

From: [Andrew McCormick](#)
To: [Wightman, Stuart](#)
Cc: [McCormick, Andrew \(DETI\)](#); [Mills, John \(DETI\)](#); [Stewart, Chris \(DETI\)](#); [Hill, Janice](#); [Rooney, Eugene](#); [Cooper, Trevor](#)
Subject: RE: Draft Submission - RHI Consultation
Date: 18 January 2016 22:35:39
Attachments: [Submission to Minister on the way forward re the RHI schemes ahead of consultation.DOCX](#)
[Draft Executive Paper - Version 1 - Future of RHI.DOCX](#)
[Draft RHI suspension closure consultation paper.DOCX](#)

A few suggestions.

Many thanks.

-----Original Message-----

From: McCormick, Andrew (DETI) [<mailto:Andrew.McCormick@detini.gov.uk>]
Sent: 18 January, 2016 6:24 PM
To: Andrew McCormick personal email redacted by the RHI Inquiry
Subject: FW: Draft Submission - RHI Consultation

From: Wightman, Stuart
Sent: 18 January 2016 18:22
To: McCormick, Andrew (DETI); Stewart, Chris (DETI)
Cc: Rooney, Eugene; Cooper, Trevor; Mills, John (DETI)
Subject: Draft Submission - RHI Consultation

Andrew / Chris

Please see attached drafts for comment. Given the timetable, we are hoping to get these up tomorrow, but appreciate these issues need careful consideration.

Thanks, Stuart

From: Wightman, Stuart
Sent: 18 January 2016 17:31
To: Mills, John (DETI)
Cc: Hughes, Seamus; Vaughan, Helen; Anderson, Gail
Subject: RHI Consultation

John

I attach TRIM links to the draft Submission (including letter to ETI Committee), Consultation Document and Executive Paper.

Stuart

From: **John Mills** Tel No: 29215
 Date: **XX January 2016**
 To: **1. Timothy Cairns**
2. Jonathan Bell MLA

Copy Distribution List below

OPTIONS ON THE FUTURE OF RENEWABLE HEAT INCENTIVE SCHEMES

Issue: The future of the Northern Ireland Renewable Heat Incentive schemes (RHI).

Timing: **DESK IMMEDIATE:** Clearance by **20 January 2016** to enable public and Executive consultation to begin.

Executive Committee Referral: **Executive Paper needs to be agreed at Executive Meeting on 25 February 2016.**

PFG Implications: The PFG targets for renewable heat are 4% by 2015 and 10% by 2020. The 4% target has been met.

Presentational Issues: The closure/suspension of the scheme will be unwelcome for the RHI industry. The unapproved expenditure will attract criticism.

FOI Implications: FOIA exempt under sections 35 (formulation or development of government policy)

Financial Implications: Treasury has indicated that the cost overrun may need to be covered from the Executive's Resource DEL which, if confirmed, would imply a substantial opportunity cost of up to £75m over the next 5 years to DETI or other NI Block services. If both schemes remain open, the cost of the overrun over the next 5 years could rise to £165m.

Legislation Implications: Legislative changes to the RHI require draft affirmative resolution Regulations.

Statutory Equality Obligations: Screened out.

Recommendation: That you approve the issue, on 20 January 2016 of the attached:

- (a) a consultation on the options for the future of the RHI schemes (**Annex A**) for a reduced 3 week period;
- (b) letter to the Chair of the ETI Committee (**Annex B**); and
- (c) version 1 of the draft Executive paper (**Annex C**).

BACKGROUND

1. Further to my submission of 31 December 2015 (SUB 1/2016 refers) you have agreed that it appears necessary to close of the RHI schemes to new applications (we await written confirmation) [DN Final decision is subject to consultation]. This submission invites you to approve the immediate steps needed to move towards final decisions on this issue, which requires Executive approval and public consultation agree the way forward.

BUDGET DEFICIT

2. To meet RHI commitments for existing installations, around £75m of funding will have to be found from DEL for the next 5 years to address the current funding deficit. If both RHI schemes remain open to new applicants, the budget deficit increases to £165m.

PUBLIC CONSULTATION

3. It is important we give stakeholders advance notice of the issue and as much time as possible to respond. Given that the consultation is on a single issue (the steps for budgetary control of RHI) and there was a more substantial consultation in 2013, the reduced 3 week period is not considered unreasonable and is the maximum possible, given the timescales. A copy of the draft Consultation Document is attached at **Annex A**. A draft letter to the ETI Committee Chair is also attached at **Annex B**.

