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From: Catherine McArthur
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[NI RHI Governance Paper.docx](#)

Hi Peter and Joanne,

Apologies for the delay in getting back to you on all of this and thanks again for taking the time to meet with me last Wednesday, it was really helpful for us and I think very productive all round. As discussed I did want to confirm some of the matters we discussed and follow up on some items:

Follow-up:

- We discussed processes for people who don't have internet access and how they might apply to the GB RHI. There is currently provision for a member of the internal contacts team to log in to the RHI Central Registry by proxy and fill out the accreditation application form on behalf of a participant. We will include in the scope of the policy development work to develop a robust process for managing potentially higher volumes of paper applications (both in processing paper applications and managing related enquiries through the enquiries centre), including stand-alone guidance documents specifically for this process. We will also look at strategies for managing potentially higher call volumes for the NI RHI and necessary resourcing requirements. If you think it would help with more accurate budgeting we can include in the operational budget an estimate based on a higher proportion of calls to the enquiry centre from Northern Ireland (so for example 12-15% total volume as opposed to 3-5%)?
- If participants don't have information during the accreditation process (also applies to the periodic information submission and annual declarations), they can save their application part way through the process, then log in and retrieve the application and continue when they do have the information at hand.
- External User Testing – we conducted some testing with a sample group in September. The feedback was positive and only minor changes were suggested to increase the usability of the system – for example to do with the wording of questions and making the process more intuitive. A report is being prepared on this process and the outcomes and when that has been completed I will see if we can share it with you if you're interested in more detail. Perhaps if you are able to come to London for the presentation on the Feasibility Study we can walk you through the accreditation process on the Online system so you can get a better idea of what the system is like to use?

Awaiting information:

- There may be areas of Northern Ireland without postcodes – have you had a chance to check if this is the case?
- We discussed potentially utilising any under-spend from the FS including the £10,000 from the deferred risk assessment for finalising the feasibility work on any areas of your final policy that aren't covered in the draft regulations. As your final policy position develops perhaps you will be able to judge whether this will be necessary, and whether this funding could be utilised? I'm happy to discuss this informally if you're unsure whether some changes might have an impact on our processes.

I have also attached draft copies of a couple of sections from the Feasibility Study on Enforcement and Governance. At this stage we're planning to have a couple more sections to send through next week, so please let me know if there are some sections you'd particularly like to see in advance and I'll do my best to provide them as soon as I can.

If you have any questions or concerns please don't hesitate to contact me.

Kind regards,

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1. Enforcement

Paper Summary

This paper sets out our recommendation on Enforcement issues under the NI RHI

Background

GB RHI enforcement framework

- 1.1. Under the current GB RHI system Ofgem is responsible for enforcement issues, and has enforcement powers under the relevant legislation. However this was based on the fact that Ofgem were the statutorily appointed administrators of the GB RHI scheme, and had been awarded particular enforcement powers.
- 1.2. The RHI operational team also has the powers to withhold payments and even adjust payments to counter any over or wrongful payments made.
- 1.3. It was also believed that Ofgem could demonstrate that it was an injured party should we need to recover debts from a generator who had been wrongly paid GB RHI tariff payments. This is important if Ofgem was to attempt to recover a debt through the civil courts.
- 1.4. However the manner in which the enforcement powers were drafted in the GB RHI regulations, it may prove not cost effective to follow through any attempted process to recover wrongful payments to a generator.

