



Data Sharing Protocol (DSP) for the sharing of data, including personal data obtained under the Non-Domestic Renewable Heat Incentive (RHI)

between

The Department of Enterprise, Trade and Investment (DETI)

and

The Gas and Electricity Markets Authority (GEMA)¹

Renewable Heat Incentive: Application data provided by applicants and scheme administration data

May 2014

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¹ Ofgem is the office of GEMA and ‘Ofgem’ and ‘GEMA’ are used interchangeably in this document.

1. Contact details

DETI

Ofgem

2. Introduction and background:

The Department of Enterprise, Trade and Investment (DETI) has established a Non-Domestic Renewable Heat Incentive (RHI) scheme under s. 113 of the Energy Act 2013 and the Renewable Heat Incentive Scheme Regulations (Northern Ireland) 2012. This is operated by the Gas and Electricity Markets Authority (GEMA) under Administrative Arrangements. Ofgem is the office of GEMA and 'Ofgem' and GEMA are used interchangeably in this document.

In the course of its operation of the Non-Domestic RHI scheme, Ofgem collects and holds data supplied by applicants and participants and data generated in relation to administering the scheme for each application and installation. Some of the data held by Ofgem will include "personal data" within the meaning of the Data Protection Act 1998.

3. Nature of the data being shared and process for sharing

The data that Ofgem will share with DETI and when this will be shared are set out in Annex A. The data will cover information relating to the applicant or participant, the technology they have installed, the metering they have in place, the heat generated, payments made and some information recorded by Ofgem in relation to the accreditation processes.

This will include, details of the names of RHI applicants and participants, their addresses (residential or commercial), telephone numbers and email addresses. Details of the use for this personal information are set out in section 7. DETI's arrangements for handling this data on receipt are outlined under the heading "Security and Assurance". DETI will not require any sensitive personal data as defined by the Data Protection Act 1998 or information on applicants' bank account details.

The frequency and timing of transfers of these data to DETI from Ofgem will be established under this Data Sharing Protocol, and any disclosures made in response to such requests will take place subject to and in accordance with this Data Sharing Protocol.

4. Process

This data sharing will involve DETI and Ofgem only. Once Ofgem data has been shared with DETI, DETI will become the data holder under the Data Protection Act 1998.

Ofgem undertakes to provide to DETI the information required under this request in the circumstances, at the frequencies and subject to the legislation and review arrangements provisions set out more fully in this Data Sharing Protocol. Changes to the data to be provided will also be covered by the review arrangements clause in this Data Sharing Protocol.

5. Data provided by Ofgem to DETI

This will be provided on a **monthly** basis and includes a snapshot of the 'non domestic RHI register' at month end for all records. The extract Ofgem supply from the RHI register should cover applicants whose applications were made up to the last working day of the calendar month.

Subject to what is said below about specific pieces of personal data, details of all the data required to be covered are set out in Annex B.

The data will be transferred directly from Ofgem to DETI and held by DETI in accordance with principles set out in the section of this agreement headed 'Security Arrangements'. Access to the data will be limited to named individuals (or their replacements) as agreed by the DETI Information Asset Owner.

Comment [KW1]: DETI to consider and confirm how access to data will be managed.

6. DETI's statement of justification for sharing personal data

DETI considers the sharing of the information in Annex A which may include personal data is essential to obtain a complete picture of the measures installed under the RHI, to fully monitor roll-out and progress of the RHI, to publish RHI Official Statistics, and to feed into the evaluation of the policy. This is set out more fully in DECC's reasoning below.

Comment [KW2]: DETI to review and set out reasons for requiring data and its use. Also subject to legal review as to the level of detail required.

7. Legal basis for sharing the personal data

Information may be requested from Ofgem by DETI under either regulation 51 of the RHI Scheme Regulations 2012 or the functions set out in the Administrative Arrangements. Any such request made by DETI will state clearly the enactment under which it is made. In addition, both parties must take specific note of the following legal constraints on the sharing of personal information.

Comment [KW3]: All of the legal references need to be reviewed and those relevant to the N scheme added.

Comment [KW4]: DETI/legal to consider.

In making each individual request for data, DETI acknowledges that Ofgem's ability to disclose information that it obtains is subject to section ... This provides that information which has been obtained under or by virtue of (section ... of the Energy Act ...) and which relates to the affairs of any individual or to any particular business shall not be disclosed during the lifetime of the individual or so long as the business continues to be carried on, except as provided in the remainder of that section.

