

**Decision Paper on a  
Framework Document for the Phase II  
Opening of the Northern Ireland  
Sustainable Energy Programme to  
Competition**



**August 2010**

## **1. Background**

- 1.1 In August 2008, following a strategic and operational review, the Utility Regulator (UR) published a consultation document which proposed a number of changes to the Energy Efficiency Levy (EEL) Programme. This consultation established the need for a number of high level changes to the Programme including:
- The opening of the EEL to organisations other than electricity suppliers;
  - Allowing renewable and innovative schemes to obtain funding;
  - Revising the incentive mechanism; and
  - Ensuring that the framework documentation is clear for new potential participants.

The decision paper, published in March 2009, set out a two-stage approach to implementing these changes and, to reflect the changing nature of the initiative, it was decided to change the name to the Northern Ireland Sustainable Energy Programme (NISEP).

- 1.2 In July 2009 the UR published a consultation on the detailed operational rules for the programme to cover the Phase 1 opening. This consultation set out the key rules for participants in the programme for the year 1 April 2010 to 31 March 2011. For Phase 1 the right to bid for funding was opened up to licensed gas suppliers as well as licensed electricity suppliers. This consultation also established the aims and format of the NISEP.
- 1.3 The strategic objectives of the NISEP were agreed as: 'to contribute to the achievement of:
- a) efficiency in the use of energy;
  - b) socially and environmentally sustainable long term energy supplies; and
  - c) the above at best value to consumers while also having due regard for vulnerable customers.'
- 1.4 In April 2010, the UR published a consultation paper ('Northern Ireland Sustainable Energy Programme: Consultation on phase II opening of the NISEP to competition and the new operational arrangements and the Programme Framework Document') inviting comments on:
- the arrangements for the Phase II opening to new participants,

- the proposed incentive mechanism, and
- the revised framework document and procedures for participants.

A draft Framework Document was attached as an appendix to the consultation paper.

- 1.5 The consultation paper was sent out to a wide range of consultees as well as being posted on the UR's website. Twenty-one responses were received to the consultation. The organisations that responded are listed in Appendix 1 and Section 3 of this document provides a summary of the responses to each question.
- 1.6 The purpose of this paper is to present the decisions made following analysis of responses to the April 2010 consultation and to present a finalised Framework Document which will apply to the NISEP year commencing 1 April 2011. The revised Framework Document includes details of the registration process/requirements for organisations new to the programme.
- 1.7 This decision paper is structured as follows:
  - Section 2 outlines the overall decisions and the next steps;
  - Section 3 outlines the key issues raised by the consultation and the UR's response to them;
  - Appendix 1 lists the respondents to the consultation;
  - Appendix 2 contains the final Framework Document which will be operational for the programme year commencing 1 April 2011.

## **2. Overall Decisions and Next Steps**

- 2.1 The responses to the consultation were given due consideration and the decisions made in response to specific points are outlined in the Table 1 in Section 3. The draft framework document has been amended to take into account these decisions and a final version is attached as Appendix 2 to this document. This Framework Document will apply to NISEP schemes for the year 1 April 2011 to 31 March 2012.
- 2.2 The NISEP for 2011/12 will be opened up to competition from organisations other than licensed energy suppliers. Organisations who wish to register in order to become a Primary Bidder in the NISEP, and think that they can meet the criteria set out in Section 1.4 of the attached Framework Document, should contact the Programme Administrator (Energy Saving Trust) for further information. Registration for the NISEP year 2011/12, commencing 1 April 2011, will be open from the date of publication of this decision paper.
- 2.3 The call for schemes for the 2011/12 NISEP will go out in early September 2010. It will be sent directly to consultees of the Utility Regulator and also published on the UR's website and the Energy Saving Trust website.
- 2.4 A seminar will be held during September for all registered Primary Bidders and any potential Scheme Partners. Schemes must be submitted to the Programme Administrator by 30 November 2010, in the appropriate format and with all the necessary detail supplied, in order to be considered for NISEP funds in 2011/12. The Programme Administrator will give advice and guidance on submitting a bid up until this date. Incomplete submissions will not be considered for funding.
- 2.5 The UR will monitor, on an ongoing basis, the effectiveness of all the decisions taken and the revised Framework Document. It was agreed in the March 2009 Decision Paper that the NISEP would run for three years, up until 2012/13, before it was reviewed again. Therefore, the Utility Regulator will begin collecting information and evidence to assess the NISEP in late 2011.

