

**To:** Michelle Murdoch[Michelle.Murdoch@ofgem.gov.uk]; Keith Avis[Keith.Avis@ofgem.gov.uk]; Paul Heigl[Paul.Heigl@ofgem.gov.uk]; Rita Chohan[Rita.Chohan@ofgem.gov.uk]; Mavreen Ananura[Mavreen.Ananura@ofgem.gov.uk]; Lindsay Goater[Lindsay.Goater@ofgem.gov.uk]; Jacqueline Balian[Jacqueline.Balian@ofgem.gov.uk]  
**From:** Marcus Porter  
**Sent:** 2012-10-18T13:57:28Z  
**Importance:** Normal  
**Subject:** RE: Responses to Ofgem RHI Guidance Consultation  
**Received:** 2012-10-18T13:57:30Z  
[actionrenewables.doc](#)

Michelle

See attached response to the points raised by Action Renewables. I've yet to look at the others.

These consultees have clearly gone through the draft guidance with a fine toothcomb and Jacqueline and Lindsay will wish to note the way in which they have picked up on our "pragmatism" in para 7.59 and expressed the hope that similar "flexibility" will be shown in other areas. I find that quite alarming and would suggest that it bears out my advice in relation to this para earlier in the year when I advised that to act as indicated in the para would be unlawful and that this could lead to difficulties later. The argument is likely to be "but you've shown pragmatism in relation to point A. On what basis do you decline to do so in relation to point B?"

Marcus

---

**From:** Michelle Murdoch  
**Sent:** 17 October 2012 16:41  
**To:** Keith Avis; Paul Heigl; Rita Chohan; Mavreen Ananura  
**Cc:** Marcus Porter  
**Subject:** FW: Responses to Ofgem RHI Guidance Consultation

---

**From:** Stewart, Susan [<mailto:Susan.Stewart@detini.gov.uk>]  
**Sent:** 17 October 2012 16:08  
**To:** Michelle Murdoch  
**Cc:** McCutcheon, Joanne; Hutchinson, Peter; Shortt, Alison  
**Subject:** Responses to Ofgem RHI Guidance Consultation

Michelle

Hope you are well. Please find attached all responses we have received thus far in relation to the Ofgem Guidance consultation. I will send any more through to you as I receive them.

Respondents are -

- BS Holdings (Wayne Cullen)
- Biomass Energy NI
- Action Renewables
- Green Energy Technology Ltd

Many Thanks

Susan

### Susan Stewart

Sustainable Energy  
Department of Enterprise, Trade & Investment  
Netherleigh  
Massey Avenue  
Belfast, BT4 2JP  
Tel: 028 9052 9212 (ext: 29212)  
Textphone: 028 9052 9304  
Web: [www.detini.gov.uk](http://www.detini.gov.uk)

*The new website for the European Sustainable Competitiveness Programme for NI is now available - visit [www.eucompni.gov.uk](http://www.eucompni.gov.uk)*



[www.ni2012.com](http://www.ni2012.com)

**Please consider the environment - do you really need to print this e-mail?**

## Northern Ireland Renewable Heat Incentive

### Draft Guidelines

#### INTRODUCTION:

Action Renewables welcome the opportunity to respond to the consultation on the Development of the Northern Ireland Renewable Heat Incentive, draft guidelines.

Action Renewables is the lead authority on renewable energy in Northern Ireland. We welcome the development of all strategies that will encourage more of a sustainable energy infrastructure in Northern Ireland, increasing our security of supply and recognising the fact that most of the energy consumed in Northern Ireland is associated with heat.

We welcome the consideration of such strategies by the Department of Enterprise, Trade and Investment and applaud the minister for showing commitment to the industry by proposing the introduction of an incentive to encourage the adoption of renewable heat.

Volumes 1 and 2 of the Draft Guidelines are detailed, comprehensive and explicit. Our comments are limited to anomalies and interpretation of definitions, rather about the procedures which are required to implement the RHI in a practical way.

Even though there is an enormous amount of detail in how the process will be managed, interpreted and delivered there is still considerable room for negotiation. In principle that shouldn't be true. The guidance is supposed to be guidance on the Regulations, the Regs themselves have already been consulted on and the guidance doesn't itself have regulatory effect. In short, the guidance ought accurately to reflect the Regs and "negotiation" shouldn't come into it. We welcome suggestions, such as those within clauses 7.58 and 7.59, where Ofgem are open to alternative suggestions and hope that this is reflected generally, in the way that they deliver the scheme in Northern Ireland. Those paras are wholly exceptional and have been included to deal with what in practical terms is a particularly intractable problem. In the ordinary way though Ofgem will be obliged to take the Regulations as it finds them and interpret and administer them in accordance with the law.

Volume 1:

Clause 4.50 Direct air heat is not eligible, this is repeated in 7.1. However clause 6.3 states that drying wood or other biomass, as a process is eligible. There appears to be conflict between these clauses and we would ask Ofgem to confirm that hot air, used for drying wood and other biomass crops is not excluded and that all related clauses are amended to reflect this. I don't see that there is any need for an amendment. As they say, 7.1 and 6.3 are consistent with each other and they correctly reflect the position. But 6.3 doesn't contradict them. It is simply that its focus is the "eligible use" and that is as it should be given that it appears in a Section the heading of which indicates that it is concerned with eligible and ineligible uses. Thus it doesn't, unlike the other two paras, mention the required delivery medium.

Clause 4.52 refers to MCS accreditation. We would ask that this is extended to include installations which have been installed previously, by installers who were not MCS registered at the time, but who have subsequently been accredited with MCS certification. This would require amendment of reg 13, probable re-consultation on the Regs (it is, after all, an eligibility requirement) and possible re-notification under the technical standards directive. In any case, presumably the whole point of imposing the current requirement is that it is considered that it provides a necessary check. The suggestion here would weaken that check considerably, given that some time could elapse between the date of installation and the date of certification of the installer and that his standards of work at the time of installation may have been well below that which is required to obtain certification.

Clause 7.42 refers to metering where the heating installation is not in the same building as the heating delivery. This will be the case in most circumstances where the boiler house is detached from the building to which heat is being supplied. We would ask that this be relaxed so that this does not automatically treat the system as a complex metering issue. It would be more pragmatic, in line with clause 7.59 to allow an agreed percentage reduction in heat delivery, rather than drive most of the installations automatically into the "complex" category. Again, this goes to eligibility and would require amendment of the Regulations and perhaps also re-consultation and technical standards re-notification.

Volume 2.

There is a considerable amount of onus put on the applicant/installer to comply with regulations we have obligations under the Regulations too and in abundance, e.g. to accredit if the application is as it should be, eligibility is established and there is no other reason (specified in the Regs) not to accredit, within specified time periods, throughout both volumes. However, with the exception of a specified period for Ofgem considering complaints within clause 12.8, there appears to be no onus on Ofgem to process applications, make responses, issue certificates or make payments within any specified time periods. This appears to be inequitable.

Deleted: 1

Actually that isn't quite true. See, e.g. in regs 44-9, in each of which there are time obligations on DETI/GEMA. As to the principle, it is the applicant/participant who seeks admission to the scheme with a view to receiving a (perhaps substantial) grant from public money for a 20 year period. That being the case it seems as it should be that he is subject to numerous requirements and that these generally have to be complied with within a specified time limit. Moreover, and once again, any changes in this respect would probably require amendment of the Regs and re-consultation.