



Department
of Energy &
Climate Change

Government Response to the consultation on support for community energy projects under the Feed-in-Tariffs Scheme

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1. Executive summary

Purpose of this document

1.1 This document sets out the Government's response to its consultation of 13 May 2014 on support for community energy projects under the Feed-in-Tariff Scheme¹. The consultation was made up of the following parts:

- **Part A** set out background information, current financial support, costs, interdependencies and EU State aid issues. It sought views on our analysis of current and future renewable electricity deployment by community groups, plus the impact of proposed actions on deployment;
- **Part B** sought views on proposals for implementing the power in the Energy Act 2013 to increase the maximum specified capacity ceiling for eligible community projects from 5MW to 10MW. It also included consideration of the definition of "community organisation" and arrangements for accommodating various community ownership models; and
- **Part C** sought views on proposals to expand the additional costs for community energy projects up to 5MW that could be supported by publicly funded grants and combined with FITs payments.

Consultation Responses

1.2 In total 69 responses were received from a range of community energy groups, renewable electricity generators, suppliers, trade associations, Non-Government Organisations (NGOs), Devolved Administrations and other organisations and individuals with an interest in community energy. A list of respondents is at Annex A and a statistical analysis of the responses to each question is set out in Annex B. Further details of the main supporting comments made by respondents are recorded in Chapters 3 to 8.

Post consultation decisions

Increasing the maximum capacity ceiling from 5MW to 10MW

1.3 After careful consideration, **we have decided not to proceed with the proposal to increase the maximum specified capacity ceiling from 5MW to 10MW**. However, we remain committed to facilitating the deployment of community electricity projects at all sizes. We will implement a package of new measures under the existing FITs scheme which will have a positive effect on the community sector, help tackle some of the key barriers that communities have told us they face in getting projects off the ground and complement our wider policies on encouraging shared ownership. (Details of these new measures are set out in paragraph 1.6 below).

¹ DECC(2014) Consultation on Support for Community Energy Projects Under the Feed-in-Tariff Scheme (Parts A, B and C) <https://www.gov.uk/government/consultations/support-for-community-energy-projects-under-the-feed-in-tariffs-scheme>

- 1.4 The decision not to proceed with increasing the FITs ceiling was based on a detailed assessment of the consultation responses, and further evaluation of the State aid risks. Any increase from 5MW to 10MW for community projects would require State aid approval from the European Commission before it could be implemented. Any such approval would only be given serious consideration if there was strong economic evidence that community projects at this scale have a different cost basis. However, we did not receive sufficient additional robust deployment and cost evidence from this consultation exercise to demonstrate to the Commission that:
- The costs of community projects at this scale are significantly different to non-community projects; or
 - There is a genuine market failure that can only be addressed through the provision of support that was not subject to competitive tender (as required in the Commission's new Energy and Environmental Aid Guidelines (EEAG)), rather than other types of measures or incentives.
- 1.5 Any notification to the Commission to increase the ceiling to 10 MW would trigger the need to implement broader modifications to the FITs scheme to comply with the EEAG. We consider that this would be likely to have significant consequences for support available to all sub 5MW projects as the capacity thresholds would have to be reduced. A number of stakeholders have suggested that community projects are far more likely to be less than 5MW in size, and over two thirds of the consultation responses were clear that we should not proceed with the 5-10MW proposals if it created broader risks for the current form of the FITs in order to comply with the new State aid guidelines.

Package of new measures to support community projects up to 5MW

- 1.6 We are intending to take forward a number of new measures relating to support for community energy projects up to 5MW under the current FITs scheme. These can be introduced quickly, they will respond to three of the key asks raised by communities in the consultation, and they will make a practical difference to communities seeking to deploy projects. We will:
- **Widen the definition of “community organisation” to include registered charities and the wholly owned trading subsidiaries of such organisations.** This will provide more choice of legal structure and make it possible for a wider range of groups to access the community provisions in the FITs scheme;
 - **Introduce a further exemption to the so called ‘site rule’ to allow two projects to share one grid connection and receive separate tariffs.** This will help reduce up-front costs and complexity and make it easier for community groups to own individual assets and receive support under the FITs scheme;
 - **Increase the length of the current preliminary accreditation validity periods for community projects by six months across all technologies.** This recognises that community energy projects need more time to raise funds and engage the local community. A longer preliminary accreditation window would provide more certainty;
 - **Issue guidance to confirm the treatment of different community ownership models under the FITs scheme and to help community groups to come to an agreement with a commercial developer over sharing FITs payments.**

Combining FITs and grants for projects up to 5MW

- 1.7 The consultation responses did not provide robust evidence of additional costs so we have no sound basis for changing our policy at this stage. We will, however, reassess whether communities face additional costs in the 2015 review of the FITs scheme. This review will need to carry out a thorough assessment of the costs for all types of projects to ensure that the tariffs are not overcompensating. We will then be able to robustly compare the costs for community and non-community projects. We will work closely with community representatives to consider how best to support communities in gathering this evidence.
- 1.8 **In the meantime, we will issue guidance on the type of activities that can be supported by publicly funded grants without affecting eligibility for FITs payments under the current rules combining FITs and grants.** We know that many community groups think that the existing guidance is not clear on what can and cannot be combined with the FIT. This has caused confusion and delays to projects.

Measures to support larger community projects

- 1.9 Community projects above 5MW can apply for support under the Renewables Obligation (RO) until the scheme closes in April 2017² and several larger community projects have already been able to deploy under the RO. Community projects above 5MW will also be eligible to apply for support under new Contracts for Difference (CfD).
- 1.10 There are a wide range of approaches to deploying community energy and we expect our work on shared ownership proposals will help the community energy sector scale up quickly. By sharing know-how and skills, communities can work with industry to access the CfD process. We do, however, recognise that some developers of community projects, particularly those that are wholly community-owned, consider that there are barriers to deploying under the forthcoming CfD scheme. Similar concerns have been raised by small-scale and independent generators. We have been working to address this through, for example, the introduction of the 'Off taker of Last Resort'³ mechanism, simplification to auction design, and the introduction of flexibilities in the contract that enable smaller developers to manage any uncertainty they might have about the precise detail of their project at the point they apply for a CfD. **The forthcoming Community Energy' One Stop Shop' will provide a useful forum for signposting communities to relevant guidance and information on CfDs.**
- 1.11 Whilst we are expecting communities and industry to work together constructively with revenue share options and joint ventures coming forward via the CfD regime through shared ownership arrangements, it is difficult to assess accurately the impact that the

² The RO will close to community and other solar projects over 5MW from April 2015 as set out in the Government Response to the consultation on controlling spending on large scale solar PV within the Renewables Obligation, published on 2 October 2014. See: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/360280/Government_response_RO-FIT_changes_to_Solar_PV_-_FINAL_2014-10-02.pdf

³ The key aim of the Offtaker of Last Resort (OLR) is to encourage competition in the PPA market. It would do this by providing eligible generators with a guaranteed 'backstop' route-to-market at a specified discount to the market price. In this way, the OLR is designed to give comfort to lenders and finance providers over the minimum revenues that a project will receive, enabling generators to reduce the costs of raising finance and, in particular, to secure lower-cost debt finance without needing a long-term PPA with a creditworthy entity. Further information is available at: <https://www.gov.uk/government/consultations/implementing-the-offtaker-of-last-resort>

introduction of competitive bidding might have on deployment of community projects before the CfD system is up and running. **This is something that we intend to monitor as part of the wider review of the Community Energy Strategy (CES) planned for 2016.**

Next Steps

- 1.12 We intend to amend secondary legislation⁴ and Licence Conditions⁵ to implement the administrative changes to the FITs scheme relating to revising the definition of 'community organisation', extending the exemption to the site rule to enable two projects to share grid connections and increasing the length of the preliminary accreditation validity periods. Subject to Parliamentary approval, we expect these changes to come into legal effect from 1 April 2015. Guidance on incorporating various ownership models into the FITs scheme and helping community groups to come to an agreement with a commercial developer over sharing FITs payments will also be published by 1 April 2015. We will work with Ofgem to produce additional guidance on combining grants and FITs by the end of 2014.

2015 Review of FITs scheme

- 1.13 The FITs scheme is subject to periodic reviews. The last review was in 2011/12 and we are planning the next in 2015, in order to comply with our State aid approval. The scope of the 2015 FITs review is being prepared in consultation with industry and other stakeholders and will include consideration of what other measures might be introduced to benefit community schemes. We have already met with a range of community energy stakeholders to explore initial ideas.

⁴ The measures requiring a change to the rules of the FITs scheme will be implemented by a negative resolution Order under the Energy Act 2008.

⁵ Modifications would be required to the standard conditions of electricity supply licences.

2. Introduction

Background on Government's support for community energy

- 2.1 'Community energy' is about many different types of communities getting involved in energy activity in many different ways. Community-led action can produce energy, reduce energy use, manage energy demand and purchase energy. It could involve a group of local people setting up their own solar installation or wind turbine; a local authority leading a collective purchasing scheme to help local people get a better deal on their energy tariff; an energy advice session at a local community centre; or a whole range of other schemes.
- 2.2 There are many benefits to community energy. Communities can often tackle challenges more effectively than Government alone. Developing solutions to meet local needs, and involving local people can help strengthen and benefit communities. For example, some community energy groups have used income from energy generation to fund energy savings measures or further renewable energy projects in their local area.
- 2.3 Evidence from other countries suggests that increased engagement of communities in renewable energy increases acceptance and support, both for local projects and for renewable energy in general. This can lead to greater understanding, less opposition and a quicker, cheaper development process for local projects. For example, offering communities the opportunity to buy a stake in larger projects can often strengthen local acceptance of new energy infrastructure, which in turn can help unlock the additional external investment needed to build the new renewable electricity developments.
- 2.4 Community involvement in generating renewable electricity – whether through fully community-owned projects or part community ownership of larger commercial projects – can contribute to our goals of decarbonising and diversifying the power sector. Community energy can help meet the UK's 15% renewable energy target, reduce the costs of energy bills and create new local jobs and investment.

