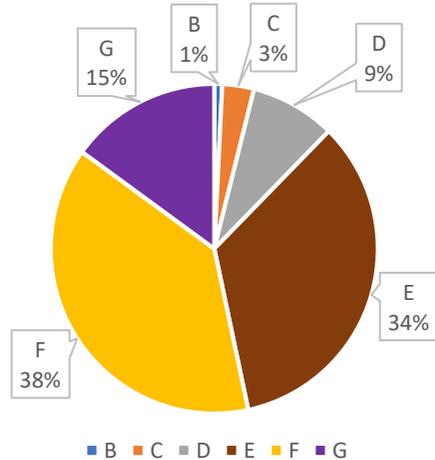
It was stated that Powys County Council checked all properties to see if they had a valid EPC rating to ensure they were F or G rated or E if they meet the vulnerability criteria. Any property that has an EPC of A-D are ineligible.

Housing records of the checking process were inadequate for the process of effectively auditing all applications. An initial sample of 20 measures of properties with an EPC rating were originally selected, but the sample was extended to include an additional 80 completed measures. The results are as follows;

### SWAP -EPC Ratings Measures



### Powys - EPC Rating Measures



### SWAP Audit Findings

SWAP Tested a sample of 100 cases:

21% (21 cases) of the properties selected did not meet the criterion that Powys County Council had defined in their own Statement of intent i.e. they were the 'B', 'C' and 'D' properties

1% (1 case) was E rated, but there is no record of the application.

3% (3 cases) were missing key pieces of information or process that would have been required to make an accurate assessment

11% (11 cases) were completed as if there was no EPC on the property and therefore used the EPC self-assessment matrix. Checking found that these properties were E rated and therefore should gone through the vulnerability tests. The Private Sector Housing Team have reviewed these applications and determined that the applicants are eligible because they were over the age of 60. However, this method by-passes the need for the agent to verifying the age of the applicant. To ensure due diligence, these applications should have been rejected as incomplete and applicants required to resubmitted based on the genuine grounds for eligibility.

### Private Housing Sector Team Findings

This shows the breakdown of the 1020 properties that had a valid EPC rating where a declaration certificate had been issued. This is for all measures regardless of their status, and not just the completed ones which were used in the SWAP Audit sample above.

The figures have not been verified by SWAP Audit, and no further analyses of 'E' rated properties was undertaken. As can be seen, 12% (126 properties) did not meet the criterion that Powys County Council had defined in their own Statement of Intent.

Powys County Council claimed they vetted all applications to see if they had a valid EPC rating that met the criteria. Therefore, Powys County Council have approved applications that should have failed the vetting process. It is likely that these properties did not meet the eligibility criteria as specified in the Statement of intent.

Following concerns raised by the Auditors about the EPC checking process, the Private Sector Housing Team acknowledged there was confusion during the first 2 months where agents thought that they could use the matrix instead of the EPC. This issue was identified and corrected. However, the Auditors believe that this should have been identified normally as part of an accurate and robust eligibility assessment.

Other Welsh Local Authorities were contacted to determine their checking process. The response rate was disappointing; however, one did reply stating that they used a self-assessment, but performed some secondary checks such as spot checking, means testing, additional financial information and proof of vulnerability.

### **Agent Listing**

Discussion with the Private Sector Housing Team identified that they had created a nominated list of ECO agents based on the criteria of being Green Deal approved. Green Deal are the body that are responsible for maintaining registers of participants for Green Deal approved schemes, of which ECO2t is one, on behalf of the Secretary for State for DECC. They do not refer to the term ECO Agent, but instead refer to participants as either a Provider, Installer or Assessor. Whilst the Auditors consider that the term ECO Agent is most closely aligned with a Provider, it has considered the accreditation to be valid if the Companies appear in the other categories.

Powys County Council decided to limit the number of ECO agents to 22 as they thought this figure was manageable regarding customer ability to find a preferred ECO Agent to deliver the installation and they fitted into the available space on the ECO Agent listing Sheet. The list was populated on a first come first served basis and any further companies were refused. Subsequently 3 have been removed due to various reasons such as using the Powys County Council logo on their documentation, failure to deliver measures and a lack of ECO funding.

