

From: [Michelle Murdoch](#)
To: [Paul Heigl](#); [Rita Chohan](#); [Mavreen Ananura](#); [Lindsay Goater](#); [Marcus Porter](#); [Keith Avis](#); [McCutcheon, Joanne](#); [Hutchinson, Peter](#)
Subject: Consultation Changes and update on additional docs
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Attachments: [image001.gif](#)
[Consultation responses.xlsx](#)
Importance: High

Dear all,

Please find attached the excel spreadsheet again from the consultation meeting. The second tab 'Actual changes to be made' captures just that! Please have a look and confirm by close of play today that you are all happy with the sections you need to still sign off on.

Moving forward...

This is how I propose the next few days re. Guidance should pan out:

- Sign off for the above changes by cop today by MP, LG and DETI.
- Internal communications sign off for **additional Ofgem branded guidance documents and information to be placed on Ofgem website re. NIRHI** by 12 noon Tues 23.10.2012 (confirmed with Felicity)
- Forwarding of above documents for reference purposes to DETI by cop Mon 29th October.
- Ofgem internal sign off via surgery for final changes to Vol. 1 and 2 Guidance documents (complete by cop Mon 29th Oct)
- Peter to amend draft guidance to create final Guidance 30th Oct in preparation for publication on the 1st November.

If anyone has ANY issues/queries regarding this please let me know asap!

I hope you all have a good week.

Kind Regards

Michelle

Michelle Murdoch

NI RHI Policy Development Manager
New Scheme Development
3rd Floor Cornerstone
107 West Regent Street
Glasgow G2 2BA
Tel: 0141 341 3958
www.ofgem.gov.uk