### 3. Key Issues Raised by the Consultation and the Utility Regulator's Response

- 3.1 Twenty-one responses were received to the consultation on the Phase II opening of the NISEP to competition, the new operational arrangements and the Programme Framework Document. The list of respondents is included as Appendix 1 to this decision paper. All of the responses have been posted on our website in full and can be viewed at: [www.uregni.gov.uk](http://www.uregni.gov.uk) . A summary of the key points raised and the UR's response to them is included in Table 1 below.

**Table 1: Summary of Responses to the Consultation and the Utility Regulator's Response**

#### **Question 1: Respondents may wish to comment on the aims, general form or level of the NISEP.**

##### Key Points Raised

The majority of respondents were supportive of the aims, general form and level of the NISEP. The opening up to competition was welcomed along with the inclusion of renewable technologies and innovative schemes. Most respondents were accepting that, in the current economic climate, 80% of funding should be directed to schemes for vulnerable customers.

Six respondents expressed dissatisfaction with the general form of the NISEP. The particular points made were:

1. There should be greater focus on energy efficiency measures that better support government and EU targets to reduce carbon emissions and the current apportionment and focus on vulnerable customers should be re-examined;
2. Need to question rationale for existence of NISEP, its objectives and how it should be paid for;
3. Allocation of funds should be reviewed and industries should receive a fair and equal share of funds based on contributions made;
4. Fear NISEP will be less efficient and transparent than before and remain concerned about opening up to non-licence holders;
5. Aims of NISEP would be more clearly defined by placing improvements in energy efficiency measures for vulnerable customers at the heart of the programme.
6. 2-3 large schemes might be more cost-effective

### Utility Regulator's Response

The UR is pleased that the majority of respondents support the current aims, general form and level of the NISEP. With regard to the issue of the apportionment of funding, the March 2009 decision paper stated that:

*'While we agree that the primary purpose of the Programme is energy efficiency and that, in general it is easier to achieve more cost effectiveness in the non-vulnerable sector, we continue to be of the view that due to the level of fuel poverty in Northern Ireland the proportion of funds ring-fenced for vulnerable customers should remain at the level of 80%. However this figure can be kept under review and will depend on a number of factors including;*

- *the ongoing level of fuel poverty in Northern Ireland;*
- *the outcome of the current debate on social tariffs.'*

The UR does not think that, since this decision paper was published, there have been any significant changes in the external environment that would warrant a review at this stage of the apportionment of funding. However, in the next overall review of the NISEP this will be one of the issues for consideration. Similarly, the success or otherwise of opening up to competition will be reviewed as part of the overall review of the NISEP, due to be completed in 2012/13, as will the rationale for its existence and its overall format.

**Question 2: Respondents are asked if they agree that only fit and proper organisations, who are financially and technically capable of delivering NISEP schemes, should be permitted to register as primary bidders?**

### Key Points Raised

All respondents agreed that only fit and proper organisations should be permitted to register to participate in the NISEP.

### Utility Regulator's Response

The UR welcomes the support shown by respondents for this crucial aspect of opening up the NISEP to other organisations.

