



Making a positive difference
for energy consumers

Gwneud gwahaniaeth gwirioneddol
i ddefnyddwyr ynni

Mr Andrew McCormick
Permanent Secretary
Department for the Economy

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Email: chris.poulton@ofgem.gov.uk

Date: 8 July 2016

Dear Mr McCormick,

**Northern Ireland Audit Office (NIAO) Report on the Department of Enterprise
Trade and Investment Resource Accounts 2015-16**

I refer to the above report, issued by the Northern Ireland Audit Office on 5th July 2016 together with an accompanying media release.

Although this was an independent report it is evident that this was based on extensive engagement with your department.

There are numerous references to the Office of Gas and Electricity Markets (Ofgem) in the report. I understand that this is appropriate given our role in administering certain functions of the Northern Ireland Renewable Heat Incentive scheme. As you are aware, we conduct these functions under formal Administrative Arrangements with the Department for the Economy (formerly the Department of Enterprise, Trade and Investment).

Those arrangements require DfE to "Share in advance with GEMA [Ofgem] proposals for public announcements and consultations relating to or impacting on the scheme established by the Regulations when appropriate" (Section 4.1(e)). The public announcement of the report clearly, in our view, falls within the scope of this requirement.

Given the extent and nature of the references to Ofgem in this report, I am very disappointed that we were not engaged adequately as part of the preparation and publication process. In particular, we had no visibility of what would be published, or when, and indeed we were only alerted to the publication of the report by our own media monitoring. I am unclear why we were not given the opportunity to review a version of the report (even on embargoed terms), and we were not engaged or advised in relation to the timing and manner of release of the report.

For clarity, we were only given sight (on 19 May 2016) of 7 sentences of what was described as an early draft of an NIAO report, with a request for responses and clarifications by the following day. We complied with this request, but there was no further mention of this report to our officials in our ongoing engagement with counterparts in your department. We were not alerted to the fact that this would be a published report, or that there were numerous other references to Ofgem in the report of which we had not had sight, even at a draft stage. This is particularly disappointing in the context of the ongoing and frequent dialogue between our teams on the Deloitte review, current and future audit requirements, and other business as usual matters associated with scheme administration.

Without suitable engagement and controls being in place, there are risks of misinterpretation or potential misunderstanding based on the content of the report. In addition, by limiting our ability to prepare for any possible stakeholder or media enquiries, this may impact on our ability to provide the high level of clear, transparent and timely communications that we strive to achieve with our stakeholders.

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Regarding the handling of the report by DfE, I also have concerns that some of the statements issued may be unhelpful, by failing to provide sufficient clarity on the roles and responsibilities associated with the delivery of the RHI scheme, and our respective roles. In particular, some statements quoted in the media make reference to 'serious systemic failings ... by those directly responsible for administering the scheme'. While the examples of these failings given relate to the absence of tiered tariffs or controls on costs, which were policy matters for DETI, this could be misunderstood in the context of the Report which states that 'the RHI is administered on behalf of the Department by the Office of Gas and Electricity Markets (Ofgem)' (paragraph 7).

Joint Review

Following the receipt by DETI of non-specific alleged abuses of the scheme, DETI and Ofgem agreed a joint review on which we have had previous correspondence. Terms of reference were formalised in an email from John Mills of DETI dated 7th March 2016, and the review was to be conducted in two phases, with phase 1 comprising a review of internal E-Serve controls, and phase 2 involving site inspections on the ground. Both phases would rely on independent advice from Deloitte, and site audits for phase 2 were expected to be conducted by audit contractor, Ricardo Energy & Environment.

Phase 1 of the review has been completed, and we have now received a draft report with independent assurance from Deloitte providing assurance in relation to E-Serve administration. We have also provided proposals from Deloitte and Ricardo Energy & Environment to progress with Phase 2 of the review, including conducting a priority programme of c. 72 statistical and targeted site inspections.

In your letter of 9 May 2016, you asked that the programme of inspections commenced as soon as possible, and I agree we should not delay on any agreed actions with respect to this review. However, I understand that you now wish to pause the Joint Review at the end of stage 1. I am still awaiting formal correspondence regarding the Department's proposed next steps on this RHI Joint Review and any related initiatives.

In the interim, I have asked my officials to seek any final comments from your Department regarding the Phase 1 report, before we request Deloitte finalise that report. As agreed with DfE officials, and given there appears to be no current expectation of conducting further site inspections as part of Phase 2 of the RHI joint review, we are continuing to deploy a site audit programme in line with our business as usual approach. Once we have your confirmation on next steps with regard to the review, we will consider the impacts of this and provide an updated audit strategy proposal for 2016/17.

Next steps

I acknowledge that there may be limited retrospective steps that can now be enacted with regard to the NIAO report, but I would be grateful if you could comment on how this circumstance arose, and how this situation may be avoided in future. I would also appreciate an update on your proposals regarding the Joint Review, and any other activities that may have an impact on our ongoing administration, including impacts on our audit and compliance programme for the remainder of 2016/17.

Kind regards,



Chris Poulton

Managing Director
Ofgem E-Serve

Copy: Alison Clydesdale, Department for the Economy

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