EXECUTIVE REFERRAL

4. In the absence of additional funding being allocated to the RHI by the Executive it must close or be suspended. There are implications for the PfG (10% target not being reached if RHI closes). The closure/suspension and the budget position could be considered "significant or controversial" and cross cutting. Also any action other than closure would create a significant opportunity cost, and even if this was to be absorbed in the DETI/DfE budget areas, it would have consequences which could only be approved at collective Executive level. A Draft Executive Paper is therefore attached at **Annex C**.

NEXT STEPS

5. Closure/suspension of the RHI requires subordinate legislation subject to the draft affirmative process. Bearing in mind the fact that the Assembly rises at the

end of March, the suggested process and timings for progressing this issue is set out below for your approval:

Action	Date
Subject to your clearance of this submission: a) publication of consultation paper (Annex A) for a reduced period of 3 weeks; b) issue of draft letter to ETI Committee (Annex B); and c) issue of version 1 of an Executive paper (Annex C)	<u>Wed 20 Jan</u>
Consultation closes/comments back on version 1 of Executive paper	<u>Wed 10 Feb</u>
Further submission to you on outcome of consultation with: a) Final version of Executive paper for clearance; b) SL1 to ETI Committee for closure/suspension - legislation subject to Executive consideration; and c) Motion to be signed for Assembly Debate.	<u>Monday 15 Feb - requires clearance by Wed 17 Feb</u>
ETI Committee meeting (SL1 clearance, subject to Executive clearance)	<u>Tues 23 Feb</u>
Executive clearance of meeting to clear Final Paper <u>either at a meeting or by urgent procedure</u>	<u>Not later than 25 Feb</u>
Lay Regulations/ ETI Committee meeting (clear draft Regs)	<u>End Feb/early Mar</u>
Debate on Regulations/ Regulations come into operation	<u>Early/mid Mar</u>

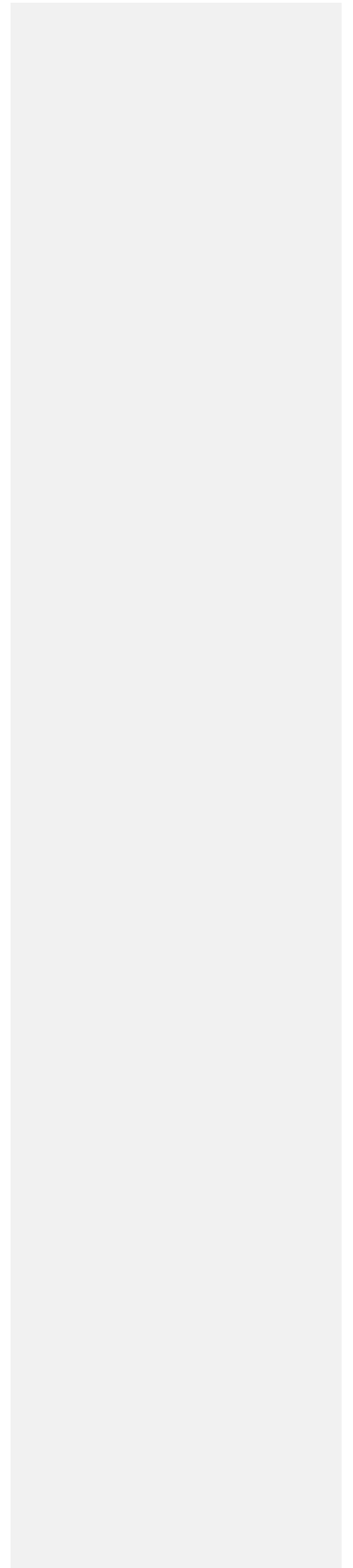
6. Your urgent clearance will be required at 2 key stages under the process –
- (i) to agree consultation, 1st version of Executive paper and correspondence to ETI Committee **before 20 January; and**
 - (ii) following consultation, **by 17 February** clear SL1 (final policy) to ETI Committee; clear final Executive paper and sign motion for Assembly Debate.

RECOMMENDATION

7. That you approve the issue, on 20 January 2016, of:
- (a) a consultation on the options for the future of the RHI (**Annex A**) for a reduced 3 week period;
 - (b) the attached letter to Chair of the ETI Committee which advises of the launch of the consultation (**Annex B**); and
 - (c) version 1 of the attached Executive paper which notifies Executive Colleagues of the launch of the consultation on the future of the RHI (**Annex C**).