Upon inspection and through discussion with Housing Standards and Improvement Officer (OD), it became apparent that one ECO agent did not meet Powys' selection criteria. Powys County Council continued to promote them via the document despite knowing they did not meet the selection criteria. Therefore, the Council's revised list contained 18 Agents that were Green Deal approved and 1 agent that was not. The auditors have not been able to give assurance that the selection of Agents on the list was done in a consistent, structured and transparent manner.

Whilst an applicant has the choice to use any ECO Agent on the list, Powys County Council have in effect created an advantage for the ECO contractors that they promote via their document. The Authority has sought legal advice in readiness of the start of the ECO3 scheme regarding the legality of restricting the number of ECO Agents that Powys County Council would allow to canvas the area. The legal advice that came back was;

*'The BEIS guidance states that suppliers, installers and local authorities are "free to establish their own working relationships and processes with each other, as long as in doing so, no regulatory breach occurs." This guidance is very broad and does not directly deal with the question of restricting the number of agents. Our preliminary advice is that Powys could put measures in place to recognise and promote agents that align with its strategic aims of, inter alia, putting in place economic/community benefits measures, thereby allowing Powys to 'regulate' a sub-set of agents. However, the extent to which Powys could refuse to issue declarations to 'un-certified' agents is not clear. Our preliminary view is that this would be contrary to the overall aims of the ECO 3 scheme'.*

Ofgem set the criteria that installers must meet in order to be included on the approved list. The main criteria being that they are PAS2030 approved which allows you to complete Green Deal work. It was stated by the Private Sector Housing Team that at the time of the ECO2t scheme that only 1 installer in Powys held the PAS2030 qualification.

The lack of a structured approach to the selection/promotion of Green Deal ECO Agents means that the Auditors cannot give assurance that all potential ECO Agents were treated equitably and without bias.

### **Finance**

It must be noted that Powys County Council do not provide any funding for the completion of the measures. The finance is made available from the main energy suppliers for the purpose of reducing carbon emissions from the housing stock; fuel poverty is used as a tool to target those in greatest need.

In their role of approving eligibility, the Authority has collected £231,898 in income, with their outlay being the administration costs of both running the scheme and creating the Eligibility Declaration Certificate for the applicant. The Council financial ledger shows:

Payment Status	Income (£'s)	Measures (Income/125)
Paid in Full	224,750	1,798
Part Paid	7,148	57
Yet to be Paid	20,352	163
Total	252,250	2,018

Powys County Council's Statement of Intent has a statement regarding the generation of the £150 fee. (£125 +VAT). The Statement of Intents says; *'Costs associated with Powys declaration - The administration charge levied by Powys County Council in providing the declaration necessary for clients to access the ECO Flexible scheme is £150. This charge must be paid by the energy supplier or their agent on completion of the works ...'*

The Council must rely on an external organisation (ECO Agent) to notify them of the completion of the measure, otherwise there is a possibility that the Council will not bill for the service they have provided. This has caused general uncertainty over the number of measures that have been completed because it is outside of the Council's circle of influence. Therefore, the Auditors can only give limited assurance the Council has collected all the income that is due for the services delivered.

Currently Powys County Council have issued approximately 3,800 certificates under ECO2t and only collected income for 2018 measures (£231,898 / £125) which means about 1782 applications have been completed and have either not been paid or will never be billed as the measure cannot be completed in accordance with section 5.84 of the Energy Company Obligation (ECOt2) – Guidance: Delivery V1.1 Dec 2017 which states;

*5.84. LA declarations, including those with SWI in-fill, will remain valid for the entire ECO2t period (i.e. from 1 April 2017 to 30 September 2018), unless otherwise stated by the LA. There is no requirement to reassess households once a LA declaration has determined a household to be eligible within this period.*

Therefore, the outstanding LA declarations should not be considered as valid for any future ECO scheme.

### **ECO3**

The Authority has currently deferred its decision on approving the ECO3 remit, based on the outcome of this investigation. The Statement of Intent was prepared to be presented to Scrutiny for approval but not delivered for consideration, following receipt of the complaint from PPG. Scrutiny committee therefore deferred its decision pending the outcome of this investigation. It is believed that there are approximately 1800 pre-approved measures that have met the ECO2t qualifying criteria. It is the Auditors opinion that the process used to judge eligibility was not robust enough to protect against fraud, error or corruption. Therefore, it is envisaged that the outstanding approved measures from ECOT2 will not automatically be carried forward, and individuals will have to apply again, this is also in accordance with paragraph 5.84 - Energy Company Obligation (ECOt2) – Guidance: Delivery V1.1 Dec 2017 mentioned above.

