

From: [Clydesdale, Alison](#)
To: [Wightman, Stuart](#)
Cc: [Hughes, Seamus](#); [Briggs, Peter](#)
Subject: RE: RHI - State Aid implications
Date: 31 May 2016 11:36:45

Seamus

See my additions below – might be best to set up a quick meeting with Stephen in the next few days.

Alison

From: Wightman, Stuart
Sent: 26 May 2016 10:50
To: Clydesdale, Alison
Cc: Hughes, Seamus; Briggs, Peter
Subject: FW: RHI - State Aid implications

Alison

Please see draft email to Stephen below. I'd welcome your thought around the wording.

Happy to discuss.

Thanks, Stuart

Stephen

Our previous discussions around the Non Domestic RHI and state aid approval refers. As you will be aware with all the ongoing issues around RHI, Internal Audit review, NIAO report and ultimately PAC at some point the matter is a high priority with the Permanent Secretary and senior management. Understandably, there is a lot of concern about whether we are breaching our original state aid approval and there is a strong desire to urgently secure a view/ruling from the Commission. The initial view from senior management is that a ruling by the Commission would enable the Department to reduce tariffs retrospectively on the basis that recipients have been over incentivised. The perm sec has requested that you urgently provide a view in principle on such an approach, however we are in parallel seeking legal advice on this matter particularly around legitimate expectation of applicants. In addition can you confirm if state aid limits have been breached – would the EU expect us to clawback the funding from the applicants ? and would that provide a further argument for reducing tariffs.

However, our proposed approach to the state aid position as you will be aware was:

- (i) to undertake a detailed review of the RHI which would include VFM assessments for both RHI payments for installations accredited before and after the November 2015 tariff changes;**
- (ii) subject to Ministerial agreement go out to consultation on possible further cost control actions; and**

- (iii) notify the Commission of our November 2015 tariff changes, and any other changes coming out of the consultation.**

Grateful if you could confirm if this approach is appropriate in the circumstances. A project board has now been set up to oversee RHI (chaired by Heather Cousins and with the perm sec attending) and the next meeting is 6 June – so your advice on the planned approach would be needed by then.

From: Hughes, Seamus
To: [Moore, Stephen \(DETI\)](#)
Cc: [Clydesdale, Alison](#); [Wightman, Stuart](#); [Briggs, Peter](#)
Subject: RHI - State Aid implications
Date: 31 May 2016 13:30:00
Attachments: [image001.gif](#)

Stephen

Our previous discussions around the Non Domestic RHI and state aid approval refers. As you will be aware with all the ongoing issues around RHI, Internal Audit review, NIAO report and ultimately PAC at some point the matter is a high priority with the Permanent Secretary and senior management. Understandably, there is a lot of concern about whether we are breaching our original state aid approval and there is a strong desire to urgently secure a view/ruling from the Commission. The initial view from senior management is that a ruling by the Commission would enable the Department to reduce tariffs retrospectively on the basis that recipients have been over incentivised. The perm sec has requested that you urgently provide a view in principle on such an approach, however we are in parallel seeking legal advice on this matter particularly around legitimate expectation of applicants. In addition can you confirm if state aid limits have been breached – would the EU expect us to claw back the funding from the applicants ? and would that provide a further argument for reducing tariffs.

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Grateful if you could confirm if this approach is appropriate in the circumstances. A project board has now been set up to oversee RHI (chaired by Heather Cousins and with the perm sec attending) and the next meeting is 6 June – so your advice on the planned approach would be needed by then.

Would you be available either tomorrow or Thursday to have a brief meeting with Alison, Peter and myself around the issues?

Many thanks

Regards

Seamus

Seamus Hughes

Energy Efficiency

Department for the Economy