Proposal

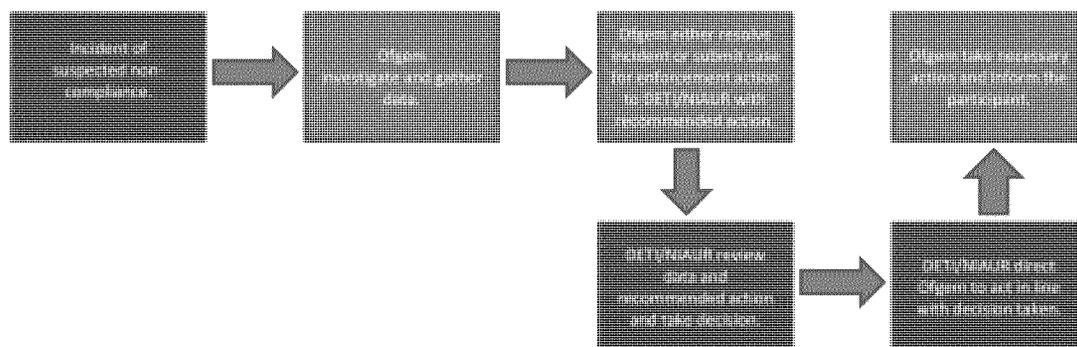
NI RHI enforcement framework

- 1.5. The current draft regulations do not specify where enforcement powers should lie. However given that Ofgem will not be the statutory administrators of NI RHI, it may be best to recommend to DETI that either they or NIAUR should retain the enforcement role within the NI RHI. They should still need to act on advice we are able to provide them from the RHI system, and realise their decisions through Ofgem (as shown in Flowchart A below). This proposal has two major benefits.
- 1.6. As we are not the statutory administrators of the scheme it will be extremely hard to demonstrate that we are the injured party when recovering debts from generators. Therefore there is a risk that any enforcement action would fail at the first legal hurdle. DETI or NIAUR would however be able to demonstrate this much more clearly.
- 1.7. Given that we do not operate in Northern Ireland, and have very little, if any knowledge of their civil court system, we would need to contract expert legal advice before we could pursue a debt recover in Northern Ireland. This would

make it extremely unlikely that recovering any such debt would be cost effective. Even to investigate how Ofgem could hold such enforcement powers under the NI RHI and develop a suitable business process, would add significant additional costs on top of the delivery costs already identified. We do not believe that this would provide value for money.

Proposed NI RHI enforcement process

Flowchart A



- 1.8. Although we are recommending that DETI/NIAUR retain the enforcement role within the NI RHI scheme, we would still use our administrator position to provide them with all the relevant information for them to make a decision on any particular generator or installation.
- 1.9. Ofgem should retain the ability to put on hold any application, accreditation or payment process if it has genuine concerns of the validity of the installation or the information provided. Ofgem should also be able to remedy directly any genuine administrative errors which may have occurred (example erroneous payments/overpayments). However any suspected fraudulent activity or enforcement issues should be escalated to DETI/NIAUR. The operation team should gather and send all the relevant information, with our recommendations, to DETI/NIAUR for a decision.
- 1.10. DETI should then consider the information presented and make a decision. They should then provide instructions as to what action should be taken against the generator and/or installations.
- 1.11. If fraud has taken place then DETI/NIAUR should pursue the fraudulent parties through the available legal channels in Northern Ireland. If a debt needs to be recovered, then DETI/ NIAUR should pursue this through the Civil Courts in Northern Ireland.
- 1.12. Given that this process relies upon Ofgem collating the relevant information (sometimes from external parties such as the generator themselves, MCS, etc) and then transferring that information to DETI/ NIAUR to enable them to assess the matter and make a determination – it may become a lengthy process. We therefore recommend that DETI/NIAUR remove the statutory timescale currently in the draft regulations. If a timescale is required, we would recommend that the

phrase "as soon as is reasonably practical" or words to that effect are used instead.

Recommendation

- 1.13. That we insist DETI/NIAUR retain and formally exercise any enforcement powers under the NI RHI.
- 1.14. That the majority of the actions be carried out by Ofgem based on DETI/NIAUR's decision, with the exception of those that required legal proceedings. We should also facilitate any information gathering of enforcement action in our role in administering the NI RHI scheme on DETI/NIAUR's behalf.
- 1.15. That Ofgem retains the power to put on hold any generator or installation with which we have genuine concerns. This will permit us time before the next payment is made, to gather the necessary information and issue or escalate it to DETI/NIAUR for assessment.
- 1.16. That DETI remove the rigid time restrictions currently attached to the enforcement element of the draft regulations.

