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[Letter to Chris Poulton re Carbon Trust Loans issue.DOC](#)

Dear Chris

Attached please find for your consideration a letter from Stuart Wightman setting out DETI proposals for dealing with the Carbon Trust Loans and De Minimis Funding which has been causing some difficulty with a small number of projects. This follows on from a teleconference with Edmund and Nadia on 2 July.

Best Regards

Seamus

Seamus Hughes

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10 July 2014

Chris Poulton
Deputy Managing Director
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9 Millbank
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Dear Chris

NI RHI SCHEME - CARBON TRUST LOANS AND DE MINIMIS FUNDING

Further to my teleconference with Edmund Ward and Nadia Carpenter of your office on 2 July 2014 I am writing to set out our proposals for addressing the carbon trust loan issue and how these should be administered by Ofgem.

Background

In December 2013 DETI took the decision that under the current NI RHI regulations, an organisation receiving financial advantage under the Carbon Trust loan scheme should, in some circumstances, also be able to avail of support under the Renewable Heat Incentive. In addition, we also committed to operating the scheme in line with the EU State Aid de minimis funding arrangements.

In recent months, our teams have been working together to consider options to deliver this approach in line with the UK and EU legislative framework. In operating under the current NI RHI Regulations, our view is that the combination of these two approaches, for current applicants in receipt of Carbon Trust loans, means that there are three categories of application:

- **Category 1** covers applicants currently not in receipt of a Carbon Trust loan or any other public support. These applications are provided for under the existing regulations as approved in our original submission to the European Commission. This could include applicants who have paid off previous carbon trust loans (before the RHI regulations came into force).
- **Category 2** covers applicants whose relevant state aid funding (including carbon trust loans) and likely RHI income would not exceed the relevant de minimis amount over three rolling years. Subject to meeting other eligibility requirements, these applicants would be able to access the RHI.

- **Category 3** covers applicants whose relevant state aid funding (including carbon trust loans) and likely RHI income would exceed the relevant de minimis amount over three rolling years. These applicants are not able to access the RHI under the current regulations.

We are already aware of a number of applications falling within category 3. To progress Category 3 applications, we are planning to amend the NI RHI regulations to allow applicants access to the RHI upon repayment of public support (such as a Carbon Trust loan). We also intend to produce guidance setting out our position on this matter. This could be used by both Ofgem and DETI when setting out the current position to prospective applicants. We will share these with you for comment in due course.

Administrative Approach

In the period prior to any amendments to the regulations coming into force, I would like to propose the following approach to enable the processing of applications to continue by Ofgem, while also ensuring consistency with our policy:

- Ofgem should continue to administer all Category 1 applications without any change in approach.
- For all other applications, Ofgem should gather information relating to any additional sources of funding and relevant amounts in the form of a state aid declaration. The operating hours submitted by the applicant should be taken from their carbon trust loan application. If this information is not available, a reasonable estimate should be submitted by the applicant.
- In cases where Ofgem are satisfied that an application falls into Category 2, it should proceed to accreditation, informing DETI of the number of these on an aggregated monthly basis.
- In cases where Ofgem are satisfied that an application falls into Category 3, it should refer the relevant information gathered to DETI. In these cases, DETI will exercise its functions under the Regulations (which confer all powers to the Department) to reach a decision and inform Ofgem of its decision. Ofgem will then update the NIRHI Register on behalf of DETI.

Next steps

I would be grateful for your view on the adoption of the above approach. It would be useful if you could consider this more formally and provide a response. If you are satisfied with this approach, and conscious that there are currently applications on hold pending our agreement on this issue, I would recommend that we move to this arrangement as soon as you are able to confirm that this is in line with your expectations.

If you would wish to discuss further before coming to a final decision I am willing to facilitate.

Yours sincerely

A handwritten signature in black ink that reads "S. Wightman". The signature is written in a cursive style with a large initial 'S'.

STUART WIGHTMAN
Head of Renewable Heat Branch

cc John Mills
Seamus Hughes
Davina McCay
Dan Sinton
Linda McGready
Edmund Ward
Nadia Carpenter
Gareth John