The Community Energy Strategy (CES)⁶

- 2.5 The Government's Community Energy Strategy (CES), published in January 2014, set out the main barriers to community energy activity and the actions that needed to be taken to help realise the potential of community energy. This included the commitment to consult on the following two proposed actions in relation to community renewable electricity generation under the Feed-in Tariffs (FITs) Scheme:
 - To consider the practicalities of using the powers in the Energy Act 2013 to increase the maximum capacity for community energy projects in the FITs Scheme from 5MW to 10MW; and

⁶ The Community Energy Strategy (DECC) (January 2014) at : https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/275163/20140126Community_Energy_Strategy.pdf

- To look at how we might change our policy to enable community groups to combine FITs and grants.

2.6 In addition the CES set in train a number of other new measures aimed at increasing uptake of community energy including renewable electricity. In England these include a £10m Urban Community Energy Fund to complement the £15m Rural Community Energy Fund which has already distributed over £500,000 to 32 community groups. We are also providing £100,000 to seed fund a One Stop Shop which will enable groups to source information in one place to help get projects off the ground. This will work alongside the Community and Renewable Energy Scheme (CARES) in Scotland⁷ and the Ynni'r Fro programme in Wales⁸. We have a £500,000 peer mentoring scheme with the Cabinet Office which is supporting 12 existing community energy groups in England to professionalise and scale up and to mentor new groups to get projects off the ground.

Shared Ownership

2.7 The Community Energy Strategy also contained a commitment by the renewables industry, working closely with the community energy sector, to facilitate a substantial increase in the shared ownership of new, commercial onshore renewable electricity developments. We expect that from 2015 it should be the norm for communities to be offered the opportunity of some level of ownership of new, commercially developed onshore renewables projects. To achieve this, a Shared Ownership Taskforce, which includes members from the renewable energy industry and the community energy sector, has published a voluntary framework⁹ that will guide the offer shared ownership to communities.

2.8 The CES also states that we will review progress in 2015 and if this is limited, we will “consider requiring all developers to offer the opportunity of a shared ownership element to communities”. Our strong preference is to achieve shared ownership through a voluntary means. However, in case the voluntary process is not successful, we are taking powers for a Community Electricity Right in the Infrastructure Bill. This creates a broad enabling framework in primary legislation. If these powers were ever exercised they would require commercial renewable electricity developers to offer communities the chance to invest in new schemes being developed in their area. A formal consultation would precede any decision to exercise the powers and would inform the details of secondary legislation. The power would apply to new commercial renewable electricity schemes in Great Britain above a minimum threshold of 5MW installed capacity, and expansions of existing sites above this 5MW threshold. This includes solar, hydro, and onshore wind. There is also scope in future for offshore renewable projects to offer shared ownership opportunities to communities; however this would be on a longer timescale.

⁷ The Community And renewable Energy Scheme (CARES) has been established by the Scottish Government to encourage local and community ownership of renewable energy across Scotland. For further information see: <http://www.localenergyscotland.org/>

⁸ The Welsh Government's Ynni'r Fro programme uses European Structural Funds to offer social enterprises grant aid, loans and free, independent, hands-on advice and information to help social enterprises develop their own community scale renewable energy schemes across Wales. See: <http://www.energysavingtrust.org.uk/wales/Communities/Finding-funding/Ynni-r-Fro-programme>

⁹ 'Shared Ownership Taskforce- report to DECC' (October 2014) See: <http://www.renewableuk.com/en/utilities/document-summary.cfm?docid=CB5A9C2C-FA70-46CE-83757D293D992E3E>

Overview of financial support for community electricity projects in the FITs, RO forthcoming CfD support regimes

- 2.9 The FITs scheme was launched in 2010 and is playing an important part in promoting take up of small-scale low-carbon electricity technologies by communities and the public in Great Britain up to a Specified Maximum Installed Capacity (SMIC) of 5MW.
- 2.10 The FITs scheme works alongside the RO and the Renewable Heat Incentive (RHI) and creates an obligation for certain Licensed Electricity Suppliers to make tariff payments for the generation and export of renewable and low carbon electricity. Installations using solar photovoltaic (PV), wind, hydro and anaerobic digestion (AD) technologies up to a SMIC of 5MW and fossil fuel derived Combined Heat and Power (micro-CHP) up to 2kW (up to a maximum of 30,000 eligible installations) can receive FITs payments, providing all eligibility requirements are met.
- 2.11 Following publication of the Government Response to the Consultation on “The Comprehensive Review Phase 2B: Tariffs for non-PV technologies and scheme administration issues” in July 2012, Government introduced in December 2012, a package of changes to specifically support non-domestic solar PV community energy projects in the FITs. The key elements were:
- Creation of a definition of “community energy installation” which means “an eligible installation which is wired to provide electricity to a building which is not a dwelling; and in relation to which the FITs generator is a community organisation”;
 - Creation of a definition of “community organisation” where the FITs generator is one of a range of small scale not-for-profit enterprises, namely Community Interest Companies, Cooperatives and Community Benefit Societies with less than 50 employees;
 - Exempting solar PV projects from the minimum energy efficiency requirements where the FITs generator is a community organisation; they do still need to obtain an Energy Performance Certificate (EPC), but not at specific level;
 - Putting in place a system of tariff guarantees for community energy installations with a declared net capacity not exceeding 50kW, similar to those provided for larger solar PV and onshore wind installations and all hydro and AD projects through preliminary accreditation under the so called “ROO- FIT process”; and
 - Setting tariffs for community projects at the same rates as ‘non community’ projects - given that there was no evidence to suggest that the cost of community projects differ – but making it possible for community energy projects to benefit from preferential tariffs in future, if we find that to be justified.
- 2.12 Community electricity projects between 50 kW and 5MW can currently apply for support under either the RO or the FITs scheme. Community projects over 5MW capacity can apply for support under the RO, although as set out in the recent Government Response to the “Consultation on controlling spending on large scale solar PV within the Renewables Obligation”,¹⁰ the RO will be closed to new solar PV capacity over 5MW from 1 April 2015. Community projects above 5MW in size will also be eligible to apply

¹⁰ Government Response to consultation on changes to financial support for solar PV (October 2014) : https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/360280/Government_response_RO-FIT_changes_to_Solar_PV_-_FINAL_2014-10-02.pdf

for support under the new Contracts for Difference (CfD) auctions. The first allocation round opened on 16 October 2014.

Purpose of consultation

- 2.13 Between 13 May and 7 July, Government consulted on support for community energy projects under the FITs scheme. This document provides a summary of the points raised by stakeholders to the questions posed, and sets out the Government's response and final policy decisions.
- 2.14 The consultation was broken down into 3 parts covering the following areas:
- **Part A** sought views on our analysis of current and future renewable electricity deployment by community groups, plus the impact of proposed actions on deployment;
 - **Part B** set out proposals for implementing the power in the Energy Act 2013 to increase the maximum specified capacity ceiling for eligible community projects from 5MW to 10MW. It covered tariffs, depression arrangements and preliminary accreditation. It also included consideration of the definition of "community organisation" and arrangements for accommodating various community ownership models; and
 - **Part C** sought views on proposals to expand the additional costs for community energy projects up to 5MW that could be supported by publicly funded grants and combined with FITs payments.

Devolved Administrations

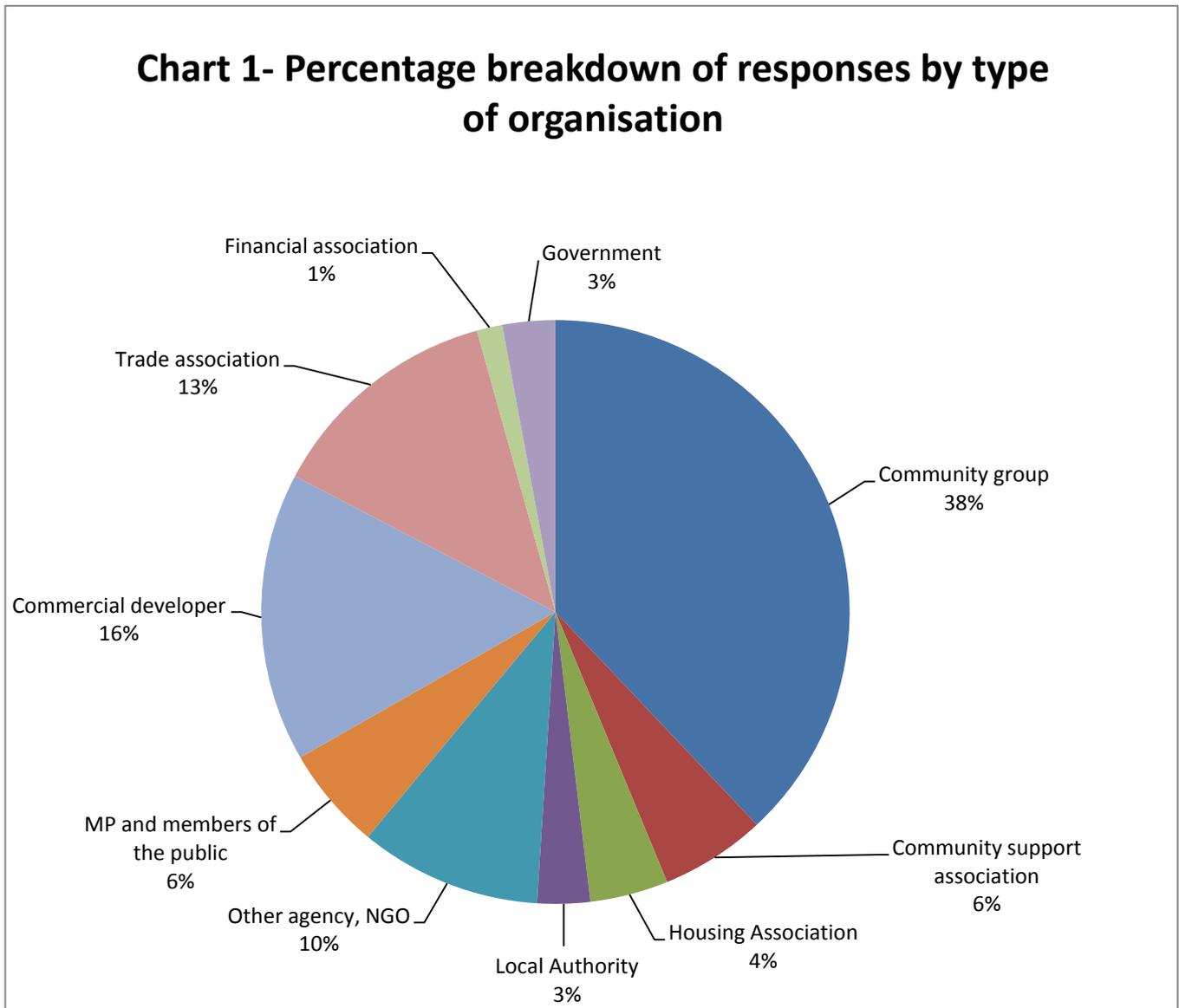
- 2.15 The Feed-in Tariffs Scheme applies only to Great Britain. The decisions and administrative changes to FITs Scheme announced in this document will apply in England, Scotland and Wales only.