1. NI RHI Governance Paper

Chapter Summary

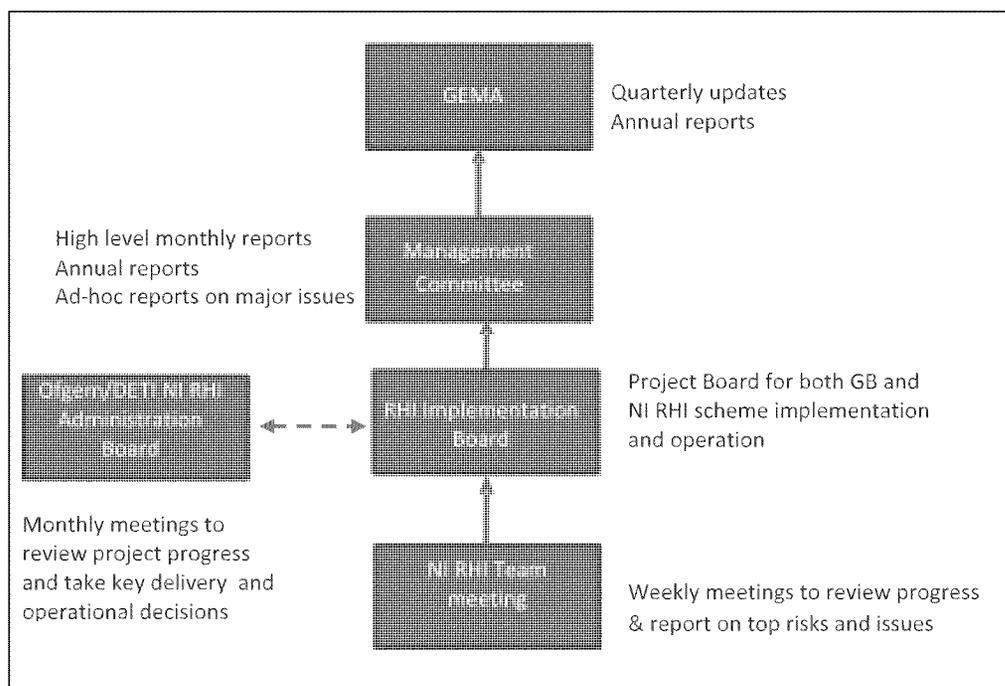
This paper sets out the proposed project organisation and governance framework for the NI RHI delivery project. It will be used as part of the Implementation chapter of the feasibility study.

Project Organisation & Governance

1.1. Ofgem’s project governance structure has been designed to meet the following objectives:

- To provide clear accountability for making decisions;
- To provide a regular mechanism for resolving any key issues which are impeding progress; and
- To provide an effective and constructive challenge of the project process and progress, drawing on the expertise of the Project Management Group.

1.2. A diagram illustrating the high-level internal governance structure is provided below:



Regular Contact between Ofgem and DETI

- 1.3. From our experience, regular, informal contact between the Ofgem and DETI teams is critical to ensure the delivery project is a success. A good flow of information between the two teams will help minimise surprises and misunderstandings which can hinder implementation. To this end we would recommend regular contact between the two teams via telephone and emails, and sharing of project plans and draft documents. At the very least the two teams should schedule weekly conference calls with core team members from both organisations. In the majority of cases Catherine McArthur and Jonah Anthony will be the main points of contacts for DETI officers.

Joint Ofgem/DETI NI RHI Administration Board

- 1.4. The purpose of the joint NI RHI Administration Board is to take decisions regarding development and delivery of the project, monitor key risks and issues and act as a change control mechanism for covering any items previously out of scope. We envisage that this Board will initially meet fortnightly throughout the development stage before moving to a monthly cycle once the scheme has become established. At this time we should aim to have a face-to-face meeting at least quarterly with the Senior Responsible Owners from both organisations.
- 1.5. We recommend the following people are standing members of the Administration Board (with additional members called to attend as necessary).
 - a) Fiona Hepper, Senior Responsible Owner and Director of Energy - DETI (Joint Chair)
 - b) Peter Hutchinson, Programme Director, Sustainable Energy - DETI
 - c) Joanne McCutcheon, Project Manager, Sustainable Energy - DETI
 - d) Matthew Harnack, Senior Responsible Owner and Associate Director Commercial - Ofgem (Joint Chair)
 - e) David Fletcher, Project Manager and Senior Manager NI RHI - Ofgem
 - f) Ofgem Project Manager (tbc)
 - g) Representatives from the Northern Ireland Authority (NIAUR) depending on how the scheme will be administered formally.

RHI Implementation Board

- 1.6. This is a key internal Ofgem programme board which will be used to oversee both the development and ongoing implementation of the GB RHI scheme and the NI RHI scheme. We recommend that this board has oversight of both schemes alongside each other both schemes will share operational personnel and IT systems. There is also likely to be much overlap in future developments of both schemes. The Board comprises of representatives of the operational team, development team and IT colleagues, as well as Matthew Harnack and Bob Hull.
- 1.7. All key issues are to be escalated or passed on for information to the Management Committee and joint Ofgem/DETI Administration Board. At present the RHI Implementation Board meets fortnightly.

Management Committee

- 1.8. The Management Committee meets weekly and is used by senior managers to review all operational issues in Ofgem E-Serve. It meets weekly and is attended by Matthew Harnack and Bob Hull, who will represent the NI RHI scheme on the Committee. It is chaired by Stuart Cook, the Managing Director of Ofgem E-Serve.

GEMA

- 1.9. The Gas and Electricity Market Authority (referred to as "the Authority" or GEMA) is the ultimate decision making body in the organisation, from which all powers are derived. A sub-committee of GEMA is the Audit Committee, which provides a robust internal check on all the activities undertaken by Ofgem. This will include the NI RHI scheme if Ofgem is selected to administer it.