**Question 3: Respondents are asked to comment on the criteria set out in section 1.4 of the draft Framework Document. Will the application of these criteria ensure that only fit and proper organisations register?**

### Key Points Raised

Almost all the respondents were supportive of the criteria and agreed that they would ensure that only fit and proper organisations register. However, there were some concerns that the criteria were too stringent and would deter new

and innovative organisations from applying. Two respondents felt that the technical soundness criteria would exclude organisations which may be able to manage the schemes with additional technical support whilst another two respondents specifically mentioned that the requirement for 'direct responsibility for Project Scoping and definition of benefits' was too restrictive. On the issue of fraud, one respondent stated that it may not be practical for large organisations to list every case of fraud they had had in the last three years that there might be issues or sensitivity around the disclosure of such information.

Two respondents stated that the criteria were not stringent enough, one going as far as to say that they raised an unnecessary risk to the performance of the NISEP. The main concerns were that experience of implementing only one previous energy efficiency scheme was required and that the maximum level of funding for first-time bidders may exceed greatly the value of any scheme delivered previously.

#### Utility Regulator's Response

The UR has made some amendments to the Framework Document in light of the above comments, to help make the criteria more flexible and to take account of the range and size of the different organisations that may wish to apply for registration to the NISEP.

**Question 4: Respondents are asked to comment on the accedence document set out in Appendix 8 of the draft Framework Document. Do respondents agree that all registered primary bidders (including licence holders) should sign the accedence document?**

#### Key Points Raised

All respondents to the question agreed that all registered primary bidders, including licence holders, should sign the accedence document. One respondent suggested a few minor amendments to the document.

#### Utility Regulator's Response

The UR is pleased that respondents support the concept of an accedence document and agree that all participants in the NISEP should sign up to it, as this should help ensure the proper use of funds and effective delivery of schemes. Where appropriate, the amendments suggested have been made to the accedence document.

**Question 5: If any respondents feel that the criteria set out in section 1.4 will not be sufficient to ensure that only fit and proper organisations become involved, they are asked to suggest alternative criteria.**

### Key Points Raised

The majority of respondents felt that the criteria listed in section 1.4 were sufficient and had no alternative proposals. However, there were some suggestions for additional criteria as listed below:

1. Complaints procedure/ resolution of customer disputes;
2. Experience of a number of projects over time adding up to a minimum of £200,000
3. First-time bidders should not be allowed to apply for funding which exceeds the value of any previous single energy scheme they have delivered;
4. Agreement to cooperate with and accept all reasonable direction by UR;
5. A mechanism to discipline/impose sanctions upon a primary bidder who is not a licensed energy company;
6. A commitment to supply energy services, advice and information;
7. Ability to interact with and support vulnerable customers and a track record of customer satisfaction in dealing with this particular group.

### Utility Regulator's Response

Each of the suggestions for further criteria has been given careful consideration by the UR and, where deemed appropriate, the list of criteria listed in section 1.4 has been added to or amended.

**Question 6: Respondents are asked to comment on the responsibilities of the primary bidder as regards operating schemes in accordance with their bid. Are these responsibilities clear? Are the terms and conditions clear? Are there any other responsibilities which should be set out for primary bidders?**

### Key Points Raised

Most respondents felt that the responsibilities and terms and conditions for primary bidders were clear in the framework document. There were a few comments and suggestions regarding additional responsibilities:

1. Should have a quality management system in place such as ISO or similar;
2. Should have responsibility for independent technical inspections to be carried out on a complaint led basis;
3. Health and safety measures and procedures should be in place, risk assessments undertaken and health and safety monitoring and auditing.
4. Measures should be recorded and reported on a monthly or quarterly basis in terms of numbers and spend in each local council area and constituency.

In terms of the responsibilities proposed in the framework document, three respondents suggested that the maximum bid for new primary bidders should



be reduced to £150,000 for the first-year whilst three other respondents thought that £300,000 was too low. One respondent queried the role of the secondary bidder as set out in the framework document and the proposal to require an Energy Performance Certificate (EPC) before and after a property has been treated with a whole house solution received criticism as being unworkable in practice.