Overview of consultation responses

- 2.16 DECC received a total of 69 responses from a range of community energy groups, renewable electricity generators, trade associations, NGOs, Devolved Administrations and other organisations and individuals with an interest in community energy across Great Britain. Chart 1 below shows a breakdown of responses by organisation type. A full list of respondents is at Annex A.
- 2.17 Not all respondents chose to answer the specific questions. Some preferred to provide their views in more general terms and where possible we have included information from these responses in the appropriate section. In addition, some responses addressed some of the questions but not all.
- 2.18 A statistical analysis of the responses for each question is set out in Annex B below. Further details of the main supporting comments made by respondents are recorded in Chapters 3 to 8.
- 2.19 DECC also attended meetings with stakeholders and held three stakeholder workshops to discuss and collect feedback on the proposals in London on 9, 13 and 25 June and led a workshop organised by the Scottish Government and Local Energy Scotland in

Glasgow on 1 July. These meetings and events informed our thinking and final decisions.

Chart 1- Breakdown of responses by organisation type



Implementation and Next Steps

2.20 We intend to amend secondary legislation and Licence Conditions to implement the administrative changes to the FITs scheme relating to revising the definition of 'community organisation', extending the exemption to the site rule to enable two projects to share grid connections and increasing the length of the preliminary accreditation validity periods. Subject to Parliamentary approval, we expect these changes to come into legal effect from 1 April 2015. Guidance on incorporating various ownership models into the FITs scheme and helping community groups to come to an agreement with a

commercial developer over sharing FITs payments will also be published by 1 April 2015. We will work with Ofgem to produce additional guidance on combining grants and FITs by the end of 2014.

2015 Review of FITs scheme

- 2.21 The FITs scheme is subject to periodic reviews. The last review was in 2011/12 and we are planning the next in 2015, in order to comply with our State aid approval. The scope of the 2015 FITs review is being prepared in consultation with industry and other stakeholders and will include consideration of what other measures might be introduced to benefit community schemes. We have already met with a range of community energy stakeholders to explore initial ideas.

3. Proposal to increase the maximum capacity ceiling from 5 MW to 10MW

Summary

After careful assessment of the consultation responses, and further evaluation of the state aid risks, we have decided not to implement the proposal to increase the maximum capacity ceiling for community projects from 5MW to 10MW.

We remain committed to facilitating the deployment of community projects at all sizes and will implement a package of new measures under the existing FITs scheme which will help tackle some of the key barriers that communities have told us they face in getting projects off the ground.

There are a wide range of approaches to deploying community energy and our work on shared ownership will help those looking to deploy larger projects. By sharing know-how and skills we expect the community energy sector to work with commercial partners to access the CfD process.

Original Consultation proposal

- 3.1 In response to feedback received from community groups on the type of financial incentive that works best for them, the Government took powers through the Energy Act 2013 to increase the maximum capacity ceiling for community projects eligible for support under the FIT scheme from 5MW to 10MW. We discussed in Part B of the consultation document the practicalities of using this power, to increase the maximum specified capacity to 10MW for eligible community AD, hydro, solar and onshore wind installations in Great Britain.
- 3.2 The consultation document explained that there are some difficult State aid issues impacting on our ability to increase the threshold. Under the State aid rules, we considered it highly likely that this proposed change to the FITs scheme would require approval from the European Commission before it could be implemented and before any aid could be awarded. We explained that the proposed changes appear to be inconsistent with the European Commission's new Environmental and Energy Aid Guidelines (EEAG), which were adopted on 9 April 2014. They require that the maximum capacity for small-scale FITs type support, unless there is a competitive tender process, is "1 MW, except for wind energy, where a threshold of 6 MW or 6 generation units applies".
- 3.3 We made clear that our decision to proceed with a State aid notification to enable us to implement the increased capacity ceiling for community projects would be dependent in part upon us receiving sufficient new and robust deployment and economic evidence from this consultation. Point 127 of the EEAG enables Member States to seek approval

to depart from the principle of bidding and technology neutrality where they can demonstrate that “a competitive bidding process would result in low project realisation rates”. To meet this criteria we would need to demonstrate in particular that there is a market failure for deployment of projects at the over 5MW to 10MW scale and that ‘non-competitive’ fixed support such as that provided by the FITs scheme is the only viable option for unlocking barriers to deployment.

- 3.4 We also flagged that if we were to seek clearance for increasing the capacity ceiling to 10MW, it is highly likely that we would be required to bring the FITs scheme as a whole in line with the EEAG. This could mean that it could be necessary to apply competitive bidding processes to all prospective projects above 1MW (6MW for onshore wind).

Main messages from the responses

- 3.5 Although there was widespread support for the principle of increasing the maximum capacity to 10MW, 68% of the responses were clear that we should not proceed with the 5-10MW proposals if it created broader risks for the current form of the FITs scheme in order to comply with the new State aid guidelines.
- 3.6 A number of respondents suggested that the risk of a significantly reduced FITs scheme outweighed the potential benefit of the proposed changes, which would only apply to a limited number of larger projects between 5MW and 10MW. The existing scheme was seen to provide a simple, accessible and known source of funding for a wide cross section of developers from the community and commercial sectors as well as individuals. It was suggested that any fundamental change to the scheme would risk creating uncertainty and investment hiatus.
- 3.7 A few respondents suggested that Government should consider setting up a new Community FIT scheme for >5MW projects which is compliant with the state aid rules, or look at other methods of providing support and addressing barriers.
- 3.8 Some suggested that the UK should work with other European countries with an ‘immature community energy structure’ to resolve state aid issues and argue for a time limited exemption from the new rules to allow the sector to become established.
- 3.9 On the other hand, a few respondents suggested that there was no case for increasing the maximum capacity ceiling to 10MW on the basis that projects at these scale (and indeed above 1MW) will need a level of commercial expertise to progress, and would therefore be able to deal with the process of securing support under the RO or CfDs.
- 3.10 Some suggested that expanding the scheme to 10MW could result in consumers paying more money, because the FITs scheme provides a fixed payment for electricity that is generated and exported, rather than a payment linked to the market price for electricity as is the case for CfDs. They considered that whilst this is tolerable for small scale projects, it would be a concern if 5MW to 10 MW projects were able to avoid CfD competition by developing community energy projects through the FITs scheme.

Post consultation decisions

- 3.11 After careful consideration, taking into account the consultation responses, **we have decided not to proceed with the proposal to increase the maximum specified capacity ceiling from 5MW to 10MW set out in Part B of the consultation document.**

- 3.12 We have evaluated further the criteria for State aid notification changes to the Feed-in Tariff, and concluded that the proposed increase to the maximum capacity ceiling would constitute a material change to the scheme and as such must be notified to the Commission. Any notification would need to be based on strong economic information.
- 3.13 The responses to the consultation and follow up discussions with stakeholders did not provide additional robust economic evidence to demonstrate that community projects at the 5MW to 10MW scale have different costs to non-community projects. While there is some anecdotal information to suggest that community groups face additional barriers to deployment, there has been no evidence submitted that indicates that the costs of deploying community projects are significantly higher than for a non-community project. Similarly we received no new firm evidence to suggest that community energy projects at this scale will only be able to deploy under a 'non-competitive' fixed rate FIT. The consultation explored the impact on deployment of creating a new tariff band under the FITs scheme to support community energy at this scale. This appears uncertain - 34% of responses were of the view that the consultation proposals would increase deployment of community projects at 5MW to 10MW, while 47% felt that there would be little or no impact.
- 3.14 We have concluded that, given this lack of firm evidence, it would be extremely challenging to develop a convincing state aid case. It is also clear that there is a very high risk that we would be required to bring the existing FIT scheme into line with EEAG if we were to notify any change to the FITs scheme. We note that the majority of respondents to the consultation felt strongly that the policy should not be pursued if it would mean the FITs scheme as a whole having to comply with the new State aid rules. We agree that changing the FITs scheme to bring it into line with the EEAG could have negative consequences on the deployment of smaller renewable projects up to 5MW more generally and would create uncertainty for investors. We noted that a number of community and other stakeholders considered that the large majority of community projects coming forward would be at the sub 5MW scale.
- 3.15 We note the suggestion from one or two respondents that to protect the broader FITs scheme we could notify the 5MW to 10MW band as a separate community FIT scheme. We have explored this option in some depth and again take the position that, given the lack of firm evidence, it would be extremely challenging to develop a convincing State aid case. In particular, such a scheme appears inconsistent with the EEAG and we lack any credible evidence showing that there is a real market failure of renewables at this scale which can only be overcome by a fixed FIT type support scheme.