JOHN MILLS
Energy Division
Ext. 29215

cc: Andrew McCormick
Chris Stewart
Eugene Rooney
Stuart Wightman
Trevor Cooper
Helen Vaughan
Rob Robson (DALO)
Ian McCrea MLA APS
Sean Kerr
Press Office



Annex B - Letter to the ETI Committee

Mr Patsy McGlone MLA
 Chair of ETI Committee
 Room 375
 Northern Ireland Assembly
 Parliament Buildings
 Stormont
 BELFAST
 BT4 3XX

XX January 2016

Dear Patsy

CONSULTATION ON THE OPTIONS ON THE FUTURE OF RENEWABLE HEAT INCENTIVE SCHEMES (RHI)

I am writing to inform the Committee of a consultation on options for the future of the RHI. The consultation period will end on 10 February 2016. The consultation document Can be viewed at [inset link].

You will recall that I brought cost control measures for the Non Domestic scheme forward in November 2013. A sustained increase in applications during March/April 2015 was the catalyst for these changes. However, in the run up to these legislative changes, there was an unprecedented surge in new applications with a further 900 applications received in 6 weeks. An increase in applications had been forecast as businesses tried to beat the deadline, but not at the numbers received.

This increase in demand means that over 167MW of renewable heating capacity has now been installed through the non domestic scheme. This equates to around 7% of total installed capacity under the GB non domestic scheme. It is estimated that over 6% of NI's total heating needs are now provided through renewable technologies. The PfG target of 4% renewable heat by 2015 has been exceeded however, this success comes at a price. Total expenditure for RHlin 2015/16 is now forecast to exceed £30m. Even if no new applications are received in 2016/17 (i.e. both schemes are suspended/closed), forecast RHI expenditure in 2016/17 is expected to be around £42m.

The affordability of the NI RHI going forward obviously depends on the budget available. The RHI is paid out of Annual Managed Expenditure (AME), which normally wouldn't have an impact on the NI Block funding. However, when the scheme was first introduced in 2012, HMT confirmed that RHI spending would not be treated as standard AME, where the Exchequer takes on all risks. Instead, 5% of any overspend would have to be funded by NI through DEL.

Also, unlike traditional AME, the initial 4 year (2011/12-2014/15) NI allocation of £25m was based on a Barnett formula of c.3% of the DECC budget (£838m). HMT confirmed that any 20 year commitments entered into during this period would be

Comment [GA1]: Should we not provide a link since this letter won't be considered by the Committee until 26/1 and the consultation will be published on 20/1?

honoured. This arrangement was rolled forward into 2015/16 though the AME 2015/16 budget which has since been raised to £23m in light of increased demand.

If the Barnett formula + 5% penalties approach was carried forward the effect on NI DEL would be less than £1m p.a. over the 2016/17–2020/21 period (this assumes scheme closure in March 2016). However, the effect of the Chancellor's Autumn Statement has been to reduce the NI RHI budget further. The NI allocation will continue to be based on 3% of a reduced DECC budget. This is despite the NI non domestic scheme delivering 7% of the installed capacity under the GB scheme. DFP officials have also advised that HMT's likely position will be that NI will have to cover the full costs (not 5%) of any overspend. This creates significant budgetary pressures with additional costs of up to £150m over the next 5 years even if no new applications are received after the end of this financial year. If both schemes remain open, the 5 year costs to NI DEL could rise to £165m.

Discussions between DFP and HMT are ongoing but I must proceed on the basis that the major overspend that has now arisen will not be covered by HMT. Negative responses to the consultation can be expected as proposals to suspend or close the RHI will not be well received. I will write to the Committee again following analysis of those responses. I should be grateful if you would bring this matter to the attention of the Enterprise, Trade and Investment Committee.

JONATHAN BELL MLA

Minister of Enterprise, Trade and Investment

ANNEX C

FROM: JONATHAN BELL MLA

DATE: xx JANUARY 2016

TO: EXECUTIVE MINISTERS

FUTURE OF THE NORTHERN IRELAND RENEWABLE HEAT INCENTIVE

I attach a draft Executive paper (Version 1) and should be grateful for any comments you may have on the recommendations in the paper by close of play on 29 January 2016. Given the issues that have arisen in relation to this issue I have today issued a paper for public consultation.

