



Department
of Energy &
Climate Change

Consultation on support for community energy projects under the Feed-in Tariffs Scheme

Part B – Increasing the
maximum specified capacity
ceiling for community projects
from 5MW to 10MW

URN: 14D/024 May 2014

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The consultation can be found on DECC's website:

<https://www.gov.uk/government/consultations/support-for-community-energy-projects-under-the-feed-in-tariffs-scheme>

Published by the Department of Energy and Climate Change

Contents

Contents.....	3
General information.....	5
1. Executive summary	7
Background	7
Purpose of consultation	7
Summary of Proposals	8
Technologies to be included	8
Definitions of community organisation.....	8
Accommodating different community ownership models.....	8
Tariffs	9
Degression	10
Timing and Next steps.....	10
2. Introduction.....	11
Structure of the consultation	11
Purpose of the consultation	11
Scope	12
Policy objective.....	12
Affordability	12
State Aid.....	12
Timing and Next Steps	13
3. Increasing the ‘specified maximum capacity’	15
Eligible technologies.....	16
4. Definitions and ownership models	18
Definition of ‘Community energy installation’.....	18
Definition of ‘Community Organisation’	19
Existing Definition	19
Scope of definition	20
Special Purpose Vehicles (SPVs)	21
Extending the definition to include Companies Limited by Guarantee and Charities	21
Community bodies’ approved under the terms of the Land Reform (Scotland) Act 2003.....	22
Community Ownership Models.....	23
Joint Ventures (JVs) and partial ownership	23
Other partial ownership models.....	24

Existing rules on partial ownership	24
Issues for further consideration	25
Proposals for applying the increased capacity ceiling to partial ownership models	26
Partial ownership (based on % of generation)	26
Partial ownership (based on capacity)	26
Other Issues	27
Outright ownership	28
5. Support rates and cost control	30
Tariffs and cost control	30
Proposed tariffs	30
Degression	32
Links to degression in smaller capacity bands	32
Proposed degression arrangements for AD, hydro and onshore wind community 5MW to 10MW bands	33
Proposed degression mechanism for Solar PV	34
Tariff guarantees and preliminary accreditation	36
Annex A: Catalogue of consultation questions	38

General information

Purpose of this consultation

This document is Part B of the wider consultation on support for renewable electricity generation by community groups under the Feed-in Tariffs (FITs) Scheme.

This Part B is seeking views on proposals for implementing the powers set out in the Energy Act 2013 which enable the Secretary of State to increase the maximum specified capacity ceiling for eligible community projects under the FITs scheme from 5MW to 10MW. This includes consideration of the definition of “community organisation”. Part C of the consultation looks at how we might change our policy to enable community groups to combine FITs and grants.

Before reading Part B, we advise you to read Part A as this sets out background information on the importance of community energy, the current financial support, costs and interdependencies. Part A also seeks views on our analysis of current community renewable electricity deployment and future potential, plus the impact of the proposed actions on deployment.

This consultation is relevant to community energy groups, renewable electricity generators, electricity suppliers, electricity consumers and their representatives, network operators, Ofgem, financial institutions and other stakeholders with an interest in community energy.

Issued: 13 May 2014

Respond by: 7 July 2014

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Consultation reference:

URN: 14D/024 - Consultation on support for community energy projects under the Feed-in Tariffs Scheme - Part B: Increasing the maximum specified capacity ceiling for community projects from 5MW to 10MW

Territorial extent:

The Feed-in Tariffs Scheme applies only to Great Britain. Any changes following this consultation will apply in England, Scotland and Wales only.

How to respond:

Please respond using the following templates that are published on the DECC website

alongside this consultation document:

- Response to the Consultation on support for community energy projects under the Feed-in Tariffs Scheme;
- Cost evidence for the Consultation on support for community energy projects under the Feed-in Tariffs Scheme.

Your response will most useful if it is framed in direct response to the questions posed, though further comments and evidence are also welcome. Responses to the consultation should be in electronic format and sent to the email address above.

Additional copies:

You may make copies of this document without seeking permission. An electronic version can be found at: <https://www.gov.uk/government/consultations/support-for-community-energy-projects-under-the-feed-in-tariffs-scheme>

Other versions of the document in Braille, large print or audio-cassette are available on request. This includes a Welsh version. Please contact us as above to request alternative versions.

Confidentiality and data protection:

Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the access to information legislation (primarily the Freedom of Information Act 2000, the Data Protection Act 1998 and the Environmental Information Regulations 2004).

If you want information that you provide to be treated as confidential please say so clearly in writing when you send your response to the consultation. It would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded by us as a confidentiality request.

We will summarise all responses and place this summary on our website at <https://www.gov.uk/government/consultations/support-for-community-energy-projects-under-the-feed-in-tariffs-scheme> . This summary will include a list of names or organisations that responded but not people's personal names, addresses or other contact details.

Quality assurance:

This consultation has been carried out in accordance with the Government's Consultation Principles, which can be found at: <http://www.cabinetoffice.gov.uk/sites/default/files/resources/Consultation-Principles.pdf>

If you have any complaints about the consultation process (as opposed to comments about the issues which are the subject of the consultation) please address them to:

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London SW1A 2AW

Email: consultation.coordinator@decc.gsi.gov.uk

1. Executive summary

Background

- 1.1 Community Energy is a small and developing sector. There are only a few larger size community renewable electricity projects in operation at present, particularly when compared to the overall number of renewable generation installations. Evidence collected to date¹ has indicated that accessing Government's renewable financial incentive schemes may be a barrier for some community organisations looking to develop larger projects at the 5MW to 10MW scale.
- 1.2 Although these types of projects would be entitled to apply for support under the Renewables Obligation (RO) or future Contract for Differences (CfDs), under the Electricity Market Reform (EMR), these market based schemes may not always be easy to navigate for community groups who are not used to operating in the energy market. The Feed in Tariff (FITs) Scheme is considered by some to be administratively simpler, and provides a long term guaranteed income stream which may make it easier for communities to attract external investment.
- 1.3 The Government took powers through the Energy Act 2013², which will allow the Secretary of State to increase the maximum capacity for community renewable electricity projects eligible for support under the FITs scheme from the current 5MW to 10MW.
- 1.4 The Government announced in its Community Energy Strategy (CES)³ that it intended to consult on the possibility of increasing the 'specified maximum capacity' for community energy projects under the FITs scheme from 5MW to 10MW and that the definition of 'community organisation' would be included in this exercise.

Purpose of consultation

- 1.5 This Part B consultation seeks views on the Energy Act 2013 power to increase the maximum capacity for community energy projects from 5MW to 10MW and considers the practicalities of doing so, ahead of implementing possible secondary legislation. In particular it:
 - Considers issues relating to the definition of 'community organisation' under existing secondary legislation and, puts forward proposals for accommodating

1 See 'Community Energy- Call for Evidence' (June 2013) at : https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/207920/community_energy_call_for_evidence.pdf and 'Energy and Climate Change Committee Enquiry into Local Energy- Written evidence volumes 1 and 2' (6 August 2013) at: <http://www.parliament.uk/business/committees/committees-a-z/commons-select/energy-and-climate-change-committee/inquiries/parliament-2010/local-energy/>

2 The Energy Act 2013 is at: <http://www.legislation.gov.uk/ukpga/2013/32/contents/enacted/data.htm>

3 See Paragraph 186, page 59 of the 'Community Energy Strategy' (January 2014) at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/275163/20140126Community_Energy_Strategy.pdf

the main types of community ownership models that we expect to come forward in the FITs scheme up to 2020;

- Seeks evidence for setting tariffs, degression mechanisms and preliminary and final accreditation arrangements for these larger scale community projects.

Summary of Proposals

Technologies to be included

- 1.6 We are proposing that the increased maximum capacity ceiling of 10MW for eligible community projects should be applied to all renewable technologies currently included in the FITs scheme, **namely anaerobic digestion (AD) , hydro, solar PV (both standalone and non-standalone) and onshore wind.**
- 1.7 Community electricity projects at 5MW – 10MW are currently able to apply for support under the RO/forthcoming CfD route and it is our intention that they will be able to continue to choose these options (subject to meeting the eligibility criteria in place in the RO/CfD schemes at the time of application).