## Appendix

### Questions submitted by PPG with the response from the Private Sector Housing Team.

1) Why did the council officials running ECO LA Flex continue to sign off many hundreds - possibly thousands - of ECO2t applications up to the end of September 2018, and not set up an immediate investigation, after they were informed at a meeting at County Hall on 10th July 2018 that we had evidence to support the suspicion that the ECO Flex agents were committing widespread fraud under the ECO2t scheme in Powys?

Anecdotal claims made by the Powys Plumbing Group were discussed at the meeting but no detailed evidence was provided that could have been investigated to substantiate any accusation of fraud. Consequently, officials and Cabinet agreed to withdraw the Powys ECO Flex Statement of Intent at the end of September 2018, coinciding with the end of ECO 2t. The aim was to address any issues by the introduction of a more robust scheme under new proposals for the role out of ECO3 in Powys.

2) What was the reasoning behind PCC's decision not to put a robust, independent vetting procedure in place, similar to that of most other councils, when setting up their ECO2t LA Flex scheme to ensure that all the applications they received from the ECO Flex agents were genuine, and complied with the Council's fuel poverty and EPC qualification criteria?

Powys was the second council in Wales to introduce a scheme, in accordance with OFGEM Guidance, using the Welsh Government definition of fuel poverty. The scheme used a self-certification process to establish client fuel poverty but introduced a more rigorous concept that eligible clients also needed to reside in exceptionally fuel inefficient properties (F and G EPC rated homes). This was absent from the process adopted by Ceredigion, (first Welsh authority to adopt) but mirrored by other Welsh authorities who subsequently adopted an ECO Flex Statement of Intent. Checks ensure clients sign an appropriate declaration that they spend in excess of 10% of income on fuel and live in a property with an appropriate EPC or scored in excess of 15 property points on their application form.

3) Why, despite the concerns we've raised for the past 8 months about potential widespread abuse of the ECO2t scheme in Powys, are the Council currently still not planning to put in place a robust, independent vetting procedure to check that all applications received for their upcoming ECO3 scheme are genuine, and meet the Council's fuel poverty and EPC qualification criteria, when the evidence from the way other councils ran their ECO2t schemes confirms that this is the only way to guarantee that widespread fraud can't take place, whilst still ensuring that those vulnerable households living in fuel poverty in the county receive the full range of measures they're entitled to?

Any proposed scheme formally adopted by Cabinet will have sufficient measures in place to comply with BEIS and OFGEM requirements to eliminate where practicable, the possibility of fraudulent applications.

4) Why are the Council officials responsible for running the ECO LA Flex scheme for Powys CC still so resistant to the idea of outsourcing the running of the upcoming ECO3 scheme to an independent, not-for-profit, organisation like the Marches Energy Trust, even though the Trust has shown from the way they've run previous schemes for other councils, like Shropshire and Herefordshire, that they have the staff, and experience, - which evidently Powys CC doesn't - to be able to thoroughly vet *all* applications and ensure that widespread fraud can't take place? (Having contacted the Trust ourselves we've received an email from them confirming that they would be prepared to undertake this role in Powys for the Council - **at no cost to the Council, in fact the Council could still earn an income from the scheme if they wish** - as long as the Trust are allowed to run a targeted campaign that's aligned with OFGEMs' national ECO LA Flex guidelines).

New guidance issued by BEIS for the introduction of ECO3 during February 2019 means the council has been required to alter its approach. New tighter, more robust ECO Flex scheme conditions now supersede those the Powys Plumbing Group were consulted on. Implementation will subsequently be very different to the way ECO2t operated, necessitating a new delivery approach.

5) Are the Council still planning to automatically 'roll over' to ECO3 the 1800 measures that they signed off under ECO2t but which were not completed by the end of that phase of the scheme on 30th of September 2018, when it's likely that a significant number of them - possibly up to 70% - could be fraudulent, or are these applications going to be reassessed, and thoroughly vetted, to ensure they're valid before any work is authorised under ECO3?

Should the council adopt ECO 3, we do not intend to reissue declarations without receipt of a new application. New applications will be subject to restrictions in funding and new OFGEM eligibility criteria. Properties that attracted funding under ECO2t will not by default attract ECO3 funding and existence of a declaration certificate does not equate to provision of funding. The allegation of a 'roll over' of 1,800 properties is simply incorrect. This figure included many applications subsequently wilfully withdrawn, duplicate applications and 25% would likely have been for insulation measures. All new applications will be assessed using new ECO3 qualification criteria.