Measures to support deployment of large scale community energy projects

- 3.16 The decision not to proceed with this proposal should not preclude deployment of larger community electricity projects. Community projects above 5MW can apply for support under the Renewables Obligation (RO) until the scheme closes in April 2017¹¹ and as set

¹¹ The RO will close to solar projects over 5MW from April 2015 as set out in the Government Response to the consultation on controlling spending on large scale solar PV within the Renewables Obligation, published on 2 October 2014. See:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/360280/Government_response_RO-FIT_changes_to_Solar_PV_-_FINAL_2014-10-02.pdf

out in the consultation document several larger community projects have already been able to deploy under the RO. Community Projects above 5MW will also be eligible to apply for support under the forthcoming CfD regime.

- 3.17 We recognise that community projects at this scale, particularly those which are wholly community owned, consider that there are barriers to deploying under competitive support schemes. Around 66 % of the responses suggested that the need to access the RO and CfDs rather than FITs, could discourage communities from taking forward projects. A key concern related to what was seen as the significant administrative burden, costs and risks associated with engaging with the CfD mechanism. Responses highlighted the “upfront financial commitment required to prepare for a bid under the auctioning process which may ultimately be unsuccessful, the tight timelines (12 months) for moving from CfD offer to significant financial completion, penalties for contract withdrawal and proposed annual allocation rounds would mean delays before a generator is able to re-apply for a CfD”.
- 3.18 Similar concerns have been raised by commercial small-scale and independent generators. We have been working to address this through, for example, the introduction of the ‘Off taker of Last Resort mechanism, simplification to auction design, and the introduction of flexibilities in the contract that enable smaller developers to manage any uncertainty they might have about the precise detail of their project at the point they apply. The forthcoming Community Energy ‘One Stop Shop’ will provide a useful forum for signposting communities to relevant guidance and information on CfDs.
- 3.19 It is also worth noting that there are a wide range of approaches to deploying community energy. For example, our work on shared ownership proposals can help the community energy sector scale up quickly and overcome some of the barriers facing communities. By sharing know-how and skills, the community energy sector can work with industry to access the CfD process. As a result of this work we are expecting communities and industry to work constructively with a range of shared ownership models and joint ventures coming forward via the CfD regime.
- 3.20 It is of course difficult to assess accurately the impact that the introduction of competitive bidding might have on deployment of community projects before the CfD system is up and running. This is something that we intend to monitor as part of the wider review of the CES planned for 2016.

Overcoming other barriers

- 3.21 We note that the consultation responses also flagged a range of other barriers to the deployment of community projects at the 5MW to 10MW scale. These included “an apparent lack of interest or awareness of opportunities amongst the public, lack of access to skilled resources and expertise, restrictions on availability of suitable sites (give the need to develop close to the local community), risks in the planning process, difficulties raising affordable finance, and grid connection costs and availability, and the longer time frame required to complete each stage of a community project relative to similar commercial projects”.
- 3.22 Many of these issues relate to the deployment of community energy projects more generally and had been raised previously during development of the Community Energy Strategy (CES). New working groups bringing together regulators and industry have been in operation during 2014 to consider actions to tackle issues that communities face on planning, electricity network connections, and in taking forward hydro projects. The

groups submitted their reports to DECC in July 2014. We are currently considering the findings and will be publishing the formal Government Response to the reports, incorporated within the CES 'one year on' update, early in 2015, with a view to developing an action plan by March 2015.

- 3.23 The Community Energy Finance Roundtable has also been looking at new and innovative ways of addressing access to finance such as crowd-funding and aggregation models. The Group published its report to the Secretary of State for Energy and Climate Change in July 2014¹². This includes a series of practical proposals for helping communities to ensure their projects are bankable and that they access the right professional support early in the development process. We are considering the report and will publish our response in the CES 'One Year On' update in early 2015.

¹² Community Energy Finance Roundtable Final Report and Recommendations to the Secretary of State for Energy and Climate Change and the Minister for Civil Society (July 2014) See: http://www.cse.org.uk/downloads/file/CEFRoundtable_report_to_DECC-CO_140729.pdf

4. Definition of Community Organisation

Summary

We will widen the definition of “community organisation” to include registered charities and the wholly owned subsidiaries of such organisations. This will allow a wider range of community groups to access the community provisions in the FIT scheme and make it easier for some projects to attract finance.

Original consultation proposal

- 4.1 The “Feed-in Tariffs Order 2012” introduced a definition of community energy installation which includes installations where the FIT generator is able to meet the following definition of ‘community organisation’: a Community Interest Company, Community Benefit or Co-operative Society, with less than 50 employees. Projects developed by community groups which do not meet this definition of community organisation can still participate in the FIT scheme in the same way as other non- community FIT generators, provided that they meet the usual scheme conditions.
- 4.2 To ensure consistency with the existing FITs scheme, we proposed to continue to apply the existing definition of ‘community organisation’ across the scheme, including for projects in any new 5MW to 10MW band that might be introduced post consultation.
- 4.3 We discussed the recent calls for the Government to consider widening the definition of ‘community organisation’ to include a broader range of legal ownership entities such as Companies Limited by Guarantee (CLGs), registered charities and their wholly owned trading subsidiaries and ‘community bodies’ approved under the terms of the Land Reform (Scotland) Act 2003.
- 4.4 Given the wide range of aims and objectives that exist in relation to charities and CLGs, we explained that we were not clear as to how we could robustly determine whether these organisations have a community function at the heart of their interests. We requested evidence on what benchmarks might be used to determine whether a charity or CLG should have access to the FITs scheme as a ‘community organisation’, and if so, how this might be effectively administered.
- 4.5 We also asked for further views on whether there were barriers to community groups and bodies such as charities setting up Special Purpose Vehicles (SPVs) to meet the current definition of community organisation.

Main messages from the responses

- 4.6 Responses were equally split between those agreeing that we should retain the current definition (49%) and those considering that it should be expanded (49%).
- 4.7 The main points made by those supporting a widening of the definition were:
 - Definition should be as broad as possible and cover all actors within the local community with a wider social value remit. This would include local authorities;

social housing providers; charities; public sector actors such as schools and hospitals; social enterprises; village halls , churches;

- Scotland has a different approach to community organisations. The existing definition would exclude a large proportion of the operational community energy projects in Scotland ;
- Communities should not be constrained to using specific forms of governance but broadening the definition would require safeguards and oversight to prevent misapplication.
-

4.8 Those who considered the existing definition should be retained or restricted argued that:

- The definition is understood by the community sector and beginning to be known by the commercial sector. Further changes may cause confusion and add to uncertainty;
- Expanding the definition to cover charitable organisations is likely to create practical difficulties for scheme administration

4.9 The majority of respondents who addressed the relevant questions considered that there were barriers preventing charities, wholly owned subsidiaries of charities and Companies Limited by Guarantee (CLGs) from setting up Special Purpose Vehicles (SPVs) to meet the current definition of community organisation. A number of legal as well as cost and practical issues were raised.

4.10 Some evidence was also put forward to suggest that where SPVs had been set up by charities or other community organisations they had not been able to secure financing from commercial lenders. For this reason all of the SPVs established in Scotland for community energy projects have been incorporated as ordinary companies (wholly owned by charitable parent bodies).

Post consultation decisions

Registered charities and wholly owned trading subsidiaries

4.11 We have considered carefully the detailed information submitted by respondents, and further to discussions with a range of stakeholders, **have on balance decided to widen the definition of ‘community organisation’ set out in section 11 of the Feed in Tariff Order 2012 to include ‘registered charities and the wholly owned trading subsidiaries of registered charities’, with no more than 50 employees. In the case of wholly owned trading subsidiaries, both the parent charity and trading subsidiary must each have no more than 50 employees.**

4.12 Expanding the definition will help some projects to access commercial finance and widens the options available to community groups. It will enable a larger range of community focused organisations to benefit from the community provisions of the FITs scheme, including the existing provisions which allow communities installing building mounted solar projects up to 250kW to benefit from a relaxation of the energy efficiency requirement, as well as the new measures set out in this document which we plan introduce from April 2015.

- 4.13 We accept that the current definition of ‘community organisation’ in the FITs scheme is preventing some community developments, particularly in Scotland from accessing the community provisions of the FITs scheme. In many of these cases community groups have set themselves up as a charity, often with a wholly owned trading subsidiary (in the form of a CLG), in order to secure commercial finance, ensure legal separation and achieve tax efficiencies. We note that while it is possible for charities to set up SPVs to deliver community energy projects which would meet the current definition of community organisation (usually as a CIC), small charities find this costly and onerous. In addition we have received some evidence that banks lending to community energy projects are willing to consider lending to charities, but have concerns about lending to other types of community organisations. We have explored this further and it seems to be because the rules on transferring assets (so called ‘asset locks’) where they are applied, are seen to impede the ‘step in rights’ that banks may require to enable them to take over a project if a developer defaults on its loan.
- 4.14 We were previously concerned about how we could ensure that the large number and wide range of different types of charities were properly regulated and had a community interest at the heart of their functions. The main charity regulators, the Charity Commission in England and Wales and the Office of the Scottish Charity Regulator (OSCR) in Scotland, have clarified that only organisations with exclusively charitable objectives for the public benefit can be registered and a charity’s activities must further or support the achievements of its charitable objectives. In this respect it is worth noting that there is a very strong analogy between the definition of ‘community’ for CICs and the definition of ‘public benefit’ for all charities.
- 4.15 Wholly owned trading subsidiaries of registered charities usually take the form of a CLG. They are subject to company law and they must trade for the benefit of the charity. In doing so they must avoid undue risk to the charity’s assets and reputation.

