

From: [Dukelow, Victor](#)
To: [McCann, Brendan](#)
Cc: [Moore, Stephen \(DfE\)](#); [Murphy, Shane](#); [Smith, Alan](#); [Montgomery, Paul](#); [Marten, Lucy](#); [Coyne, Terence](#); [Cousins, Heather](#); [Moore, Stephen \(DfE\)](#); [McMurray, Stephen](#)
Subject: RE: Briefing Material
Date: 14 January 2017 17:50:08
Attachments: [Renewable Heat Incentive – Assembly Debate.docx](#)
[image001.png](#)

Brendan,

Please see attached draft Q&A briefing for consideration and inclusion in your broader briefing pack. Grateful if you (and copy recipients) could cast an eye over and amend as you see fit.

Also you will see some drafting notes included – some of which relate to areas where I think the RHI team might be better placed than mine to consider.

Others are for my side and we will seek to address those asap – albeit it might be Monday morning for some

If there are other points that my side could usefully cover do let me know

Thanks

Victor

From: McMurray, Stephen
Sent: 14 January 2017 10:52
To: Dukelow, Victor
Cc: Moore, Stephen (DfE); Murphy, Shane; Smith, Alan; Montgomery, Paul; Marten, Lucy; McCann, Brendan; Coyne, Terence; Cousins, Heather
Subject: Re: Briefing Material

Thanks Victor, that does that does not cut across , as well as Q and A could you also include a few paragraphs for start of speech highlighting the technical changes we are making to tiers caps etc, and the rationale for those changes.

Ta Stephen

Sent from my BlackBerry 10 smartphone.

From: Dukelow, Victor
Sent: Saturday, 14 January 2017 08:51
To: McMurray, Stephen
Cc: Moore, Stephen (DfE); Murphy, Shane; Smith, Alan
Subject: Briefing Material

Stephen,

I understand that there is a requirement to piece together a speech, Q&A, LTTs and wider briefing material for a possible debate on Monday. I presume that your side will be leading but may require inputs for speech etc. We will seek to help as quickly as we can either over weekend or on Monday first thing. In the meantime will begin to stitch together some Q&A/LTTs from

business case, costing, state aid perspective and will send on later today.

Do let me know if this cuts across what is already underway.

Thanks,

Victor

Victor Dukelow

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

Renewable Heat Incentive – Assembly Debate**Q&A / Lines to Take****Timing Issues****Q. Why is it only now that you are bringing forward these regulations?**

- Clear evidence about the schemes operation, a detailed assessment of the available options and careful consideration of legal advice has been required in order for the Department to properly address the deficiencies found within the Non-Domestic scheme. This all takes time.
- I can assure you that much work has been undertaken by my Department and others to build the evidence base for action. That has included independent inspections of a significant sample of installations, the provision of economic advice, the valuable work of the Northern Ireland Audit Office and Public Accounts Committee and engagement with legal advisors including in the areas of State aid.
- The evidence overwhelmingly supports the action that is proposed today. An approach that will address the excesses which have led to clear public concern, an approach that will move the regime back towards its original policy goals and an approach which will move the cost pressured placed by the scheme on the Northern Ireland Block towards zero for the longer term.

Q. Why bring forward interim arrangements now instead of a lasting solution?

- The steps I commend to you today are part of the longer term plan to return this Scheme to its original policy intentions. It is important that we move immediately to manage the unintended pressure this scheme is placing, and would continue to place, on Northern Ireland budgets.

- Nonetheless the actions suggested seek to be fair to those that legitimately entered this scheme but are now being caught up in the media storm that surrounds it. The actions seek to return compensation levels towards those originally intended and for which State aid approval had been obtained. Compensation levels, or rates of return that were anticipated to be typically in the order of 12%.
- I know that businesses rely on their reputation and credibility. I can understand why those businesses that are using this scheme legitimately would wish only to be compensated within the original intentions of the regime and hence reduce the understandable public concern. That is an intention of the actions proposed today.
- These actions will also act to incentivise the efficient use of heat and discourage wasteful heat production.
- More broadly the actions proposed today will create the space and time for the evidence base to be further extended and to be harnessed to refine our approach for the longer term. That evidence base will be further developed through a comprehensive programme of inspections, a more detailed understanding of usage patterns and through stakeholder consultations.
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Q. Why were tiered tariffs and overall caps on usage not introduced at the outset?

- Regret and concern has already been expressed about that. Indeed that has and, I expect, will continue to be the subject of much public scrutiny.
- This is the time to seek to provide the cure rather than pick over the past. Doing so, and passing these Regulations now, will further create the time and space for such investigations without the concern that public expenditure remains heavily at risk.

Renewable Objectives

Q. What will be the impact of these regulations on the attainment of the renewable heat targets?

- The measures proposed today are shaped in such a way that useful renewable heat will continue to be incentivised but at a level in keeping with the original intentions of the scheme. So those using renewable heat within their businesses are likely to continue to do so.
- However, the measures will act to disincentivise the inefficient production of heat. While that may reduce the overall creation of renewable heat I am sure all will agree that we should not, and never intended to be in the business of incentivising inefficient heat production.

Options**Q. What are the key actions that would be introduced via these regulations?**

- These regulations would move all those on the medium biomass boilers onto a tiered tariff with a higher tariff, equivalent to what installations receive currently, payable on the first 1,314 hours of eligible use. That would then drop to a reduced tariff for subsequent eligible usage up to a cap of 400,000 kWh after which no subsidy would be payable.
- The approach proposed is in line with the payment structure available to those medium biomass installations that entered the scheme post November 2015.

