

From: [Vaughan, Helen](#)
To: [Hughes, Seamus](#); [Anderson, Gail](#); [Briggs, Peter](#)
Cc: [Mills, John \(DETI\)](#)
Subject: RHI closure
Date: 06 January 2016 08:51:49
Attachments: [RHI closure.docx](#)

Seamus, Gail, Peter,

Have jotted down a few thoughts following meeting yesterday (as much to myself as anything so not particularly coherent!). I see a vulnerability around the notice period being for installations to be accredited rather than for the submission of valid applications – manageable but we need to think carefully about the notice periods and what is reasonable. How long does it take to process an application? What if it's not complete? Are all applications processed in the same way and within the same timescale?

The timing is all very tight – I have tried to think about ways of reducing times. I appreciate that the temptation is to move ahead with the Executive paper and Notice before DSO has cleared the Regs but I think it's v important that we get a steer from DSO (in broad terms without final clearance of the Regs) before we proceed with the Executive paper. The last thing we need is to set the Executive/Committee process off and then find that DSO doesn't approve with what we want to do. If we can be clear in our own minds how we want it to work, we can test that with Paul next week (and still have drafts for Executive/Committee prepared in draft and cleared with John).

John mentioned a 4 – 6 week Notice period, but I see Paul's draft doesn't have a minimum time in – do we want to specify a minimum and why? We can discuss risk management with DSO.

Maybe we can get together some time this morning and talk it through a bit more?

Helen

Regulations

- Will trigger the suspension of the scheme (subject to 1) funds not/won't be available 2) Notice setting suspension date, 3) will only apply those applications for which accreditation has not been received by date specified in such Notice [**NOTE – NOT application being received under Paul's current draft – more complex in relation to what's a reasonable period to allow to give people time to get an application in AND have it accredited. How long does accreditation take???**]
- Also must "appear to" DETI that funds not available – how do we show this? Can we put consultation with DFP in the Regs? What would we need to say in Notice to support/demonstrate this
- Need to test notice periods with DSO – specify minimum or not? Risks?

Notice

- This first Notice is doing more than giving notice of suspension – it will have to give Notice of the legislation coming as well as Notice of the suspension itself so think we may need a bit more detail in it – imagine we need to demonstrate 'evidence' in some way to support stance that the necessary funds are not available (what exactly are we going to say? DFP confirmation of 22 Dec?)
- Specify date, say 31 March, subject to Assembly process for the proposed legislation, or the day after the legislation comes into operation whichever is the later of the 2.
- Could we get the Committee to clear the Notice and the SL1 at the same time? Both part of policy and integral to the legislation. Would cut down the time a bit.
- DSO should clear Notice alongside the draft Regs – go hand in hand

So maybe:

- Background – RHI, success of the scheme, rationale for scheme, EU targets etc?
- However, because of x, y, z the Department does not consider that there are available sufficient funds to enable the Scheme to continue at present. [Mention seeking additional funds from DFP?]
- Therefore the Department will be bringing forward legislation to suspend the scheme and intends to effect this suspension on [31 March 2015] (subject to the Assembly's legislative process) or on the day after such legislation comes into operation whichever is the later of the two.
- Reassurance for those already accredited under the scheme – payments will continue to be made....
- Advise that the Department will continue to keep the matter under review in conjunction with DFP (and Treasury??) and if additional funds for the scheme become available may take steps to 'lift' the suspension.

Executive

- The Executive is being asked to a) approve the suspension of the scheme due to funding situation – legislation to effect will be brought forward asap and b) approve the issue of a notice to suspend the scheme by [31 March] or day after legislation comes into effect, whichever is the later
- Do we need to say anything about scheme reopening – perhaps to avoid need to revert to Executive before removing suspension?

ETI Committee

- Go to Committee after Executive (could we go in tandem and mark papers, subject to Executive approval???) Would that reduce time (single submission to Minister???)
- Seek Committee approval for the SL1 for the legislation and for the issue of the Notice at the same time (perhaps summarise Notice rather than provide a draft in case subject to DSO clearance)?

DSO – questions/issues for Paul

1. Proposed draft – no notice period specified. John mentioned minimum 6 week notice – if we don't have to specify, why would we? Do we reduce risks by setting and adhering to notice periods or is it sufficient just to allow reasonable notice period (such period being minimum of 4-6 weeks – is that a reasonable time given that proposal is to have accreditation as the requirement for the end date rather than submission of an application??).
2. Want to include provision to say that the requirement under paragraph [x] to give notice can be satisfied by the publication of such notice before as well as after the coming into operation of the Regulations [linked to specifying minimum time period for notice]
3. DFP – while DETI must exercise the powers, can we include DFP (do we want to??) – e.g. “where it appears to the Department, following consultation with DFP, that it does not have or is not likely to have sufficient funds...”