

**Meeting between DETI and Ofgem
Wednesday, 29th May 2013
Conference Room C, Netherleigh**

- Fiona Hepper, DETI
- Joanne McCutcheon, DETI
- Peter Hutchinson, DETI
- Matthew Harnack, Ofgem
- Terri Clifton, Ofgem

1. Update on operations

Matthew provided an overview and update on Ofgem's operations procedures beginning by outlining a new approach to dealing with applications. The initial application process was now fully automated with checks on missing information no longer required as the system would allow incomplete applications to be submitted. Applications then go through two levels of verification, the first stage checking eligibility standards and the second stage being a quality assurance process to ensure applications are processed correctly. Any technical queries are dealt separately and all new staff members are subject to a higher level of quality assurance checks.

This new system will reduce the need to contact applicants seeking routine information and should generally streamline the process. It is expected that there could be 30% savings in costs over time.

Matthew advised that a key issue for Ofgem is the receipt and checking of ongoing periodic data such as meter readings with up to 50% of the data received incorrect. As the industry is immature and heat metering a new concept for many installers there have been a number of issues relating to incorrect meter placements or incorrect meter readings. In addition, there appears to be a lack of qualified persons to install meters and to provide independent reports. Ofgem has engaged with the industry and some training courses are being held.

Matthew formally introduced Terri Clifton who had replaced Michelle Murdoch in the NI RHI team in Glasgow. Terri was the new day-to-day contact point for operations and would oversee the NI scheme, as well as work on GB issues. Terri advised that May had seen 8 new applications and there were now 18 in total. All the applications were for biomass installations with the majority >99kWth; however two applications had been received for larger systems under 1MWth.

In terms of auditing, Matthew advised that around 160 audits had been carried out in GB and a non-compliance rate of around 45% had been discovered. The majority of this was caused by incorrect meter placements hence the need for further training and guidance on this issue. Ofgem and DECC were also considering revising Regulations to give Ofgem more powers in this regard. The other major issue discovered was poor record keeping in terms of fuel supply leading to suspicions of fossil fuel substitution. Fiona asked about the impact or sanctions on bad record

keeping and Matthew advised that Ofgem would either suspend payments or impose sanctions of around 10%. These would remain in place until further evidence could be provided and record keeping improved. Ofgem would also keep offending applicants under review. Terri said that the operations team had very good links with the fraud compliance team and would work closely to identify anomalies, often the operations team spotted issues with periodic data that could be passed to the fraud team to consider. In terms of actual fraud there have only been a handful of suspected cases and only one major incident where concerns existed that the installation was never in place – this case is ongoing. Some of the other issues related to second hand boilers or inappropriate usage and there had been incidents of ‘whistleblowing’ already.

Finally, Matthew advised on a few staffing changes at Ofgem E-Serv. A number of staff involved in the development phase had moved elsewhere such as Keith Avis and Mary Smith Irrelevant information redacted by the RHI Inquiry and Michelle from Operations was moving to a team in London. Terri would be the day-to-day contact as senior operations manager in Glasgow. In addition, Bob Hull has recently replaced Stuart Cook as Managing Director of E-Serv and a new post of deputy Managing Director had been filled by Martin Crouch on a temporary basis.

2. Operational funding 2013/14

Fiona thanked Matthew for the paper on the potential operational costs of the NI RHI in 2013/14 and beyond and asked if he wished to highlight the key points.

Matthew advised that there had been a number of factors that led to Ofgem re-assessing the potential operational costs in order to ensure that the fixed costs Ofgem incurred were recovered. The main factor was the fact that numbers of accreditations were much lower than forecast and therefore the previously agreed formula was not sufficient to cover these fixed costs.

Matthew explained that one of the fixed costs was the update and maintenance of the guidance documents – it had originally been expected that a single document would be used for both the GB and NI schemes however this has not been the case. Joanne asked who currently updated the NI guidance. Peter explained that on previous occasions whereby the guidance needed revised Ofgem would have advised DETI and the necessary changes would have been made by DETI to the guidance housed on the NI Direct webpage. The NI guidance is housed on NI Direct and DETI ‘branded’ as when the consultation was taking place it was felt this was more appropriate given it was a DETI scheme and that Ofgem were not named in the NI draft Regulations. It was discussed whether or not it would be more appropriate for the guidance to be held permanently on the Ofgem website with links provided on the NI Direct website. Ofgem would then be responsible for revising guidance as required.

Action: Peter and Teri to liaise to arrange transfer of ownership of guidance docs.

Matthew further explained that divergence between the GB and NI schemes could create additional costs over such issues as air quality controls, divergence,

enhanced pre-accreditation etc. Peter commented that DETI will be considering such issues in the forthcoming consultation so areas of divergence may be limited.