Q. Why not reduce the tariffs further?

- It is important that the actions taken are fair to boiler users, many of whom will not have received reasonable or the intended levels of compensation.
- This immediate action will protect the budget while allowing time and space to refine the approach for the longer term.

Q. What other options did you consider?

- My officials considered a wide range of options including options around ceasing subsidies altogether. Their detailed assessment found that this offered the best and fairest approach at this time while offering protection to public money.

Costs/Rate of Return**Q. Why, even now, should businesses benefit at taxpayers' expense with rates of return of 12% or more?**

- At the outset it was recognised that, left to its own devices, the market would not deliver the targeted level of renewable heat. Renewable heat boilers were, and continue to be, considerably more expensive than oil boilers for example.
- The intention of this scheme was to level the playing field between renewable heat production and the heat produced by fossil fuels. In order to do that, it was necessary to incentivise businesses to invest in renewable heat production in a context where there would naturally be other competing opportunities for them to get a return on their investment.
- The intention of the scheme was to return a typical rate of return of around 12% in relation to the additional investment required to produce renewable heat (compared to production of heat from fossil fuel). That rate of return was considered legitimate and was approved by the European Commission as being compliant with State aid rules.
- Of course, as members are aware, in actual fact the scheme has delivered unintended rates of return for some far in excess of 12% and it is the continued risk of those excesses that I am seeking to tackle through these regulations today.

Q. How many of the installations have been earning more than a 12% rate of return on their investment

- While difficult to be precise on the basis of the information available **[DN – Alan is it possible to give a broad estimate]**

Q. Are all those earning an excessive rate of return doing so fraudulently?

- No. There will be many businesses who are legitimately producing heat as would be expected for the proper operation of their business. It is the design of the tariff structure in the case of medium biomass boilers that has, in an unintended fashion, delivered rates of return for those businesses in excess of the typical 12% rate.
- It is unfair for these businesses were to be maligned and their reputation tarnished as a result of this scheme. That is why it is important now to intervene, to amend the tariff structure, and to return the scheme towards its original policy intentions.
- Nevertheless I do understand that initial inspections have identified potential fraudulent usage of the regime and flagged up heat being produced for the main purpose of claiming subsidy. I can assure Members that, in parallel with the introduction of these regulations, I will be further developing and strengthening the inspection and enforcement approach to tackle any such cases

Q Why do the regulations only cover small/medium biomass and not other technologies within the RHI scheme?

- It is the tariffs associated with these aspects of the scheme that have been identified leading to the deficiencies I am seeking to address today.
- While tariffs associated with the other technologies (eg large biomass, Ground Source Heat Pumps, etc) have not been found to generate the same budgetary pressures or untended incentives, I can assure you that I will keep those under review as I move to refine further the longer term plans for RHI.

Q. How robust are the cost estimates you referred to and how sure are you that the Northern Ireland Budget can be protected?

- The cost estimates are the best that can be achieved given the information that is available currently. They are based on what we know about the regime to date via reported meter readings and through inspections.

- Of course as further information becomes available my officials will continue to monitor and refine those estimates. The benefit of the approach that is before you today is that it allows time for further information to come forward and will ensure that any refinements that are required for the longer term are based on as strong an evidence base as possible.

Q. Degression was used to manage costs in the GB scheme. Why are you not introducing that approach now?

- Degression places a cost control in relation to new applicants to a scheme so that that the level of subsidy offered to new applicants is reduced compared to those already on the scheme.
- Degression is not relevant in this case as the scheme here has already closed to new applicants.

Q. How many installations have already been overcompensated and have been earned rates of return well above 12%?

- While difficult to be precise my officials estimate that in the order of 200 or around one tenth of installations have already received more than a 12% rate of return on their original investment.
- That is why it is important to take the action proposed today so that we can protect public money and ensure that many more users are not overcompensated.

Q. How do you plan to recoup any overcompensation to those installations that have already received well in excess of a 12% rate of return

[DN RHI Team?]

Q. How do you plan to track down and address any fraudulent use of the scheme or instances where heat is being produced inefficiently in order to maximise subsidy claims?

[DN RHI Team?]

Q. Is there a risk that Northern Ireland will not be able to take full advantage of the AME budget that we have access to?

- The actions proposed today will reduce the scheme costs so they are contained or almost contained within the AME envelope for 2017-18.
- This is an issue I will consider carefully as work to consider any further refinements for the longer term are assessed.

Operational Issues

Q. Who will administer the revised scheme and why?

[DN RHI Team?]

Q. How do you plan to ensure your Department monitors Ofgem's activities?

[DN RHI Team?]

Legal Risks [DN - RHI Team?]

Q. Surely this is open to legal challenge and judicial review?

Q. Is there precedent for the actions you propose – the breaking of contracts?

Q. This approach must impact negatively on the faith the private sector will place in Government – if the contract doesn't suit, you just change it. Have you assessed the impact this will have on the appetite the private sector will have to sign up to future Public Sector contracts?

- These are exceptional circumstances. The design of the scheme has led to rates of return far in excess of those intended and publicly referred to at the time of launch and the lead up to it.
- In light of the very clear public concern around these issues, including concern expressed by the business community, I believe that inaction would have a much greater negative effect on the credibility of government than the actions that are before you today. Indeed I believe stakeholders will commend members for taking the actions that are proposed.