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	Consultee	Issue	Comment	Solution	Further Comments?	Solution (19.10.2012)
	At Consultation mtgs 25/6 Sept	Third Party Ownership Just need to be clear about definition of owner and the role of ESCo's (energy service company) in the RHI. There were some queries on what happens if a heat contract is established but then breached by either party – this will be for involved parties not Ofgem or DETI		Dealt with in Vol. 1 4.2 onwards.	not issue going forward - really to do with second hand equipment - Our relationship is just with the owner. No second hand equipment allowed as yet. GB Consultation looking at this for the future.	Content guidelines reflect position at this point in time
	At Consultation mtgs 25/6 Sept	Adherence to planning Need to be clear about what Ofgem will expect in terms of planning documentation – i.e. either copies of planning permissions or letters explaining that planning is not required?		We only ask for this for preliminary applications, as in all other cases the system has already been installed. Vol 1. 2.44	Prelim and early application - make sure they are clear. What do we expect? Don't need a document - need to know it has been given - how they do that is up to them. If a planning doc. is out of date..but of a renewable installations of some kind - proves 'intent' or evidence that do not need planning. Actual needs? on a case by case basis.	Yes - either of those things are the preferred pieces of evidence.
3	At Consultation mtgs 25/6 Sept	Guidance on Class 2 meters. Notice that there is a detailed Q&A on metering for the GB RHI , this might be useful to publish alongside final guidance?		Yes - expecting to do so on Ofgem website		Sorted
4	At Consultation mtgs 25/6 Sept	Treatment of agricultural buildings / offices There were queries about how agricultural buildings would be treated given their exemptions under the rating system. The scenario described was one of one boiler heating a number of separate buildings. This would generally be treated as non-domestic and eligible under the RHI but what is the case where the buildings include a domestic dwelling and a number of agricultural buildings or offices that may not be rated. Will the installation still be deemed as a non-domestic system eligible for RHI?	Agricultural Buildings - As agricultural buildings are fully exempt from business rates, councils may not assess them for rates as this would be a waste of time due to the properties' nature dictating that they are exempt. Therefore, if the agricultural building(s) are quite obviously commercial in nature then we will accept the declaration and description of the heat use on the application form as sufficient. If the nature of the heat use building is a little more ambiguous, for instance in the case of farm 'workshops' or farm 'offices' we need to do more careful investigation. This is because we need to establish that the buildings are serving wholly or mainly commercial purposes. We cannot accept an applicant onto the scheme on the strength of them heating their garden shed or a home office so in the case of farmers we need to ensure that when they claim for such buildings the buildings are actually non-rateable and not simply included in the farmer's council tax bill as part of his 'domestic' property 'Composite' agricultural properties are eligible for the NIRHI. This is where the council has rated a farmhouse/group of farm properties as 'mixed use'. They are therefore a combination of domestic and commercial uses, the element of commercial use is enough to satisfy our requirements. See 4.40 Vol 1 for more info			Issue with evidence NOT eligibility. A common sense approach will be used. Certain papers help ie environmental permits, farming paperwork. If there are to be a lot of agricultural installations - then perhaps we need a more strict explanation? Perhaps something to look at in the future. If you include a part of the premises which is NON DOMESTIC / NON COMMERCIAL - then u are eligible for NIRHI. Each case assessed on its own merits. No case at this point to change the guidance.
5	At Consultation mtgs 25/6 Sept	Use of Oil Back - up. What is the situation regarding oil systems and renewable systems operating in tandem, with the renewable acting as a base load and oil as a back up or top up?	Also wanted to know whether someone in this scenario would lose RHI payments if the top up or back up boiler was attributing more than 10% of heat.	The non eligible boiler (i.e. Back up fossil fuel) would need to be metered, in order to measure and then deduct the amount of heat it is generating.(4.57 vol 1) We will not pay for ANY heat generated by a non eligible boiler therefore it MUST be metered properly so the proportion of heat it is generating can be deducted.... Chapter 7 of Vol 1 gives specific examples in simple and complex scenarios. 10% of heat -This, I believe was a misunderstanding....An eligible BOILER can only use up to 10% fossil fuel for ancillary purposes. The amount of heat generated by a non-eligible back up boiler when used in tandem with an eligible boiler does not matter in % terms. It will be taken out of the equation via metering completely and payment will be made on the eligible heat only.		No changes needed - solution is explanation
6	At Consultation mtgs 25/6 Sept	Treatment of additional capacity post 1MW / Treatment of one installation including two boilers where total capacity is over 1MW Scenario of someone with two 600kw boilers or one 600kw boiler adding additional capacity of 600kw. In both installations the total capacity is above 1MW and therefore no tariff available. Would these systems be eligible for anything i.e. 600kw metered separately or complete system supported to level of 999kw? Assumption...this is regarding Biomass.	It really depends on whether or not the situation would be classed as 2 separate installations which require 2 separate RHI applications or not. - If it is classed as 2 separate installations then it may well be eligible if applied for under separate applications, but it would have to meet that criteria as a completely separated installation, and have no common pipe work etc... Vol.1. 2.28 in the Guidance has information on this criteria. -Additional capacity and if it does not class as a separate installation - See 7.24 of vol 2 of the guidance for info on additional capacity, this is specifically about Biogas and Solar thermal breaching upper level capacities . In the example provided here..if the same theory was applied as it is for Biogas and Solar Thermal, then only on boiler would be eligible as the second would take the installation over the limit and therefore the first boiler ONLY would be eligible for NIRHI.	Perhaps include info on Biomass Boilers in Chapter 7 of vol. 2 also. (Not in the GB version as no upper limit on Biomass)		Need to include information on Biomass? MM to sort by cop 22.10.

