
Ministry of Housing, Communities and Local Government

Scheme Operating Requirements for the production of Energy Certificates

Level 1 Document

2025 edition, version 1.5

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Document Control

Change History

Version Number	Author	Description of Change	Date
1.1	Dawn Wilkinson	S1.2.5 wording change	07.06.19
1.2	Dawn Wilkinson	'MHCLG' replaced with 'DLUHC', s1.2.6 added	08.08.22
1.3	DLUHC	Updates to s1,4,5,7,8	21.12.23
1.4	DLUHC	Regulatory changes, amendments to data sharing clauses, minor wording changes	16.05.24
1.5	MHCLG	Amendment, para 4 xiv limited tolerance in cases software error	14.06.25

Approval History

Name	Organisation	Date	Version
P.PHILIPPOU	MHCLG	26.03.18	1
P.PHILIPPOU	MHCLG	07.06.19	1.1
K.JUGDOYAL	DLUHC	08.08.22	1.2
K JUGDOYAL	DLUHC	21.12.23	1.3
KJUGDOYAL	DLUHC	14.06.24	1.4
T WOOD	MHCLG	20.06.25	1.5

Distribution List

Name	Organisation	Version	Date	Reason for issue
Accreditation Schemes	Elmhurst Energy, CIBSE, STROMA, ecmk, Sterling, Quidos	1.0	26.03.18	A
Accreditation Schemes	Elmhurst Energy, CIBSE, STROMA, ecmk, Sterling, Quidos	1.1	07.06.19	A
Accreditation Schemes	Elmhurst Energy, CIBSE, STROMA, ecmk, Sterling, Quidos	1.2	08.08.22	A
Accreditation Schemes	Elmhurst Energy, CIBSE, ecmk, Sterling, Quidos, Kaizen	1.3	21.12.23	A
Accreditation Schemes	Elmhurst Energy, CIBSE, ecmk, Sterling, Quidos, Kaizen	1.4	18.06.24	A
Accreditation Schemes	Elmhurst Energy, CIBSE, ecmk, Sterling, Quidos, Kaizen	1.5	20.06.25	A

Code	Reason For Issue:
-	Not issued.
I	For information only – no action required.
R	For review – comments to be directed to the Project Manager.
S	For sign-off approval.
A	Approved for issue (electronic approval via e-mail or meeting minutes)
Code	Review Response:
c	Comments received – see review record for details.
n	No comments, document OK.
t	(Timeout) - no comments received within allowed review period.

Preface

This document sets out the Secretary of State's current minimum high-level requirements for those organisations in receipt of a Letter of Approval on behalf of the Secretary of State for the Ministry of Housing, Communities and Local Government (MHCLG) to operate an Accreditation Scheme in accordance with Regulation 22 of the Energy Performance of Buildings (England and Wales) Regulations 2012 (SI 2012/3118), as amended (the EPB Regulations 2012 (as amended)), to enable Energy Assessors to issue:

- Domestic Energy Performance Certificates (EPCs) for new and existing dwellings;
- Non-Domestic Energy Performance Certificates;
- Display Energy Certificates (DECs) for public authority buildings, and;
- Air Conditioning Inspection Reports (ACIRs).

This document should be read in conjunction with the Level 2 document and associated Appendices, which provide more detail on how Accreditation Schemes meet the requirements set out in the Secretary of State's approval letter. This document is intended for Energy Assessor Accreditation Schemes and Energy Assessors, working as members of the Accreditation Schemes, approved to carry out assessments in England and Wales (please note that the devolved administrations of Scotland and Northern Ireland have their own managed schemes and individual set of Scheme Operating Requirements).

This document forms part of a suit of documents relating to the EPB Regulations 2012 (as amended).

Accreditations Schemes will have received a formal Letter of Approval to manage an Accreditation Scheme from the Secretary of State for Levelling Up, Housing and Communities outlining the expectations placed upon the Schemes to manage a successful Accreditation Scheme.

This document further outlines expectations and is used by the Energy Assessor Scheme Operating Board (EASOB) to define and document the requirements, rules and procedures to be followed in the production of energy certificates.

Energy assessors carry out energy assessments on buildings, they input the relevant data into Government approved software which calculates the energy efficiency of the building and produces appropriate recommendations. This data is sent securely to the government-maintained Energy Performance of Buildings Register (the Register) service. The Register service uses the assessment data to be able to show it in a certificate form.

