

**From:** [Scott, Michelle](#)  
**To:** [Scott, Michelle](#)  
**Subject:** FW: 27-01-16 HCS-018-16 HOCS Memo to Andrew McCormick re RHI  
**Date:** 24 February 2017 10:32:20

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**From:** Brennan, Mike  
**Sent:** 28 January 2016 09:28  
**To:** Morelli, Emer; McBurney, Joanne; Scott, Michelle  
**Subject:** FW: 27-01-16 HCS-018-16 HOCS Memo to Andrew McCormick re RHI

For info

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**From:** Sterling, David  
**Sent:** 28 January 2016 08:46  
**To:** McCormick, Andrew (DETI)  
**Cc:** Brennan, Mike; McKibbin, Malcolm; Hill, Janice; Stewart, Chris (DETI); Rooney, Eugene; HOCS  
**Subject:** RE: 27-01-16 HCS-018-16 HOCS Memo to Andrew McCormick re RHI

Andrew

It was helpful to see John Mills' timeline of actions that you concenter necessary to close this scheme. I understand we need to be very careful about how we go about this to avoid challenge. I recall well the problems DECC got themselves into when they sought to reduce the incentives for the PV scheme several years ago. Our circumstances though are different in that DECC was seeking to reduce a benefit being paid to existing claimants whereas we are seeking to deny an opportunity to people who might want to avail of the scheme.

Our imperative is clear, we need to stop the haemorrhaging as quickly as possible. The CST's SR Settlement letter makes it clear that the scheme is no longer affordable given our recent Budget. And I doubt many would consider the RHI a higher priority call on our scarce DEL than the many other pressures facing the Executive.

We have advised ministers that nothing would be gained by seeking to re-open this debate with Treasury, particularly in the post "Fresh Start" context that we find ourselves in with NIO/Treasury. Our stock is low.

In this context there are two things in your time line that I need to understand better. I have not seen your legal advice but can you advise what, in your assessment, is the worst that could happen if we were to set aside a consultation? Surely the CST letter gives us good grounds to suspend the scheme immediately? Could the courts do more than ask us to run a consultation if there was a challenge? Would they be likely to make us reopen a scheme which DETI cannot afford?

Secondly, I'm not sure why this needs to go to the Executive. If it is to advise ministers about the issue surely that could be done (today) by a ministerial colleagues letter? If however some collective decision is required (and I'm not sure what that would be) surely that could/should be done by Urgent Procedure which also could be done immediately?

I ask these questions to be helpful and would be happy to discuss.

David

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**From:** McCormick, Andrew (DETI)  
**Sent:** 27 January 2016 18:34  
**To:** HOCS  
**Cc:** Bullick, Richard; Johnston, Timothy; Wallwin, Judith; Sterling, David; Brennan, Mike; McKibbin, Malcolm; Hill, Janice; Stewart, Chris (DETI); Rooney, Eugene; Cairns, Timothy  
**Subject:** Re: 27-01-16 HCS-018-16 HOCS Memo to Andrew McCormick re RHI

Sorry touched send prematurely.

Malcolm,

I share all the concerns that are expressed in your note.

Dealing with the immediate issue first, the facts are that the DETI Minister approved our proposals for urgent action to close the RHI scheme last Friday afternoon bit before we could act on that, the approval was recalled by the Party Officers. There were several discussions yesterday and that position could not be changed, and the information I have is as in my email of yesterday to John Mills.

DETI cannot act to bear down on this cost pressure without Ministerial authority. The steps needed are a formal public notification or consultation on the basis for closure, to be followed by the progression of legislation to put that into effect. Given the policy and financial issues involved, we have been of the view that the formal steps to closure require Executive approval.

I will respond to the rest of your minute shortly but wanted to come back to you quickly on the main immediate point.

