

**To:** Karen Wood[Karen.Wood@ofgem.gov.uk]  
**From:** Teri Clifton  
**Sent:** 2013-10-31T10:13:39Z  
**Importance:** High  
**Subject:** FW: DETI Data Protection issues  
**Received:** 2013-10-31T10:13:38Z

Hi Karen  
Edmund and I are off to DETI next week to discuss data sharing amongst other things. Do you have an update from legal as you were hoping to get something by month end  
Thanks  
Teri

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**From:** Teri Clifton  
**Sent:** 07 October 2013 12:10  
**To:** Karen Wood  
**Subject:** FW: DETI Data Protection issues  
**Importance:** High

Hi Karen  
Do you have an update on this for me. I'm speaking to DETI at 2pm today and they will be asking  
Thanks  
Teri

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**From:** Teri Clifton  
**Sent:** 17 September 2013 10:30  
**To:** Karen Wood  
**Subject:** FW: DETI Data Protection issues  
**Importance:** High

Hi Karen  
I don't know if you've managed to get much further with legal on DETI being allowed data. I've been speaking to our DP expert and it seems to be going in circles.  
Please can you let me know if you have a potential way forward.  
If there is any chance you could come back to me today, that would be great as I'm away for the next 10 days.  
Thanks  
Teri

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**From:** Paul Kitcher  
**Sent:** 05 September 2013 10:34  
**To:** Teri Clifton  
**Subject:** RE: DETI Data Protection issues

Yep they'd be holding a set of personal data of a specific type if we hand them the info so would have to be a data controller in their own right for this information. You need to check with legal if we have the right (or requirement) in law to give them the information. I'm not an expert on the RHI legislation so it's that which determines if we have to give them the data (or not).

p

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**From:** Teri Clifton  
**Sent:** 05 September 2013 10:28  
**To:** Paul Kitcher  
**Subject:** RE: DETI Data Protection issues

Thanks Paul  
What they really want is the information at the very bottom – see below.  
This is the information they are asking for on a regular basis:  
The additional details that we would like access to are - name of applicant, postcode of applicant and the Standard Industrial Classification (SIC code) of business if held. The purposes for which we require the information are (i) to enable us to coordinate the RHI with other NI Department's funding initiatives to ensure there is no double funding (ii) monitoring take up in relation to our other projects e.g. gas extension and (iii) for the briefing of our Minister – Northern Ireland is a small place and our Minister regularly asks about individual companies  
Do you think from a DP point of view as the main data controller we would be able to give them this or does that then kick off the separate data controller issue?

Thanks

Teri

Received from OFGEM on 05.09.2017  
Annotated by RHI Inquiry

**From:** Paul Kitcher  
**Sent:** 30 August 2013 09:31  
**To:** Teri Clifton  
**Subject:** RE: DETI Data Protection issues

Hi Teri, answers in red below. I would however run this past our lawyers.

**Paul Kitcher**

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**From:** Teri Clifton  
**Sent:** 29 August 2013 16:34  
**To:** Paul Kitcher  
**Subject:** DETI Data Protection issues

Hi Paul

I'm hoping you can help. We have been speaking to DETI about ownership of data and they have come back and asked the following, based on information they've had from their solicitors:

As regards the sharing of data, the Solicitors have asked whether GEMA is registered with the Information Commissioner's Office for the purposes of the NI RHI scheme – perhaps you could clarify this for us?

Not specifically for the NI Scheme no, however a generic registration is in place for RHI which I think would cover this data.

They also raise the possibility of two data controllers – any views?

Once any data copied to them then my view is it becomes their data. They would then need to have their own data registration.

In any case, it is their view that even were GEMA the sole data controller there is no impediment within the Data Protection Act 1998 which would prevent you sharing applicants details with DETI.

No there isn't however, if we remain the sole controller we'd want to put in place a data sharing agreement that set out the agreed responsibilities that were borne by both parties in data transfer and storage. This means that we are both confident that data is moved around securely and that DETI have at least the same security arrangements in place once we transfer the data to them.

With regard to the assessment of fairness they refer to

(a) para 1.24 of the Guidance which clearly envisages GEMA sharing personal data with DETI for the purposes of monitoring – applicants could not be said to possess any expectation that their details were not liable (at some stage) to be disclosed to DETI.

Fine

(b) The fact that no one has been misled or deceived as to DETI's involvement with the scheme when the information was collected

Fine

(c) Their inability to identify any conceivable harm to the interests of the applicant – perhaps GEMA could identify the adverse consequences/harm they envisage?

I agree with the general principle being stated here. We are very risk averse and if there were any possibility that a breach could occur we'd avoid conditions that could result in that breach.

With regard to Schedule 2 they make the point that applicants have applied voluntarily, are aware from the outset that the scheme is a DETI scheme and that it is difficult to envisage what possible 'prejudice' would be caused to them by having their details disclosed to DETI. Finally, as regards Article 8 ECHR the Solicitors cannot see how disclosure would bring any risk of contravening this article.

Again accepted, it's not a question of whether we disclose it's about Ts & Cs.

In summary, even if we cannot achieve agreement over the 'ownership' of the data, it is the view of our Solicitors that DETI, as the specific public authority with statutory responsibility for the scheme, has a legitimate interest in the scheme and as such there should be no difficulty in disclosing the data to us for a 'legitimate purpose'.

Can you find out about the data controller for me – thanks.

See earlier reply. If DETI get copies they are a data controller as much as us, but they have it for a different purpose, ours is scheme administration, there's is statistical.

This is the information they are asking for on a regular basis:

The additional details that we would like access to are - name of applicant, postcode of applicant and the Standard Industrial Classification (SIC code) of business if held. The purposes for which we require the information are (i) to enable us to coordinate the RHI with other NI Department's funding initiatives to ensure there is no double funding (ii) monitoring take up in relation to our other projects e.g. gas extension and (iii) for the briefing of our Minister – Northern Ireland is a small place and our Minister regularly asks about individual companies.

Interested in your thoughts on this

Regards  
 Archived from OFGEM on 05.09.2017  
 Annotated by RHI Inquiry