Section ... of the Utilities Act ... provides that subsection (1) does not apply to a disclosure if it is made for the purpose of facilitating the performance of any functions of the Secretary of State under (section 1... of the Energy Act ...). DETI specifically confirms that the disclosures proposed under the requests made under this Data Sharing Protocol will each be within the scope of section ... Utilities Act ... and for that purpose.

DETI confirms that the information covered by each request will be only that which is required for the performance of the functions of the Secretary of State for monitoring the rollout of the policy, particularly the distributional impacts; its effectiveness in combining with other energy efficiency and demand reduction policies and in order to further develop the policy and associated policies to meet carbon reduction targets.

Ofgem and DETI recognise that -

(a) much of the data covered by these requests will be "personal data" for the purposes of the Data Protection Act 1998;

(b) processing (and disclosure) of any personal data from applicants or participants under the Non-Domestic RHI scheme must be fully in accordance with, and subject to, the Data Protection Act 1998, and to relevant Data Protection Principles set out in that Act; and

It is noted that section 35(1) of the Data Protection Act 1998 provides that -

"(1) Personal data are exempt from the non-disclosure provisions where the disclosure is required by or under any enactment ..."

DETI confirms that for the purposes of these formal requests, the "enactment" relied on for the purposes of section 35 of the Data Protection Act 1998 is regulation 51 of the Renewable Heat Incentive Scheme Regulations 2012 and the Administrative Arrangements - as applicable and to be individually stated on each request.

It is further noted that section 27 of the Data Protection Act 1998 defines the non-disclosure provisions, and qualifies the scope and application of the exemption from their application.

DETI acknowledges that disclosure of data in response to these formal requests can only take place in compliance with and subject to the provisions of section 27 of the Data Protection Act 1998. DETI will not be requesting any sensitive personal data as defined in that Act.

It is noted that section 27 of the Data Protection Act 1998 qualifies the exemption in section 35 of that Act such that part of the first data protection principle (that data must be processed fairly), must still be met. Principles 6-8 of the DPA must also be met.

With respect to the Schedule 2 of the Data Protection Act 1998 condition for fair processing, Ofgem is required to meet its reporting obligations under regulation 53(1) and regulation 54 of the RHI Scheme Regulations 2011, and it is also relevant that participants in the RHI scheme have been provided with a privacy notice as part of their application process, which specifically puts them on notice that information provided may be shared with DETI. For the purposes of the application of this test to DETI, DETI's Schedule 2 condition for processing is condition 5(c) and 5(d), the requirement for performance of government/public functions and legitimate interest in ensuring applicants to the scheme get the best possible service and realise the maximum carbon savings.

The sixth data protection principle will be met. The contact information will be used for research on the scheme, but this will be voluntary for those contacted.

The seventh data protection principle will be met since the data will be held at the appropriate level of security for this data. This is covered in more detail in the Security and Assurance section below.

The eighth data protection principle will be met since the data will be stored on servers in the UK.

8. Security and assurance

Although responsibility for the data once transferred to DETI will rest with DETI as data controller, DETI have advised Ofgem of the following proposed security arrangements -

The following information security measures will be put in place by DETI to ensure the safekeeping of this shared information including, and with particular reference to the personal information listed in Annex B (i.e. the data that could be used to identify an individual such as address). The parties agree to work together and comply with their respective information assurance and data protection policies.

Only designated and named members of DETI will be able to access the RHI register data containing the personal information. DETI acknowledges and agrees that these designated members will be kept to a reasonable minimum. DETI will only publish aggregate results that meet the requirements of Principle 5 of the Code of Practice for Official Statistics² on confidentiality and is line with the Data Protection Act 1998.

Below is a list of the information security measures which DETI will put in place, or have already put in place, to safeguard the data provided to them by Ofgem.

DECC will ensure the security of the RHI datasets by deploying the following measures:

1. The identified DETI Information Asset Owner of the RHI data and, as such, is ultimately responsible for the security of the RHI measures provided by Ofgem.
2. It is proposed that DETI will take receipt of the monthly data and any personal data requests via the ... and, as such will be suitable for the transfer of personal data.
3. DETI will store the raw data in

Both Ofgem and DETI will comply with their requisite information assurance and retention and disposals of data policies as required.

Maintaining accuracy of the personal information

² <http://www.statisticsauthority.gov.uk/assessment/code-of-practise/index.html>

Ofgem has audit and quality assurance checks in place which will enable personal information to be recorded accurately. DETI may also conduct checks of data quality across the scheme.

