

From: Coyne, Terence
To: [Tweedie, Siobhan](#)
Cc: [McMurray, Stephen](#); [Marten, Lucy](#)
Subject: FW: RHI Closing Speech for Debate
Date: 23 January 2017 11:27:00
Attachments: [RHI 23 January Closing Statement v4.docx](#)
[image001.png](#)

Siobhan

Please disregard the previous version of the closing statement. There were a couple of final amendments.

Regards

Terry

From: Marten, Lucy
Sent: 23 January 2017 11:00
To: McCormick, Andrew (DFE); Coyne, Terence; McCann, Brendan; McMurray, Stephen; Cousins, Heather; Murphy, Shane; Montgomery, Paul; Dukelow, Victor; Adair, Joanne; Willis, Adele
Subject: FW: RHI Closing Speech for Debate

All

Please see attached which has been update in relation to the Examiner of Statutory Rules (thanks Adele) and with regard to the release of names.

Lucy

Lucy Marten

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From: Marten, Lucy
Sent: 22 January 2017 15:13
To: McCormick, Andrew (DFE)
Cc: McMurray, Stephen; Coyne, Terence; Cousins, Heather; Murphy, Shane; Montgomery, Paul; Dukelow, Victor; Adair, Joanne; Willis, Adele
Subject: FW: RHI Closing Speech for Debate

Andrew

With tracked changes in relation to the release of names and working with the Examiner. We

will need to update this in the morning, depending on whether or not we get a view.

Regarding the [] on the regulations and CHP – I think that what you've said is accurate.

Lucy

Lucy Marten

Energy Efficiency

Department for the Economy

Netherleigh

Massey Avenue

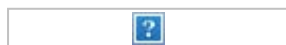
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From: McCormick, Andrew (DFE)

Sent: 21 January 2017 22:29

To: McMurray, Stephen

Cc: McCann, Brendan; Coyne, Terence; Cousins, Heather; Marten, Lucy; Murphy, Shane; Montgomery, Paul; Dukelow, Victor

Subject: Fw: RHI Closing Speech for Debate

Many thanks to Terry for getting this started. Please see my amended version and check bits in [] in particular.

**The Renewable Heat Incentive Scheme (Amendment) Regulations
(Northern Ireland) 2017****Closing Remarks**

I thank all those who have contributed to the debate. Everyone has had their say. Members raised a range of issues, and I will do my best to address some of the points that have been made.

First I will deal with the issues raised in the first part of the debate on 16 January.

Steve Aiken raised the proposals put forward by the Renewable Heat Association, [and colleagues have reflected further on the issues they raised in their evidence to the Economy Committee on 19 January]. The RHA plans are more about tackling abuse, and frankly they would not reduce the levels of over compensation to many of the existing applicants, or save enough money. Rates of return being earned by many are way outside what has been sanctioned within the EU approvals.

The CHP plants referred to by the RHA would contribute £70m to the 20-year cost of the scheme - not £180m or £160m. [They are governed by separate provisions in the 2012 and 2015 Regulations and a separate tariff, which is not subject to change in the draft Regulations before the house today.] In any case, they have not yet even received pre-accreditation and certainly won't affect expenditure in 2017-18. And let's

be clear about this – we do not have the luxury of time – we have to act now.

I move on to other issues that members raised. In an intervention, Jim Allister raised issues relating to the design of the scheme and its tariffs. It is wholly wrong to claim that the RHI is operating as designed – there is no evidence whatsoever that anyone in 2011 or 2012 – official, consultant, Minister, SpAd or MLA – intended to provide excessive rates of return or an incentive to burn to earn. The clearly stated policy objective of the Scheme was to provide a fair return to boiler owners of 12%. Mistakes were made which had far reaching consequences – the assumption that boilers would only be used for 17% of the time was incorrect and was based on a 50 kilowatt boiler not the 99 kilowatt boiler that was mainly used in practice. There was also a lack of appreciation of the need for tiered tariffs. At the time the Northern Ireland policy was being devised in 2011, expert advice indicated that tiered tariffs weren't needed as the tariff was lower than the cost of fuel, and as the NIAO Report stated clearly last June, that was mistakenly rolled forward into the final scheme design.

Unfortunately, these assumptions turned out to be seriously wrong. The level of usage was much higher than expected, leading to an average return of around 60%, and tiering and an annual cap on hours were essential to keep costs under control. This was not understood at the time. The amended Regulations are intended to address these issues and reduce the rate of return to acceptable levels.

Mairtin O'Muilleoir suggested that the plan is not comprehensive. I have explained clearly that, as well as this vital action to staunch the excessive flow of funds, DfE is accelerating work on a new and comprehensive approach to inspection, audit and enforcement, and will be developing proposals for a long term solution to the RHI issues for consultation, and review in good time for 1 April 2018. The Member has not put forward any suggestions as to what additional action could be taken right now.