#### Utility Regulator's Response

The UR has amended the Framework Document, where appropriate, to put greater emphasis on the Primary Bidder's responsibilities with regard to having quality assurance processes, customer complaints procedures and health and safety procedures in place.

Primary Bidders already have the responsibility to provide the Programme Administrator with geographical information but the Programme Administrator is now being asked to report the number of measures and amount of spend in each council area on an annual basis.

The UR has decided to increase the maximum bid for Primary Bidders in their first year of participation in the NISEP to £500,000. However, the suggestion put forward by one respondent has been incorporated which is that first-time Primary Bidders will not be allowed to bid for a total amount which is greater than any single energy efficiency scheme that they have previously delivered.

On reflection the UR has decided that the term 'Secondary Bidder' was somewhat confusing and has changed all references to 'Scheme Partner'.

The UR has decided to withdraw the requirement for an EPC to be obtained before and after a house has been treated until a more workable solution has been found.

#### **Question 7: Respondents are asked if they agree with the objectives of and reasons for an incentive mechanism?**

##### Key Points Raised

Almost all of the respondents to the question agreed with the objectives of and reasons for the incentive mechanism, given that participation in the NISEP was voluntary, although several stated that they thought it was important that primary bidders did not benefit unduly and that the mechanism should be kept under review. Only one respondent did not agree with the incentive mechanism as they did not think that regulated utility companies should receive incentives that are not included in their price control. They also stated that they would like to see all the incentives earned reinvested into community schemes.

Among the comments on the proposed mechanism, two respondents said that they would like to see the threshold for recycled funds to be lowered and,

along with a third respondent, would like to see the recycled funds directed to schemes for priority domestic customers. One respondent said that they would strongly argue that the level of incentive payment for non-priority schemes should be the same as for priority schemes given the difficulty in selling schemes to the commercial sector and the innovation required.

#### Utility Regulator's Response

Given that the majority of respondents agree with the objectives of and reasons for the incentive mechanism, the UR has decided to implement the incentive mechanism as proposed. However, its effectiveness will be monitored on an ongoing basis and kept under review.

**Question 8: Respondents are asked if they agree that the quality of measures is a central issue and that incentives should be withheld where significant quality issues are not dealt with? Should incentives be withheld in the other listed circumstances or any other specific circumstances that have not been alluded to?**

#### Key Points Raised

All respondents to the question agreed that quality was a central issue and that incentives should be withheld if quality issues had not been dealt with appropriately. One respondent, however, commented that it was difficult to define what a 'significant' quality issue was and highly subjective without detailing specific standards for assessing measures to ensure each primary bidder is dealt with on a fair and equitable basis.

#### Utility Regulator's Response

The UR is pleased that respondents agree that quality is a central issue and that it is justifiable to withhold the payment of incentives until any quality issues have been dealt with. As defined within the Framework Document, significant quality issues are taken to mean installations which do not meet safety or energy saving standards or quality of installation standards. The UR expects any sub-standard installations to be rectified and incentives will not be paid for a scheme until the Programme Administrator is satisfied that all the quality issues have been addressed. Appendix 6 has information on the standards that apply to the various types of measures and further information will be available from the Programme Administrator.

**Question 9: Respondents are asked if they agree with the other circumstances under which incentives may be reduced or energy savings apportioned?**

#### Key Points Raised

Most respondents agreed with the other circumstances for reducing incentives or apportioning energy savings and felt that this issue had been adequately addressed in the draft framework document. However, one area of controversy was the proposal that participants who had signed voluntary agreements with DETI under the energy services directive would not be entitled to incentives for schemes which were reported to DETI as having been carried out in fulfilment of the voluntary agreement. Four respondents were against this proposal, one stating that it would mean unfair competition and treatment of some Primary Bidders.