If either party identifies an error, Ofgem will investigate and amend the data appropriately if needed.

Access and individuals' rights

In the event that either DETI or Ofgem receive a request for access to such information contained in the RHI register as has been transferred to DETI in response to a request made under this Protocol, then each party, will respond to that request as required by law. Where it involves data that has been shared under this Data Sharing Protocol, the parties will notify each other promptly of receipt of the request and co-operate as necessary to ensure it is addressed in accordance with relevant legislation.

This covers information requested under: the Freedom of Information Act 2000 and the Environmental Information Regulations 2004 as well as parliamentary questions.

Ownership of the personal data and procedure for data loss/breach notification

Once the data has been transferred to DETI, both DETI and Ofgem acknowledge that the data becomes the responsibility of the DETI Information Asset Owner. In the event of any data loss, whilst the data is at DETI, it will be subject to DETI data protection policy and information assurance protocols.

9. Data Protection Principles:

DETI and Ofgem will each ensure that its processing of the personal information complies with the eight Data Protection Principles as set out below.

Schedule 1 to the DPA 1998:

1. Personal data shall be processed fairly and lawfully and, in particular, shall not be processed unless-
 - a) At least one of the conditions in Schedule 2 is met, and
 - b) In the case of sensitive personal data, at least one of the conditions in Schedule 3 is also met.
2. Personal data shall be obtained only for one or more specified and lawful purposes, and shall not be further processed in any manner incompatible with that purpose or those purposes.
3. Personal data shall be adequate, relevant and not excessive in relation to the purpose or purposes for which they are processed.
4. Personal data shall be accurate and, where necessary, kept up to date.
5. Personal data processed for any purpose or purposes shall not be kept for longer than is necessary for that purpose or those purposes.
6. Personal data shall be processed in accordance with the rights of data subjects under this Act.
7. Appropriate technical and organisational measures shall be taken against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data.
8. Personal data shall not be transferred to a country or territory outside the European Economic Area unless that country or territory ensures an adequate level of protection for the rights and freedoms data subjects in relation to the processing of personal data.

10. Privacy statement

Comment [KW5]: DETI to review and add details of how personal data will be held. DETI/Ofgem to set out how data will be sent and received. Advice from Ofgem Information management team is that this can be done securely in a number of ways:

1. Secure File Transfer Protocol
2. GSI may be secure enough but a dedicated transfer point would be more secure

Comment [KW6]: DETI/legal to review to check that provisions are applicable for the sharing of RHI data.

Ofgem will continue to ensure that an appropriate Privacy Statement, advising on arrangements for fair processing and the possibility of information sharing between Ofgem and DETI, is visible as part of the RHI application process.

11. Termination and review arrangements:

This Data Sharing Protocol will come into effect on the date of signature by both parties and will expire when the delivery and evaluation of the RHI scheme ends.

It will be reviewed by DETI and Ofgem;

- (a) after any regulation changes,
- (b) as required,
- (c) where there are new and additional requests for data,

to ensure it is up-to-date and does not need to be further amended to reflect changes to the Scheme.

The effectiveness of this agreement will be assessed after 6 months, or in the event of a breach of the terms of this agreement, or any statutory obligation which relates to the transferred data by either party, whichever occurs soonest, and then every 6 months thereafter until the agreement is terminated.

Either party may terminate this agreement by giving at least three months' notice in writing to the other party at any time.

Any proposed changes to the timing or content of the data to be shared will be agreed in writing between the signatories below (or their successors) and the appropriate Annex will then be updated.

In every case where a provision of this agreement is breached, the parties to the agreement will liaise to consider the reasons for the breach and to agree steps for ensuring that the breach does not occur in the future.

This agreement is not intended to be legally binding, and no legal obligations or legal rights shall arise between the parties from this agreement. The parties enter the agreement intending to honour its provisions.

12. Signatories

Gas and Electricity Markets Authority

DETI

Name of head of business area:

Name of head of business area:

.....
POSITION

.....
POSITION

Signature of head of business area:

Signature of head of business area:

.....

.....

Date:

Date:

Comment [KW7]: DETI to consider and determine whether review arrangements are appropriate

ANNEX A

This annex contains the details of the Non-Domestic RHI data required. This information is requested from Ofgem by DETI under regulation 51 of the RHI Scheme Regulations 2012 and the Administrative Arrangements.