I am also copying this to the Attorney General, the Departmental Solicitor, and the First Legislative Counsel and to the Executive Secretariat.

JONATHAN BELL MLA

Minister of Enterprise, Trade and Investment

MEMORANDUM E ()

FROM: JONATHAN BELL MLA

MINISTER OF ENTERPRISE, TRADE AND INVESTMENT

DATE: xx JANUARY 2016

TO: EXECUTIVE

VERSION 1

**DRAFT EXECUTIVE PAPER – FUTURE OF THE NORTHERN IRELAND
RENEWABLE HEAT INCENTIVE**

Introduction

1. The purpose of this paper is to advise the Executive of difficulties with funding for the Northern Ireland Renewable Heat Incentive, (RHI), and the need to take action to minimise overspending on the scheme.
2. This matter is deemed to fall within the remit of paragraph 2.4 of the Ministerial code in that it concerns a significant and indeed a controversial matter. It could also be considered as cross cutting.

Background

3. The Non Domestic RHI scheme was introduced in November 2012 and the Domestic RHI scheme in December 2014. Both schemes provide payments for people to move from conventional heating (mainly oil) to

sustainable heating such as wood pellets (biomass). In light of unprecedented applications over the last 3 months for the Non Domestic Scheme and the outcome of the Government's Spending Review, an urgent decision is now needed on the future of the NI RHI schemes.

4. Successful Domestic RHI applicants receive an upfront payment of up to £3,500 (depending on the technology) along with 7 annual tariff payments based on the heat requirements of the property. Annual payments are typically around £1,200 but are capped at a maximum of £2,500. Uptake of the Domestic RHI scheme has increased steadily (c.700 applications since the scheme was introduced).
5. The Non Domestic RHI scheme on the other hand involves 20 years of annual tariff payments based on the metered heat usage of the business. Tariffs are dependent on the type and size of technology. To date, average annual payments have been around £24,000. The Non Domestic scheme therefore involves much larger and longer financial commitments than the domestic scheme.
6. After a slow start during the first two years, non domestic scheme uptake increased steadily during 2015. During the Autumn of 2015 there was an unprecedented surge in applications. This increase relates to one particular technology – biomass and has been attributed to one particular industry's wholesale uptake of the scheme. This is the poultry industry's use of RHI for broiler houses.
7. A sustained increase in applications during March and April 2015 was the catalyst for the legislative changes I brought through the Assembly in November to, inter-alia, introduce a tiered tariff (reducing after 1,314 hours) and an annual cap (at 400,000 KWh) on RHI payments for biomass. However, in the run up to these legislative changes, the number of installations on the scheme doubled with over 900 applications received in 6 weeks. An increase in applications had been

forecast as businesses tried to beat the deadline for tariff changes, but not at the unprecedented numbers received.

8. The increase in applications means that over 167MW of renewable heating capacity has now been installed under the non domestic scheme. This currently equates to around 7% of total installed capacity under the GB non domestic scheme. It is estimated that over 6% of NI's total heating needs are now provided through renewable technologies. The PfG target of 4% renewable heat by 2015 has been exceeded and we would be well on track to reach the 10% target set for 2020. However, this success comes at a price. Total expenditure for both RHI schemes in 2015/16 is now forecast to exceed £30m. Even if no new applications are received in 2016/17 (i.e. both schemes are suspended/closed by 31/3/16), forecast RHI expenditure in 2016/17 is expected to be around £42m.

Scheme Approvals

9. When the business case for the non-domestic scheme was approved by DFP in 2012, one of the conditions was for re-approval in March 2015. Unfortunately the need for this approval was overlooked. DETI had no choice but to keep making the payments because the RHI scheme is set out in statutory Regulations and there are no grounds for DETI to cease making payments to properly made applications. Prospective approval has now been received from DFP for non domestic scheme expenditure from 29 October 2015 through to 31 March 2016. Retrospective approval from 1 April 2015 to 30 September 2015 has however been declined. Approval for the Domestic RHI Scheme is in place up to 31 March 2020.

Affordability

10. The affordability of the NI RHI schemes going forward obviously depends on the budget available. The RHI schemes (non-domestic and domestic) are paid out of Annual Managed Expenditure, (AME)

which normally would not have an impact on the NI Block funding. However, when the scheme was first introduced in 2012, HMT confirmed that RHI spending would not be treated as standard, AME, where the Exchequer takes on all risks. Instead, ~~there is~~ a risk-sharing arrangement was introduced whereby, should RHI spending in one year exceed the allocated budget; NI would need to repay this in future years. This could be achieved through scheme changes. However, the rules provided that a small proportion of any required future savings (likely to be of the order of 5%) would have to be funded directed by NI through DEL.