#### Utility Regulator's Response

Having considered the arguments the UR has decided to remove the stipulation that incentives will not be paid on schemes which are reported in relation to Voluntary Agreements with DETI. Upon due consideration the UR considers this decision to be consistent with the aims of the incentive mechanism as consulted upon. That is encouraging participation, value for money efficient schemes and additionality.

#### **Question 10: Respondents are asked if they agree that the methodology suggested is the best method of ensuring the aims and objectives of the programme are achieved?**

#### Key Points Raised

Respondents were broadly in agreement that the methodology suggested would deliver the aims and objectives of the programme, however, there were two main areas of concern:

1. That some of the cost-effectiveness targets were too challenging, particularly for whole house solutions and innovative schemes, creating a barrier to certain types of schemes being brought forward;
2. That there was not enough support for renewable technologies and consideration of the fact that they were more sustainable in the long term.

#### Utility Regulator's Response

The UR has discussed the issue of the cost-effectiveness targets with the Programme Administrator and remains of the view that this is the most appropriate method. The targets are based on successful schemes from previous years and therefore it has been proven that they are achievable. The targets in the finalised Framework Document differ slightly to those in the draft document as the final cost-effectiveness of the 09/10 schemes has now been reported.

The UR is attempting to help the introduction of renewables into the NISEP by

ring-fencing 5% of funding specifically for schemes using renewable technology. This apportionment will be reviewed as successful renewable schemes are delivered but as no such schemes were brought forward last year the level will remain at 5% for 2011/12.

**Question 11: Respondents are asked if they agree that the Framework Document is set out in a clear and understandable format?**

Key Points Raised

The majority of respondents agreed that the general format of the Framework Document was clear and understandable. However, several commented that some parts were rather lengthy and complex. It was suggested that a simplified guide or summary document would be useful along with guidelines on how to submit a bid.

One respondent did not think the document was an improvement on previous versions and stated that they found it more confusing than ever and therefore contrary to the principle of transparency.

Utility Regulator's Response

The UR is pleased that the majority of respondents found the Framework Document clear. However the UR acknowledges that the Framework Document is a very lengthy and in parts complex document. However, to ensure the best and appropriate use of public funds it is essential that all the pertinent issues are covered by the Framework Document and that it provides a comprehensive guide to the rules and procedures for participants in the NISEP. In order to aid help potential bidders the UR will hold a workshop in September. It must be stressed, however, that all participants in the NISEP must be aware of and understand the full content of the Framework Document. The Programme Administrator will provide ongoing advice and guidance to participants as required.

**Question 12: Respondents are asked if there are any sections of the Framework Document which need to be clarified?**

Key Points Raised

There were a number of areas within the Framework Document that respondents said required further clarification:

1. The types of renewable energy measures allowed and the rationale for the decision if the list is restricted;
2. What is meant by 'innovative schemes';
3. How the quality of measures will be assessed;
4. The methodology for allocating unspent funds at the end of the year;

5. More detail on what happens with recycled incentive payments;
6. The process for obtaining an EPC and what happens with different scenarios;
7. The procedures for payment of funds to primary bidders;
8. How success of the NISEP will be measured against its stated aims;
9. How scheme providers agree with Programme Administrator that they have targeted the right category of customer.

#### Utility Regulator's Response

The UR has looked at how each of these issues is addressed in the Framework Document and provided further clarification or amended the text as deemed appropriate. On the issue of the renewable technologies allowed, the UR expects only solar thermal panels and biomass boilers to be competitive enough on the basis of cost effectiveness to attain NISEP funding. However, the UR has decided that all renewable technologies that are covered by the Micro-generation Certification Scheme will be eligible for inclusion in NISEP schemes.

#### **Question 13: Respondents are asked if they agree that the Framework Document delivers its stated aims and objectives?**

#### Key Points Raised

In general, the majority of respondents agreed that the Framework Document delivers its aims and objectives with some reservations such as: they would have liked to have seen more emphasis on renewable technology solutions and thought that some parts of the document were difficult to understand.