Many thanks,

Andrew

Sent from my BlackBerry 10 smartphone

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**From:** [Andrew.McCormick@detini.gov.uk](mailto:Andrew.McCormick@detini.gov.uk)  
**Sent:** Wednesday, 27 January 2016 18:16  
**To:** HOCS  
**Cc:** Bullick, Richard; Johnston, Timothy; Wallwin, Judith; Sterling, David; Brennan, Mike; McKibbin, Malcolm; Hill, Janice; Stewart, Chris (DETI); Rooney, Eugene; Cairns, Timothy  
**Subject:** Re: 27-01-16 HCS-018-16 HOCS Memo to Andrew McCormick re RHI

Sent from my BlackBerry 10 smartphone.

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**From:** HOCS

**Sent:** Wednesday, 27 January 2016 18:04

**To:** McCormick, Andrew (DETI)

**Cc:** Bullick, Richard; Johnston, Timothy; Wallwin, Judith; Sterling, David; Brennan, Mike; McKibbin, Malcolm

**Subject:** 27-01-16 HCS-018-16 HOCS Memo to Andrew McCormick re RHI

Andrew

Please see attached from Malcolm McKibbin.

Kind Regards

Stephen

**Stephen McConnell**

**Executive Assistant to Dr Malcolm McKibbin, Head of the Civil Service.**

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From: Andrew McCormick  
Permanent Secretary

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Date: 28 January 2016

Our ref: PS DETI 009/16

To: HOCS

Cc: Chris Stewart  
Eugene Rooney  
John Mills

## RENEWABLE HEAT INCENTIVE

As promised here are some initial comments on the issues raised in your minute of 27 January. I will commission a more comprehensive response as soon as possible.

On the action to address the continued flow of uncovered expenditure, I have discussed this with Minister Bell, and I understand that his office will now confirm approval of the DETI submission on action to close the scheme as soon as possible. We are also seeking to reduce the time required for the procedures if at all possible.

In short the unfunded pressure arose from three factors:

- i. the rapid increase in demand for the scheme from early last year onwards culminating in a large spike of 900 applications prior to legislative changes in November. In the space of 6 weeks in Autumn 2015, the number of installations doubled from the 900 that had been received in the previous 3 years;
- ii. the fact that DETI officials did not realise in time that DFP approval for the non-domestic part of the RHI scheme had expired on 31 March 2015; and
- iii. a change in HMT's treatment of RHI expenditure - from AME with a modest risk of a DEL penalty to the position where they are requiring us to cover the full excess from DEL.

When the issue came to attention in June/July 2015, I commissioned immediate action to:

- seek all necessary approvals, including making whatever changes were needed to align our actions with a revised position in policy and legislation, based on value for money ;
- seek to secure the necessary budget; and
- establish if there was a basis for retrospective approval of the costs incurred after 31 March 2015.

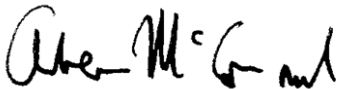
These actions were reflected in formal advice issued to the DETI Minister in early July 2015.

The risk of fraud or abuse of the scheme was also identified and I have commissioned Internal Audit to investigate. The scheme is managed by OFGEM across the UK. We are acting to increase the capacity to inspect and confirm if recipients of funds are complying with the

conditions that apply. A Business Case for securing the services of an external assurance provider to carry out a programme of additional site checks / audits is currently being developed.

It proved very difficult to establish the position on budgetary management, given that a specific arrangement had been put in place at the inception of the scheme whereby we were allocated a Barnet share of the GB budget but classified as AME. DFP and DETI discussed all the possible scenarios in the Autumn, including the position as now set out in the Chief Secretary's letter, and of course it has been for DFP to deal with the communication with HMT. We held on as long as possible to the hope that some semblance of the clear original basis (AME funding, with a limited DEL penalty) would endure.

It also proved difficult to begin to limit the payments under the scheme. There were delays in introducing the reduction in entitlements in the Autumn, as there was some initial reluctance to make the necessary legislative changes (any change to the scheme requires the affirmative approval of the Assembly). With hindsight, I might have sought a Ministerial Direction at an earlier stage. However, the spike in demand prior to the November legislation to tighten tariff controls was beyond reasonable prediction. It was only at this stage and, following the November SR and HMT's change in policy (conveyed 22 December 2015), that scheme closure became the only realistic option.



**ANDREW MCCORMICK**