11. Also, unlike traditional, AME, the initial 4 year (2011/12-2014/15) NI allocation of £25m was based on a Barnett formula of c.3% of the DECC budget (£838m). HMT confirmed that any 20 year commitments entered into during this period would be honored. This arrangement was rolled forward in 2015/6 though the AME 2015/16 budget has since been raised to £23m in light of increased demand.

Change in HMT policy

12. If RHI funding was “pure” AME there would be no impact on NI DEL. If the Barnett formula + 5% penalties approach was carried forward the effect on NI DEL would be relatively small – generally less than £1m p.a. over the 2016/17–20/21 period (this assumes scheme closure in March 2016). However, the effect of the Chancellor’s Autumn Statement was to reduce the NI RHI budget. DFP officials have also advised that HMT’s likely position will be that NI will have to cover the full costs (not 5%) of any overspends.
13. This creates significant budgetary pressures for the next 5 years with additional average annual costs of around £15m even if there are no new applications after the end of this financial year. Costs in 2016/17 would be higher but would diminish over time i.e. if the scheme is closed to new applications the costs would remain static but the HMT

budget would rise therefore reducing the scheme overspend from around £23m in 2016/17 to around £7m by 2020/21.

14. Discussions between DFP and HMT are ongoing but I must proceed on the basis that the major overspend that has now arisen will not be covered by HMT. DETI does not have the funding to meet this overspend so I have no choice but to propose immediate closure of the scheme unless extra funding becomes available.

15. The option of keeping open the RHI would help reach the Executive target of 10% renewable heat by 2020, help reduce greenhouse gas emissions, contribute to the UK's renewables obligations and support the local renewables industry. However, this could involve DEL costs to DEL of £165m over the 2016/17 – 2020/21 period. This would represent an unacceptable opportunity cost either to the budgets of the new DfE or to some other NI Block public services. This is roughly double (at £30/yr) the average annual cost of closing the scheme as soon as possible (at £15m/yr).

Consultation

16. I have commenced a short 3 week consultation on the issue but negative responses can be expected as proposals to suspend or close the RHI will not be well received. The consultation outcome will be reflected in the next draft version of this Executive paper.

Renewable Heat Target

17. Although the PfG 2015 target to achieve 4% renewable heat by 2015 has been exceeded, if both RHI schemes are suspended, there is a risk that the Executive's Strategic Energy Framework target to achieve 10% renewable heat by 2020 will not be achieved.

Timing

18. Given the urgency of the situation I propose to close both the RHI schemes in March 2016, subject to Assembly approval of the legislation.

Executive Colleagues comments

19. [To be inserted once received in version 2 of this paper].

Recommendation

20. The Executive is asked to:

- i) confirm whether the RHI scheme should remain open beyond March 2016 (~~taking account of the~~ which would almost certainly involve either the allocation of material additional funds to the new DfE for that purpose, or unacceptable consequences for DfE services likely financial consequences); and if not
- ii) agree that the scheme will be closed as soon as possible.

Consultation Paper

**Proposed closure of the Northern Ireland
Renewable Heat Incentive.**

January 2016

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Purpose of Consultation and how to
Respond

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Proposed RHI Closure

Page 6

Purpose of Consultation and how to Respond

1

Purpose of consultation

- 1.1 The purpose of this consultation is to seek views on the proposal to close the domestic and non domestic Renewable Heat Incentive schemes ('the RHI') to new applications.
- 1.2 Following an extensive consultation in July 2013, cost control measures were recently introduced to the non domestic RHI in November 2015. These included tiered tariffs for biomass, a change in biomass banding, and an annual cap on heat payments. However, an unprecedented increase in applications in the run up to these changes together with budget cuts arising from the Chancellor's November Spending Review Statement now means the RHI budget has been exhausted.
- 1.3 It is therefore, proposed to close the RHI to new applicants to prevent further overspend until such time as additional funding might be secured. We pointed to the need for such measures in the 2013 consultation, although at that time neither the significant increase in applications nor the budget changes were anticipated.
- 1.4 Further details and information on the proposal is set out in Chapter 2. A further public consultation will be carried out to inform long term policy for renewable heating in Northern Ireland after both schemes have been closed.

