

From: [McCormick, Andrew \(DFE\)](#)
To: [Caldwell, Alison](#)
Cc: [Sterling, David](#); [McCann, Brendan](#); [McAdams, Jonathan](#); [McCoy, Laura](#)
Subject: RHI: Ofgem
Date: 01 April 2017 17:06:04

My team had yet another frustrating meeting with Ofgem in London on Thursday. They are holding to the line that heating empty sheds, drying wood chip solely to burn in the boiler and using a boiler 99% for domestic premises (ie 1% short of “solely”) are all permitted in the Regulations.

We are awaiting advice from Counsel on whether some illustrative cases would stand up in court if we were to challenge their eligibility, but I think it is also important to apply a wider vfm point. To up the ante, I want to send to Ofgem a draft letter to BEIS asserting that Ofgem is failing to protect value for money and hence failing in their Accounting Officer’s “common law” responsibility under Managing Public Money.

So can I ask you to find out discreetly who appoints Dermot Nolan as the Ofgem Accounting Officer – are they an ALB of BEIS (in which case I assume it would be the Perm Sec of BEIS) or is it a non-Ministerial Department (in which case it might be HMT who make the appointment).

Many thanks!

From: [McCormick, Andrew \(DFE\)](#)
To: [McCann, Brendan](#)
Cc: [McAdams, Jonathan](#); [McMurray, Stephen](#); [McCoy, Laura](#)
Subject: RHI Letter re Ofgem
Date: 02 April 2017 18:50:32
Attachments: [Draft Letter to BEIS or HMT.docx](#)

Felt better after drafting the attached – will call you about it tomorrow.....

Many thanks.

Draft Letter to BEIS or HMT

OFGEM RESPONSIBILITY FOR VALUE FOR MONEY

As you know, we have faced a public scandal over the Northern Ireland Non-Domestic Renewable Heat Incentive.

While the root cause issue was the fundamental design flaw (the untiered tariff for small-medium biomass was higher than the cost of fuel), which was our responsibility, we have found it impossible to take forward reasonable corrective action, because Ofgem is refusing to accept our interpretation of what is and is not acceptable in respect of eligibility for support.

I find it very surprising and actually unacceptable that Ofgem should continue to assert that it is acceptable to:

- fund the heating of empty sheds (in some cases with the windows open);
- use RHI to dry fuel for the same boiler (a clear scam to maximise income for no useful purpose); and
- use 99% of the output from a “non-domestic” boiler to heat a single dwelling house.

I would be grateful if you could consider how these blatant abuses can be reconciled with Ofgem’s fundamental responsibility to secure value for money under Managing Public Money, and indeed with their Accounting Officer’s personal obligations in relation to public expenditure.