	At Consultation mtgs 25/6 Sept	<p>Adding capacity Queries generally about adding capacity, i.e. 60kw now then another 60kw in x number of months. Need to be clear on when the total capacity will be taken and when additional capacity will be treated as a new installation. Is there a danger of people gaming the system by installing 99kw now and then another 99kw in 12 months? I am sure this is addressed in guidance, however it would be useful to highlight or clarify by way of examples.</p>	Chapter 7 Vol. 2 deals with this.	Yes - there is a risk of people gaming it!! Guidance is clear on additional capacity		No action required
8	At Consultation mtgs 25/6 Sept Also brought up by Wayne Cullen from BS Holdings	<p>Complex metering re biomass Concerns that all biomass installations would be 'complex' given that boilers will be in separate units and connected to buildings via pipework. Stakeholders here have, apparently, been advised from either DECC or GB RHI Ofgem team that an external biomass plant in a building within a short distance (by this we presume 1-2mts) of the heated building (the load) could be accepted as simple metering. The pipe work between would be a trivial heat loss when properly insulated to modern standards (approx max 15watts/metre).</p>		Right now, the answer to this is it is a complex system because it has to be metered on either side to ensure measurement of heat loss . Even if the pipe is one inch long because we cannot pay on ANY ineligible heat use and external pipework is an ineligible heat use. There is a GB consultation document regarding this matter and in the future this may change. However, as things stand the Regulations do not allow this scenario to be deemed simple .		Has to stay as it is for now - changes in regs. needed for the future - (mm to look at metering FAQs)
9	At Consultation mtgs 25/6 Sept Also Wayne Cullen BS Holdings	<p>Pre-accreditation' Installers of larger technologies concerned about not being able to 'pre-accredit' plans for plants before making the necessary investment.</p>	There was some confusion amongst stakeholders regarding who could and who couldn't gain 'pre - accreditation'	Dealt with in Chapter 2 of Vol 1. Early Applications – are available for 1 MW or larger installations – and applications for accreditation will be accepted prior to an installation being first commissioned. (2.25 -7) Preliminary Accreditation - is available for the following: - geothermal - biogas - solid biomass and solid biomass contained in municipal waste installations – but note this is only available for those proposed installations with a capacity of 200kWth and above. (2.38).“DETI has decided to allow preliminary accreditation for certain proposed installations at the planning stage to give relevant applicants more certainty about future accreditation.” This is only available for installations that have not been commissioned yet (2.39)	2.9 needs amending - in line with GB, there is no specific time limit regarding how far in advance early applications have to be made...says one month in the Guidance...this needs to be taken out (MP email 10.10.2012)	MM t sort !
10	At Consultation mtgs 25/6 Sept Also brought up by Wayne Cullen from BS Holdings	<p>Definition of a 'competent person' There is a danger that given the small nature of the NI market there may not be a wide pool of people that can match this criteria in its entirety (especially re experience of flow measurement and £1m indemnity insurance). May need to revisit post consultation if this is major issue and could prevent market development.</p> <p>In addition, there was discussion re in house accreditation of competent persons on metering being possible. Need further information / guidance on this process.</p>	<p>Definition of a competent person: - An experienced and suitably qualified engineer (at least HND or equivalent in an engineering discipline from a recognised academic institution); - Has demonstrable experience and expertise in flow measurement and heat/steam measurement systems demonstrated by training and development records; - Has a relevant background (involved in energy, utilities, building services, heating system design, heating system operation & maintenance); - Covered by Professional Indemnity Insurance of at least £1m (through employer or directly); - Is unbiased and impartial.</p> <p>At present this is a requirement of the draft Regs and any change would entail amendment of the draft and possible re-consultation / technical standards re-notification (MP) (BS Holdings) - "The scheme recognizes that in house accreditation of competent persons on metering is possible, what process is in place to achieve that as I see it as the obvious step for installers of schemes." See para 1(2)(v)(v) of Schedule 1. I have advised previously and re-iterate that it is difficult to see how, if this is permitted, the independence requirement can be satisfied and had thought that we were considering, in relation to the GB scheme at least, removing that para in the guidance. If so, the same fate ought to await the corresponding para in the NI guidance in due course. (MP)</p>	Is there an alternative to B&ES in NI? - any equivalent? Regs require a 'competent' person - Guidance has expanded on this. Applicant must provide report - it is up to them to satisfy themselves that the report is provided by a competent person. Ofgem will then look at it. This is Ofgem's definition of 'competency' The report must verify the information needed for eligibility. If yes - then ok. This is GUIDANCE only as to the type of person who should be providing the report.		MM to send draft consultation to DETI - Lindsay to forward