Regulating and verifying the status of registered charities and wholly owned trading subsidiaries

- 4.16 Registered charities are strictly regulated and any case where the charity regulator considers that a charity’s activities were not consistent with its objectives would be a matter of regulatory concern, which would be taken up with the charity trustees. Charity trustees also have a duty to ensure that any wholly owned trading subsidiary is trading for the benefit of the parent charity and avoiding undue risk to the charity’s assets and reputation. Both the Charity Commission and OSCR have an indirect role in monitoring the activities of trading subsidiaries via controls placed on the parent charity and the parent charity trustees.
- 4.17 The Charity Commission and OSCR publish lists of registered charities which can be used by Ofgem to verify the legal status of a charity applying to register as a community organisation under the FIT scheme. Similarly the status of a wholly owned trading subsidiary can be further checked by reference to the organisation’s articles of association published on the Companies House website, which must include details of the parent charity.
- 4.18 These revisions to the definition of ‘community organisation’ in the FITs scheme will not impact on any definition of community organisation, group or project used in respect of tax legislation.

Unregistered, excepted and exempt charities

4.19 **We do not intend to include either unregistered charities, ‘excepted’¹³ charities or ‘exempted’¹⁴ charities within the definition of community organisation.** The regulation of these groups (where it exists) is not undertaken centrally and would add significant complexity to administration of the scheme by Ofgem, who would need to review each application on a case by case basis.

Community bodies approved under the Land Reform (Scotland) Act 2003

4.20 We also do not intend to include community bodies’ approved under the terms of the Land Reform (Scotland) Act 2003. Whilst organisations approved under this legislation can be easily verified and have a clear community purpose, the legislation has a distinct geographical scope. The FITs scheme applies across the whole of Great Britain and we do not consider it appropriate to incorporate separate regional criteria as this could make administration of the scheme more complex. We understand that in practice many of the bodies approved under the Land Reform (Scotland) Act 2003 have charitable status and would therefore already be able to meet the new extended definition of ‘community organisation’.

¹³ Some charities are 'excepted' from charity registration in England and Wales. This means they do not have to register or submit annual returns to the Charity Commission. A charity is excepted if its income is £100,000 and it falls within one of the following groups: certain churches, organisations providing buildings for schools, Scout and Guide groups, and armed forces charities. For further information see:

<https://www.gov.uk/government/publications/excepted-charities>

¹⁴ An exempt charity in England and Wales cannot register with the Charity Commission. It is regulated in some other way - most exempt charities now have a 'principal regulator' responsible for overseeing charity law compliance. Most exempt charities are listed in Schedule 3 to the Charities Act 2011, but some charities are made exempt by other Acts. They include certain educational charities, museums and galleries, and social housing providers. For further information see: <https://www.gov.uk/government/publications/exempt-charities-cc23>

5. Accommodating different ownership models

Summary

We will address some of the barriers communities face in securing grid connections by creating an additional exemption to the site rule in the FIT scheme to allow two projects to share one grid connection and receive separate tariffs based on their individual generating capacity.

We recognise that a range of different community and shared ownership models are likely to come forward and we will produce guidance clarifying how different ownership models are accommodated within the FIT scheme and setting out relevant good practice for partnership working between community and commercial entities.

Original proposal

- 5.1 We sought views on the main types of community ownership models that are likely to be used to develop community projects, and asked whether there were barriers to incorporating these into the FITs scheme. We had identified three main models: projects owned outright by a community organisation, Joint Ventures (JVs)/ partial ownership based on a share of electricity generation income and partial ownership based on separate commercial and community units/installations.
- 5.2 In cases of joint ownership where a community and commercial developer own individual units and infrastructure but share a single grid connection, we proposed to add a further exemption to the Metering Point Administration Number (MPAN) criterion in the determination of “site” in the FITs scheme to allow Ofgem to treat the community owned infrastructure as being located on a separate 'site' to the rest of the development. This would have the added benefit of enabling community organisations to develop a community energy project with a commercial partner using a single grid connection but receive separate FITs payments- thus keeping costs and complexity to a minimum. It would further contribute to achieving our vision for a substantial increase in shared ownership of renewables.
- 5.3 We also proposed to produce guidance to help communities and commercial partners work together, to include issues such as setting up JVs and the sharing of FITs payments.

Main messages from responses

- 5.4 A key point flagged in a number of responses was that irrespective of the size of the installation, communities should have flexibility to deliver projects through a range of ownership models.

- 5.5 It was suggested that any new policies on integrating partially owned projects should be consistent with work being undertaken on shared ownership.
- 5.6 Allowing community and commercial projects to share a single grid connection whilst still being treated as separate projects for FITs payment purposes was seen as beneficial by a wide range of respondents for projects at any size.
- 5.7 A few respondents suggested that community projects should be able to share grid connections with much larger commercial projects which may be receiving support under other financial schemes such as the RO or CfDs (which is not possible under current policy).
- 5.8 All of those that responded to this section of the consultation considered that guidance from the regulator or DECC would be useful in being able to explore the opportunities for communities to engage with commercial developers on how to share FITs payments.

Post consultation decisions

Extending the exemption to the MPAN criterion within the determination of 'site' to facilitate shared grid connections

- 5.9 The existence of a separate grid and meter connection point (MPAN) is currently one of the criteria for defining a unique site for FITs accreditation. At present if two or more parties share the same grid connection, all would generally be treated as a single eligible installation located on the same site. The tariff assigned would be relevant for the total installed capacity of the whole installation. The onward distribution of the FIT payment would need to be handled through private agreements. This can be complex and time consuming for communities. In order for a community to ensure it receives its own separate FIT payment it would need to have a separate grid connection. This is often not available and so under the current arrangements outright ownership of an asset is often not a possibility. Even where two grid connections are possible it can be costly and administratively difficult to secure.
- 5.10 **To simplify the process, we have decided to modify the current rules to create an additional exemption to the 'site rule' in the FITs scheme to allow two projects, provided one project is owned by a community organisation, to share one grid connection and receive separate tariffs based on their individual generating capacity.** This should encourage communities to either wholly or partly own assets and to overcome a key project development barrier for communities. It facilitates "asset based" ownership for communities, which is often a preferred shared ownership model. It allows greater control for communities and clear division in income.
- 5.11 The extension of the exemption to the 'site rule' would be limited to two separate installations only. No further segregation will be allowed. This is because the involvement of more than two owners would add significant complexity for the FIT Generators, Ofgem, and the FIT Licensees.
- 5.12 Both parties sharing the grid connection will be required to seek support under the FITs scheme. There is currently no provision in the FIT, RO or CfD legislation for generating capacity on the same site and sharing a grid connection to be split across different financial support schemes. The different design and purposes of the schemes means that such provision would be both impractical and undesirable. Any change in this position would involve substantial amendments to legislation.

Metering and payment

5.13 In order to enable Ofgem to treat the individually owned sections as separate eligible installations each will be required to register as separate FIT generators and to meter their generation separately. Payments would be based on the amount of energy generated. It may however be appropriate for community organisations to consider entering into private agreement/contracts between with their commercial partners to safeguard against periods when their individual units are not running – for example at times of annual maintenance.

Export payments

5.14 In addition to the main FITs generation tariffs, export tariffs can also be paid by the FITs Licensee where electricity is exported to the grid. In the case where separate community and commercial installations are sharing a grid connection, we strongly recommend that both parties have the same FIT Licensee in order to facilitate the pro rata of export payments. Alternatively, instead of claiming FIT export payments, the community organisation and commercial developer could jointly enter into a Power Purchase Agreement (PPA) with an electricity supplier.

Guidance

5.15 We note that there is some confusion amongst community groups over how different community ownership models (especially JVs and partial ownership) are treated under the FITs scheme. In addition, community organisations have suggested that in many cases they are likely to be the less well informed party in any discussions with a commercial developer particularly with regard to setting up JVs or other partnerships and the sharing of FITs payments.

5.16 **We do not consider that it is Government's role to dictate precisely how partnerships should work in legislation, but we will produce guidance clarifying how different ownership models are accommodated within the FIT scheme. We will also provide information and signpost existing guidance and case studies highlighting good practice in partnership working between commercial and community entities.** The guidance will be available by the time the legislation enters into force in 2015. It will help to empower community groups, improve general understanding, and give communities as much flexibility as possible in relation to the shared ownership model that they wish to pursue.

5.17 We understand that as our wider policies on community ownership evolve – particularly on shared ownership - there may be changes in the ownership models and partnership arrangements used to develop projects. It is important that communities and developers have the flexibility to choose the type of model that works best for both parties and we will review arrangements periodically, for example as part of the regular reviews of the FIT scheme.

6. Preliminary accreditation

Summary

We will increase the existing preliminary accreditation validity periods for community AD, hydro, solar PV and onshore wind projects by a blanket six months, to reflect the additional time it takes a community to raise finance for renewable electricity projects.

This will increase the certainty on offer to community energy developers and investors with regard to the available tariff and will give developers more time to engage local communities and to focus on raising the right type of finance locally.

