

From: [Scott, Michelle](#)
To: [Morelli, Emer](#); [Brennan, Mike](#)
Subject: FW: URGENT - Meeting notes
Date: 05 January 2017 15:54:30

Suggested changes – I will call up

From: Rooney, Eoin
Sent: 05 January 2017 15:47
To: Brennan, Mike; Morelli, Emer; Scott, Michelle
Subject: URGENT - Meeting notes

Can you add any important points by 4pm please?

DfE Proposal

- As an interim measure, move all scheme participants onto November 2015 tariffs as of April 2017 DN – stage 1 measure?
- Notify EU of change next week with a view to getting approval in March
- Do not carry out a public consultation on interim arrangement
- **Include a clause to review the policy by March 2018. Include a sunset clause which would revert the tariff back to the un-tiered un-capped rate at 31 March unless alternative arrangements are agreed**
- Use the year to develop a 'final' solution
- This 'turns off the tap' quickly and should mean zero cost to Executive in 2018/19
- The proposal is due in a ~~paper~~ business case to be approved by the DfE Accounting Officer and submitted to DoF next week
- In addition proceed with 100% inspections

Comments

- Have not yet seen an assessment of the legal risk but approach suggests that DfE's focus is on budgetary control, which is more open to legal challenge than an approach that seeks to ensure state aid compliance
- Possibility of an injunction, which would mean reverting to original tariffs until conclusion of case – DN not clear this would be the impact of an injection – would need legal advice on this point
- DfE paper will only consider interim solution, ~~to exclusion of a comprehensive solution~~ with the stage 2 solution being considered as a longer term solution