11	At Consultation mtgs 25/6 Sept Wayne Cullen BS Holdings	Use of fan coil heaters or hot water handling units. One stakeholder sought clarification on the use of liquid heating conversion to warm air to heat properties (the use of fan coil heaters or hot water air handling units to heat large open plan buildings such as machine shops, storage warehouses), is this permissible?	Please clarify the use of liquid heating conversion to warm air to heat properties (the use of fan coil heaters or hot water air handling units to heat large open plan buildings such as machine shops, storage warehouses), is this permissible in present regulations? (Wayne)	Not sure I have grasped the technicalities of this but suffice to say that the relevant requirements are contained in reg 3(2) and 12 (1)(c). The process described here should meet those requirements. (MP) NO issue (LG) - Already been used for eligible purposes therefore no control over this.		No action required
12	Wayne Cullen BS Holdings	Planning and building controls regulation could be an impediment for commercial installations. PPS18 permits domestic installations where conditions are met, these are listed in PPS18, is it government intention to do something similar on commercial systems?	Not clear what exactly is the nature of the "impediment" to which they refer and they should clarify. Do not know what "PPS18" is. If, however, the impediment lies in provisions contained in the planning and/or building controls legislation itself then there may not be a great deal that can be done about that as responsibility for such regulation presumably lies elsewhere. (MP)			DETI to deal - not relevant to Ofgem and administration of the scheme
13	Wayne Cullen BS Holdings	Class 2 metering is problematic, suppliers of meters in NI are currently unfamiliar with standards. We recently built a 75kw demonstration biomass plant and asked the largest commercial wholesaler group in N Ireland to provide a class 2 meter, we received a class 3 and they could not recognize what the differences were.	Density of water mixture must be given to the meter manufacturers to be suitably adjusted before installation. This is not noted that we could see in the regulations and will be a future problem. ...	Class 2 meters are a requirement of the regulations - Regulation 2 defines that such a meter <i>in order to be a class 2 meter at all</i> , must comply with specified technical requirements set out in the relevant EU directive. (MP)		No action required
14	Action Renewables	Vol 1 Clause 4.50 Direct air heat is not eligible, this is repeated in 7.1. However clause 6.3 states that drying wood or other biomass, as a process is eligible. There appears to be conflict between these clauses and we would ask Ofgem to confirm that hot air, used for drying wood and other biomass crops is not excluded and that all related clauses are amended to reflect this	There is no need for an amendment. 7.1 and 6.3 are consistent with each other and they correctly reflect the position. 6.3 doesn't contradict them. It is simply that its focus is the "eligible use" and that is as it should be given that it appears in a Section the heading of which indicates that it is concerned with eligible and ineligible uses. Thus it doesn't, unlike the other two paras, mention the required delivery medium (MP)	To provide an example in the Guidance - (ie stoves)		Peter to sort - example
15	Action Renewables	Vol 1 Clause 4.52 refers to MCS accreditation. We would ask that this is extended to include installations which have been installed previously, by installers who were not MCS registered at the time, but who have subsequently been accredited with MCS certification	This would require amendment of reg 13, probable re-consultation on the Regs (it is, after all, an eligibility requirement) and possible re-notification under the technical standards directive. In any case, presumably the whole point of imposing the current requirement is that it is considered that it provides a necessary check. The suggestion here would weaken that check considerably, given that some time could elapse between the date of installation and the date of certification of the installer and that his standards of work at the time of installation may have been well below that which is required to obtain certification. (MP)	A plant is accredited by an MCS installer or equivalent. The plant must be accredited at time of application. (therefore may not be MCS when installed but MUST be at time of accreditation)		No action required
16	Action Renewables	Vol 1 Clause 7.42 refers to metering where the heating installation is not in the same building as the heating delivery. This will be the case in most circumstances where the boiler house is detached from the building to which heat is being supplied. We would ask that this be relaxed so that this does not automatically treat the system as a complex metering issue. It would be more pragmatic, in line with clause 7.59 to allow an agreed percentage reduction in heat delivery, rather than drive most of the installations automatically into the "complex" category.	Again, this goes to eligibility and would require amendment of the Regulations and perhaps also re-consultation and technical standards re-notification. (MP)			No action required
17	Action Renewables	There is a considerable amount of onus put on the applicant/installer to comply with regulations within specified time periods, throughout both volumes. However, with the exception of a specified period for Ofgem considering complaints within clause 12.8, there appears to be no onus on Ofgem to process applications, make responses, issue certificates or make payments within any specified time periods. This appears to be inequitable.	We have obligations under the Regulations too and in abundance, e.g. to accredit if the application is as it should be, eligibility is established and there is no other reason (specified in the Regs) not to accredit. Actually that isn't quite true. See, e.g in regs 44-9, in each of which there are time obligations on DETI/GEMA. As to the principle, it is the applicant/participant who seeks admission to the scheme with a view to receiving a (perhaps substantial) grant from public money for a 20 year period. That being the case it seems as it should be that he is subject to numerous requirements and that these generally have to be complied with within a specified time limit. Moreover, and once again, any changes in this respect would probably require amendment of the Regs and re-consultation. (MP)			DETI to refer to Targets for timings on Ofgem website