Stephen Farry talked about kicking the can down the road. As I stated at the start of this debate, this is the first stage in the process and I look forward to their considered and costed recommendations for the next stage, which will look at the approach for 2018/19 and beyond. It is better to act now to control costs as the first part a longer term solution. The longer term solution will be taken forward as quickly as possible with expert advice and consultation with stakeholders. We will listen carefully to representations made to us so that a long term sustainable solution can be put in place.

Mairtin O'Muilleoir also referred to the length of time it took to get proposals to the Department of Finance. I understand that it has now been confirmed that DfE and DoF officials discussed the issues around cost control as early as 27 May 2016. Let's be clear about this – the situation has evolved over the last few months. For example, the Department at one time looked at stopping the Scheme completely. What is being presented today is the result of extensive discussions with legal experts, economists and financial experts and an independent expert from the industry. By staunching the flow of public funds in 2017/18 we gain space and time for wider reflection and innovative thinking for the longer term.

I acknowledge the concerns expressed by Claire Hanna and Stephen Farry about the limited time available for scrutiny. More time would clearly have been desirable, and I hope the week we have had since the suspension of this debate last Monday has been useful. I remain of the firm view that this is the best option available – there has been robust financial analysis and legal advice and, I say again, if these Regulations are not passed £85,000 a day of public money will continue to haemorrhage.

Claire Hanna asked me to clarify what impact, if any, the proposals would have on the Treasury spend. I am pleased to do this. HM Treasury sets the budget for the whole of the UK, and Northern Ireland gets a Barnett consequential of 3%. DoF has been in contact with Treasury which has an obvious interest in the issues surrounding the Scheme and will be advised of the final outcome. The AME allocation for the incoming financial year is anticipated at just over £22m. The projected cost for the Scheme, if these regulations are adopted, is around £24m. Costs could reduce further if the inspection regime were to lead to substantial numbers of payments being declared invalid or ineligible. In relation to this immediate proposal, to address the 2017/18 deficit, HM Treasury has been consulted and is satisfied that it has no implications for them.

Claire Hanna referred to Dr Capper's comments on the regulation 33 (p) which provides that subsidies must not be used to "*generate heat for the predominant purpose of increasing...periodic support payments.*" This

was a guiding principle of the PwC work that I commissioned last summer, so it is by no means a new point. Looking forward, this aspect of the regulations will be examined particularly keenly in the programme of 100% site inspections which my Department is in the process of tendering. The inspections will be rigorous, and robust and enforcement action will be taken where necessary.

I will now comment on three further points raised by Stephen Farry in the 16 January debate. The first relates to the 400,000 kilowatthour annual cap. The cap is not the key instrument for correcting perverse incentives and tackling the production of heat that is not useful. This role is performed by tiered tariffs, with tariffs being reduced after the 1314 hour limit has been reached. Neither the cap nor tiering could be described as new – both were introduced in the November 2015 regulations. Indeed those applying before November 2015 will now be treated the same as post November 2015 applicants.

The second point relates to State Aid. The proposal seeks to reduce State Aid and to align it to the level originally approved. My officials are working hard to ensure that State Aid approval will be secured. Finally, in relation to the role of the Executive, my advice is that where a case has been agreed by the Ministers for the lead department and the Department of Finance, and has been passed by the Assembly, the Courts are not likely to reject it.

Examiner of Statutory Rules

Mike Nesbitt asked for a view from the Examiner of Statutory Rules in relation to these Regulations. My officials have engaged with the Examiner in order to address any queries or concerns she may raise. She has now considered these Regulations and her report indicates that it could be argued that these Regulations are proportionate in achieving the public interest objective.

Publication of names

Claire Hanna and Mairtin O'Muilleoir have called for the names of the beneficiaries of the scheme to be published as soon as possible. These echo my own wishes. I have said on several occasions that I want to publish names in order to be open and transparent. Indeed, last week I released a statement addressing this very issue, stating my intention to publish the names this Wednesday once my officials had considered any objections received in accordance with Section 10 of the Data Protection Act. Letters issued this morning to all beneficiaries to advise them of the outcome of these deliberations and I plan to release the information on the Departmental website this as I believe that it is a priority that these names are put into the public domain.

Let me draw a few final threads together. Owners of small and medium sized boilers have received generous rates of return. If we do not make change, probably about 80% of installations expected to earn a rate of return in excess of 12%. The average rate of return is currently 60%, and over 70% of boilers are earning returns in excess of State Aid approvals. There is no conceivable defence for sustaining such over-compensation.

If we become aware of cases where usage needs in excess of 400,000 kilowatt hours is essential for a key business model, and would only be sustainable with an incentive, we will review these in the next stage.

Let me be very clear. The reason I am bringing these draft Regulations to the Assembly today is to prevent a shortfall of £28 million next year. This would have a significant impact on the affordability of other priorities and is, quite simply, unacceptable. It is not an option. It is vital for our reputation as legislators and for our public finances that the Assembly approves these draft Regulations, and hence I commend them to the House.