Original proposal

- 6.1 Preliminary accreditation is a mechanism that allows prospective generators to obtain advance assurance that they will be accredited once they commission, and to reserve the tariff rate that applies at the time they apply for preliminary accreditation. These assurances currently have the following set validity periods depending on the technology type reflecting the variation in lead-times for projects:
- 6 months for solar PV projects above 50kW¹⁵;
 - 1 year for all AD project and onshore wind projects above 50kW; and
 - 2 years for all hydro projects.
- 6.2 There is at present no differentiation between community and non-community projects. Preliminary accreditation is available to all installations that, once commissioned, would use the ROO-FIT route of accreditation¹⁶ (solar PV and wind installations with a DNC over 50kW and all AD and hydro projects).
- 6.3 We proposed that the existing preliminary accreditation arrangements should be extended to the new 5MW to 10MW community energy bands for all technologies, if it was decided to introduce this new band after the consultation.

Main messages from responses

- 6.4 A number of responses suggested that the current preliminary accreditation arrangements and in particular the existing validity periods were acting as a barrier to deployment and should be extended for all sizes of community projects, not just any new 5MW to 10MW band. Supporting arguments included:

¹⁵ Community solar PV projects on non-domestic buildings below 50kW are defined as 'community energy installations under FITs'; and are eligible to apply for a separate tariff guarantee which has a validity period of 12 months.

¹⁶ For further information on the ROO-FIT process, see chapter 4 of Ofgem's Feed-in Tariff: Guidance for renewable installations (Version 6) at: <https://www.ofgem.gov.uk/publications-and-updates/feed-tariff-guidance-renewable-installations-version-6-october-2013>

- Community project developers need to have preliminary accreditation confirmed before they seek funding, so that they can give assurances around actual rates of return. Unlike many commercial developers they do not have a portfolio of other projects which can be used to manage risk and secure finance quickly;
- Current preliminary accreditation periods under the FITs scheme were based on average build times for different technologies and did not take into account the extra time needed by communities to raise finance, compared to a commercial body;
- Equipment cannot be purchased until at least a significant proportion of funding is in place. This often leaves very little time to install equipment and commence operations;
- One community developer suggested that community projects should be able to achieve preliminary accreditation at an earlier stage in the process (i.e. at the point at which a budget cost request is submitted to the DNO for grid connection and/or screening submission made to a planning authority).

Post consultation decisions

Increases to the preliminary accreditation validity periods for community projects

- 6.5 We have listened to the concerns raised by a range of stakeholders about the length of time it takes (beyond the norm for commercial organisations) to develop a community energy project at any size. In particular stakeholders stressed that the preliminary accreditation validity periods for projects being developed by community organisations do not reflect the additional time it takes to raise finance, prepare governance documents and engage the local community. We note that this creates uncertainty and means that projects are more likely to seek out debt or to raise finance away from the local community (for example through national share offers or crowd funding) as this type of funding can usually be collected more quickly.
- 6.6 We have discussed this with stakeholders who have provided further evidence suggesting that the time taken to complete a community share offer fund raising exercise can range from 3 to 12 months, with around 6 months seen as the average. Timing appears to depend on the expertise of those involved in the project and how localised the fundraising is rather than the technology type or size of the project. Attempting to generate small amounts of funding from communities living close to a project can take significantly longer than opening up the offer to larger 'community investors' on a national scale.
- 6.7 **We will therefore increase the existing preliminary accreditation validity periods for community AD, hydro, solar PV and wind projects by a blanket six months, to reflect the additional time it takes a community to raise finance for renewable electricity projects.** This will increase the certainty on offer to community energy developers and investors with regard to the available tariff and will give developers more time to engage local communities and to focus on raising the right type of finance locally.
- 6.8 The new validity periods will be:
- Community Solar PV (above 50kW¹⁷) – 12 months;

¹⁷ Community solar PV projects below 50kW on non-domestic buildings are defined as community energy installations and are eligible to apply for a separate tariff guarantee which has a validity period of 12 months.

- All Community AD and Community onshore wind (above 50kW)– 18 months;
- All Community hydro 2 1/2 years.

- 6.9 There will be no changes to the other rules governing preliminary accreditation. Preliminary accreditation is available to all community installations that, once commissioned, would use the ROO-FIT route of accreditation¹⁸. Before they can receive preliminary accreditation proposed installations will continue to be required to have planning approval (as for RO preliminary accreditation), and will also need to have met the following pre-requisites:
- Evidence of acceptance of a firm grid connection offer, if a grid connection is needed; and
 - For hydro installations: an environmental permit from the Environment Agency in England and Natural Resources Wales in Wales, including an abstraction licence, impoundment licence, flood defence consent and fish pass approval as necessary; and in Scotland, a Controlled Activities Regulation (CAR) authorisation from SEPA (Scottish Environment Protection Agency) for abstractions, impounding works (weirs and dams) and any other engineering works associated with the scheme.
- 6.10 These pre requisites are necessary to provide certainty on both sides, and to ensure that preliminary accreditation is available only to projects once they have a high probability of proceeding to completion.
- 6.11 Tariff lifetimes will still apply from the installation's commissioning date. The tariff guarantee will apply only to the capacity, site and technology that is included in the preliminary accreditation application, i.e. changes to site or technology or increase in capacity will result in cancellation of preliminary accreditation, decreases in capacity will be permitted only if they are in the same tariff band

¹⁸ For further information on the ROO-FIT process, see chapter 4 of Ofgem's Feed-in Tariff: Guidance for renewable installations (Version 6) at: <https://www.ofgem.gov.uk/publications-and-updates/feed-tariff-guidance-renewable-installations-version-6-october-2013>

7. Combining FITs and grants

Summary

We did not receive sufficient evidence to allow us to change our policy on combining FITs and grants at present. We will however, reassess additional costs in the 2015 review of the FITs scheme and will assist the community sector to build the necessary evidence base.

In the meantime we will issue guidance on the type of activities that can be supported by publicly funded grants without affecting eligibility for FITs payments under the current rules.

Original proposal

- 7.1 Many community groups have stressed the importance of grant support to enable their renewable energy projects to proceed. However, the Feed-in Tariffs (FITs) Scheme is intended to replace, not supplement, public grants: tariffs are calculated to support the entire cost of an installation and to provide a reasonable rate of return. As a result, the FITs scheme does not currently allow projects to receive both a public grant and the tariff for the same costs. This rule is essential under the Scheme's State aid approval from the European Commission and to ensure value for money for consumers who pay for the FITs scheme. Projects can receive a grant for activities that are **not** covered by the tariff and Ofgem has published guidance on this¹⁹. As anecdotal evidence suggested that community projects face higher costs than other projects, the consultation sought detailed information on these additional costs. Subject to receiving sufficiently clear and robust evidence, we proposed to allow community projects up to 5MW to receive grants for these additional costs (and for existing projects to claim back a previously repaid grant, subject to the grant provider's agreement) without it affecting their eligibility for the Feed-in tariff.

Main messages from responses

- 7.2 There was widespread support (from 93% of responses) for expanding the definition of "reasonable additional costs" to cover additional installation costs that community energy groups face that are not covered by the Feed-in tariff, so that projects could combine grants for these costs with their tariff payments. But very few respondents gave detailed cost breakdowns for the development, installation and operating costs of specific projects. Most gave high level or average costs or un-costed narrative descriptions. Some of the activities mentioned could already be covered by a grant without affecting eligibility for the Feed-in tariff. Where categories were already covered by the Feed-in tariff, there was very little information on the actual cost breakdown to allow a

¹⁹ For Ofgem's guidance on combining FITs and grants, see Chapter 2, pages 15 – 19 of "Feed-in Tariff: Guidance for Renewable Installations (Version 6)" at: <https://www.ofgem.gov.uk/ofgem-publications/84194/fitgeneratorguidanceversion67nov2013.pdf>

comparison to be made with non-community projects. A small number of responses objected to expanding the definition because they were concerned about the value for money and cost control aspects, or because they mistakenly thought that State aid approval would be needed and would mean that the whole FITs scheme would need to be reconfigured in line with the new State aid guidelines. (This is not the case as the proposal complied with the scheme's existing State aid approval.)

- 7.3 Over three quarters of respondents thought that existing FITs-accredited community energy projects should be able to receive reinstated grants under the expanded definition of "reasonable additional costs". Of these supporters, 10% thought the proposal should go further by allowing greater grant aid (either up to the *de minimis* threshold or via Government grants). But 13% thought that it would be difficult to implement in practice because it was unlikely that funds would be available for reinstatement. Almost a quarter of respondents were concerned about the proposal. Most of these questioned the value for money aspect because it would be difficult to provide robust evidence of the costs; existing projects were likely to be receiving a higher tariff than a new project, due to tariff depression; and a grant could be given back to a project that did not need it. There were also concerns that the original grant provider might be forced to reinstate grants.
- 7.4 The vast majority of respondents (92%) thought that the proposals should apply to all the technologies currently supported under the FITs scheme.
- 7.5 Half agreed that only projects up to 5MW should be eligible. Just over a third thought the proposals should apply to all projects if the scheme was extended to 10MW. Most of the rest wanted only projects up to 1MW to be eligible.
- 7.6 Although not part of the consultation, there was wide spread support for DECC's intention to provide greater clarity on the type of activities that are not associated with purchasing or installing renewable energy equipment, and so can be supported by publicly funded grants without affecting eligibility for FITs payments under the current rules.
- 7.7 Nearly a fifth of respondents called for community groups to be given various types of further help beyond the proposals. These included allowing FITs and grants, or FITs and interest-free loans, to cover the same costs; combining FITs and grant up to the *de minimis* limit; and encouraging non-public bodies to provide grant support.