18	BENI	Ofgem or DETI need to have a local office with an official / officials who can provide face to face definitive advice and interpretation quickly and easily to potential applicants. If this is not done by Ofgen then DETI will inevitably end up fielding the calls.	Decisions as to interpretation and application of provisions in the Regs will be for Ofgem rather than for DETI. DETI will have no legal authority to decide such matters unless or until DETI terminate the "arrangements" entered into under section 114 and themselves take over the running of the scheme. (MP)			No one comes to see Ofgem in Millbank - all done by email etc...appreciate the wish for localism - no action required
19	BENI	Published guidance must relate to the actual situation with dates of change over to on-line application etc				There will be a statement on the Ofgem website explaining that to begin with it will be emailed word documents initially - Michelle to give DETI sight of this once completed.
20	BENI	There are several references throughout the document to other statutory requirements. e.g. Par 5.47 requires participants to retain documents such as Planning Consents / Permits under Pollution Prevention and Control Regulations. Table 3 also refers to the need to have on file a health and safety assessment of the flue stack design. The concern amongst members is that these documents will not be asked for at accreditation (par 5.47) but may be "asked for at follow up to verify details etc..".	implication presumably is that they wouldn't be concerned if these documents were asked for at the accreditation stage and, if that's indeed the case, it's not clear why simply retaining those documents for future use at a later date should be regarded as being so onerous. After all it is simply a matter of careful record keeping. The owner of the business must take care to keep proper records. It is not unreasonable that we should ask for sight, before or after accreditation, of any documentation that may have a bearing on eligibility/ continued compliance/ our administration of the scheme, given that payments will be over a 20 year period and may total a significant amount. (MP)			Onus is on the applicant to keep records. - no action
21	BENI	To encourage participation, in line with the Executive's declared policy of encouraging the use of renewable heat, cross-Department guidance and a check list should be made available urgently to ensure participants know, from the beginning of the process, what specific statutory requirements relate to the scheme and will be sought by Ofgen on follow up/ verification visits	some sort of list could be produced but I imagine it would have to be indicative only as it would be difficult to be sure that it was comprehensive. Moreover I do wonder whether anyone involved in the development of this process is really in a position at present "urgently" to provide participants with details of related legislation for which DETI may not be responsible and of which the participants should arguably already be aware themselves (MP)			Non issue / No action required.
22	BENI	We do not profess to be boiler experts and the guidance provided is comprehensive but we wonder how feasible it will be to satisfy the requirements that only (it doesn't say "only", it says "primary") biomass fuels can be used.	The requirement is not as to what fuel can be used. Rather it is concerned with what the <i>installation</i> is designed and installed to do. Presumably it must be "feasible" to satisfy the requirement as otherwise surely it wouldn't have been included as a requirement in the GB scheme and wouldn't now be being replicated in the NI one (MP)			The Manual could be used if it said something like 'this boiler is designed for bio-fuels - you will invalidate your guarantee by using fossil fuels' - shows willingness to abide by regs
23	BENI	There seems to be a big difference between product warranty /tests etc. stating that biomass fuels are to be used and the requirement that fossil fuels should not be used	Again, not concerned with what can be used by way of fuel, the actual requirement being as stated above. It is for the applicant to satisfy himself that this requirement is met in order that he can in turn satisfy Ofgem as to it and, if he lacks the necessary expertise to determine whether his installation complies then he will need to take advice from some appropriately qualified person who is able to assist him in that regard. (MP)			As above
24	BENI	The term Technical Evidence is used throughout this section without any explanation as to what that means	No explanation is called for. In the context it's plain that it means evidence to establish that the "primary" requirement is met. The guidance provides a number of examples of documentation that may suffice by way of evidence and it's not clear what further help we could provide. As already stated, anyone without the necessary technical expertise will need to presumably enlist the services of someone who does possess it, (MP)			No action required
25	BENI	Par 5.63. This states that the location of suitable biomass fuels may be found on the Biomass Energy Centre website. Biomass Energy NI also provides a list of local suppliers and reference should be made to the BENI website www.biomassenergyni.com . in this paragraph	Others would need to consider whether this source of information would be useful to the reader in addition to the BEC website			peter will look at this website
26	BENI	Direct Air heating	We note that Direct air heating is not eligible but that this will be considered in the next phase. Vol. 5.48			Peter to look into expanding the explanation as to what is Direct air heating in order to ensure that applicants know what is not eligible

