

**To:** Hutchinson, Peter[Peter.Hutchinson@detini.gov.uk]; McCutcheon, Joanne[Joanne.McCutcheon@detini.gov.uk]  
**Cc:** Teri Clifton[teri.clifton@ofgem.gov.uk]  
**From:** Edmund Ward  
**Sent:** 2013-10-24T15:11:42Z  
**Importance:** Normal  
**Subject:** RE: RHI and Carbon Trust interest free loan  
**Received:** 2013-10-24T15:11:43Z

Peter ,  
 Apologies for the delay in replying, I have already passed on the contact details to our legal team.  
 As you surmise, our view is that the next step on the policy options or solutions to the current situation should be addressed via lawyer-to-lawyer communication in the first instance. Once that legal background has been set out, we would of course be very happy to engage with you directly on the implications of how we would administer under particular policy options/scenarios.  
 Kind regards,  
 Edmund

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**From:** Hutchinson, Peter [mailto:Peter.Hutchinson@detini.gov.uk]  
**Sent:** 24 October 2013 12:19  
**To:** Edmund Ward; McCutcheon, Joanne  
**Cc:** Teri Clifton  
**Subject:** RE: RHI and Carbon Trust interest free loan

Edmund,  
 The legal advice should be sent to [Patrick.Millen@dfpni.gov.uk](mailto:Patrick.Millen@dfpni.gov.uk) as a matter of urgency – when sending please mark in the cover email that the issue relates to the NI RHI .  
 Are you able to provide any further advice on the policy options or solutions to the current situation or is this contained in the legal advice?  
 I'll be in touch again regarding a meeting.  
 Peter

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**From:** Edmund Ward [mailto:Edmund.Ward@ofgem.gov.uk]  
**Sent:** 24 October 2013 10:32  
**To:** Hutchinson, Peter; McCutcheon, Joanne  
**Cc:** Teri Clifton  
**Subject:** RHI and Carbon Trust interest free loan

Dear Joanne, Peter  
 Thank you for your emails and recent discussions, regarding the compatibility of Carbon Trust interest free Loans with Non-Domestic RHI eligibility in Northern Ireland. I understand that this is an issue of concern to DETI, and can assure you that we are keen to work with you to address this so far as we can as a matter of urgency.  
 I would also like to preface this response by offering to arrange a further opportunity to discuss the joint DETI/Ofgem way forward on this. To address the possible options from a policy and implementation perspective, we would be happy to meet with you at your offices if that would be convenient. Further to my discussion with Peter on Tuesday 22<sup>nd</sup> October, it would be helpful if you would provide the contact details for the relevant Departmental Solicitor at DETI so that our lawyers can engage with you on this. Perhaps the Departmental Solicitor who advised on the regulations last year, particularly on the Technical Standard Directives provisions.

The remainder of this email covers:

1. Background
2. Responses to your specific queries
3. Proposed next steps for your consideration

**1. Background**

An applicant was refused accreditation for the RHI scheme by Ofgem on the basis that he had a Carbon Trust Interest free Loan towards the cost of the installation which was subject of the application. The reason for the rejection was because a view was taken that the Carbon Trust Interest free loan constituted public support under Regulation 23 which excludes accreditation under the Northern Ireland Regulations.

The two elements to be considered are, therefore: (i) whether the Loan conveys a financial advantage to the applicant and (ii) whether it was provided by a public authority.

In relation to (i) we were of the view that it is likely the Loan would be considered to give a financial advantage to the applicant as it is interest free with a 36 month repayment period.

In relation to (ii) the source of the interest free loan was Invest Northern Ireland which is a fund provided by Northern Ireland government and that therefore the person providing the public support in this instance was a public authority.

**2. Responses to your specific queries**

On your specific queries, including those raised in emails from Peter Hutchinson and Joanne McCutcheon on 8<sup>th</sup> October and 9<sup>th</sup> October 2013 to Edmund Ward and Teri Clifton, we suggest that your Departmental Solicitors discuss these with our lawyers.