Four respondents did not think that the Framework Document delivered its aims and objectives, each one for a different reason:

1. Too big a focus on domestic sector and too little on industry given that aim of programme is to reduce energy consumption and carbon emissions;
2. Some requirements not workable. Appears to be increasing layers of costly bureaucracy and arrangements which will deter schemes for the most vulnerable as well as restricting innovation;
3. Does not deliver socially and environmentally sustainable long term energy supplies as it fails to promote renewables adequately;
4. Current aims do not reflect the proportion of funding ring-fenced for most vulnerable energy customers. Aims of programme would be more clearly defined by placing improvements in energy efficiency measures for vulnerable customers at heart of programme.

#### Utility Regulator's Response

The UR is pleased that the majority of respondents think that the revised Framework Document delivers its aims and objectives. In response to the particular points made:

1. As stated in the answer to Question 1, the primary aim of the Programme is energy efficiency but due to the high level of fuel poverty in Northern Ireland the majority of consultees still agree with the decision to divert 80% of funds to schemes for vulnerable customers.
2. The UR has made amendments to some parts of the Framework Document where consultees have pointed out potential problems. Whilst some new administrative processes have been introduced in the new document, the UR feels that these are necessary to ensure, given the potential participation of organisations who are non-license holders, that the funding is being used effectively and appropriate safeguards are in place.
3. The first year of the NISEP 2010/11 had ring-fenced funds specifically for schemes for renewable technologies but unfortunately no such schemes were forthcoming. For 2011/12 an amount has again been ring-fenced for renewable schemes and if successful schemes are brought forward the UR will consider increasing this amount in future years. It should be noted that this ring-fence is a minimum amount available and renewable schemes can still compete with other schemes for funding outside the ring-fence.
4. As stated above, the current apportionment of funds to vulnerable customers is a temporary, albeit long-term, measure while fuel poverty levels remain high and therefore the UR thinks that the current aims reflect this position adequately.

**Question 14: Respondents are asked if the Programme timetable as set down in the Framework Document is clear and understandable?**

Key Points Raised

Respondents were in agreement that the programme timetable was clear and understandable but two commented on the fact that the timeline between notification of approval and the start of the programme year was very tight.

Utility Regulator's Response

The UR acknowledges the fact that the time between notification of scheme approval and scheme start is very tight. In previous years there have been a number of queries regarding the scheme submissions which have delayed the approvals process and this is why the scheme submission date in the Framework Document has been brought forward to the end of November rather than the end of December. The timetable has now been further amended to say that the UR will aim to notify Primary Bidders if schemes have received funding by the end of February. However, it should be noted

that this date is dependant on all queries regarding scheme submissions being sorted out to the satisfaction of both the Programme Administrator and the UR.

**Question 15: Respondents are asked if there are any further comments they wish to make?**

Key Points Raised

A number of other points or suggestions were made by respondents in response to this question.

Utility Regulator's Response

All the further comments have been given due consideration by the UR and action taken where deemed appropriate.

## Appendix 1

### Respondents to Consultation

Action Renewables

Airtricity

Ards Borough Council

Cookstown District Council

Department for Social Development

Eaga NI

Energia

Energy Saving Trust

ESB Independent Energy

firmus energy

GT Energy

NEA NI

NIE Energy

NI Energy Agency

Northern Investing for Health Partnership (Fuel Poverty Steering Group)

Northern Ireland Environment Link

Northern Ireland Housing Council

Northern Ireland Housing Executive

Northern Ireland Water

Phoenix Natural Gas and Phoenix Supply

The Consumer Council



## **Appendix 2**

### **Framework Document for the NISEP 2011/12**

This appendix is published as a separate document.

(If you are accessing this document through our website you will find appendix 2 as an attachment to the web link or if this document has been sent to you via e-mail the appendix should be attached to the same e-mail.)