Definitions of community organisation

- 1.8 To ensure consistency with the existing FITs scheme, we are proposing to apply the existing definition of ‘community organisation’ as set out in section 11 of the “Feed-in Tariffs Order 2012” to larger scale (i.e. 5MW to 10MW) community energy projects. This allows Community Interest Companies, Community Benefits or Co-operative Societies with less than 50 employees to apply for FIT support.
- 1.9 There have been recent calls for the Government to consider widening the definition of ‘community organisation’ to include a broader range of legal entities such as Companies Limited by Guarantee (CLGs), registered Charities and ‘community bodies’ approved under the terms of the Land Reform (Scotland) Act 2003.
- 1.10 Given the wide range of aims and objectives that exist in relation to Charities and CLGs, it is not clear to us at this stage how we could robustly determine whether these organisations have a community function at the heart of their interests. As such we do not consider that there is justification for including them in the definition of ‘community organisation’.
- 1.11 There would appear to be a stronger case for including ‘community bodies’ approved under the terms of the Land Reform (Scotland) Act 2003 with the FITs legislation and we are keen to explore how this might work in practice, as well as the implications for deployment.

Accommodating different community ownership models

- 1.12 We recognise that large scale community energy projects are much more likely to require a commercial partner. Whilst the legal structure and ownership models of community energy projects are continuing to develop we have identified three key models which may come forward at the 5MW to 10MW scale. We propose these models should be accommodated within the FITs scheme as follows:
- **Outright community ownership** - we propose that provided the project is owned by an eligible ‘community organisation’ it can apply for support up to 10MW;

- **Joint ventures (JVs), partial ownership based on a share of electricity generation income** - For JVs and projects where communities have a percentage share in a scheme but no ownership of individual units, we propose that provided the project is owned by a 'community organisation' as defined above, it can apply for support up to 10MW capacity, irrespective of its internal community/ commercial partnership arrangement. If the owner is any other type of organisation then it would be able to apply for support up to 5MW as provided for in the existing FIT rules;
- **Partial ownership based on separate community / commercial owned units/ installations** – For joint projects on the same site, which are based on community and commercial partners owning distinct and separate generation units and separate grid connections, we are proposing that the existing FIT rules will apply which mean that the development can be considered as two separate projects. This means that the eligible community organisation could receive FIT support for the units it owns up to a specified maximum capacity of 10MW. The commercial partner would be able to apply for support for its units up to the current specified maximum capacity of 5MW, as provided for in the existing FIT rules. The tariff rates applying to both projects would be based on the tariff applying to the total capacity of each project;
- In cases where a community and commercial developer own individual units and infrastructure but share a single grid connection, **we propose to add a further exemption to the 'site' rule which would 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 – thus keeping costs and complexity to a minimum.

1.13 We propose to produce **guidance to help communities and commercial partners work together**, to include issues such as setting up JVs and the sharing of FIT payments.

Tariffs

1.14 **We are proposing to introduce new community tariff bands for AD, hydro, solar PV (standalone and non-standalone) and onshore wind at 5MW to 10MW.** It is our intention that the tariffs should take into account the latest evidence on costs of community projects at this scale to ensure that projects receive an acceptable rate of return whilst providing value for money for consumers. We have very little information on which to propose specific tariffs at this stage so we are using this consultation to call for evidence on the pre-development costs, capital costs, operating costs and financial costs of community energy projects. In the absence of this specific cost evidence one possible approach would be to set the 5MW to 10MW community bands at the same level as those applying to the relevant largest capacity tariff bands for each technology in the FITs scheme at the time we implement the new policies. This broadly reflects the support that might be available to projects of this scale under the RO as far as it is possible to do so and is consistent with the current policy that the tariffs applying to larger capacity bands should never exceed the tariffs for the equivalent smaller capacity bands. An alternative approach might be to set the community 5MW to 10MW bands at

a level which is equivalent to the relevant strike price set under CfDs at the time the new community tariffs are implemented.

- 1.15 We would review the community tariff arrangements as part of the review of FITs planned for 2015.

Degression

- 1.16 **To ensure that FITs spend stays within the Levy Control Framework (LCF)⁴ and delivers value for money, we propose to introduce separate degression arrangements for each of the new community tariffs at 5MW to 10MW scale.** This will be based largely on the mechanisms applying to the existing largest technology bands in the FIT scheme.
- 1.17 Given that there has been very little deployment of community projects to date, and little evidence to help inform our projections going forward, we have calculated degression capacity thresholds for each new degression band on the best information available. We will review in the light of any further evidence on deployment that we receive in response to this consultation.
- 1.18 Feed-in tariffs applying to larger capacity bands should never exceed the tariffs applying to smaller capacity bands of the same technology. As a result degression in the new community 5MW to 10MW tariff bands may need to be linked to degression in the largest capacity bands in the scheme at the time we implement the policies or potentially at some point in the future. This will depend on the level of the tariff set for the new community band. For the solar PV bands, it is worth noting that the current degression arrangements may be subject to some change as a result of the consultation on promoting deployment of mid-scale building mounted solar in the FITs scheme which was published alongside this consultation⁵.

Timing and Next steps

- 1.19 This consultation closes on 7 July 2014 and we intend to publish the Government response later in 2014, setting out our final policy decisions. As explained in Part A of this consultation and in paragraphs 2.9 to 2.17 below, decisions on whether to proceed with implementation of the policies will depend on further EU state aid and affordability considerations. We would only look to bring into force the necessary revisions to secondary FITs legislation once state aid approval had been granted.

⁴ HM Treasury is responsible for the Levy Control Framework. Its purpose is to make sure that DECC achieves its fuel poverty, energy and climate change goals in a way that is consistent with economic recovery and minimising the impact on consumer bills. Further information is available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/48244/3290-control-fwork-decc-levyfunded-spending.pdf

⁵ See Part B of consultation on 'Promoting the deployment of midscale building-mounted solar PV in the Feed-in Tariffs' (April 2014) at: 'Scheme' at: https://www.gov.uk/government/publications?departments%5B%5D=department-of-energy-climate-change&publication_filter_option=consultations

2. Introduction

Structure of the consultation

- 2.1 This document is Part B of the wider consultation on support for renewable electricity generation by community groups under the FITs Scheme. Part B is seeking views on proposals for implementing the powers set out in the Energy Act 2013 which enable the Secretary of State to increase the maximum specified capacity ceiling for eligible community projects from 5MW to 10MW.
- 2.2 Before reading Part B, we advise you to read Part A of the consultation as this sets out background information on the importance of community energy, the current financial support, costs, interdependencies and state aid issues. Part A also seeks views on our assessment of current community renewable electricity deployment and future potential, plus the impact of the proposed actions on deployment.
- 2.3 For the sake of simplicity, we use the general term “community energy group” in this consultation. This means a group that complies with the definition of a “community organisation” as set out in section 4 of this Part B of the consultation.

Purpose of the consultation

- 2.4 Evidence collected through the Community Energy Strategy Call for Evidence⁶, and submitted to an Energy and Climate Change Committee enquiry into Local Energy⁷ suggested that market based support schemes, such as the RO or the future Contract for Differences (CfDs) under the Electricity Market Reform are not suitable for small and medium sized community electricity projects. Community groups involved with these projects tend to be made up of individuals, often acting on a voluntary basis. They are not used to operating in the energy market and there is evidence to suggest that they may find it harder to attract external investment in the absence of a long term guaranteed income stream.
- 2.5 In response to feedback from community groups on the type of financial incentive that works best for them, the Government took powers through the Energy Act 2013, which will allow the Secretary of State to increase the maximum capacity for community projects eligible for support under the FIT scheme from 5MW to 10MW. This consultation considers the practicalities of using this power, ahead of implementing possible secondary legislation. As set out in the Community Energy Strategy, this consultation is also considering certain issues relating to the definition of ‘community organisation’ under existing secondary legislation.

⁶ Community Energy Strategy Call for Evidence (June 2013) :
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/207920/community_energy_call_for_evidence.pdf

⁷ Energy and Climate Change Committee enquiry into Local Energy- written evidence volumes 1 and 2, published 6 August at: <http://www.parliament.uk/business/committees/committees-a-z/commons-select/energy-and-climate-change-committee/inquiries/parliament-2010/local-energy/>

Scope

- 2.6 This consultation considers the issues related to increasing the maximum specified capacity ceiling from 5MW to 10 MW under the FIT scheme for eligible community anaerobic digestion, hydro, solar PV (building mounted and standalone) and onshore wind installations in Great Britain.
- 2.7 We are not proposing to increase the maximum specified capacity ceiling for other non-community eligible installations.