The Glossary, which is included in the Level 2 Scheme Operating Requirements Document, will set out definitions of terms used throughout the documents.

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1. Accreditation Scheme Requirements

1.1 Financial and operational stability

- i. Accreditation Schemes will be financially viable. To demonstrate financial viability Schemes will produce and publish annual reports on their activities in the previous year and provide annual financial accounts to Companies House.
- ii. Accreditation Schemes will have sufficient operational resilience to ensure business continuity, identifying actions they will take to maintain business continuity if an unexpected event occurs. The Operational Resilience Plan will be made available to MHCLG or its auditors on request.
- iii. Accreditation Schemes will have 'cease to trade' arrangements in place to ensure members' and stakeholders' data are protected. 'Stakeholders' include building owners and other energy certificate customers. A statement of the 'cease to trade' arrangements will be provided to MHCLG annually.

1.2 Management systems

- i. Accreditation Schemes will have a documented management system which sets out policies and procedures and demonstrates that they are applied in a fair and consistent manner and complies with the Secretary of State's letter of approval, the EPB Regulations 2012 (as amended) and other relevant legislative requirements such as the prevailing Data Protection legislation, and operational requirements as set out in the Scheme Operating Requirements (SORs). Where an Accreditation Scheme shares 'assessment data' with the owner, landlord or occupier (an authorised person) of that building, or a third party with the consent of an authorised person, an accreditation scheme must demonstrate to MHCLG (or its appointed auditors) that the scheme's data sharing process complies with both the EPB Regulations and Data Protection legislation. Accreditation Schemes will be required to produce a Data Sharing Plan, which explicitly states how the data sharing process is managed and complies with legislation and other data protection requirements. The plan must include (but is not limited to) procedures for
 - a. monitoring and reporting on data sharing activities
 - b. managing data security
 - c. managing the loss or the unauthorised release of 'assessment data'
- ii. Should there be any conflict of interest between the SORs and statutory requirements, Accreditation Schemes shall make MHCLG aware of any perceived conflicts. MHCLG will circulate to all Schemes its views on whether reported conflicts are real and, in the event, provide official guidance on their resolution.
- iii. Accreditation Schemes should have Fraud Identification Plans and procedures in place to identify, prevent and deal with fraudulent activity on an individual and system-wide basis. Appropriate authorities should be informed of suspected fraud, as required.
- iv. Accreditation Schemes will have operational procedures in place to assure that members produce consistent and accurate energy assessments and energy certificates.
- v. Accreditation Schemes must ensure that stakeholders questioning EPCs have access to a complaints process and schemes should make best efforts to facilitate a resolution, including, where two schemes merge or one scheme acquires another, the surviving Scheme will facilitate resolution of enquiries.
- vi. Accreditation Schemes who share 'assessment data' with the owner, landlord or occupier of that building, or a third party with the consent of an authorised person, will become a Data

Controller¹ for the 'assessment' data'. Data Controllers will be responsible for managing the 'assessment data' in accordance with the UK General Data Protection Regulation. Accreditation Schemes will be responsible for reporting non-compliance to MHCLG and to the appropriate authorities. Accreditation Schemes and their members must comply with all relevant Data Protection legislation. Should there be a conflict between the SORs and statutory legislation, the latter takes precedence.

- vii. Accreditation Schemes will make available any documentation to MHCLG, or their agents, on request.
- viii. Accreditation Schemes will complete and send monthly reports to MHCLG in accordance with prescribed format and instructions provided by the Secretary of State.
- ix. Accreditation schemes will participate in any cross-scheme surveillance moderation activities specified by MHCLG.
- x. Accreditation Schemes will comply with all data related requirements contained within their Service Agreements as agreed with the Register Operator and amended from time to time.
- xi. Accreditation Schemes will have a minimum of either ISO27001 or Cyber Essentials Plus and provide the certificate to MHCLG or their agents on request.
- xii. Accreditation Schemes who wish to make use of the 'limited tolerance in cases software error' provision within the approved methodology, will follow the agreed process.

1.3 Insurance

- i. Accreditation Schemes will have procedures for ensuring that their members have and maintain insurance cover (professional indemnity and public liability) to protect Stakeholders.

