

To: Wightman, Stuart[Stuart.Wightman@detini.gov.uk]
Cc: john.mills@detini.gov.uk[john.mills@detini.gov.uk]; Chris Poulton[Chris.Poulton@ofgem.gov.uk]; Gareth John[Gareth.John@ofgem.gov.uk]
From: Teri Clifton
Sent: 2014-10-09T16:10:11Z
Importance: Normal
Subject: Carbon Trust and Other Updates
Received: 2014-10-09T16:10:12Z
[DETI October 2014.pdf](#)

Dear Stuart

Please find attached a scanned copy of an update letter from Chris Poulton –apologies for scanning quality.

We are looking forward to meeting up with you on Monday at 11.30. I will bring the original with me, to form our agenda, as it may be quicker than the traditional postal route!

Kind regards

Teri

Teri Clifton

Head of Operations RHI (Glasgow)

NSD

Ofgem

3rd Floor

Cornerstone

107 West Regent Street

Glasgow

G2 2BA

Tel: 0141 341 3991

www.ofgem.gov.uk

The logo for Ofgem, consisting of the word "ofgem" in a lowercase, sans-serif font. The "o" is a solid grey circle, and the "f" is a solid grey vertical bar. The remaining letters "g", "e", "m" are in a lighter grey color.



Making a positive difference
for energy consumers

Stuart Wightman
cc: John Mills
Department of Enterprise Trade
and Investment (DETI)
Energy Division
Netherleigh
Massey Avenue
Belfast
BT4 2JP

Gwneud gwahaniaeth gwirioneddol
i ddefnyddwyr ynni

Direct Dial: 020 3263 9682
Email: chris.poulton@ofgem.gov.uk

Date: 9th October 2014

Dear Stuart,

Non Domestic RHI – approach to Carbon Trust loans and other updates

I'm writing further to your letter of 10th July, and to formalise some of the work that has been done between our teams further to that letter. I'd also like to take the opportunity to update you on some other areas following my meeting with John Mills and relevant Ofgem and DETI colleagues at your offices on 16th April 2014.

Approach to Carbon Trust loans and other *de minimis* state aid cases

Thank you for your letter of 10th July 2014 in which you set out your proposals for how Ofgem may treat NIRHI applications where a Carbon Trust loan or other public support has been received. Your proposals bring us closer to reaching a position on the long running issue which has caused 8 NIRHI applications to be placed on hold. I am very pleased that our teams are working together to find a solution to this matter.

I note the categorisation you propose to apply to NIRHI applicants. I also note your future intention to amend the NIRHI Regulations to make the option of repaying other public support, in order to access NIRHI support, available to all applicants. We would welcome the opportunity to input into the development of policy in this area so that we can advise on any impacts such as associated administrative costs. We would also encourage early amendment to the NIRHI Regulations to address the difficulties we are having to overcome through this correspondence.

With regard to our administrative approach prior to any regulatory amendment I can confirm that we are happy to administer all Category 1 applicants in line with your proposal (i.e. we will continue to administer applicants currently not in receipt of a Carbon Trust loan or other public support without any change of approach).

For Category 2 I have considered the administrative burden placed on us when we receive an application in receipt of a Carbon Trust loan or other potential state aid funding. I can confirm that while we are prepared to gather information on funding, we would not be in a position to make any decision on where Category 2 applicants fall in relation to the relevant *de minimis* limit. This is due to the complexities and resource requirements involved in conducting any level of state aid analysis. As a result, I suggest that we deal with your

The Office of Gas and Electricity Markets
9 Millbank London SW1P 3GE Tel 020 7901 7000 Fax 020 7901 7066 www.ofgem.gov.uk **The Office of Gas and Electricity Markets**
Cornerstone, 107 West Regent Street, Glasgow, G2 2BA Tel 0141 331 2678 www.ofgem.gov.uk **The Office of Gas and Electricity Markets**
1 Caspian Point, Caspian Way, Cardiff Bay CF10 4DQ/ 1 Pentir Casplan, Ffordd Casplan, Bae Caerdydd CF10 4DQ
Tel 029 2044 4042 www.ofgem.gov.uk

Category 2 and 3 cases in the same way, i.e. Ofgem will assess the application against the eligibility criteria, and, if it meets those criteria, the next steps will depend on the nature of any funding.

Where there is clearly a grant from public funds or the provision of other public support within the terms of regulation 23, Ofgem will (continue to) proceed to determine the application without DETI input, applying regulation 23 accordingly.

In cases where it appears to Ofgem that there *may* be a grant or the provision of other public support, and that a *de minimis* State Aid issue may be involved, we will forward the relevant information to DETI. DETI will then consider whether any funding falls below the relevant State Aid *de minimis* threshold, and will take a decision as to whether, in the light of that analysis, the funding constitutes a grant from public funds or the provision of other public support for the purposes of regulation 23. DETI will then inform Ofgem of that decision (together with the basis for it and any indication as to how that position or the relevant regulations may be amended in the future). Following this, Ofgem will proceed to formally determine the outcome of the application, as part of which we will rely on DETI's decision on the grant/public funds aspect or, should there be an indication from DETI that there may be changes to regulations in future, to write to the applicant setting out options including an option that the application be put on hold pending further clarity on potential changes to regulations.

