

From: Clydesdale, Alison [<mailto:Alison.Clydesdale@education-ni.gov.uk>]
Sent: 20 September 2016 12:26
To: Jane Pierce
Cc: Marten, Lucy; Teri Clifton; Edmund Ward; Gareth John
Subject: FW: PAC briefing [OFFICIAL]

Hi Jane

Just want to clarify something on these lines. In relation to “putting payments on hold” - are Ofgem content for this to be stated publicly without the recipient being notified or are you now planning to notify the recipient.

We do not intend to identify individual cases at PAC but if we say this it could lead to a barrage of queries relating to what it means and who it applies to.

Thanks

Alison

Please consider the environment - do you really need to print this e-mail?

From: Jane Pierce [<mailto:Jane.Pierce@ofgem.gov.uk>]
Sent: 19 September 2016 16:33
To: Marten, Lucy
Cc: Teri Clifton; Edmund Ward; Gareth John
Subject: FW: PAC briefing [OFFICIAL]

Hi Lucy,

In answer to your question about a line to take setting out what we are doing in relation to the specific referrals, there is not much more that we can say at this stage other than (i) below. Pending receipt of the further detail from PWC colleagues about these cases, our line would remain:

Ofgem takes any evidence of non-compliance with the scheme rules seriously. In these three cases, we have put payments temporarily on hold, whilst we investigate further. As part of our investigations, we may request additional evidence from the participant and/or undertake a further site audit. Depending on the outcome of our investigations, we may take compliance action which could include withholding or recovering payments and/or revocation. Any evidence of suspected fraud will be investigated by Ofgem’s Counter-fraud Team, and also referred to other bodies as appropriate.

Of course, very happy to discuss , we have a telecom in diaries tomorrow if that works for you?

Kind regards.

Jane

From: Jane Pierce
Sent: 13 September 2016 18:53
To: 'Clydesdale, Alison'; Hughes, Seamus; Wightman, Stuart
Cc: Edmund Ward; Teri Clifton; Gareth John
Subject: PAC briefing [OFFICIAL]

Alison,

Further to your requests for input to three specific questions, we have set out an initial view below – but would be helpful to discuss further when we meet on Thursday.

By way of caveat please note that the figures relating to the GB scheme are provided the below as background/context for your information. As stated below we would expect DfE to confirm any figures it would expect to use in discussions etc with BEIS prior to agreeing any lines/briefings. We'd be very happy to engage with BEIS colleagues and to facilitate contact points etc as required to support this process.

In terms of your specific questions:

- (i) Ofgem to urgently provide an opinion on whether the evidence provided for the three specific sites referred by DfE (via the PWC work) is non compliant (or potentially fraudulent) and confirmation of what action / sanctions is being taken – we would need this at the latest for the meeting next Thursday – but if you could provide even an initial indication ahead of the meeting that would be very helpful.

We take any evidence of non-compliance with the scheme rules seriously. In these three cases, we have put payments temporarily on hold, whilst we investigate further. As part of our investigations, we may request additional evidence from the participant and/or undertake a further site audit. Depending on the outcome of our investigations, we may take compliance action which could include withholding or recovering payments and/or revocation. Any evidence of suspected fraud will be investigated by Ofgem's Counter-fraud Team, and also referred to other bodies as appropriate.

In order to maximise our input, we would like to see audit reports giving full details of these cases before we move to contact the participant. Making contact with participants prior to being in possession of the relevant referrals and detailed evidence would risk:

- Compromising the integrity of the investigation and the ability to gather all appropriate evidence
- Undermining the reputation of the PwC audits by questioning information which may already have been provided at audit
- Opening a channel for the participant to query the process in terms of what has been requested to date, or questioning the appropriateness of conducting investigations, either in terms of legal basis and/or placing an undue burden on participants
- Approaching applicants with an information request when another intervention (such as further directed site inspection) might be more appropriate if we were in full possession of the facts

That said, based on our understanding of the facts to date, and to give a flavour of our

approach, we have set out an indicative approach to these three cases below, and we look forward to receiving any further details available from the PwC audit evidence for these cases, in order that we can progress with compliance actions promptly.

- (ii) An initial Ofgem view on whether the observations / evidence collected by PwC for all the sites visits are in fact 'gaming' or non-compliant and what further action will be being taken by Ofgem at this point? It would also be useful to understand the prevalence of gaming in GB – we will no doubt be asked for a comparison – and how Ofgem deal with it.

We will need more detailed information from PwC on these cases to ascertain what (if any) further compliance action may be necessary. Once we receive this information, we will work quickly to make an assessment of next steps for each individual case and will share that with DfE colleagues. In some cases, Ofgem may hold additional evidence which requires consideration alongside the PwC site visitors' findings (e.g. evidence that woodchip is being used for commercial purposes.) In a number of cases, PwC's observations suggest that participant behaviour may not be outside of the regulations. We recognise that some behaviour may not be in line with the policy intentions and will continue to provide information and support to DfE colleagues in identifying possible regulatory resolutions to reduce gaming.

Whilst we collect data in relation to non-compliance, we do not record individual cases where practice is within the rules but may be counter to policy intent on either the GB or NI scheme. However, where we identify themes (including, for example, wood chip drying) we raise these in policy discussions with the relevant department.