Fiona asked how often Ofgem might wish to review budgets. Matthew said that it was best to review operational budgets on an annual basis, the projections for the future years can stand but reviews might identify issues that lead to increases or decreases. Fiona commented that reviews would need to take place well in advance of end of financial year to allow DETI to secure budget, especially if increases occurred. It was agreed these reviews should take place in November. Matthew added that budgets would only change if there is a material change to the agreed assumptions.

Matthew spoke on the rationale of the formula and how and why it had been developed. He explained that the low numbers, given the lag behind GB, means that the formula has not sufficiently covered fixed costs to date. Therefore it is proposed that a new approach is taken whereby 3% operating costs are paid (circa £165k for 2013/14) and if the formula demonstrated that a higher figure would be paid. The 3% was based on the share of the NI budget and the expected fixed costs such as staffing, audit, maintenance of documents etc.

Joanne queried the current staff costs of 3.75% based on the fact that NI applications and accreditations over that period were less than 3% of GB figures. She noted that these were operational costs only and that whilst additional time might have been required during the development. It was agreed that the staffing costs would need to be considered again and more information provided to justify the 3% assumption.

Action Ofgem to look at current actual staffing costs.

Fiona also asked that it is considered what action would be required if the NI volume ended up being much less than the 3% and whether the operating costs would be scaled down in such an event? She advised that DETI would need to justify arrangement internally and therefore this information would be helpful.

Matthew said that Ofgem could look at this again and whether a mixture of fixed and variable costs were more appropriate. This option had been proposed as it seemed to be the most simple to operate. Joanne said the key issue was the justification of the 3% costs, bearing in mind DETI had the risk that if volumes were much lower the operational costs would remain at this level. Fiona agreed that this should be looked at further and wording added on justifying levels and making projections.

Action Ofgem to consider the impact of DETI costs being much lower than the 3% figure.

Fiona asked what would the impact be if DECC operational costs increased significantly because of increase in GB uptake whilst NI levels remained low. Matthew advised that this would not impact NI operational costs as the fixed costs would remain constant. If there was significant divergence this could be considered as part of an in-year review.

3. Update on question of legal responsibility

Joanne provided an update on the question of legal responsibility and ownership of data. Following correspondence from Ofgem lawyers Joanne had liaised with the Northern Ireland Departmental Solicitor's Office (DSO) to gain their view. It was fair to say that the DSO view conflicted significantly to that offered by Ofgem with DSO firmly of the opinion that the Regulations stated clearly that DETI owned all the data relating to the RHI with the point made that Ofgem were not even named in the legislation. DSO believed that Ofgem were acting on behalf of DETI, as stated in the administration arrangement, and therefore data could and should be shared. The formal opinion from DSO would be with DETI shortly and would be shared with Ofgem when received.

It was discussed that "on behalf of" might have been interpreted differently by the two sets of lawyers and that finding an agreement could be problematic. Matthew advised that Ofgem was willing to share information and data as long as the requests are reasonable and have a purpose.

Fiona raised the issue of FOI and the difficulty that DETI might have if a request came to the Department that could not be answered as Ofgem held the information and refused to share it. Matthew advised that in those circumstances he would not expect there to be any issue with information sharing.

In order to progress this issue it was agreed that the DSO advice would be shared with Ofgem when it became available and that there would be further exploration of what was covered under the 'privacy policy'. In the interim, DETI would continue to receive monthly reports and if there was essential information identified that was missing from the reports this would be raised with Terri and the operations team.

Action: DETI to share DSO advice and Ofgem to consider response. DETI also to consider the need for additional information on applicants.

4. Any other business

Fiona provided an update on the development and implementation of phase 2, focussing on the expansion of the existing non-domestic RHI. Fiona advised that consultancy work examining the options, costs and tariff levels for new technologies had been carried out by CEPA and Ricardo-AEA and was in the process of being finalised. It was likely that DETI would largely follow the GB expansion insofar that tariffs would be made available for biomass/bioliquid CHP, biomass direct air, deep geothermal and air source heat pumps. DETI was also considering support for biomass over 1MW and heat only bioliquids. Separately, DETI was also designing a domestic RHI scheme.

Peter advised that the other areas of divergence with DECC relating to administration, legal definitions and eligibility standards would also be considered in a forthcoming consultation.

Matthew asked that information is shared early with Ofgem as it can take up to 9 months to build a new system, however this time could be shortened if work could be done alongside the GB RHI changes. A scoping paper would also be required to assess the changes needed and the potential costs. Again, the GB changes could inform the work and reduce time/cost.

Action: DETI to share Phase 2 Consultation paper with Ofgem once it is finalised.