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**To:** [Cooper, Trevor](#)  
**Cc:** [Brankin, Bernie](#)  
**Date:** 26 October 2015 16:58:34  
**Attachments:** [Cover letter to DFP - RHI Business Case Addendum..DOCX](#)

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Trevor – some drafting points though I recognise that there are other points in the draft which we would need to be able to stand over, or amend.



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xx October 2015

Dear Michelle

**BUSINESS CASE ADDENDUM FOR THE NORTHERN IRELAND NON-DOMESTIC RENEWABLE HEAT INCENTIVE**

1. ~~I am writing to you to seek urgent DFP approval for expenditure on the Please find enclosed Business Case Addendum for the Northern Ireland Non Domestic Renewable Heat Incentive, (RHI) Scheme. I enclose a Business Case Addendum which presents the analysis of the position and proposed changes being made to the scheme to improve value for money and introduce new controls on costs, for your consideration.~~
2. ~~Through the attached Business Case Addendum, DETI is~~ We are seeking DFP approval specifically to regularise the position in relation to the Non Domestic RHI scheme expenditure, both respectively from 1 April 2015 and prospectively to 31 December 2016 on the basis that:-
  - Expenditure is unavoidable as accreditations during this period constitute binding legal commitments;
  - The scheme provides ~~continuous and~~ continuing value for money;
  - Legislation will be brought forward in early November 2015 to introduce tariff tiers and an annual payment cap for all new biomass installations (subject to prospective DFP approval for the Non Domestic Scheme); and
  - The Department will complete a review of the scheme in 2016 on the effectiveness of controls to manage future expenditure.
3. For legislation to proceed in early November, clarity approval is needed on the ~~status of~~ scheme expenditure. ~~We would be grateful for you response as soon as possible.~~

**Background**

4. The original Business Case for the Non Domestic RHI Scheme was approved by DFP in April 2012 on the basis that:

- *Whilst the scheme is envisaged to be open to new installations until 2020, approval is given for the period 1 July 2012 to 31 March 2015, representing the period for which HMT funding has been secured. Any decision to continue the scheme beyond 2015 would require further/separate DFP approval; and*
- *As outlined in Section 7.53 of the Business Case, arrangements are put in place for scheduled reviews to allow the progress of the scheme to be monitored, assessed and if necessary, changes implemented. It is noted that the first review is scheduled to start in 2014 and that the reviews will be carried out by DETI.*

## Approvals

~~5. There are some exceptional and complicating factors in regard to the development and implementation of the Renewable Heat Incentive in NI following its introduction in the rest of the UK. It has two elements: Domestic and Non-Domestic Schemes. Following the introduction of the Non-Domestic scheme in 2012 the priority Regrettably, with the focus over the past 12 months was on introducing the Domestic scheme which was launched in XX. ; the need to secure further DFP approval in respect of funding for the Non-Domestic RHI scheme beyond 31 March 2015 was overlooked and not sought. You have asked us to elaborate on the reasons for this oversight.~~

6.5. DETI Energy officials had assumed that like the domestic scheme, approval for the Non Domestic RHI scheme had been secured until scheme closure in March 2020. Both schemes are set out in, and governed by, secondary legislation. The legislation does not envisage the continuance of the scheme being subject to DFP or other approval and DETI is obliged to meet the properly incurred costs of applicants as a matter of law. The reason for this is fairly obvious in that the installation of industrial plant is a long term venture involving significant costs for individual businesses. Investors and developers need assurance that the scheme will continue to be available and that tariffs will be sufficiently stable to allow investment decisions to be taken. Incentivisation of such decisions is the basis of the scheme which, itself, is the mechanism to attain the Executive's Programme for Government target on renewable heat.

7.6. Realistically and in hindsight, a legislative mechanism, catering for the scheme's possible termination or suspension, would have been needed at the point of the DFP approval to reflect the conditions of that approval. Otherwise, regardless of whether DFP approved the continuation of funding for the non-domestic scheme or not, DETI would have been legally obliged to carry on meeting the costs of properly made applications. For the reasons noted above on the incentivising purpose of the scheme, this would have been very detrimental to the uptake of the (already underperforming) scheme. ~~It is not surprising that it was not recommended at the time.~~

8.7. For these reasons, it was assumed that further approvals were not needed though we acknowledge that the time-bounded condition on the approval should not have been overlooked within DETI, and DFP should have been engaged much

~~earlier. Of course, it may have been expected that someone involved in the renewable heat function would have known to seek the approval. However, the small policy team underwent a complete change of personnel in early 2014. Nonetheless, it might be reasonably expected that either Energy Division or DETI processes would have picked this up before the deadline. It is the case that Whilst Energy Division keeps a Divisional register of approvals. Unfortunately, this did not include ongoing schemes. This has since been altered.~~

8. All existing DFP approvals in place with Energy Division have been checked and are still in force.

9. The Business Case Addendum provides the value for money analysis to support approval for the previous seven months and to seek approval for the coming months following proposed changes to the scheme to improve value for money and help control expenditure.

