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Folks

Thanks for all your input last Thursday. It is really appreciated.

I've tried to summarise the key Action Points from Thursday's meeting.

Happy to discuss.

Thanks, Stuart

#### Summary Of Action Points

(1) Provide a summary of possible actions that can be taken forward now and after changes to Guidance/Legislation for each of the following unsatisfactory behaviours taking account of the advice we received from our legal advisors. I feel the legal advice we received confirms that a breach of ongoing obligations is our best route forward.

- **Parasitic Wood Drying:** I still think we should proceed on the basis that any accredited installations that are drying wood (no matter how little) which is being used to fuel other RHI boilers on site are breaching their ongoing obligations. As we discussed, this constitutes 'double-subsidy.' I suggest we want to run with a test case now before making possible changes to the Guidance.
- **Inefficient heating systems (by design):** I think we concluded that it would be extremely difficult to challenge this. I think Paul's advice confirms that since these installations were accredited as designed, we would have to rely on a breach of ongoing obligation which I cannot see.
- **Inefficient Use of Heat (being wasteful):** I still think we should proceed on the basis that where we have gathered evidence (through a site inspection) that suggests wasteful behaviours, we should hold payments and revoke accreditation(s) on the basis that heat is being generated for the purposes of increasing payments (Regulation 33(P)) unless participant can demonstrate eligibility possibly through some sort of independent energy assessment. Again, I would proceed now before making any changes to the Guidance.
- **Predominant Domestic Usage:** Based on Paul's advice, it sounds like our options here are limited because the domestic use has been accredited unless we can demonstrate that there is a difference between the original application and what was observed on site or if no evidence of business rates was provided. The most viable option might be to consult on the proposal to move participants onto the domestic scheme where their predominant use of their installation is for domestic purposes.
- **Ineligible heat use at application stage:** I think we are agreed that where we find (through inspections) that installations are either (i) meeting a different heat need to what was applied for; or (ii) have 'invented' a heat need until such time as their actual need materialises (e.g. construction of a new poultry house) the accreditations should be revoked.
- **Multiple Boilers:** I think we are agreed that it would be difficult to challenge multiple boilers that are heating individual spaces or being used for individual processes. However, I still think it is worthwhile challenging the scenario where multiple boilers are heating one building or space and treating these as one installation eligible for the lower 1.5p tariff. Given Paul's advice, we might have to consult on this.
- **Economic Justifiable Heat Use:** Where this can be questioned (e.g. the chicken litter costing £150/tonne to dry but only sold for £40/tonne), I still think this is worth pursuing without making any guidance changes. We could hold payments and revoke accreditations until participant can demonstrate that their heat use is economically justifiable and they are therefore not simply generating heat for the predominant purpose of increasing their payments (Regulation 33(p)). I also think the State Aid approval has to come into play here.

(2) Test our approach in (1) above by reviewing the current Category 2, 3 & 4 Cases and preparing a number of test cases for consideration by DSO, setting out our reasoning / justification for non-compliance and what action(s) we are proposing to take forward. I would suggest at least one case for each of the examples above.

(3) Consider inclusion of 'buy-out' option in consultation document whereby participants would receive a single or multiple payments to cover their capital outlay plus 12% rate of return. Need to explore if this option effectively means ending the entire scheme or if we can only remove 'small and medium biomass' and leave the other technologies.

(4) DfE to chase up PWC for any further evidence from site inspections (photos, etc).

**Stuart Wightman**

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