Upon receipt of detailed information, we will consider each case on its facts, and will expect to utilise powers as set out in RHI regulations to conduct investigations and impose sanctions. In a situation where we are not satisfied that a participant is eligible, or where we are not satisfied that participants are meeting their ongoing obligations, we would typically expect to commence investigations, and where appropriate this would involve issuing a sanction in line with our powers under the regulations, suspending payments pending the outcome of those investigations. Where participants were found to be in breach of regulations, available sanctions powers include revocation of accreditation, withholding part or all of payments made, and recovery of payments made to date.

- (iii) Information (numbers / %s) from Ofgem on the actual / potential incidences of fraud that have been identified in the GB scheme for comparison purposes? In addition, how many installations are now on the GB scheme. It would be very helpful if you could provide us with top line stats on the GB scheme – e.g number of installations, no inspected, % of issues found, number of potential frauds detected in GB etc.

The perm sec is keen that we set the context around the allegations relevant to GB in any discussions and particularly in his opening remarks to the committee – so this information is needed urgently as we are preparing his speaking notes.

We've provided the below as background/context but it's important to clarify that we would expect DfE to confirm any figures it would expect to discuss with BEIS prior to agreeing any lines/briefings. We'd be happy to engage with BEIS colleagues and to facilitate contact points etc as required to support this process.

The inherent approach to RHI administration is based on a prevention and detection controls framework, with a range of checks prior to accreditation, and an ongoing programme of checks associated with participants. This is supplemented by an audit strategy built upon risk factors that are evidence based and periodically optimised to reflect experience and evidence. Where suspected fraud is identified, this is investigated on the facts of the case but due to controls in place, in terms of providing numbers for context/narrative, the volumes associated with installations, audits and non-compliance may be most relevant.

It's also important to understand the context of compliance, non-compliance, and ultimate financial impact – so for example, despite a high headline non-compliance rate, particularly in the targeted population, the *material* non-compliance rate is lower and the estimated *financial impact of non-compliance*, based on a statistical sample, is less than 0.2% as a percentage of payments made under the scheme.

To the end of August 2016, we have received just over 17,500 [17,658] applications to the GB scheme and accredited 15,598 separate installations. From 2015/16, audits were separated into statistical and targeted groups.

Results from the 2015/16 year were as follows:

	Random/Statistical audits	Targeted – pre accreditation	Targeted – post accreditation
Number of audits in sample	124	20	81
% audits non-compliant	53%	90%	79%
% of audits materially non-compliant	23%	75%	59%

The most frequently identified material non-compliance is 'Heat losses are not properly accounted for' (22) 8% of all non-compliances for 2015/16 and (68) 8% of all non-compliances scheme to date.

'Meter reading/PDS errors' are in second place accounting for (19) 6% of all non-compliances 2015/16 and (63) 7% scheme to date.

Further to our response to (i) above, please see below a summary of our initial investigations based on the limited information provided to date for these three cases:

Case 1: [Sensitive investigative information redacted by the RHI Inquiry]:

Sensitive commercial information redacted by the RHI Inquiry

Indicative approach:

- Issue a sanction under Reg 43 of the NI regulations, suspending payments while we investigate

We would then expect to raise an information request, such as along the lines:

In order to be compliant with the Renewable Heat Incentive Scheme Regulations 2012 (Northern Ireland), please provide the following:

- Fuel log of the type and quantity of fuel used for each individual installation on your site, as well as all invoices for fuel purchased.

In this case please provide the fuel logs and fuel invoices for [all installations on site].

Case 2:

Personal information redacted by the RHI Inquiry

)):

'Location of the boilers was different for what had been submitted to Ofgem, from the schematics anticipated boilers would be in separate buildings but in reality they were not, understood all are in the one location'

Indicative approach:

- Issue a sanction under Reg 43 of the NI regulations, suspending payments while we investigate

We would then expect to raise an information request, such as along the lines:

Please carry out the following:

- Confirm if the boilers have been moved or if the boilers have always been in the same location.
- Provide an accurate schematic diagram to show the layout of the installation and where the boilers are located.
- Confirm if the installations hydraulically separated?
- Confirm if the installations separately metered?
- Confirm the capacity of each boiler.
- Confirm if any other changes to the installation have been made.

Case 3:

Personal information redacted by the RHI Inquiry

'Boiler is serving domestic building. 90% of the heat use is for a large domestic house, the remaining 10% to an office, which in reality is a small store room containing domestic objects with limited space for domestic use. The schematic and application both indicate the boiler was serving a domestic purpose.'

Indicative approach:

- Take no further action until we have further evidence from PwC/Ramboll on the findings at this site.

In this case, we have conducted an initial review of the evidence provided at accreditation. This included a detailed questionnaire on the nature of the premises

being heated. We agree that the installation is heating a domestic purpose, but we also had evidence that a separate building, which based on our review would be considered a separate premises, was also being heated. The information provided from PwC to date is not sufficient to determine whether this should be reviewed. For example, we had asked:

"4. Has the space been structurally modified to incorporate the non-domestic use?"

Answer: 'The place has been constructed to suit an office for business, storage of goods for main shop & workshop for assembly of goods.'

5. For what percentage of the time that the space is used is it used for non-domestic purposes?

Answer: '100%'.

6. Have any other, non-structural modifications been made to the space to incorporate the non-domestic use?

Answer: 'The space has office specific furniture with a filing cabinet, computer etc. for office staff. Shelving, tool racks, power supplies & machinery.'

I hope that this is useful.

Kind regards.

Jane

Jane Pierce

Head of Policy and Communications

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