In the absence of additional funding being allocated to the scheme, DETI is seeking views on:

- 1) Whether there are feasible options other than closure of the RHI schemes with immediate effect; and
- 2) Whether there are factors which should be taken account in the closing the scheme.

How to respond

- 1.5 Responses should be sent, preferably by email, **to arrive by 5pm on 10 February 2016** to:

[enter email address]

or by post to:

**Energy Efficiency Branch
Energy Division
Department of Enterprise, Trade and Investment
Netherleigh, Massey Avenue
BELFAST
BT4 2JP**

- 1.6 All responses should include the name and postal address of the respondent.

Confidentiality & Data Protection

- 1.7 Your response may be made public by DETI and placed on the DETI website. If you do not want all or part of your response or name made public, please state this clearly in the response by marking your response as 'CONFIDENTIAL'. Any confidentiality disclaimer that may be generated by your organisation's IT system or included as a general statement in your fax cover sheet will be taken to apply only to information in your response for which confidentiality has been specifically requested.
- 1.8 Information provided in responses, including personal information, may be subject to publication or disclosure in accordance with the access to

information regimes (these are primarily the Freedom of Information Act 2000 (FOIA) and the Data Protection Act 1998 (DPA)). If you want other information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.

- 1.9 In view of this, 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 as binding on the Department.

Impact Assessment

- 1.10 The Department has screened the proposals for Equality Impact, Regulatory Impact and Rural Proofing. Copies of these documents can be provided on request.

Copies of the document

- 1.11 This document is being produced in electronic form and may be accessed on the [DETI Energy website](#) or may be obtained from the address above or by telephoning 028 9052 9581.
- 1.12 If you require access to this consultation paper in a different format – e.g. Braille, disk, audio cassette, larger font – or in a minority ethnic language please contact the Department on 028 9052 9581 and appropriate arrangements will be made as soon as possible.

PROPOSED RHI CLOSURE

2

Background

- 2.1 The RHI, introduced in November 2012 to the non-domestic sector and in December 2014 to the domestic sector has been very successful. Over 3,500 renewable heating installations have been incentivised to date under the NI RHI schemes and we have met and exceeded the Executive's 2015 target of 4% renewable heat. It is currently estimated that around 6% of Northern Ireland's heating needs are provided through renewable heating technologies.
- 2.2 Over the last 18 months the number of non-domestic RHI applications has grown from around 200 to over 1,800. Over 900 of these applications were received in the run up to the cost control measures introduced on 18 November 2015. This success has placed significant pressures on the available budget.
- 2.3 Funding for the NI RHI is provided by Treasury, and [up to this point has been](#) additional to the NI Block Grant, meaning that it does not affect funding for other NI public services. However, the increase in committed RHI payments associated with the recent influx in non domestic applications means that the NI funding allocations from 2016/17 onwards will be exceeded even if both schemes were closed to new applications now. This situation is exacerbated by the UK Government's November Spending Review which included a significant cut in future RHI funding.

- 2.4 Despite total renewable heating capacity installed through the NI Non Domestic RHI Scheme currently equating to around 7% of total installed capacity in the GB scheme, NI receives below 3% of the GB RHI allocation.
- 2.5 To meet RHI commitments for existing installations, around £75m may have to be found from within the NI Executive's budget for the next 5 years to address the current deficit. This could take much needed funding away from other public services although the DETI Minister will continue to make the case for RHI at Executive level. To prevent further overspend action is required now to close both schemes to new applications until such times as additional funding might be secured.

Options and recommendation

- 2.6 The Department must act now to address the budget issue. Keeping the RHI open is not possible as the available budget from 2016/17 onwards has already been exceeded by existing RHI commitments. A reduction in tariffs for new applicants will not be sufficient to address the issue. Although it would reduce the costs associated with new applications, the available budget from 2016/17 onwards is already exceeded by existing RHI commitments. [The scheme must be closed](#) unless further funding is allocated to cover, not only the current deficit, but any new commitments ~~the scheme must be closed~~.
- 2.7 The Minister has considered the possibility of reallocating funds from elsewhere within DETI but with pressure on budgets in other areas this is not possible.
- 2.8 Given the budget position, and subject to further consideration by the Executive, immediate scheme closures is the only viable option at this stage. Subject to the outcome of this consultation (including identification of any further options), Executive consideration of the budget issue, and the legislative process, the Department will move to close the scheme as soon as possible during this Assembly.

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