1.4 Records

- i. Accreditation Schemes will maintain a register of current and former members and maintain records of their activities in accordance with Data Protection legislation.

1.5 Data Management

- i. Accreditation Schemes shall abide by the prevailing data protection legislation.
- ii. Accreditation Schemes and their members must not store, share, sell or disclose data that is collected for EPB purposes in any manner not compliant with EPB Regulations 2012 (as amended) and other statutory instruments, licencing, copyright, IPR and data protection requirements, Accreditation Scheme Letters of Approval or the SORs.
- iii. EPB data collected under the EPB Regulations 2012 (as amended), including data collected before lodgement, remains the intellectual property of MHCLG. This includes the Unique Property Reference Number (UPRN) and Report Reference Number (RRN) generated by the Register.
- iv. Data collected by Accreditation Scheme members under EPB Regulations 2012 (as amended) is only for the purpose of improving the energy efficiency of buildings. Data can only be shared in accordance with the EPB Regulations 2012 (as amended) and must exclude green deal information; the name of an individual; 'assessment data' in relation to 'excluded buildings'² (as defined in regulation 2 (Interpretation) of the EPB Regulations 2012 (as amended)). EPB data must be stored to facilitate compliance with the SORs.

¹ Data Controller has the meaning in article 4(7) of the UK General Data Protection Regulation.

² <https://www.legislation.gov.uk/uksi/2012/3118/regulation/2>

1.6 Impartiality

- i. Accreditation Schemes should ensure that there is no conflict of interest in their operations and should declare any conflict of interest should it arise.

2. Suitability to become a member and maintain membership – ‘fit and proper’

- i. Accreditation Schemes will ensure that procedures are in place to determine whether a person is suitable, (‘fit and proper’) to become a member.

3. Competence of Prospective Members

- i. Accreditation Schemes will only accredit those persons deemed to have met the competency criteria for the strand applied for (by way of a qualification or through Approved Prior Experiential Learning (APEL)).

4. Obligations on Accreditation Schemes

- i. Accreditation Schemes will ensure that members comply with the Code of Conduct, which sets out the standards that a member is required to comply with.
- ii. Accreditation Schemes will prepare and monitor a Code of Conduct for members setting out the standards that are expected of members and ensure compliance.
- iii. Accreditation Schemes will ensure existing members maintain their competency by undertaking and recording continuing professional development (CPD).
- iv. Accreditation Schemes will have processes in place to ensure that defective energy certificates produced by their members are replaced when identified.
- v. Accreditation Schemes will have processes in place to review, identify and record whether requests by individual members for additional memberships and EPB Strands are necessary. These multiple membership registrations should also be reviewed annually.
- vi. Accreditation Schemes shall investigate any issues brought to its attention by MHCLG and take any reasonable action as required.
- vii. Accreditation Schemes will send monthly reports to MHCLG detailing relevant information and data for energy assessors and EPC activity.
- viii. Accreditation Schemes will participate in any necessary activities to further improve the quality of EPCs as may be directed, from time to time, by MHCLG.
- ix. Accreditation Schemes will ensure that members of the Scheme use operational procedures that ensure consistency and accuracy of EPCs.
- x. Accreditation schemes will investigate any issuances of fraudulent behaviour and report any instances to the relevant authorities.
- xi. Accreditation Schemes will ensure that members of the scheme carry out consistent and accurate energy assessments in an independent manner.
- xii. Accreditation Schemes will provide confirmation on the status and/or disciplinary history of a member or previous member if requested by another Accreditation Scheme.
- xiii. Accreditation Schemes will ensure they perform their role as Data Controllers, where ‘assessment data’ is shared with the owner, landlord or occupier of that building, or with a third party with the consent of an authorised person, and must act in accordance with the UK General

Data Protection Regulation, the EPB Regulations 2012 (as amended) and other relevant legislation.

- xiv. Accreditation Schemes must have a process for recording when 'assessment data' is shared with a building owner, landlord or occupier of the building (an authorised person), or with a third party with the permission of the authorised person. Accreditation Schemes must act accordingly if the sharing of 'assessment data' contravenes the EPB Regulations 2012 (as amended) and Data Protection legislation.
- xv. Accreditation Schemes will be required to provide MHCLG with the details of their Data Protection Officer.