6) With the Council having total responsibility for the way they set up ECO2t LA Flex in Powys, and taking into account that the Council state that to date they've benefited to the tune of around £200,000 from the 'administration fee' they charge the ECO Flex agents to sign off each application - of course it's likely that much of this money may well have been generated as a result of widespread abuse of the scheme - do the Council intend to contact OFGEM and ask them to investigate the activities of the ECO Flex agents who ran the ECO2t scheme in Powys for the Council as it would appear they have a duty to do, if there is any suspicion that fraud may have taken place, under OFGEM's 'zero tolerance approach to fraud and scheme abuse'?

Without substantiated evidence, neither the Council nor OFGEM are able to investigate activities of ECO Flex agents. Agents currently undergo rigorous scrutiny by energy companies and evidence of fraudulent activity would result in immediate withdrawal of funding. Should the Powys Plumbing Group have substantiated evidence of fraudulent activity, this needs to be provided to the council or OFGEM. To date, no evidence has been provided.

7) Is the Council's position regarding their ECO LA Flex policy motivated by a desire to run the scheme along OFGEM's national guidelines, and target measures at those vulnerable households living in fuel poverty in poorly insulated properties in the county, or is the Council using the scheme as a way of generating a significant additional income, so they can plug some of the gap in their budget deficit, even if the consequence of this approach is likely to result in the failure of many local businesses and will damage local employment prospects in Powys?

The Council's position has always been to make use of the Government scheme by targeting measures to assist vulnerable households living at risk of fuel poverty, within the most poorly insulated of homes. Income generated has been utilised to cover administration costs. Consequently, there has not been significant surplus income associated with the scheme as suggested. The authority has devoted significant time to the development of a mutually beneficial scheme in Powys in conjunction with local contractors, including the Powys Plumbing Group and remains committed to the aims of Vision 2025.

8) Based on the fact that virtually all the work, and money, associated with the Council's ECO LA Flex scheme to date has gone to companies and installers from outside Powys, and considering that the potential widespread abuse of the ECO2t scheme has resulted in local plumbing and heating companies losing around £4,500,000 of work, how does the Council reconcile their ECO LA Flex policy, and their current proposals for running ECO3 - which, from the evidence of ECO2t, if implemented without a robust, independent vetting procedure in place to prevent fraud, will result in local businesses losing tens of millions of pounds more work to scheme abuse - with their stated aim to support local businesses and protect the 'Powys Pound'?

If adopted, any ECO 3 scheme will have completely different criteria as indicated above, in accordance with new guidance from BEIS. Powys remains committed to the aims of Vision 2025, including supporting local businesses and protecting the 'Powys Pound.' However, this scheme is not one where the council is responsible for directly commissioning work. If there were agents locally who had access to DEEMED Score surveyors and funding links with energy companies, there would be significantly more local benefit. It is unfortunate that this was not the case, the council would welcome the opportunity of working with local agents and this is an area we wish to develop with interested local contractors. Some local businesses have benefited from work as a subcontractor under ECO2t and should ECO3 be adopted by Cabinet, the authority is committed to promoting use of local contractors by agents, where it has the ability to do so, via terms of the Government's scheme and OFGEM guidance.

Should local installers wish to engage with the Government's ECO scheme, opportunities exist now and remain independent of the adoption of ECO3 LA Flex by Powys. The Government initiative 'Home Heating Cost Reduction Obligation' (HHRCO) is currently delivered by agents operating in Powys and eligibility criteria to access this element of ECO has been widened to include most state benefits and allowances. Powys contractors seeking to become involved in delivery of this scheme will need to formulate direct relationships with an ECO broker or agent. The Council would seek to encourage such relationships and are considering ways in which it can help to facilitate this.

## Audit Framework and Definitions

### Categorisation of Recommendations

In addition to the corporate risk assessment it is important that management know how important the recommendation is to their service. Each recommendation has been given a priority rating at service level with the following definitions:

<b>Priority 1</b>	Findings that are fundamental to the integrity of the service's business processes and require the immediate attention of management.
<b>Priority 2</b>	Important findings that need to be resolved by management.
<b>Priority 3</b>	Finding that requires attention.

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