Policy objective

- 2.8 Our policy aim is encourage a shift in the ownership pattern of large scale energy projects from commercial developments to community owned or part community owned developments. We would like to see commercial developments that would have come forward under the RO or CfDs become community owned or part community owned and move into the FITs scheme. Similarly we expect that some smaller installations could be amalgamated and come through as larger community projects. There are currently around 1.7 GW of commercial projects at the 5MW to 10MW scale in the planning and development pipeline⁸. While not all of this capacity will come forward, it is our aim to help facilitate as many community projects as possible within the constraints of the existing LCF budget.

Affordability

- 2.9 There is no new funding available to support any additional net renewable electricity generation that might come forward between 2015 and 2020 as a result of the new policies proposed in this consultation. Affordability will therefore be a key consideration before deciding whether or not we could proceed with implementing these proposals.

State Aid

- 2.10 The state aid rules apply to any entity, including charities and community groups, which are engaged in economic activity. Under the state aid rules, the proposed amendments to the FITs scheme require approval from the European Commission before they can be implemented and before any aid can be awarded.
- 2.11 The proposed amendments do not appear to be in line with the Commission's new energy and environmental aid guidelines (EEAG), which were adopted on 9th April, therefore they may not be approvable at all.
- 2.12 In particular, paragraph 127(iii) 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". The UK Government's response to the Commission⁹ on the draft EEAG provided some evidence on why we consider that community energy projects up to

⁸ Based on analysis of all projects in scoping, development, planning and under construction in the REPD pipeline as at end December 2013 – downloaded in February 2014

⁹ UK response included in a folder of Member States responses which can be viewed on the Commission website at : http://ec.europa.eu/competition/consultations/2013_state_aid_environment/index_en.html

10MW should be included as part of the small scale generation schemes in the new guidelines, but this was not accepted by the Commission.

- 2.13 Any decision to proceed with a state aid case to enable us to implement the increased capacity ceiling for community projects is therefore dependent in part upon us receiving sufficient new and robust deployment and cost evidence from this consultation. We are unsure exactly how the Commission would view any new evidence provided by stakeholders – the Community Energy evidence provided previously was not accepted by the Commission. As a consequence of this, we consider the risk that some of these proposals will not be able to be implemented on state aid grounds as being high.
- 2.14 Approval may be made conditional on significant changes to the design to the scheme, for example by changing the form of support.
- 2.15 We will also need to consider implications for the Feed in Tariff scheme more generally. If we were to proceed with an application for approval of changes to the community provisions, it is likely that approval would be conditional on bringing the broader FITs scheme into line with the new EEAGs. For example, this means that it may be necessary to apply competitive bidding processes to all or most generators with a capacity of more than 1MW.
- 2.16 The decision on whether to proceed with a state aid application would also depend on wider issues including the impact on the UK's wider state aid case pipeline.
- 2.17 We would not be in a position to submit a detailed state aid case for consideration until policy design is finalised. Based on the current pipeline of activity and difficulty of the case, if successful, approval would be likely to take at least 12 months from submission of a detailed case. So we would not expect to achieve this and proceed with the proposed changes until late next year at the earliest.

Consultation Question

- | | |
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| B1. | 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? |
|-----|--|

Timing and Next Steps

- 2.18 This consultation closes on 7 July 2014 and we intend to publish a Government response confirming our final policy decisions later in 2014. As explained in the Part A consultation document and in paragraphs 2.9 to 2.17 above, decisions on whether to proceed with implementation of the policies will depend on further EU State Aid and affordability considerations.
- 2.19 The changes outlined in this consultation document would need to be made through a mixture of amendments to the Feed-in Tariffs Order 2012¹⁰, modifications to Schedule A to Condition 33 of the Standard Electricity Supply Licence¹¹ and the publication of non-

¹⁰The Feed-in Tariffs Order 2012 at <http://www.legislation.gov.uk/ukxi/2012/2782/made?view=plain>

¹¹ For details of latest conditions to Standard Electricity Supply Licence see Ofgem website at : <https://www.ofgem.gov.uk/licences-codes-and-standards/licences/licence-conditions>

legislative best practice guidance. Changes to secondary legislation could only be brought into force once EU State Aid clearance had been obtained.

- 2.20 This consultation incorporates the statutory consultation on the proposed modifications to the Standard Electricity Supply Licence required by the section 42 of the Energy Act 2008.

3. Increasing the ‘specified maximum capacity’

- 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 10MW¹².
- 3.2 As set out in the deployment section in Part A of this consultation, only a small amount of registered community-owned renewable electricity generation is currently in operation when compared to the overall installed renewable electricity generation capacity in the UK. At present we assess that around 43 MW of community energy projects at the 5MW to 10MW scale has been brought forward representing only around 0.2 %¹³ of the total amount of renewable electricity capacity that has been deployed in the UK.
- 3.3 This suggests that it may be difficult for community-owned renewable electricity projects at the 5MW to 10MW scale to compete alongside the established players for whom the existing RO/ CfD markets and regulatory regimes are designed. Evidence collected in response to our Community Energy Call for Evidence suggested that in particular, community energy projects face the following barriers:
- **Finance** for community-owned / part-owned projects is often hard to secure at reasonable rates, particularly for the early stages of the development process (i.e. until planning permission has been gained). Unlike commercial projects they cannot spread risk by investing in a wide portfolio of projects. In many cases projects have to be able to demonstrate a secure cash flow for at least 15 years to attract interest. The FITs scheme is considered to provide the long term certainty of income needed to attract investors to support large scale community energy projects;
 - **Access to Purchase Power Agreements (PPAs)** - Market-based support schemes can only be accessed via licensed electricity suppliers, typically via a PPA for an independent generator. Evidence suggests that PPAs are too complex for these smaller non-commercial organisations to navigate¹⁴. In comparison the FITs scheme is considered by many community stakeholders to be administratively more straightforward than market based support schemes, such as the RO/ CfD which may require some specialist knowledge;

¹² Section 146 of the Energy Act 2013 provides for the definition of ‘specified maximum capacity’ which forms part of the definition of ‘small scale low carbon generation’ in the Energy Act 2008 to be amended from ‘not exceeding 5MW’ to ‘not exceeding 10MW’

¹³ As at end December 2013 renewable electricity capacity was 19.1 GW - DECC Energy Trends February 2014. See: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/266415/renewables.pdf

¹⁴ ‘House of Commons Energy and Climate Change Committee- Local Energy – Sixth Report of Session 2013/2014’ (August 2013). Paragraphs 47 – 49 cover PPAs and 57- 58 CfDs) at: <http://www.publications.parliament.uk/pa/cm201314/cmselect/cmenergy/180/180.pdf>

- **The general regulatory framework** for renewable energy projects is designed for large scale, commercial schemes. Furthermore, community groups can find the planning process challenging. This can make it hard to get things set up for small scale community schemes.
- **The legal structure and ownership models** of community projects are still evolving. They can be profit-making, but are motivated by social and environmental benefit. As such they exhibit a combination of commercial and social characteristics which do not fit easily with a market based approach.

3.4 Many of these issues are being considered by the new working groups that were established by the Community Energy Strategy and the work of the nascent Community Energy Finance Roundtable. These groups are examining the regulatory issues and barriers to growth of community energy. They are reporting their conclusions and recommendations to the Secretary of State for Energy and Climate Change this summer.

3.5 However, while these groups will be reviewing the evidence base, **there is a need for additional specific robust and quantifiable information to support the argument that community electricity projects at 5MW to 10MW face barriers to deployment if they are unable to access non market based support such as the FITs scheme.** In particular, it would be helpful to receive information on any unfavourable finance rates offered for community projects compared to commercial ones, community projects which may have fallen through because of difficulties negotiating PPAs, and extra costs for community groups associated with the regulatory framework. Evidence relating to costs of developing community energy projects should be provided using the cost evidence template published on the DECC website¹⁵ alongside this consultation document.

Consultation Question

B2. 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)?

If so, please provide detailed evidence on the likely project realisation rates up to 2020 under the RO and CfDs. In replying to this question you may find it useful to refer to Part A of this consultation (chapter 3 and the capacity matrix at Annex A) which seeks evidence on the deployment of community electricity and the impacts of implementing the policies proposed in this consultation.