5. Surveillance

5.1 Energy Certificates Lodged by Members

- i. Accreditation Schemes will audit a minimum of 2% of energy certificates lodged for each strand. A significant proportion of this shall be randomly sampled.
- ii. Accreditation Schemes will sample a minimum of 5% of members' CPD records each year to ensure the CPD obligation has been met.
- iii. Accreditation Schemes will be required to review pass/failure rates and have processes in place where trends in pass and failure rates, both positive and negative, are actively fed back into their training and CPD processes.

5.2 Surveillance of Accreditation Schemes

- i. Accreditation Schemes will be subject to audit surveillance by MHCLG or their appointed agents at appropriate times.
- ii. Accreditation Schemes will have quality assurance procedures, and corrective actions in place where required standards are not met.
- iii. Accreditation Schemes will sample a minimum of 5% of members' CPD records each year to ensure the CPD obligation has been met.

6. Disciplinary

6.1 Members

- i. Accreditation Schemes will have disciplinary procedures for its members which may be initiated in the following circumstances:
 - Audit failure.
 - Breach of the obligations on the member.
 - Failure to be considered suitable (fit and proper) to continue as a member.
- ii. Disciplinary measures for members should be proportionate to the breach of standards for energy certificate audits, obligations/code of conduct on the member or fit and proper standards of the member. Members may be temporarily suspended or permanently removed from operational ability to lodge energy certificates on the Register through the scheme, as appropriate. Members should have the right to appeal these decisions.

6.2 Accreditation Schemes

- i. MHCLG may instigate Disciplinary Procedures against Accreditation schemes for failure to comply with the minimum standards as set out in these Level 1 SORs and subsequent Level 2 SORs.

- ii. Accreditation Schemes will be required to rectify non-conformities outlined in this disciplinary process to bring them in line with the SORs.
- iii. Accreditation Schemes have the right to appeal any disciplinary notice with regard to non-conformities, as outlined in the Energy Assessor Accreditation Scheme Disciplinary Procedure.

7. Complaints

7.1 Complaints about Members or the quality of Energy Certificates

- i. Accreditation Schemes will have in place a complaints process which is made available to stakeholders to complain about the quality of an energy certificate or about the conduct of a member. This will be available at no cost to the stakeholders. The complaint should be dealt with in a timely manner.
- ii. Accreditation Schemes should advise their members that complaints they receive should be notified to their scheme.
- iii. Accreditation schemes will have in place an independent third-party appeal panel to adjudicate on unresolved complaints by stakeholders.

7.2 Complaints about the Accreditation Scheme

- i. Accreditation Schemes will have in place a third-party independent complaints process which is made available to members or stakeholders dissatisfied with the conduct of the scheme. This will be available at no cost to the member or stakeholder. The complaint should be dealt with in a timely manner.

7.3 Register of Complaints

- i. Accreditation Schemes will maintain a register of complaints sent to them.
- ii. Accreditation schemes will provide MHCLG with a monthly breakdown of complaints received in a format prescribed by MHCLG.

8. Appeals

- i. Accreditation Schemes will have an independent third-party appeals panel, the terms of reference and a list of panel members will be provided to MHCLG.
- ii. Accreditation Schemes will ensure an independent third-party appeals process is in place for prospective members appealing scheme decisions relating to their application to become a member.
- iii. Accreditation Schemes will ensure an appeals process is in place for existing members appealing scheme decisions relating to their accreditation.
- iv. Accreditation Schemes will ensure an appeals process is in place for Stakeholders appealing scheme decisions relating to a complaint.

9. Support

9.1 Support to Stakeholders

- i. Accreditation Schemes will provide general information to members of the public and stakeholders concerning energy certificates and where appropriate refer them to the relevant guidance.

- ii. Accreditation Schemes will acknowledge enquiries from stakeholders within one working day; the response must include an indication of when they can expect a substantive reply outlining what action is being taken to resolve the matter.
- iii. Accreditation Schemes will direct stakeholders towards the Register to check the status of their members.

9.2 Support to Members

- i. Accreditation Schemes will provide a helpdesk for members.
- ii. Accreditation Schemes will provide information to members to keep them updated with changes in software, conventions, audit requirements or other changes which materially affect the way members operate.
- iii. Accreditation Schemes will allow prospective members access to pricing information and other relevant documents.