The Administrative Arrangements will need a small, but essential, amendment to reflect this division of responsibility for the relevant functions as between Ofgem and DETI, given that Ofgem will be relying on DETI's decision on whether there is a grant/public support in such cases when determining applications. For reasons of transparency we suggest that there should be a change to the Guidance which sets out this division of responsibility.

We are well-placed to move to this position as soon as you can confirm your agreement to the approach as set out above, and as soon as the Administrative Arrangements have been amended and signed. I have appended to this letter a short draft form of further Arrangements amending the original Arrangements and containing a short provision detailing that DETI will retain the responsibility of determining the grant/public support position in State Aid cases. Once you have considered we would hope to be in a position to sign these in short order. If you have any further comments on the details of this approach I would ask you to contact my colleague Edmund Ward in the first instance to progress this.

Budgets

We have agreed a budget for 2014/15. In line with our agreed approach to review volumes on a quarterly basis, we have prepared a change control which confirms forecast and budget for 14/15 at £211,936, and this is now being taken forward between our two teams.

Data sharing

We fully understand the need for you to have access to scheme data including personal data. I am pleased that we have reached a common understanding that this is something that Ofgem is happy to share, and that the only restrictions are those practical conditions incumbent on us as the organisation collecting this data to act in line with the provisions of the Data Protection Act and any other relevant legislation.

Our teams have been discussing the practical measures to be put in place to facilitate the secure sharing of data, and our IT colleagues have been engaging on this. In addition, I believe you are still addressing some areas regarding the scope of the data requested and we look forward to hearing from you in that regard, in order to prepare a finalised data

2 of 3

The Office of Gas and Electricity Markets
 9 Millbank London SW1P 3GE Tel 020 7901 7000 Fax 020 7901 7066 www.ofgem.gov.uk **The Office of Gas and Electricity Markets**
 Cornerstone, 107 West Regent Street, Glasgow, G2 2BA Tel 0141 331 2678 www.ofgem.gov.uk **The Office of Gas and Electricity Markets**
 1 Casplan Point, Casplan Way, Cardiff Bay CF10 4DQ/ 1 Pentir Casplan, Ffordd Casplan, Bae Caerdydd CF10 4DQ
 Tel 029 2044 4042 www.ofgem.gov.uk

sharing agreement that can be signed by both parties. Our teams will continue to progress this at a working level.

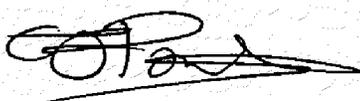
Future changes to the Non-Domestic RHI scheme

We will be happy to continue to engage on further intended policy changes. Our experience in conducting this process with DECC has been that early engagement has enabled us to minimise costs and reduce the burden on applicants. This is particularly relevant in the case of the Northern Ireland scheme as you will be aware that the Administrative Arrangements terminate automatically in the event that the Regulations are amended or re-enacted (clause 5.4 of the Arrangements) and so early engagement to enable another Arrangements to be agreed will aid a smooth transition (at which point the interim 'fix' added by the Amendment to the Arrangements referred to above can be incorporated or revised). We note that, in order to assess the scope of administrative and IT system changes, our normal expectation would be to complete a feasibility study at the stage you have a firm view of policy intentions. This would enable us to provide you with an assessment of costings and operational impacts of the proposal, and to indicate the likely implementation time once arrangements (including funding) were agreed.

Next steps

I look forward to any response you may have, and would also be happy to discuss any of the above when we next meet at your offices on Monday 13th October. I would also like to extend my previous offer to John Mills to yourself and/or any of your colleagues to visit our Ofgem operations, either in London or Glasgow. A visit to our offices would also provide an opportunity for you to experience the administrative approach we are currently taking to deliver the domestic RHI in Great Britain, which may be of interest. Alternatively or in addition, we would be happy to showcase the Domestic RHI application process at your Belfast offices. My colleague Teri Clifton would also be happy to engage with you on this in the first instance.

Kind regards,



Chris Poulton

Deputy Managing Director
Ofgem E-Serve

3 of 3

The Office of Gas and Electricity Markets
9 Millbank London SW1P 3GE Tel 020 7901 7000 Fax 020 7901 7066 www.ofgem.gov.uk **The Office of Gas and Electricity Markets**
Cornerstone, 107 West Regent Street, Glasgow, G2 2BA Tel 0141 331 2678 www.ofgem.gov.uk **The Office of Gas and Electricity Markets**
1 Caspian Point, Caspian Way, Cardiff Bay CF10 4DQ/ 1 Pentir Caspian, Ffordd Caspian, Bae Caerdydd CF10 4DQ
Tel 029 2044 4042 www.ofgem.gov.uk