Data	Question	Information	Data Field Type	Accepted Format	Validations	Frequency	Power to provide information
RHI reference number			Alphanumeric			Monthly	
Business name	What is the name of the business applying for RHI	Provide the trading name of the business applying	Alphanumeric	Free Text Max character length of 50 characters		Monthly	
Building Number	What is the name of the building in which the RHI is being applied for (if applicable)?	Provide the number of the building (if applicable)	Alphanumeric	Free Text Max character length of 50 characters	"Like" match against CapScan	Monthly	
Building Name	Where relevant, what is the name of the building in which the RHI is being applied for?	Provide the name of the building (if applicable)	Alphanumeric	Free Text Max character length of 100 characters	"Like" match against CapScan	Monthly	
Flat Name/ Number	Where relevant, what is the name or number of the flat in which the RHI is being applied for?	Provide the name or number of the Flat (if applicable). The word 'Flat' should be entered where appropriate (e.g. Flat 1)	Alphanumeric	Free Text Max character length of 50 characters	"Exact" Match against CapScan If a flat name or number is available it must be provided	Monthly	
Street Name	What is the name of	Provide the name of the	Alphanumeric	Free Text	"Like" match	Monthly	

Comment [KW8]: The content of this column and the heading will need to be reviewed once legal have commented.

Data	Question	Information	Data Field Type	Accepted Format	Validations	Frequency	Power to provide information
	the street on which the premises is located?	street on which the premises the measure was installed in is located		Max character length of 50 characters	against CapScan		
Town	What is the name of the town or city in which the premises is located?	Provide the town in which the premises the measure was installed in is located (where relevant)	Alphanumeric	Free Text Max character length of 50 characters	"Like" match against CapScan	Monthly	
Postcode	What is the post code for the premises?	Applicants should provide the full Royal Mail postal code corresponding to the address provided	Alphanumeric & 'Space'	AN NAA ANN NAA AAN NAA AANN NAA ANA NAA AANA NAA	"Exact" Match against CapScan. (Postcodes with and without spaces will be accepted) Max character length of 10 characters Ofgem's system cannot accept this data unless it is notified in accordance with the accepted format (set out in the column to the left). Where	Monthly	

Comment [KW8]: The content of this column and the heading will need to be reviewed once legal have commented.

Data	Question	Information	Data Field Type	Accepted Format	Validations	Frequency	Power to provide information
					this data is provided in a format other than the accepted format the attempt to notify the measure will fail		
Company telephone number			Alphanumeric			Monthly	
Name of individual			Alphanumeric			Monthly	
Email address			Alphanumeric			Monthly	
Industrial classification (SIC)	What is the main industrial classification of the business applying	Provide a description of the main business functions in order to allow grouping in standard industrial classifications	Alphabetic List Value		Only entries corresponding to the list will be accepted	Monthly	
Planned use of heat	What is the main purpose for the RHI technology	to determine use for space, water heating or process heating	Alphabetic List Value	Space heating; water heating; process heating etc.	Only entries corresponding to the correct format will be accepted	Monthly	
Technology Type	Which measure was installed at the premises identified above?	This describes the technology type installed at a property (each measure installed at a property is to be reported as a separate row)	Alphabetic List Value		Only entries corresponding to the list will be accepted	Monthly	
Product Name	What is the Manufacturers Product	Holds the name of the product.	Alphanumeric	Free Text		Monthly	

Comment [KW8]: The content of this column and the heading will need to be reviewed once legal have commented.

Data	Question	Information	Data Field Type	Accepted Format	Validations	Frequency	Power to provide information
	name?			Max character length of 100 characters			
Whether a system is simple or complex	Location of heat generation and use. Is the heat generating plant for which you are making this RHI application located in the same building as all the uses of the heat produced by the plant, with all these uses being eligible? Only answer „Yes“ here if there is no external heat distribution pipework or ineligible uses of heat.	Question reference HH110 in applicant guidance pack 2				Monthly	
Total Installed capacity	What is the design capacity of the installed technology	Total installed capacity for the installation	Numeric	In kW		Monthly	
Design efficiency (in use)		to understand the impact on fuel bills				Monthly	
Installation Commissioning Date		Date the RHI technology was signed off as fit to generate	Date	dd/mm/yyyy	this should be on or after the installation date but before heat was being generated	Monthly	
Date Application		This is the date the applicant submitted the	Date	dd/mm/yyyy		Monthly	

Comment [KW8]: The content of this column and the heading will need to be reviewed once legal have commented.