Eligible technologies

3.6 **We are proposing that the increased maximum capacity ceiling of 10MW for eligible community projects should be applied to all renewable technologies currently included in the FITs scheme, namely AD, hydro, solar PV (standalone**

¹⁵ The cost evidence template is at: <https://www.gov.uk/government/consultations/support-for-community-energy-projects-under-the-feed-in-tariffs-scheme>

and non-stand-alone) and onshore wind. Although our analysis suggests that most community projects at the 5MW to 10 MW scale are likely to be onshore wind and solar PV, there is evidence that community AD and hydro projects are coming through at smaller capacities. We are keen to ensure that FITs support remains an option for community hydro and AD projects at larger scales if these become viable in the future.

- 3.7 **We do not propose to increase the maximum capacity ceiling for community fossil fuel derived CHP plant from the current ceiling of 2kW.** This was a pilot project aimed at supporting up to 30,000 MCS accredited installations, with a review to start once 12,000 installations are complete.
- 3.8 Community electricity projects at 5MW – 10MW are currently able to apply for support under the RO/forthcoming CfD route and it is our intention that they will be able to continue to choose this option if we increase the maximum capacity ceiling for community projects under FITs (subject to meeting the eligibility criteria in place in the RO/CfD schemes at the appropriate time).

Consultation Question

- | | |
|-----|--|
| B3. | 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? |
|-----|--|

4. Definitions and ownership models

4.1 The Government announced in its Community Energy Strategy (CES)¹⁶ that it intended to consult on the possibility of increasing the ‘specified maximum capacity’ for community energy projects under the FITs scheme from 5MW to 10MW and that the definitions of community organisations would be included in this exercise.

Definition of ‘Community energy installation’

4.2 A definition of “community energy installation” was introduced into FITs legislation in December 2012 following publication of the Government Response to the ‘Consultation on Comprehensive Review Phase 2B: Tariffs for non-PV technologies and scheme administration issues’ published in July 2012¹⁷. A community energy installation means “an eligible installation which is wired to provide electricity to a building which is not a dwelling; and in relation to which the FIT generator is a community organisation”. The definition was drafted this way to enable solar PV projects owned by a community organisation and wired to provide electricity to a building which is not a dwelling to:

- (i) Access a tariff guarantee under the specific arrangements that apply in the FITs scheme, where the DNC of the installations does not exceed 50kW; and /or
- (ii) Benefit from a relaxation from the current minimum energy efficiency requirements to achieve Energy Performance Certificate level D or above where the total installed capacity of the installation does not exceed 250kW.

4.3 We do not consider that any increase to the ‘specified maximum capacity’ for community energy projects under the FITs scheme from 5MW to 10MW necessitates the need to change the definition of “community energy installation”. It is not our intention to enable projects at this larger scale to access the tariff guarantee mechanism devised for solar PV below 50kW. A tariff guarantee mechanism for larger onshore wind and solar (and all hydro and AD projects) already exists as part of the ROO- FIT preliminary accreditation process¹⁸ and we are proposing to extend this to all community projects at the new 5MW to 10MW scale (paragraphs 5.37- 5.41 below).

4.4 Similarly we do not intend to increase the capacity of solar PV installations that can benefit from a relaxation of the current minimum energy efficiency requirement. We consider that it is highly unlikely that in the short to medium term any solar PV project above 5MW could be accommodated on a building, and the prime purpose of a project

¹⁶ See Paragraph 186, page 59 of the ‘Community Energy Strategy’ (January 2014) at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/275163/20140126Community_Energy_Strategy.pdf:

¹⁷ Consultation on Comprehensive Review Phase 2B: Tariffs for non-PV technologies and scheme administration issues’ (July 2012) at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/42917/5905-government-response-to-consultation-on-comprehensi.pdf

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>.

this size will be to export electricity to the grid. There does not therefore appear to be a reason for amending the definition of “community energy installation” to include stand-alone installations.

- 4.5 A large scale installation between 5 and 10MW owned by a community organisation would not be required to meet the definition of eligible “community energy installation”. It could still obtain the proposed tariff and tariff guarantees under the preliminary accreditation process set out in this consultation document, providing the owner of the installation which is accredited under the FITs scheme can meet the definition of “community organisation”.

Consultation Question

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| B4. | 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? |
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Definition of ‘Community Organisation’

Existing Definition

- 4.6 The Government Response to the ‘Consultation on Comprehensive Review Phase 2B: Tariffs for non-PV technologies and scheme administration issues’¹⁹ published in July 2012, announced our intention to create a definition of community energy projects that included installations where the FIT generator is one of a range of small scale not-for-profit enterprises, and to reflect that definition in the FIT tariff tables.
- 4.7 At the moment, for projects up to 5MW, community projects can participate in the FIT scheme in the same way as other FIT generators, provided that they meet the usual scheme conditions. But the scheme also includes some additional benefits for certain small-scale projects undertaken by “community organisations”.
- 4.8 The existing definition of ‘community organisation’ includes installations where the FIT generator is one of three types of small-scale not-for-profit enterprises. The existing definition was based on a definition for similar purposes used in the Finance Act 2012 for tax legislation.
- 4.9 The definition of ‘community organisation’ as set out in section 11 of the Feed-in Tariffs Order 2012 (see below), allows community interest companies, community benefits or co-operative societies to apply for support.

¹⁹ Government Response to ‘Consultation on Comprehensive Review Phase 2B: Tariffs for non-PV technologies and scheme administration issues’ (July 2012) at :
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/42917/5905-government-response-to-consultation-on-comprehensi.pdf

“Community organisation” means:

- (a) A community interest company; or
 - (b) A community benefit or co-operative society,
- other than such a company or society with more than 50 employees;

“Community interest company” means:

A company issued a certificate of incorporation under section 36B(1) or 38A(1) of the Companies (Audit, Investigations and Community Enterprise) Act 2004(c);

“Community benefit or co-operative society” means:

- (a) a society registered under the Co-operative and Community Benefit Societies and Credit Unions Act 1965(a) (“the 1965 Act”) as a community benefit society or as a co-operative society; or
- (b) a pre-2010 Act society (as defined in section 4A(1) of the 1965 Act(b))²⁰;

- 4.10 A community interest company (CIC) must be registered on the Companies House register (and provide a community interest statement). Co-operatives or community benefit societies must be registered on the FCA Mutuals Public Register. All three types of organisations must have no more than 50 employees (which is the number of employees cited in the Companies Act 2006 definition of a “small company”).
- 4.11 The approach that the Government took in 2012 in relation to the existing definition of community organisation was to seek to strike a balance between enabling a range of appropriate community organisations to access to the FIT scheme and having in place a straightforward and robust administration process.

Scope of definition

- 4.12 The definition of ‘community organisation’ is one that currently applies in the FITs scheme. While it would be possible to develop a completely separate definition of community organisation for large (i.e. >5 MW) community energy projects to that which currently applies under the existing legislation there is no clear policy rationale for doing so. Such an approach would cause confusion and limit the ability of a community group to scale an installation in the most optimal way. It would also appear to be unnecessarily complicated and potentially create unforeseen barriers to deployment.
- 4.13 To ensure consistency with the existing FITs scheme we propose to apply the existing definition of ‘community organisation’ to large scale (i.e. 5MW to 10MW) community energy projects. It is therefore our view that the definition of ‘community organisation’ should remain unchanged and apply across the whole of the FIT scheme.

²⁰ The Co-operative and Community Benefit Societies Act 2014 which came into force on 6 April 2014 consolidates a range of legislation governing the establishment and regulation of Cooperatives and Community Benefit Societies. See : <http://services.parliament.uk/bills/2013-14/cooperativeandcommunitybenefitsocieties.html>

Consultation Question

B5. 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?

- 4.14 There have been recent calls for the Government to consider widening the definition of ‘community organisation’ to include a broader range of legal entities such as Companies Limited by Guarantee (CLG’s), registered Charities and the wholly owned subsidiaries of such Charities. A number of stakeholders have indicated that the current definition of ‘community organisation’ is a barrier preventing certain community energy projects from coming forward, particularly in Scotland and Wales.
- 4.15 We further understand that some stakeholders are keen to for entities such as CLGs which are registered charities to be included within the definition of ‘community organisation’ because these entities have been specified as the legal form for ‘community bodies’ wishing to be approved under the terms of the Land Reform (Scotland) Act 2003²¹. This legislation brought the “community right to buy scheme” into effect in Scotland.

