

From: Stewart, Susan
To: "Alan Bissett"
Cc: [McCutcheon, Joanne](#); [Hutchinson, Peter](#); [David Trethowan](#)
Subject: ACX/RHI 004 - Renewable Heat Incentive- Administrative Arrangements
Date: 19 November 2012 17:21:00
Attachments: [ACX RHI 004 - Legal advice pertaining to ASA with Ofgem.DOC](#)
Importance: High

Alan

You have previously undertaken work for the Department relation to the Administrative Arrangements Agreement between Ofgem and DETI. I have attached a copy of the work request for your convenience. I understand that you have spent just over £Sensitive commercial information on this work request, therefore we would like you to carry out additional work under this request.

The negotiation of the Admin Arrangements document between DETI and Ofgem is still ongoing. In particular the question has been raised as to 'who owns the data?'

The Primary powers for the NI RHI are contained in the Energy Act 2011

<http://www.legislation.gov.uk/ukpga/2011/16/part/3/crossheading/northern-ireland-renewable-heat-incentives/enacted>

The secondary powers are in the NI Regulations

<http://www.legislation.gov.uk/nisr/2012/396/contents/made>

Ofgem is not mentioned in the Regulations – rather it refers in all cases to DETI. We are engaging Ofgem to act as Administrators of the scheme on our behalf – this is via the Admin Agreement which we understand has no legal basis.

Grateful for your view on who owns the data? This is particularly relevant for us in terms of the position should the agreement be terminated and also in terms of who has the right to pass any data to a third party.

This matter is urgent therefore we would appreciate if you could provide us with your early views by this **Friday 23rd November**.

If you require any further clarification on this matter, you can contact Joanne McCutcheon on 028 9052 9425

Many thanks

Susan

Susan Stewart

Sustainable Energy

Department of Enterprise, Trade & Investment

Netherleigh

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The new website for the European Sustainable Competitiveness Programme for NI is now available - visit www.eucompni.gov.uk

www.ni2012.com

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

DETI ENERGY DIVISION (Renewable Heat Branch)

Work Request Form

Departmental Contact Name and tel: Joanne McCutcheon (028) 9052 9425

Date: September 2012

Work request Ref no:	ACX/RHI 004											
Issue:	<p>The introduction of a NI RHI requires an administrative system capable of managing enquiries and applications, ensuring participants meet ongoing obligations throughout the life of the scheme, processing payments as outlined above, preventing fraud and providing management information. Ofgem has carried out this function for DECC over the last 2 years.</p> <p>DETI is currently finalising arrangements to enter into an Agency Services Agreement (ASA) with Ofgem for the delivery of the administration of the NI Renewable Heat Incentive. This is pursuant to Section 114(1) of the Energy Act 2011.</p>											
Action required:	Request to review the draft Administrative Arrangements. Ofgem has requested us not to share this beyond DETI and DETI's legal advisers as the Arrangements are only being provided in draft. In particular, they are still subject to our own internal review processes and therefore may not represent the Authority's final position on the issues that are addressed.											
Date Required By:	<p>The Department intends to begin the legislation process to make these Regulations in October subject to DSO approval. Therefore Legal adviser comments will be required by w/c Monday 10th September 2012</p> <p>It should be noted that DSO will need to vet and clear the final draft ASA.</p> <p>There is likely to be iterative communication between the Department, Arthur Cox and Ofgem to reach a final resolution on this agreement and the estimate should reflect this.</p>											
Service Provider comment if appropriate:	<p>I note from the Work Request Form that there is likely to be iterative communication between the Department, this firm and Ofgem in order to finalise the agreement. As requested, I have taken this into account for our estimate and I would anticipate that the team will spend the following time on this matter:</p> <table border="1"> <thead> <tr> <th>Fee-Earner</th> <th>Hourly Rate (£)</th> <th>Estimate of time (Hrs)</th> <th>Estimate of Cost (excluding VAT) (£)</th> </tr> </thead> <tbody> <tr> <td>Alan Bissett (Partner)</td> <td colspan="3" rowspan="2">Sensitive commercial information redacted by the RHI Inquiry</td> </tr> <tr> <td>David Trethowan (Associate)</td> </tr> </tbody> </table>			Fee-Earner	Hourly Rate (£)	Estimate of time (Hrs)	Estimate of Cost (excluding VAT) (£)	Alan Bissett (Partner)	Sensitive commercial information redacted by the RHI Inquiry			David Trethowan (Associate)
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David Trethowan (Associate)												
Service Provider (Company name):	Arthur Cox											
Service Provider Contact Name	Alan Bissett											

Estimated Cost:	Sensitive commercial information redacted by the RHI Inquiry
HOD Approval	Fiona Hepper
HOD Approval Date	6 September 2012