27	BENI	<p>Vol. 1 6.10 We note and understand the requirement that temporary structures such as polytunnels are not eligible on the basis that they are not "permanent or long lasting building or structure". However this raises two causes of concern for the agriculture / horticulture sector.</p> <p>i) Plastic covered structures on a permanent site are often considered to be permanent by planning authorities and will have a life far exceeding the 2 years suggested in Par 6.9. Such structures may on occasions be heated to extend the growing season -- a priority by the sector as identified in a recent review of the industry by the Horticulture Forum for NI.</p> <p>ii) Mushroom production in Northern Ireland is based almost exclusively in plastic (polythene) double skin insulated buildings with a steel hoop structural frame. These are on a concrete base, are subject to planning consents and so are to all intents and purposes permanent buildings. This industry is worth about £20M to NI economy, is a major user of heat and is well suited to using renewable heat. It is imperative that such structures and businesses are considered eligible under the RHI scheme</p>	<p>We have to take the Regulations as we find them and form a view as regards what criteria to apply for the purpose of determining whether or not a structure is "permanent or long lasting". We have done that in the guidance and it is clear from that (see para 6.7) that cases will be assessed on a case by case basis and that there may be various factual scenarios, some of which will result in a conclusion that the structure is a "building" and some of which will not. The guidance states that poly tunnels will not "normally" be regarded as having sufficient permanence, which suggests that there may be cases where a polytunnel amounts to a "building". We cannot make any advance commitment in this regard, however, given that each case must be assessed on its own merits (MP)</p>			<p>The door is open to making a case that polytunnels are RHI buildings if it can be proven that they are fully enclosed and permanent</p>
28	BENI	Simple and complex metering requirements	Dealt with above - same as No.8			
29	BENI	Small business situations recc. 10, 11, 12 and 13				No action required - response and expectation scale to the situation.