Post consultation decisions

- 7.8 Only 13 respondents provided information on costs and much of this was anecdotal evidence or included averaged costs. We therefore do not have a sound basis for proving that there are additional costs for community groups. If we take action in the absence of evidence of additional costs, we will be in breach of the scheme's State Aid approval. **We therefore do not intend to implement the consultation proposals at the present time.**
- 7.9 However, we do commit to reassess additional costs in the 2015 review of the FITs scheme (see paragraph 1.13). This review will carry out a thorough assessment of the costs for **all** types of projects to ensure that the tariffs are not overcompensating. We will then have the necessary detailed cost evidence to be able to robustly compare the costs for community and non-community projects. We will assist the community sector in building the necessary evidence base on costs ahead of the 2015 review.
- 7.10 In the meantime, we will focus on providing greater clarity on the type of activities that are **not** covered by the Feed-in tariff and so can be supported by grants without affecting

eligibility for the tariff under the current rules. Many community groups are reluctant to spend community funds when there is no guarantee of a return on the money. So grants are important in the early stages of a project to enable it to get started. Grants for initial “pre-design” feasibility work can be combined with the Feed-in tariff under the current rules. The revised guidance will give greater clarity on the activities that are covered by this. We intend to publish the additional guidance by the end of 2014.

- 7.11 We do not intend to implement the other suggestions put forward by respondents. We cannot allow grants and interest-free loans to cover the same costs as the tariff payments (i.e. allow double subsidy) as this would not give good value for money and would breach the scheme’s State aid approval. The European Commission’s restriction on duplicating payments in respect of the same costs also means that grants cannot be treated under the *de minimis* provisions where they cover the same costs as the tariff payments. Whilst it would be technically possible to allow *de minimis* payments for new projects where they are for costs **not** covered by the Feed-in tariff, we judge that the administrative burdens for implementing this are too high: it would be difficult to check the accuracy of the applicant’s claims as there are no central records of *de minimis* payments. It is the responsibility of the aid provider to ensure that the aid will not exceed the *de minimis* threshold. Aid granted in excess of the threshold is unlawful and the onus will be on the UK to recover it. In addition, the *de minimis* threshold applies to all the public aid received by an undertaking over a rolling three year period, not just the aid received in relation to the FITs installation. So some larger community groups may have already received the maximum aid permitted (e.g. a social housing co-operative that received aid to build many low carbon homes). Projects over 100kW will reach the limit through FITs payments alone. Some non-public bodies already provide grant support for community groups. Grants issued from non-state financing sources are not State aid and so can be combined with the Feed-in tariff.

8. Deployment and economic impacts

Evidence on current and projected deployment of community electricity projects set out in consultation

- 8.1 In order to assess the costs and other impacts of the new policies proposed in the consultation we needed to determine whether they would result in:
- No change to the deployment profile of community energy projects;
 - A shift in the deployment profile of renewable energy projects with capacity that would have been deployed as commercial in nature under the RO or CfDs coming forward as a community energy project under the FITs scheme;
 - New community energy capacity coming forward under the FITs scheme that would not otherwise have deployed.
- 8.2 We set out in Part A of the consultation document our initial analysis of the numbers and capacity of community electricity projects at both the 0-5MW and > 5MW to 10MW scales, which are currently operational or in the development pipeline. Our estimates were based on independent analysis for the Community Energy Strategy²⁰ cross referenced against data on the Renewable Energy Planning Database (REPD) and Renewables Obligation Certificate and FITs registers²¹. However, given the small and nascent state of the community sector, we recognised that there are limitations with deployment data and we asked for evidence to validate our figures.
- 8.3 We also asked for evidence on how the proposed policy changes set out in the consultation document might impact on deployment under the FITs scheme up to 2020 for projects in the existing 0-5MW and proposed >5MW to 10MW bands. As well as the impacts of increasing the maximum capacity ceiling under the FITs scheme to 10MW, we were keen to better understand the likely impacts on deployment of any changes to the definition of 'community organisation', introduction of measures to accommodate different community ownership models and revisions to our policy on combining FITs and grants. More generally we sought views on how wider policies such as shared ownership and the 'Community Electricity Right' and other measures set out in the CES might impact on deployment of community electricity projects up to 2020.

Summary of new evidence received

- 8.4 We received very little additional specific information on future deployment potential including whether or not there would be a shift in ownership from commercial to wholly or partly owned community projects. A number of the responses stressed the difficulties in

²⁰ Community Renewable Electricity Generation: Potential Sector Growth to 2020, January 2014 is at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/274746/20140108_Community_Energy_Modelling_FinalReportJan.pdf

²¹ Figures used in Community Energy Strategy research were reviewed against the Renewables Energy Planning Data base and Renewables Obligation Certificate Register – data as at end December 2013, downloaded in February 2014

making robust assessments and projections given the limited level of historic activity in the sector.

- 8.5 Views on our estimates of current and future deployment were polarised. Out of the 26 responses that addressed this part of the consultation, 2 (8%) broadly agreed with our assessments, 7 (27%) considered that we had overstated the potential and 6 (23%) considered that we had understated the potential (with one respondent suggesting that we should have based our projection on the upper rather than mid-range projection in the CES analysis). Eleven respondents (42%) were unable to provide a clear view.
- 8.6 A number of the responses suggested that future deployment was likely to focus on smaller (sub 5MW) projects given the higher planning and financing risks facing larger projects. Some suggested that the proposed policies could accelerate the deployment of existing planned projects rather than creating new projects and that any 5-10MW projects already in the pipeline were likely to come forward under the RO.
- 8.7 Several respondents considered that irrespective of the proposals in the consultation, deployment would not come forward if the tariff rates and degression thresholds were too stringent. The majority of respondents suggested that wider policies such as the 'community electricity right to buy in' and other CES actions could lead to increased deployment of shared ownership projects with only 14% saying that these would have little or no impact.

Economic impacts

- 8.8 We expect the policies set out in this document to be cost neutral as the new measures are likely to bring forward a shift in ownership of pipeline renewable projects from commercial developers and individual households to wholly or partly-community owned projects, rather than increasing the overall amount of renewable energy that we expect to be deployed by 2020. This is consistent with our wider work on encouraging shared ownership and is in line with the findings of the Community Energy Strategy (CES). (Whilst the CES analysis²² did not look specifically at the impact of these new policies, there was no new definitive evidence in the consultation responses to suggest that we should deviate from its conclusions).
- 8.9 There would be a cost impact if the new policies were to stimulate additional net deployment rather than a transfer in ownership. We have carried out some scenario analysis to assess the potential impacts of this and further details are set out in the updated Impact Assessment published alongside this document.

²² Community Renewable Electricity Generation: Potential Sector Growth to 2020, January 2014 is at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/274746/20140108_Community_Energy_Modelling_FinalReportJan.pdf

Annex A – List of respondents

Abingdon Hydro
Action with Communities in Rural England (ACRE)
AEE Renewables plc
Applecross Community Company
Bath & West Community Energy
Berwickshire Housing Association
Bristol Energy Cooperative
British Hydropower Association
Callander Community Hydro Project
Campaign to Protect Rural England (CPRE)
Climatechangematters Ltd
CO2Sense CIC
Coigach Community Development Company
Communities for Renewables CIC
Community Energy England
Community Energy Scotland
Community Energy Wales
Community Hydro Forum
Co-operatives UK
Coriolis Energy Ltd
Cornwall Energy
DONG Energy Sales (UK) Ltd
Dorset Community Energy Ltd
EDF Energy
Electricity Storage Network Limited
Energy Saving Trust
Energy UK
Energy4All
Esk Energy (Yorkshire) Limited
Fetlar Developments Ltd
Friends of the Earth England, Wales and Northern Ireland
Galson Energy Ltd.
GDF SUEZ- West Coast Energy
Good Energy
Gwent Energy CIC
Hampshire County Council
Highlands & Islands Enterprise,
iPower Energy Ltd
Kirkhope Parish Hall
Leicestershire County Council
Low Carbon Hub
Member of Parliament for Hereford & South Herefordshire
Micro Hydro Association
My Green Investment C.I.C
Ofgem
Our Power
Plymouth Energy Community

REA
Regen SW
RenewableUK
RES
RWE
Scottish Federation of Housing Associations (SFHA)
Scottish Government
ScottishPower
Shrewsbury Hydro Ltd
SmartestEnergy
Solar Trade Association
Swanbarton
The Banks Group
The Resilience Centre / Resilient Energy
The Sussex Village Halls Advisory Group
Transition Black Isle
Tregadillett Community Hall
Valley Wind Co-operative Ltd
Welsh Government

And 3 individuals

Annex B – Statistical Analysis of the responses to questions in Parts A, B and C

This section gives a statistical analysis of the responses to each question. Not all the respondents to the consultation answered every question. In light of this:

- The first line of figures for each question below shows the total number of stakeholders who commented on that particular question;
- The second line calculates the responses to the question as a percentage of the 69 overall stakeholders who submitted a comment on at least one of the 31 questions;
- The third line calculates the responses to the question as a percentage of the total number of stakeholders who commented on that particular question.

Part A: Introduction and estimates of deployment

QA1. Do you have any comments on the scenarios we have used to assess potential deployment of community projects?

	Agree with scenarios	Understate potential	Overstate potential	Don't know / view not clear	Total
No. of responses	2	6	7	11	26
Percentages (based on 69 overall responses))	3%	9%	10%	16%	37%
Percentages (based on responses to this Q)	8%	23%	27%	42%	100%

QA2. What impact on deployment of community energy under the FITs scheme do you think the changes proposed in Parts B and C of this consultation would have?

	No or low impact	Increased deployment	Don't know / view not clear	Total
No. of responses	15	11	6	32
Percentages (based on 69 overall responses))	22%	16%	9%	46%
Percentages (based on responses to this Q)	47%	34%	19%	100%

QA3. What impact could wider community energy policies such as the 'community right to buy' and other measures set out in the Community Energy Strategy have on deployment of community electricity under the FITs scheme?

