



# Carbon reduction commitment update

The carbon reduction commitment is due to start in April 2010 and following on from the consultation period, the Department of Energy and Climate Change has published its response. This briefing is provided to local authority chief executives, council leaders and all APSE environment services contacts.

## Key issues

New legal requirements for local authorities in reducing carbon

Scheme starts in April 2010

This briefing paper sets out the main consultation responses and the Governments response and policy decisions following on from this.

## 1. Introduction

The carbon reduction commitment is the UK's first mandatory carbon trading scheme and aims to incentivise carbon emissions reductions in large public and private sector organisations by focusing in their energy efficiency. The scheme officially starts in April 2010 although local authorities and other organisations have been involved in preparations in 2009. Given the primary focus on achieving emissions reductions by increasing energy efficiency, the Carbon Reduction Commitment will now be known as the CRC Energy Efficiency Scheme (CRC).

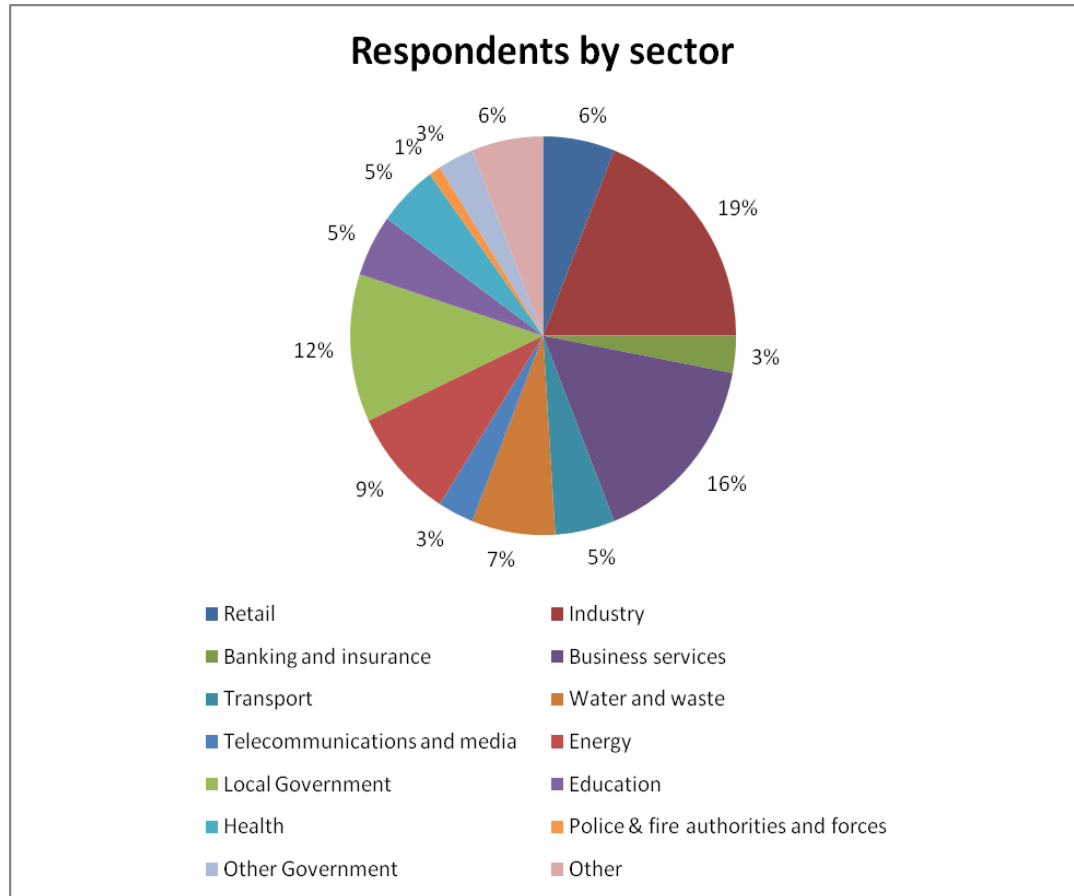
APSE briefing 09-04 outlined the main provisions of the Carbon Reduction Commitment ([click here to view the briefing paper](#)) and APSE briefing paper 09-30 provided details of APSE's response to the consultation ([click here to view the briefing paper](#)).

This briefing paper follows on from the consultation period and looks at the consultation responses received on the carbon reduction commitment ([full document is available by](#)

[clicking here](#)) and a summary of the Governments response and policy decisions ([full document is available by clicking here](#)).

## 2. Consultation responses to the draft order

Consultation responses were received from a wide range of organisations; 12% of responses were from local government. The breakdown is shown in the pie chart below.



Overall, respondents showed fairly strong support for the Government's proposals. Specific areas where there was not majority support included:

- Wording in the Draft Order around the calculation of the early action metric leading to unforeseen circumstances. The main issue was that respondents thought that other early action metrics were needed, including other standards already in use such as ISO14000, BS EN16001, EU ETS, etc.
- Wording in the Draft Order around the calculation of the Performance League Table leading to unforeseen circumstances. Suggestions for change included that it should acknowledge an organisation's involvement with CCAs and EU ETS; that organisations should be grouped according to their sector and give more weight to the growth metric.
- On the proposed approach to establishing when an energy bill counts as an estimate for the purposes of applying a 10% emissions uplift.
- On agreement with the level and type of penalties imposed for failure to provide an annual report. Suggestions included that penalties for incorrect reporting and failure to provide an annual report should be lower for the first year of the scheme.