Special Purpose Vehicles (SPVs)

- 4.16 In the 2012 FITs 2B Government response we indicated that there was a difficulty in justifying the inclusion of all charities, not all of which would have a community dimension, and that in the absence of a clear and simple way of separating out different kinds of charities, we were not going to include these in our definition of “community organisation”.
- 4.17 The FITs 2B Government response also indicated that we did not believe that this was a problem for charities as they should in most cases be able to set up SPVs to deliver community energy projects that could be classified under the existing definitions. Charities can of course also apply for FIT support up to 5MW as a non-community organisation and/or through the RO/CfD route for larger projects.

Consultation Question

B6 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?

Extending the definition to include Companies Limited by Guarantee and Charities

- 4.18 While our ambition is that every community that wants to form an energy group or take forward an energy project should be able to do so, regardless of background or location we need to give consideration to the implications on the FIT scheme of making changes.

²¹ The 2003 Act is likely to be revised to allow the Scottish charitable incorporated organisation (SCIO) model to be considered as a community body.

- 4.19 In particular consideration needs to be given to practical benefits of making any change, our ability to easily define such a change in law, the implications that such a change will have on the administration of the FITs scheme and the possibility of such a change encouraging gaming of the system.
- 4.20 At present we see no justification for including CLGs within the definition of ‘community organisation’. While CLGs are regulated by Companies House they are not required to include anything within their articles of association relating to community or social benefit. Common uses of CLGs include membership organisations, residential property management companies, sports associations, workers' co-operatives, NGO's and charities. Examples include the railway infrastructure provider Network Rail and the CfD Counterparty Body.
- 4.21 There are a very large number (c. 200,000) of charities currently registered in Great Britain. There are in addition 13,000 exempt charities and a much larger number of unregistered charities. Registered charities are generally regulated by the Charity Commission in England and Wales and by the Office of the Scottish Charity Regulator in Scotland and have a wide range of aims and objectives. While there are differences in the way that charities are regulated across GB, registered charities will generally have self-classified themselves during registration and will be able to confirm or change their classification as part of the Annual Return process.
- 4.22 Given the wide range of aims and objectives that exist in relation to charities, and the fact that there is no single mechanism to robustly determine whether a charity has a community function at the heart of its interests, we do not think that there is justification for including charities or wholly owned subsidiaries of such charities (which can be non-charitable trading companies) in the definition of ‘community organisation’ under the FIT legislation. It is our view that the only way to include charities or wholly owned subsidiaries of such charities would be to review each application on a case by case basis. Such scrutiny by Ofgem is likely to be complex, time consuming, expensive, and open to challenge. There are no obvious benchmarks or criteria on which to robustly base a decision on whether a charity should have access to the FIT scheme. For these reasons we do not consider it appropriate to widen the definition to include charities or wholly owned subsidiaries of such charities.

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

- 4.23 We do, however, understand from stakeholders in Scotland that one of primary drivers for wanting to include CLGs and charities within the definition of ‘community organisation’ is because these entities have been specified as the legal form for ‘community bodies’ wishing to be approved under the terms of the Land Reform (Scotland) Act 2003 . This legislation requires Scottish Ministers to approve that the main purpose of the “community body” is consistent with furthering the achievement of sustainable development.
- 4.24 Further to the arguments presented in paragraph 4.22 there would appear to be more robust rationale for including ‘community bodies’ approved under the terms of the Land Reform (Scotland) Act 2003 with the FITs legislation and we are keen to explore how this might work in practice.

Consultation Questions	
B7.	Do you agree with our preferred approach not to widen the definition of 'community organisation' to include CLGs, registered charities and the wholly owned subsidiaries of such charities?
B8.	Do you know of any benchmarks or criteria on which we could robustly base a decision on whether a charity should have access to the FITs scheme?
B9.	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?

Community Ownership Models

- 4.25 Partnerships are crucial to getting community energy projects at this larger scale 'off the ground'. The renewables industry has already committed to facilitate a substantial increase in the shared ownership of new onshore renewables developments. The Shared Ownership taskforce is currently working towards a voluntary approach to increasing shared ownership of new, commercial onshore renewables developments.
- 4.26 While the legal structure and ownership models of community energy projects are still evolving, large scale community energy projects are much more likely to require a commercial partner to be able to deploy.
- 4.27 Engaging the private sector in community projects offers the possibility of new partnership models such as joint ventures and partial ownership. Independent analysis suggests that these models could deliver over 50% of the potential community capacity for renewables projects²².

Joint Ventures (JVs) and partial ownership

- 4.28 A JV might involve establishing a special, joint venture entity, partly owned by the community and partly by the commercial partner. The JV would develop and own the installation.
- 4.29 In order to access support under the FIT scheme for an installation with a total installed capacity of between 5MW and 10MW, the JV would have to meet the definition of 'community organisation'. Providing the JV can take such a form, we do not believe there are any barriers preventing such entities from accrediting an installation up to 10 MW under the FIT scheme. More information is however needed on whether there are any issues preventing JV's from being established as a community interest company, a community benefit society or a co-operative society.
- 4.30 We aware that some large scale community energy projects have already adopted this approach and we would be keen to hear from them to get a better understanding of the pros and cons of the JV model.

²² Community Renewable Electricity Generation: Potential Sector Growth to 2020, independent modelling for DECC: <https://www.gov.uk/government/publications/community-renewable-electricity-generation-potential-sector-growth-to-2020>

Consultation Question	
B10.	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?
B11.	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?
B12	Are there any regional issues why a JV may be more or less attractive in England and Wales or Scotland?

Other partial ownership models

4.31 As well as JVs, community / commercial partnership arrangements are still evolving and there are likely to be a variety of different approaches, in particular where the community organisation:

- Has a percentage share in a scheme- perhaps through a share offer or other means - but no ownership of individual units;
- Owns individual units; the capacity has the same grid connection as the commercially owned assets;
- Owns individual units; capacity has a different grid connection as the commercially owned assets.

Consultation Question	
B13.	Are there any other partial ownership arrangements that are likely to come forward? Which of these models is likely to be used the most?

Existing rules on partial ownership

4.32 For a community energy project to be recognised as a ‘community project’ under the FITs scheme, the community organisation must be the owner of the eligible installation.

4.33 At present there is no provision in the FIT scheme for there to be more than one generator for a single installation – it does not allow for one individual to be the generator for 40% of the installation, another to be the generator for 60% of it, for example. There can be only one FIT Generator and he/ she or his/her Nominated Recipient will get 100% of the FIT payments from the FIT licensee. However, there is no restriction on multiple ownership out with the scheme, but the relevant parties must agree between themselves how they will apply and then receive and share payments.

4.34 In cases where the community organisation has a percentage share in a scheme but no ownership of individual units, the onward distribution of the FIT payment between the Community Organisation and the commercial partner is handled through private agreement/contracts between the entities.

- 4.35 Under existing rules any separate plant on the same site²³ which is capable of generating electricity from the same type of eligible low-carbon energy source would be treated as a single eligible installation. If two or more parties, for example a community and commercial body owned individual units but shared the same grid connection, all would be treated as a single eligible installation located on the same 'site'. The tariff assigned to the installation would be the relevant tariff for the combined total installed capacity of the installation. The FIT Licensees would again make a payment to either the FIT Generator or Nominated Recipient and the onward distribution of money between the parties involved would need to be handled privately.
- 4.36 In the scenario where the community organisation owns individual, distinctly separate units and those units have a different grid connection to nearby commercial assets the site would be fundamentally determined by reference to the Meter Point Administration Number (MPAN) to which the installation was connected. This means that under current rules, where Ofgem is satisfied that the commercial and community assets are on separate sites and all other eligibility criteria are met, it is likely that the separately owned units could be accredited as separate eligible installations. This would allow the separate units to receive FIT payments from the FIT Licensee. The tariff would be based on the total installed capacity of the separate eligible installations.

Consultation Question	
B14.	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?
B15.	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?

Issues for further consideration

Private agreements to cover sharing FITs payments

- 4.37 It is our view that the FITs scheme should not be managing the intricacies of arrangements between two or more parties involved in the same installation through a Joint Venture or other partial ownership model. We do not consider it to be appropriate or feasible to cover the multitude of scenarios that may exist within the rules of the FIT scheme.
- 4.38 We do, however, recognise that community organisations are likely to be the less well informed party in any discussions with a commercial developer with regard to setting up JVs or other partnerships and the sharing of FIT payments. It would be possible for Government to develop specific guidelines to assist community organisations in this regard. We believe that such an approach would help to empower community

²³ Site is determined by reference a) the Meter Point Administration Number (MPAN) to which the installation is connected; b) The address of the premises at which the installation is located; c) The OS grid reference at which installation is located and d) Any other factors Ofgem considered relevant.

organisations, improve general understanding, and give communities as much flexibility as possible in relation to the partial ownership model that they wished to pursue. Such guidance could be delivered without any legislative change.

