

**From:** [Stewart, Chris \(DFE\)](#)  
**To:** [Wightman, Stuart](#); [McCormick, Andrew \(DFE\)](#)  
**Cc:** [Marten, Lucy](#); [McCann, Brendan](#); [Smith, Alan](#); [Cousins, Heather](#); [McIlwrath, Linda](#); [McIlwrath, Linda](#)  
**Subject:** RE: Options for RHI Consultation Document  
**Date:** 11 November 2016 16:19:35  
**Attachments:** [image001.png](#)  
[image002.gif](#)

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Stuart

A further thought or two on this.

Was the state aid approval on the basis of a single rate of return range (12% to 22%) for all technologies and boiler sizes, or were there different ranges? I assume the former.

We need to be mindful of the risk of challenge on the grounds of ‘unreasonable collective punishment’ i.e. the generator who says ‘why terminate my agreement, my rate of return is less than 22%, or I am prepared to reduce my load factor to make it so.’ With that in mind, the mechanism that we seek might have to work as follows:

*Where the Department is satisfied that the total payments made in respect of an installation are such that the rate of return on the investment (defined) is equal to or greater than 22%, the Department may terminate the [agreement/accreditation] and the duty to make regular payments shall no longer apply in respect of that installation.*

Implementation would involve making a calculation for each installation (starting with the oldest and highest risk), and terminating as the 22% limit is reached (I think it may be difficult to argue for any lower figure unless the state aid approval was differentiated into bands).

This could be accompanied by a voluntary mechanism – generators could agree to termination in return for a payment equal to the difference between total payments received and a sum equal to a 22% rate of return. The ‘incentive’ would be the early realisation of the investment return.

I mentioned this to Hugh Widdis in the margins of an event this morning. Hugh warned that we may need to consider a broader expectation of compensation, in addition to any ‘lost’ rate of return; i.e. the generator who claims ‘I built a new barn/chicken shed along with my boiler, or my business plan was predicated on RHI revenue, and is no longer viable’.

C

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**From:** Stewart, Chris (DFE)  
**Sent:** 10 November 2016 12:24  
**To:** Wightman, Stuart; McCormick, Andrew (DFE)  
**Cc:** Marten, Lucy; McCann, Brendan; Smith, Alan; Cousins, Heather; McIlwrath, Linda  
**Subject:** RE: Options for RHI Consultation Document

Stuart