	No or low impact	Increased deployment	Don't know / view not clear	Total
No. of responses	4	15	11	30
Percentages (based on 69 overall responses))	6%	22%	16%	43%
Percentages (based on responses to this Q)	13%	50%	37%	100%

Part B- increasing maximum specified capacity from 5MW to 10MW

QB1. Do you think that we should progress these changes, if implementing them would require Government to bring the FITs scheme into line with the new State aid EEAGs?

	Yes, progress regardless	Don't wreck existing scheme	Undecided/ position unclear	Don't support 5-10MW at all	Total
No. of responses to this question	9	28	2	2	41
Percentages (based on 69 overall responses))	13%	41%	3%	3%	59%
Percentages (based on responses to this Q)	22%	68%	5%	5%	100%

QB2. Do you agree that there are barriers to deploying large scale (i.e. over 5-10MW) community energy projects in the UK under the existing support schemes (RO and forthcoming CfDs)?

	Are barriers under RO/CfDs	Barriers are both RO/CfD & others	Mainly non-RO/CfD barriers	Type of support not a barrier	Total
No. of responses	20	6	11	2	39
Percentages (based on 69 overall responses))	29%	9%	16%	3%	57%
Percentages (based on responses to this Q)	51%	15%	28%	5%	100%

QB3. Do you agree that the increased maximum specified capacity ceiling should be applied to all renewable technologies which are currently supported under the FITs scheme, namely AD, hydro, solar PV and onshore wind?

	Agree	Only objecting due to State aid risks	Disagree with policy	Position unclear	Total
No. of responses	29	3	1	7	40
Percentages (based on 69 overall responses))	42%	4%	1%	10%	58%
Percentages (based on responses to this Q)	73%	8%	3%	18%	100%

QB4. Do you agree that it is not necessary to change the definition of “community energy installation” to enable community projects >5 MW to pre accredit and accredit under the FITs scheme?				
	Leave unchanged	Expand definition	Position unclear	Total
No. of responses	23	9	1	33
Percentages (based on 69 overall responses))	33%	13%	1%	48%
Percentages (based on responses to this Q)	70%	27%	3%	100%

QB5. Do you agree with our proposal to retain the existing definition of “community organisation” and to apply this definition across the whole of the FITs scheme?					
	Retain definition	Expand definition	Restrict definition	Position unclear	Total
No. of responses	18	20	2	1	41
Percentages (based on 69 overall responses))	26%	29%	3%	1%	59%
Percentages (based on responses to this Q)	44%	49%	5%	2%	100%

QB6. Are there barriers preventing groups from setting up an SPV to deliver community energy projects that could meet the definition of “community organisation” under the existing definitions? Are these barriers GB wide?				
	No barriers	Are barriers	Don't know	Total
No. of responses	8	16	1	25
Percentages (based on 69 overall responses))	12%	23%	1%	36%
Percentages (based on responses to this Q)	32%	64%	4%	100%

QB7. Do you agree with our preferred approach not to widen the definition of ‘community organisation’ to include CLGs (Company Limited by Guarantee), registered charities and the wholly owned subsidiaries of such charities?					
	Agree - leave definition as it is	Include charities and subsidiaries	Include charities and subsidiaries and other bodies	Disagree but change not specified or suggest different approach	Total
No. of responses	17	7	7	9	40
Percentages (based on 69 overall responses))	25%	10%	10%	13%	58%
Percentages (based on responses to this Q)	43%	18%	18%	23%	100%

QB9. Should 'community bodies' approved under the Land Reform (Scotland) Act 2003 be included in the FITs definition of 'community organisation'? How would the inclusion of this type of organisation be robustly administered?

	Agree - include them	Disagree	Total
No. of responses	25	2	27
Percentages (based on 69 overall responses))	36%	3%	39%
Percentages (based on responses to this Q)	93%	7%	100%

QB10. Are there any constraints on the extent to which a commercial entity can have an interest or shareholding in a community interest company, a community benefit society or a co-operative society?

	Yes - are constraints	No constraints	Concerns about commercial involvement	Position unclear	Total
No. of responses	12	6	6	3	27
Percentages (based on 69 overall responses))	17%	9%	9%	4%	39%
Percentages (based on responses to this Q)	44%	22%	22%	11%	100%

QB11. Are there commercial reasons why it is not preferable for a JV to take the form of a community interest company, community benefit society or co-operative society?

	Yes	No	Total
No. of responses	16	8	24
Percentages (based on 69 overall responses))	23%	12%	35%
Percentages (based on responses to this Q)	67%	33%	100%

QB12. Are there any regional issues why a JV may be more or less attractive in England and Wales or Scotland?

	Yes, there are regional issues	No regional issues	Total
No. of responses	4	4	8
Percentages (based on 69 overall responses))	6%	6%	12%
Percentages (based on responses to this Q)	50%	50%	100%

QB14. Are the existing rules, as would be likely to apply to partial ownership arrangements, a barrier preventing large scale community energy projects from being able to deploy?				
	Agree	Disagree	Position unclear	Total
No. of responses	19	4	2	25
Percentages (based on 69 overall responses))	28%	6%	3%	36%
Percentages (based on responses to this Q)	76%	16%	8%	100%

QB15. Are there restrictions on the activities of community organisations that might make it difficult for them to distribute money received from the FIT Licensee to commercial partners?			
	Yes	No	Total
No. of responses	15	8	23
Percentages (based on 69 overall responses))	22%	12%	33%
Percentages (based on responses to this Q)	65%	35%	100%

QB16. Would community organisations find it helpful to have some guidance on how to come to an agreement with a commercial developer with regard to the sharing of FITs payments?			
	Agree	Disagree	Total
No. of responses	35	0	35
Percentages (based on 69 overall responses))	51%	0%	51%
Percentages (based on responses to this Q)	100%	0%	100%

QB17. Do you agree with our approaches to supporting the different models of partial ownership under the FITs scheme?					
	Agree	Agree but also allow RO/CfD support	Agree but need other things as well	Disagree with policy	Total
No. of responses	14	9	8	2	33
Percentages (based on 69 overall responses))	20%	13%	12%	3%	48%
Percentages (based on responses to this Q)	42%	27%	24%	6%	100%

QB19. Do you agree that where there is a single grid connection, separate generation meters would be required and that payments would need to be based on the amount of energy generated?

	Agree	Agree but other things needed as well	Disagree with aspects	Object to whole policy	Total
No. of responses	21	7	8	3	39
Percentages (based on 69 overall responses))	30%	10%	12%	4%	57%
Percentages (based on responses to this Q)	54%	18%	21%	8%	100%

QB21. Do you agree with the proposed depression mechanisms for the AD, hydro, solar PV and onshore wind tariffs?

	Agree	Depression triggers too low	Tariffs too low	Need longer preliminary accreditation period	Other issues	Total
No. of responses	1	22	2	6	5	36
Percentages (based on 69 overall responses))	1%	32%	3%	9%	7%	52%
Percentages (based on responses to this Q)	3%	61%	6%	17%	14%	100%

QB22. Do you agree with the proposal that the existing FITs pre accreditation measures should be extended to large scale community energy projects at the over 5MW – 10MW scale in the FIT scheme?

	Agree	Disagree only because of State aid risk	Agree but need longer preliminary accreditation period	Agree but preliminary accredited projects should not count towards depression trigger	Disagree with policy	Total
No. of responses	21	1	8	4	6	40
Percentages (based on 69 overall responses))	30%	1%	12%	6%	9%	58%
Percentages (based on responses to this Q)	53%	3%	20%	10%	15%	100%

Part C- combining FITs and grants

Note - QC2 and QC4 asked for information on the costs for community energy projects, and sources of public grants so there is no statistical analysis for these two questions.

QC1. Do you agree that we should seek to expand the definition of “reasonable additional costs” to cover additional installation costs that community energy groups face that are not covered by the FITs payments, so that new community energy projects could combine grants for these costs with their FITs payments?

	Yes - should allow grants for additional costs	Agree with proposal but need further support as well	Misunderstanding of state aid position ²³	Value for money case unclear	Totals
No. of responses	32	8	2	1	43
Percentages (based on 69 overall responses))	46%	12%	3%	1%	62%
Percentages (based on responses to this Q)	74%	19%	5%	2%	100%

QC3. Do you agree that existing, FITs-accredited community energy projects should be able to receive reinstated grants that would qualify under the expanded definition of reasonable additional costs under proposal 1?

	Support proposal	Support proposal but should go further	Support in principle but funds unlikely to be available	Concerned about some aspects	Totals
No. of responses	17	3	4	7	31
Percentages (based on 69 overall responses))	25%	4%	6%	10%	45%
Percentages (based on responses to this Q)	55%	10%	13%	23%	100%

QC5. Do you agree that proposals 1 and 2 should be applied to all the technologies currently supported under the FITs scheme, that is, AD, hydro, solar PV, onshore wind and micro CHP?

	Agree	Concerned about some aspects	Totals
No. of responses	33	3	36
Percentages (based on 69 overall responses))	48%	4%	52%
Percentages (based on responses to this Q)	92%	8%	100%

²³ The respondents mistakenly thought that State aid approval would be needed for the proposal and that would mean that the whole FITs scheme would need to be re-configured in line with the new State aid guidelines. This is not the case as the proposal complied with the scheme’s existing State aid approval.

QC6. Do you agree that proposals 1 and 2 should be applied only to projects up to and including 5MW?					
	Agree	Disagree - include larger projects as well	Disagree - apply only to smaller projects	Position not clear	Totals
No. of responses	17	12	3	2	34
Percentages (based on 69 overall responses))	25%	17%	4%	3%	49%
Percentages (based on responses to this Q)	50%	35%	9%	6%	100%

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