In terms of charges and penalties, the majority agreed with the level and type of penalties imposed for failure to register, failure to disclose information, failure to provide a footprint report and failure to comply with a performance commitment. The main reasons for disagreement were that: the suggested level of penalties was too high; penalties should instead be capped and an organisation should not be penalised if it has made mistakes.

There was majority agreement (77%) that schools should report their annual energy data to local authorities. There was, however, concern about the additional work that would be required from local authorities and schools to fulfil this requirement. Some respondents thought that a publication outlining the actions schools will need to take and appropriate data collection methods would help to prevent local authorities struggling with this part of the CRC.

Other issues raised included:

- Cash flow implications: respondents were concerned about the implications for their organisation's cash flow, particularly during the current recession;
- Concerns about the administration burden and levels of penalties: respondents were concerned about the resources and administrative burden created for their organisations by the CRC.
- Treatment of specific activities/organisations: comments ranged from requests to clarify the approach for specific activities and organisations to definitions for requests for exemptions. A full list of these is included on page 165 of the report and these include mobile plant, transport, and waste and recycling.

### **3. Government response and policy decisions**

As a result of feedback received, several aspects of the scheme have been changed and some of the main points are as follows:

- The first sale of allowances in April 2011 will now only require participants to purchase allowances for the year ahead and not for the previous year as well. This will reduce the double financial impact for participants in the scheme in the first year.
- There is a revised definition for 'public sector organisations', which means that organisations designated as a 'public authority' in the Freedom of Information (FOI) Act 2000 and the Freedom of Information (FOI(S)) Act (Scotland) 2002 will participate on the basis of their listing unless they are legally part of another body, in which case they would participate as part of that parent body. Under this approach, Police and Fire Authorities would participate on an individual basis unless legally part of another body. For example, local authorities designated as County Fire Authorities will normally be responsible for Fire Authority-related CRC emissions.
- Any company that is wholly owned or controlled by a local authority will participate individually in CRC where it meets the qualifying electricity threshold in the same way as other organisations.
- Government will provide additional guidance on schools reporting annual energy use data to local authorities.

- Increased the credit given for early action in the second year of the scheme. Equivalentents of the Carbon Trust Standard will count towards the early action score.
- The approach to the transport exemption has been revised and a new definition of transport has been developed which will determine the forms of transport excluded from the scheme. This is as follows, *'energy used for the purpose of transport is defined as energy used to power (not only for propulsion) a road going vehicle, a vessel, an aircraft or a train, including related network services.'* (page 62) Road going vehicles are defined as those vehicles that are required to acquire a license under the 1994 Vehicle Excise and Registration Act or are exempt from this requirement under the provisions of that Act. This also means that specific types of equipment such as some forklifts, drill rigs, non-road going mobile or floating cranes and excavators maybe included in the CRC.
- Requests from the consultation process for clarification on reporting and compliance will be covered as part of guidance to be issued to participants in due course.
- A revised policy on enforcement, which includes a number of changes to the civil penalties and details of how discretion will be used in applying penalties. The time to lodge an appeal has also been extended from 20 to 40 working days.

#### **4. Further guidance and information**

The registration window for CRC will begin in April 2010 and last until the end of September 2010. Registration guidance is available [here](#), which includes the following:

- A short introduction to CRC Energy Efficiency Scheme;
- Am I in? A guide to qualification and organisational structure;
- Registering as a CRC participant;
- Making an information disclosure; and
- Glossary of Terms

In addition, a number of explanatory notes that cover popular CRC topics are also available. These include:

- Early Action Metric
- Automatic Meter Reading
- Making an Information Disclosure
- CCA Exemptions

The scheme administrator is now developing the next set of CRC guidance, which will become available in early 2010. This set of guidance will answer the following questions:

- What is an Evidence Pack? What information must the Evidence Pack contain?
- What is considered best practice when producing an Evidence Pack?
- What is a Footprint Report? When is one required? How do you meet the compliance requirements for a Footprint Report?
- What is an Annual Report? When one is required? How do you meet the compliance requirements when producing an Annual Report?
- What techniques are considered appropriate when using estimates for fuel consumption?

- How are the CRC and the Carbon Trust Standard linked?
- What can I expect from a CRC Registration audit? When will organisations be audited? If audited, what do I need to produce?

## **5. APSE comment**

The new legal requirements will have implications on local authorities in terms of the records that need to be kept, the need to monitor and report energy consumption, the need to purchase allowances to cover emissions and also the implications in terms of the demoralising and financial effects of being lower in the performance league table.

APSE responded to the consultation, particularly in relation to the financial impact on local authorities and welcomes the changes in terms of only purchasing allowances for the year ahead in 2011, which will reduce the financial impact for that year. In addition, APSE believes that in order to enforce the scheme, there needs to be clear guidance on what is expected, including the creation of a model template for the report. APSE agrees with the Government's intention that the penalties and offences should only be used as a last resort and the scheme administrators should work with organisations to ensure that they are given adequate guidance to enable them to comply fully, including measures mentioned in the report such as sending notices that the deadlines are approaching.

APSE would welcome further clarification on reporting and compliance through the additional sets of guidance which are due to be released in early 2010, including the evidence pack, footprint report and annual report. A further briefing paper will be issued to APSE membership once this further guidance has been released.

APSE provides a range of advice and support to its membership on the CRC Energy Efficiency Scheme, including training in partnership with Eversheds Solicitors. For further advice, please contact Debbie Johns, Principal Advisor at the APSE office, email: [djohns@apse.org.uk](mailto:djohns@apse.org.uk) or for further details on training courses available, please email Jan Mazzone, Principal Trainer at the APSE office, email: [jmazzone@apse.org.uk](mailto:jmazzone@apse.org.uk)

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