- 4.39 In terms of providing wider guidance and support to community energy groups. The Community Energy Strategy announced seed-funding for a One Stop Shop information resource to address the capability and capacity barriers that may be holding back community energy. This will include a range of services and resources that will make it easier for community energy projects to start up and sustain their activities.

Consultation Question

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| B16. | 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? |
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Proposals for applying the increased capacity ceiling to partial ownership models

- 4.40 It is our policy intent to encourage as much ownership by a community organisation as possible. It is not our wish to give large scale projects which are predominantly owned by commercial developers access to the FIT scheme when they are better equipped to negotiate the energy markets and obtain support via either the RO or CfDs.

Partial ownership (based on % of generation)

- 4.41 For projects where communities have a percentage share in a scheme but no ownership of individual units, we propose that an application can be made for support up to 10 MW, irrespective of its internal community/commercial partnership arrangement, provided that the project is owned by an eligible “community organisation”. If the owner is any other type of organisation then it would be able to apply for support up to 5MW as provided for in the existing FIT rules.

Partial ownership (based on capacity)

- 4.42 For joint projects on the same site, which are based on community and commercial partners owning distinct and separate units, we are proposing to allow Ofgem to treat the project as two separate eligible installations, irrespective of whether or not they share a single or have separate grid connections. This means that the eligible community organisation could apply to receive FIT support for the units it owns up to a specified maximum capacity of 10MW. The commercial partner would be able to apply for support for its units up to the current specified maximum capacity of 5MW, as provided for in the existing FIT rules. The tariff rates applying to both installations would be based on the tariff in place for their respective capacities.
- 4.43 In cases where a community organisation owns individual units and all related infrastructure/electrical equipment up to the point of grid connection, but shares a grid connection with the commercial partner, we propose to create an exemption to the 'site' rule which would allow Ofgem to treat the community owned infrastructure as a separate 'site' to the rest of the development. This means the community and

commercial owners can receive separate FIT payments from the Licensee for their generation. It also has the added benefit of enabling community organisations to develop a community energy project with a commercial partner using a single grid connection – thus keeping costs and complexity to a minimum.

- 4.44 We propose that the exemption to the 'site rule' would require the commercial and community installations sharing the single site and grid connection to accredit as separate single eligible installations only. It would not be possible for either single community or commercial installation to be split into further separate installations. This is because involvement of more than one single community organisation and one single commercial partner would add significant complexity for the FIT Generators, Ofgem, and the FIT Licensees. There would be a need for the FIT Licensee (potentially more than one) to pay out export payments to multiple bodies based on a single export meter, or for a multi-way PPA to be entered into. We consider that this would be very onerous to manage and would have a disproportionate impact on the administrative costs of the scheme.
- 4.45 Projects sharing the same site and grid connection would be considered as separate eligible installations for the FITs scheme only, so in this scenario the commercial partner, as well as the community one, would be required to seek support through FITs rather than RO or forthcoming CfD regime. There is currently no provision in either the FIT or RO legislation for generating capacity to be split across the RO and the FIT. The different design and purposes of the two schemes means that such provision would be both impractical and undesirable. Any change in this position would involve substantial amendments to both pieces of legislation.

Consultation Question

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| B17. | Do you agree with our approaches to supporting the different models of partial ownership under the FITs scheme? |
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Other Issues

Proof of ownership

- 4.46 In order to support this partial ownership arrangement it would be necessary for both parties to demonstrate physical ownership of their assets including all related infrastructure/ electrical equipment up to the point of the grid connection. If the parties were applying for preliminary accreditation, ownership would need to be determined at this stage to identify whether the 'site' exemption was applicable.

Consultation Question

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| B18. | How could ownership best be determined? How could ownership be verified at the preliminary accreditation stage if there was nothing physical yet to own? |
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Metering and payment

4.47 In order to enable Ofgem to treat the individually owned sections as separate eligible installations each would 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 – perhaps because of wind direction, shading or maintenance.

Export payments

4.48 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 PPA with an electricity supplier. Commercial organisations tend to have experience with this process and we propose to include further advice on the steps that both parties need to follow to negotiate a PPA in the guidance that we are proposing to produce to help community and commercial partners to work effectively on joint projects (see paragraph 4.38 above).

Consultation Question

B19.	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?
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Outright ownership

- 4.49 Small local groups are less likely to be in a financial position to purchase a large scale renewable energy development outright, due to the high costs involved. There are, however, a number of possibilities which should not be overlooked such as the possibility of local groups ‘pooling’ their interests together or the greater use of crowd sourcing models to enable local groups achieve their ambitions. Such methods could help community organisations buy larger installations.
- 4.50 Outright ownership is a relatively straightforward model which can be supported under the FITs scheme. We propose to enable eligible community organisations that have outright ownership of an installation to accredit up to 10 MW under the FITs scheme. If a community organisation becomes the owner of a completed development, then it will be able to apply for accreditation under the FIT scheme as the FIT generator.
- 4.51 The only complexity is potentially the timing of any ownership transaction. For an installation to obtain support under FITs scheme then the transfer of ownership to a community organisation would need to take place before the installation can be accredited under the FITs scheme. A commercial organisation would not be able to accredit an installation greater than 5 MW; the installation would only be eligible once

ownership had transferred to a community organisation that met the definition set out in FITs legislation.

- 4.52 The timing of the transfer will determine whether or not a community organisation is able to access the preliminary accreditation process under the FIT scheme.
- 4.53 If a transfer of ownership took place *post planning consent* then a community organisation should have sufficient time to access the preliminary accreditation process prior to the commissioning of their “eligible installation”. If a transfer of ownership were to take place *post construction* then it is unlikely that a community organisation would be able to obtain any reassurances that they would be accredited, and of the tariff rate that they would receive, before they commissioned their “eligible installation”.

5. Support rates and cost control

Tariffs and cost control

- 5.1 As with all technologies, it is essential that support for community projects at the 5MW to 10MW scale under the FITs scheme provides value for money for the energy consumers who pay for the scheme, is a reflection of the latest available evidence on technology costs and performance, and is delivered in a way that ensures we remain within LCF spending limits. This reduces the risk of overcompensation and ensures that the scheme remains affordable.
- 5.2 The community energy sector is at an early stage of development and is still evolving. There is limited evidence on the costs of developing a community electricity project and how they differ from a non-community project of the same scale. Community projects up to 5MW currently receive the same levels of tariffs as non-community projects under the FITs scheme, reflecting the fact that there is no evidence that the actual costs faced by community energy projects are any higher than a non-community project of the same size.
- 5.3 Based on available information, we think community energy projects can draw on investors willing to accept lower financial returns in exchange for social benefits. We also think that community-owned schemes face higher set-up, development and running costs than individual householders or private companies. Responses to last year's Community Energy Strategy Call for Evidence did not provide any additional evidence to suggest that any preferential tariff rates for community energy projects were appropriate.

Proposed tariffs

- 5.4 To implement the increased capacity ceiling we are proposing that we should introduce new community tariff bands for AD, hydro, solar PV (stand alone and non-stand-alone) and onshore wind at the 5MW to 10MW scale. It is our intention that the tariffs should take into account the latest evidence on costs of community projects at this scale to ensure that projects receive an acceptable rate of return whilst providing value for money for consumers. **We have very little information on which to propose specific tariffs at this stage so we are using this consultation to call for evidence on the pre-development costs, capital costs, operating costs and financial costs of community energy projects. Respondents should provide these data within the cost evidence template published on the DECC website alongside this consultation²⁴.**
- 5.5 In the absence of robust cost data, **one approach could be to set tariffs for the 5MW to 10MW community bands at the same level as those applying to the largest capacity bands for each technology in the FIT scheme at the time we implement the new policies set out in this consultation.** It is not possible to predict what the

²⁴ The cost evidence template is at: <https://www.gov.uk/government/consultations/support-for-community-energy-projects-under-the-feed-in-tariffs-scheme>

exact tariffs will be at this time but details of the current largest capacity bands for each technology and the latest tariffs in place as at 1 April 2014 can be viewed in tariff tables published on Ofgem's website²⁵.