### Scheme Uptake

10.9. During this period uptake of the Non Domestic scheme increased significantly with over £23m expenditure forecast for 2015/16 against a previous baseline of £12m.

11.10. This has raised issues of value for money and the adequacy and timeliness of financial controls. These concerns are occasioned by the abrupt and unforeseeable uptake of the scheme by one particular industry. They do not arise from the lack of approval.

12.11. The Business Case Addendum addresses these points. However, there has been a focus on whether earlier action would have materially affected value for money. In particular, should controls have been put in place sooner and should DETI have reacted sooner to increasing uptake.

13.12. As regards the first issue, a Phase 2 Review of the RHI was completed in 2013. This included proposals for a new Domestic Scheme, extension of the Non Domestic Scheme and Cost Control measures. These proposals are being taken forward. With low levels of uptake in previous years and large under spends against allocation, implementation of the Domestic scheme and scheme promotion were given precedence over other proposals. The Domestic Scheme was introduced in December 2014 and public awareness campaigns completed during the last two winters. ~~It is hard to see how prioritising cost control measures could have been justified in the circumstances.~~ It may be argued that DETI should have, nonetheless, implemented cost control measures sooner as DECC had done. DECC has nearly twice as many senior civil servants in its energy directorates as DETI has staff in Energy Division. A handful of Energy Division staff work on renewable heat. To match (or closely follow) DECC changes would require greater DETI resources. While no formal assessment has been conducted, it is submitted that the resource cost of mirroring DECC policy would not be justified. One way for DETI to cope with the resource gap is to adapt DECC policy after it has been implemented in GB. This results in an inevitable time lag.

14.13. As regards the second point about reacting sooner to increased uptake, the Business Case Addendum confirms that the Department could not have reasonably acted sooner. A sustained increase in application numbers was not achieved until

March and April this year. The Department then acted to address this through policy development in May/June and is now bringing legislation forward. There is a minimum notice period of 2-3 months required for making changes to the scheme (accepting reasonable legal risk). Evidence from other similar schemes (such as the NIRO) is that deadlines for changes engender rapid industry reactions which are not dependent on timing (unless, at increased risk of legal challenge, no warning is given). The total number of new financial commitments is therefore likely to be similar.

### Other issues

~~15.14.~~ The Business Case proposes extending the 6.4p biomass tariff banding (20-99KW) to cover installations up to and including 199KW in size. At the DETI Casework Committee Meeting on 21 October 2015 an issue was raised about the rationale behind extending the 6.4p biomass tariff banding (20-99KW) to cover installations up to and including 199KW in size. Currently the tariff reduces from 6.4p/KWh to 1.5p/KWh for boilers greater than 99KW. This has encouraged the poultry industry to install 99kw boilers in their broiler houses to receive the higher tariff rather than larger sized plant to meet all their annual heating needs. This means that at certain times of the year when heat demands exceed the capacity of the 99KW boilers LPG heating systems are used to meet the “spike” in heating demand. To be clear, this does not mean that ‘sub-optimal’ boilers are being installed. It means that not all of the poultry industry’s LPG heating is being displaced by biomass. In boiler efficiency terms it means quite the reverse as the 99KW boilers are running at full capacity. The proposal to extend the 6.4p biomass tariff to boilers up to and including 199KW in size will bring NI into line with GB and further the aims of the scheme by enabling more heat to be replaced. This change will encourage the installation of larger sized boilers. The most recent expenditure forecasts reflect this.

~~16.15.~~ The administration costs for the scheme are met by the Department from Resource DEL. The administration estimates are included in the Business Case. Clearly there will be administration costs for as long as commitments exist. The Department is also seeking DFP approval for the costs associated with the scheme as part of the overall Business Case. £2.9m of estimated Resource DEL expenditure for administration of the NI Non Domestic Scheme for the 6 year 2015/16 – 2020/21 period. [ Should this approval not align in timescales with the others in terms of overall business case costs.] Administration costs are This is based on 3% of total administration costs for both the GB and NI Non Domestic RHI Schemes.

~~17.16.~~ Please contact me if you have any further queries or questions on the attached case.

Yours sincerely

**TREVOR COOPER**  
**Head of Finance Division**

cc Chris Stewart

John Mills  
Stuart Wightman  
Bernie Brankin