Data	Question	Information	Data Field Type	Accepted Format	Validations	Frequency	Power to provide information
Submitted		application. aka Date of first submission					
Date of most recent submission						Monthly	
Date accredited		This is the date that Ofgem accredited the application. aka Date of first approval	Date	dd/mm/yyyy	must be after application date	Monthly	
Date of most recent approval						Monthly	
Accreditation date		Date when an application is considered to have been properly made and met all eligibility criteria.	Date	dd/mm/yyyy	must be before date accredited and the same as or after the application submission date	Monthly	
Application withdrawn	Has the application been withdrawn	Manually added "Withdrawn" in additional column if application is dormant and withdrawn for degression purposes instead of highlighting RHI numbers if they have been withdrawn	Alphabetic List Value	"Withdrawn" or blank		Monthly	
Application type		Whether a full or preliminary application	Alphanumeric			Monthly	
Application Status		Whether an applications has been approved, is with applicant , is in review with Ofgem or have been rejected etc.	Alphanumeric			Monthly	
Accreditation status		Whether an application has been accredited, is still	Alphanumeric			Monthly	

Comment [KW8]: The content of this column and the heading will need to be reviewed once legal have commented.

Data	Question	Information	Data Field Type	Accepted Format	Validations	Frequency	Power to provide information
		pending, been withdrawn etc.					
Reason for application rejected		Already provided by Ofgem	Alphabetic List Value			Monthly	
Tariff name		Technology name and size ass set out in table 1 column 1 of schedule 3 in regulation	Alphanumeric			Monthly	
Starting Tariff Rate		tariff given to applicant for first payment	Alphanumeric			Monthly	
Current Tariff Rate		tariff given following any RPI increases or degression reductions	Alphanumeric			Monthly	
Grant Status		Whether a grant was received and if so whether it was repaid. E.g. No grant, grant not repaid, grant repaid	Alphanumeric			Monthly	
Nox. emissions value						Monthly	
PM emissions value						Monthly	
Is this a CHP installation?			Alphabetic List Value	Yes/No		Monthly	
MCS Certificate Number			Alphanumeric			Monthly	
Installation MCS or EN45011			Alphanumeric			Monthly	
District Heating			Alphabetic List Value	Yes/No		Monthly	
Onsite Heat Use (%)		Installations connected to District Heating only	Numeric			Monthly	
Offsite Heat		Installations connected to	Numeric			Monthly	

Comment [KW8]: The content of this column and the heading will need to be reviewed once legal have commented.

Data	Question	Information	Data Field Type	Accepted Format	Validations	Frequency	Power to provide information
Use (%)		District Heating only					
Number of Properties Served by DH		Installations connected to District Heating only	Numeric			Monthly	
Separate Meters for DH Properties		Installations connected to District Heating only	Alphabetic List Value	Yes/No		Monthly	
DH network temperature (degC)		Installtions connected to District Heating only	Numeric			Monthly	
DH Expansion Likely		Installtions connected to District Heating only	Alphabetic List Value	Yes/No		Monthly	
Previous heat use						Monthly	
Capital Costs			Numeric	£		Monthly	
Non-Direct Costs			Numeric	£		Monthly	
ESCO Type		Whether public or private				Monthly	
New build / Retrofit						Monthly	
Back-Up Boiler Used			Alphabetic List Value	Yes/No		Monthly	
Type of Back-Up Boiler						Monthly	
Size of Back-Up Boiler			Numeric			Monthly	
State Aid - Large Org.			Alphabetic List Value	Yes/No		Monthly	
WID Regulated			Alphabetic List Value	Yes/No		Monthly	
System Type Replaced			Alphanumeric			Monthly	
Number of Systems Replaced			Numeric			Monthly	
Capacity of			Numeric	kwh		Monthly	

Comment [KW8]: The content of this column and the heading will need to be reviewed once legal have commented.

Data	Question	Information	Data Field Type	Accepted Format	Validations	Frequency	Power to provide information
replaced Installation							
Number of Hot Water Meters			Numeric			Monthly	
Number of Steam Meters			Numeric			Monthly	
Start date for meter reading			Date	dd/mm/yyyy		Monthly	
End date for meter reading			Date	dd/mm/yyyy		Monthly	
Amount of heat generated			Numeric	in kwh		Monthly	
Amount of money paid			Numeric	in £s		Monthly	
Applicant's stated estimated hours of operation each week			Numeric	In hours		Monthly	

Comment [KW8]: The content of this column and the heading will need to be reviewed once legal have commented.