- 5.6 The tariffs for the largest AD band (500kW- 5MW) and hydro bands (2MW – 5MW) in the existing scheme are based on an RO equivalent rate. The tariff for the current largest wind band (1.5MW to 5MW) was initially based on an RO equivalent rate, but was degressed by 20 % on 1 April 2014 as a result of actual deployment exceeding the expected level by more than 300% during the period 1 January – 31 December 2013.
- 5.7 The tariff for the largest solar band (>250kW) is based on analysis of cost evidence. The solar tariffs are designed to provide a rate of return of 4.5 to 8% for a typical, well-sited installation. Our consultation on changes to the FIT scheme for mid-scale solar, published on 13 May 2014, is proposing to split the largest solar degression band into separate two bands - one for stand-alone solar and one for building and roof integrated solar. This could lead to different tariffs applying in each band if they degress at different rates. If these proposals are implemented, we would need to create two separate standalone and non-standalone 5MW to 10MW bands for community solar PV.
- 5.8 **An alternative approach for setting tariffs for the community 5MW to 10MW bands could be to set them at a level which is equivalent to the relevant strike price set under CfDs at the time the new community tariffs are implemented** (so if for example the new community tariffs were introduced on 1 April 2015 they would be equivalent to the 2015/2016 strike price).
- 5.9 CfDs will support low-carbon generation by giving eligible generators increased price certainty through a long-term contract. A CfD will largely remove exposure to volatile wholesale prices during the CfD period, reducing investor risk. Generators will receive revenue from selling their electricity into the market as usual and will receive a top-up to the pre-agreed strike price. If the market price is over the strike price, then the generator must pay back the difference. CfDs will operate alongside the RO. Strike prices have been set so that they are broadly comparable to levels of support available under the RO, adjusted to account for the greater revenue certainty and shorter contract length provided by a CfD.
- 5.10 DECC is planning to carry out a review of the tariffs and other arrangements as part of the next review of the FITs scheme planned for 2015 and this would include a review of the tariffs for the community 5MW to 10 MW bands.
- 5.11 The new community tariff bands for the larger 5MW to 10MW projects would be introduced by amending the Standard Conditions of Electricity Supply Licences, subject to the Parliamentary process set out in the Energy Act 2008, and any necessary state aid approval from the European Commission.

²⁵ Feed in Tariff Tables – Ofgem website. See : <https://www.ofgem.gov.uk/environmental-programmes/feed-tariff-fit-scheme/tariff-tables>

Consultation Questions

- B20. Do you have any information on the development, capital, finance and operating costs of specific community projects at both the “up to 5MW” and “over 5MW to 10MW” scales that would help us set tariff rates?
Please provide this information in the accompanying cost evidence template published on the DECC website alongside this consultation document.

Degression

- 5.12 The principal features of the degression mechanisms that apply to all technologies supported under FIT scheme were set out in the Government response to Phase 2A of the FITs Comprehensive Review (for solar PV) published in May 2012²⁶ and in the Government Response to the Comprehensive Review (for non-solar PV) of the FIT scheme, Phase 2B, published in July 2012²⁷.
- 5.13 We would expect the costs of community projects at 5MW to 10MW to reduce in line with the costs of each renewable technology. Costs are also likely to fall as the rate of deployment increases in the future. To ensure that FIT spend stays within the LCF envelop and delivers value for money, we propose to introduce separate degression mechanisms for each of the new community tariffs at 5MW to 10MW scale, based largely on the frameworks set out for each of largest existing technology bands in the FIT scheme.

Links to degression in smaller capacity bands

- 5.14 It is FIT policy that tariffs in larger capacity bands must not exceed those in smaller capacity bands of the same technology, so if tariffs for the new 5MW to 10MW bands were set at the same rate as those applying to the largest capacity bands in the scheme at the time we implement the policies, this will mean that degression in the new 5MW to 10MW band will also be affected by degression in the smaller bands. For example if the tariffs for the new community onshore wind 5MW to 10MW band and the existing onshore wind 1.5MW to 5MW band were both set at 3.41pence/kWh (based on rates as of 1 April 2014 and in 2014/15 prices), then any degression in the onshore wind 1.5MW to 5MW band must at least be mirrored in the community onshore wind 5MW to 10MW band. So if the tariff in the 1.5MW to 5MW onshore wind band degresses by 20% then the tariff in the 5MW to 10MW community wind band must also degress by 20% to ensure that it does not exceed the tariff in the 1.5MW to 5MW band. This would need to happen even if the separate capacity threshold set for the separate 5MW to 10MW community wind band is not exceeded.
- 5.15 If we were to set 5-10MW community tariffs consistent with the strike price under CfDs, then degression may not, at least initially, need to mirror degression in the current highest FITs band. If however, as a result of degression, non community tariffs were to

²⁶ Government response to Phase 2A of the FITs Comprehensive Review (for solar PV) (May 2012) at : <https://www.gov.uk/government/consultations/solar-pv-cost-controls-comprehensive-review-phase-2a>

²⁷ Government Response to the Comprehensive Review (for non-solar PV) of the FIT scheme, Phase 2B (July 2012) at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/42917/5905-government-response-to-consultation-on-comprehensi.pdf

fall below the level of the tariff applying to the community 5MW – 10MW band, then the community tariffs would need to be degressed to the same tariff.

5.16 Under either approach deployment in the largest 5MW to 10MW community bands would not count against the deployment thresholds set for the smaller bands and will not trigger degression in these smaller bands.

Proposed degression arrangements for AD, hydro and onshore wind community 5MW to 10MW bands

5.17 We are proposing to introduce separate degression capacity thresholds within each of the new 5MW to 10MW community bands (see Table 1 below).

5.18 Given that there has been very little deployment of community projects to date, and limited evidence to help inform our projections going forward, we have based the thresholds on assumptions about expected annual deployment for each technology, taking into account external analysis for the Community Energy Strategy and an assessment of the REPD pipeline. We will review these proposed thresholds in the light of any further evidence on deployment that we receive in response to this consultation.

5.19 For all three new community technology bands, we propose that the following capacity based degression rates, based on the existing scheme rules, should apply :

- If actual deployment in the previous year is less than 75% of expected annual deployment, degression will be 2.5% per year;
- If actual deployment is between 75% and 150% of expected deployment degression will be 5% per year;
- If actual deployment is between 150% and 300% of expected deployment, degression will be 10% per year; and
- If actual deployment is in excess of 300% of expected deployment, degression of 20% per year will apply.

5.20 Details of the proposed capacity thresholds and triggers are set out in Table 1 below.

Table 1: Level of annual deployment (January-December) required to prompt degression

Degression Band	Thresholds			
	2.5%	5%	10%	20%
Community Anaerobic Digestion (above 5MW and below 10MW)	<7.5MW	>7.5MW to <15MW	>15MW to <30MW	>30MW
Community Hydro (above 5MW and below 10MW)	<7.5MW	>7.5MW to <15MW	>15MW to <30MW	>30MW
Community Onshore Wind (above 5MW and below 10MW)	<21.5MW	>21.5MW to <43MW	>43MW to <86MW	>86MW

Six monthly contingent degression

- 5.21 Given that there remains significant uncertainty around the performance and costs of these larger community projects, it is important that we are able to respond quickly to any acceleration in deployment that exceeds our expectations.
- 5.22 In order to provide additional assurance that the scheme will be able to remain within budgets in instances of extremely high deployment, we are proposing that we should also apply the current mechanism in the scheme which allows an October degression based on uptake in the first six months of the year. Six-month deployment thresholds will be two-thirds of those for annual deployment. This is to take account of the fact that some technologies have a construction window across the spring and summer months:
- A 5% mid-year degression would be prompted if the actual installed capacity had reached the level forecast for the whole year, by modelling under our central scenario in the first half of the calendar year.
 - A 10% degression would be prompted if installed capacity had reached double the level forecast for the whole year by modelling under our central scenario in the first half of the calendar year.
- 5.23 We envisage that the six-monthly degression mechanism will only be needed in exceptional circumstances. Under ordinary deployment conditions, where a contingent degression is not required, degression if triggered, would occur as normal in April. Details of the contingent degression thresholds are set out in table 2 below.
- 5.24 If deployment at the six month point causes an October degression, this is taken into account in calculating the end of year degression based on deployment over the course of the whole year.

Table 2: Contingent degression triggers and rates

TECHNOLOGY	Below or equal to expected annual deployment	5%	10%
AD	None	>10MW to <20MW	>20MW
Hydro	None	> 10MW to < 20MW	>20MW
Onshore wind	None	>29MW to <57MW	>57MW

Links to degression in smaller capacity bands

- 5.25 As explained in paragraphs 5.14 and 5.15 above, degression in the new 5MW to 10MW community AD, hydro and onshore wind bands may also be affected by degression in the relevant smaller capacity bands.

Proposed degression mechanism for Solar PV

- 5.26 The market for solar PV has seen rapid growth in deployment and costs have reduced significantly in recent years, as a result of technological advances, subsidies to support deployment and increased trade between continents. Although we are not aware of any large scale community solar PV projects currently in operation or in the planning

pipeline, we are conscious that this technology has the ability to deploy very quickly. We are therefore minded to take a cautious approach to large scale community solar PV and controlling costs in the band.

- 5.27 We propose that the mechanism in place for the largest solar PV band depression band²⁸ in the scheme at the time we implement these new policies should be applied to the new community solar PV 5MW to 10MW bands (for stand-alone and non-standalone). Details of the rules in place as of 1 April 2014 are set out below, but may be subject to some change as a result of the consultation on promoting deployment of mid-scale building mounted solar in the FIT scheme which was published alongside this consultation on 13 May 2014²⁹.
- 5.28 Under current rules, the tariffs in the largest solar PV bands are subject to the possibility of more frequent changes at 3 monthly intervals. Any depression takes place on a fixed date and the rate of depression would be dependent on the amount of deployment that had taken place.
- 5.29 We believe that more frequent depression will lead to smaller tariff changes, enabling tariffs to track changes in installation costs more closely and reducing the potential for any surges in deployment ahead of tariff depressions. Depression on fixed dates will also provide more confidence to installers and potential generators, as they will know in advance when tariffs will change.
- 5.30 We have no evidence on how the costs of deploying community solar PV at the 5MW – 10MW scale are likely to differ over time compared to these smaller projects in the 1MW to 5MW band and given this and the more general uncertainty around deployment levels of the larger community projects, we consider it important to maintain the ability to apply depression more frequently if need.
- 5.31 **We are therefore proposing to set a baseline depression rate of 3.5% every three months, for the new community solar PV bands. We are also proposing to include an under-deployment mechanism, which will allow for depression to be skipped in the event that deployment is lower than a specified floor threshold. Depression can only be skipped for two successive depressions, so there will be a minimum of 3.5% depression every 9 months to incentivise on-going reductions in installation costs.**
- 5.32 The baseline depression rate would be doubled each time deployment exceeds a specified threshold, up to a maximum of 28% at a single depression. This is to ensure that tariffs can respond rapidly to surges in deployment, protecting the FITs budget and minimising the impact on consumers' electricity bills of a sudden increase in deployment. It is in line with the depression rates set out for projects in all solar PV bands over 50kW in the current FIT scheme.

²⁸ The largest solar depression band in the scheme at 1 April 2014 is the 'large commercial' band for installations in the 50–100kW, 100–150kW, 150–250kW, 250kW–5MW, and stand-alone tariff bands, with depression determined by total deployment of installations larger than 50kW.

²⁹ See Part B of the consultation on "Promoting the deployment of midscale building-mounted solar PV in the Feed-in Tariffs Scheme" (April 2014) at: https://www.gov.uk/government/publications?departments%5B%5D=department-of-energy-climate-change&publication_filter_option=consultations

Capacity thresholds and triggers

5.33 Given that there has been very little deployment of community projects to date, and little evidence to help inform our projections going forward, we have made assumptions about expected annual deployment for each technology, based on external analysis for the Community Energy Strategy and an assessment of the REPD pipeline. We will review these proposed thresholds in the light of any further evidence on deployment that we receive in response to this consultation.

5.34 We propose that the following capacity based depression rates should apply:

- There would be no depression if the amount of capacity installed in the relevant three month period is less than 3.5MW;
- Generation tariffs would be reduced by 3.5% if the amount of capacity installed is between 3.5MW and 7MW; and
- The depression amount will double for every additional 3.5 MW capacity up to a maximum of 28% depression if deployment in one three-month period is over 14 MW capacity.

5.35 Details of the proposed capacity triggers and rates are set out in Table 3 below.

Table 3: Level of deployment required to prompt depression

Depression Band	Depression thresholds				
	0%	3.5%	7%	14%	28%
Community solar PV (standalone and non-standalone) Above 5MW and below 10MW	<3.5MW	>3.5MW to <7MW	>7MW to <10.5MW	>10.5 MW to <14MW	>14MW

Links to depression in smaller capacity bands

5.36 As explained in paragraphs 5.14 to 5.15, depression in the new 5MW to 10MW solar PV band may also be affected by depression in the relevant smaller capacity bands.

Consultation Questions

B21. Do you agree with the proposed depression mechanisms for the AD, hydro, solar PV and onshore wind tariffs?

Tariff guarantees and preliminary accreditation

5.37 Preliminary accreditation under the FIT scheme was introduced in 2012 and is a mechanism which allows prospective generators to obtain an assurance that they will be accredited, and of the tariff rate they will receive, before they commission their project.

This assurance will have a set validity period depending on the technology. Preliminary accreditation is available to all installations that, once commissioned, would use the so called ROO-FIT route of accreditation³⁰ (solar PV and wind installations with a DNC over 50kW and all AD and hydro projects).

- 5.38 Proposed installations are 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 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.
- 5.39 It is not available to extensions. Installations granted preliminary accreditation which successfully go on to receive full accreditation within the validity period of the grant of preliminary accreditation will have their tariff guaranteed at the “tariff date”.
- 5.40 The validity period of the preliminary accreditation tariff guarantee lasts for a fixed period of time beginning with the date of application for preliminary accreditation. The duration of validity is dependent on technology:
- Solar PV – six months;
 - AD and onshore wind – one year;
 - Hydro – two years.
- 5.41 **We propose that these measures should be applied to community projects between 5MW and 10MW.**

Consultation Question

B22.	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 FITs scheme?
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³⁰ 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>

Annex A: Catalogue of consultation questions

Consultation Question	
B1.	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?
Consultation Question	
B2.	<p>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)?</p> <p>If so, please provide detailed evidence on the likely project realisation rates up to 2020 under the RO and CfDs. In replying to this question you may find it useful to refer to Part A of this consultation (chapter 3 and the capacity matrix at Annex A) which seeks evidence on the deployment of community electricity and the impacts of implementing the policies proposed in this consultation.</p>
Consultation Question	
B3.	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?
Consultation Question	
B4.	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?
Consultation Question	
B5.	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?
Consultation Question	
B6	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?

Consultation Questions	
B7.	Do you agree with our preferred approach not to widen the definition of 'community organisation' to include CLGs, registered charities and the wholly owned subsidiaries of such charities?
Consultation Questions	
B8.	Do you know of any benchmarks or criteria on which we could robustly base a decision on whether a charity should have access to the FITs scheme?
Consultation Questions	
B9.	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?
Consultation Questions	
B10.	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?
Consultation Questions	
B11.	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?
Consultation Questions	
B12.	Are there any regional issues why a JV may be more or less attractive in England and Wales or Scotland?
Consultation Question	
B13.	Are there any other partial ownership arrangements that are likely to come forward? Which of these models is likely to be used the most?
Consultation Questions	
B14.	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?
Consultation Questions	
B15.	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?

Consultation Question

- B16. 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?

Consultation Question

- B17. Do you agree with our approaches to supporting the different models of partial ownership under the FITs scheme?

Consultation Question

- B18. How could ownership best be determined? How could ownership be verified at the preliminary accreditation stage if there was nothing physical yet to own?

Consultation Question

- B19. 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?

Consultation Questions

- B20. Do you have any information on the development, capital, finance and operating costs of specific community projects at both the “up to 5MW” and “over 5MW to 10MW” scales that would help us set tariff rates?
- Please provide this information in the accompanying cost evidence template published on the DECC website alongside this consultation document.

Consultation Questions

- B21. Do you agree with the proposed degression mechanisms for the AD, hydro, solar PV and onshore wind tariffs?

Consultation Question

- B22. 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?

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