



Memo

NI RHI – Decision paper

This paper highlights the key decisions that are required to progress with the NI RHI development phase. Included are options for whether Ofgem enter into an ASA or a MoU with DETI in order to administer the NI RHI and whether the Development Phase Agreement is on track.	From To cc Date	Will Elliott Matthew Harnack Keith Avis 17 July 2012
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1. Aim

1.1. This paper poses a question to decide how to progress with formalising the administrative arrangement with DETI for Ofgem to administer the NI RHI. It also asks for a steer on the content and direction of the Development Phase Agreement. This paper is accompanied by three draft documents:

- I. A draft Memorandum of Understanding (MoU);
- II. An draft Agency Services Agreement (ASA); and
- III. Development Phase Agreement (DPA).

2. Background

Administrative Agreement with DETI

- 2.1. The decision to prepare a non-legally binding form (MoU) of the administration arrangements arose from Legal's concern that the administration arrangements should avoid contractual language.
- 2.2. DETI is yet to see either of the documents stated above (I & II), and there is still a fair amount of input we will need to receive from DETI before things like termination clauses and administration costs can be finalised. However, even at this stage there is a significant decision to be made with respect to which form of agreement we take forwards with DETI.

Development Phase Agreement

- 2.3. The original scoping for the development phase was conducted during the Feasibility Study which was published in December 2011. The activities, resource requirements and costs stated in that document were based upon an April 2012 scheme launch.
- 2.4. Due to the delay in the NI RHI scheme launch, it was decided to revise the Development Phase Agreement to see if the forecast activities, resource requirements and costs have changed to deliver the new launch date requirements.

3. Administrative Agreement with DETI

- 3.1. We have provided two approaches to agreeing the way forward for Ofgem to administer the NI RHI. A formal ASA or a more informal MoU which is more in line with the current relationship between Ofgem and DECC.
- 3.2. The assumption is that the agreement is primarily to ensure that E-Serve's costs can be recovered. The questions that needs answering are:

- I. **Is there a feature in the NI RHI scheme that is different from the GB RHI scheme which results in a different approach to administration being required?**
- II. **In order to recover E-Serve's costs, do we need an agreement that is legally binding and therefore enforceable in court?**

3.3. The answer to this question essentially sets the direction as to which format of agreement Ofgem legal proceed with.

4. Development Phase Agreement

- 4.1. The first draft is completed and has been circulated for review by the project team. Comments have been returned and taken on board early this week.
- 4.2. At present this document is still in draft as we are still awaiting final costs which we expect to have by our allocated time at your surgery.
- 4.3. The core of the deliverables and activities stated in the original Feasibility Study, submitted to DETI in December 2011, are still valid.
- 4.4. There are 3 additional activities that have arisen due to the delay in launching the scheme from the original date of April 2012:
 - I. Development of a transitional arrangement to 'plug the gap' between when DETI officially launch the NI RHI scheme, expected end of September 2012, and when Ofgem's administrative system is ready to 'go live' which could be as late as October 2012;
 - II. Redevelopment of the administrative processes, materials and contingencies for when the GB and NI RHI schemes diverge. This is expected to occur following DECC's amendments to the GB RHI legislation in January 2013;
 - III. The need to conduct a stakeholder consultation workshop on Ofgem's guidance to generators.
- 4.5. The Ofgem NI RHI development team have revised the cost forecasts for the staff resourcing element and in addition to the activities stated in the Feasibility Study, recruitment for a Band C Operations Manager will be within the development phase remit and costs;
- 4.6. A significant risk has arisen from the work in paragraph 4.5 above. This is that the next HR board for Band C's starts on the 17th August which doesn't leave enough time to guarantee having an operations manager trained and in place by the NI RHI launch at the end of September 2012. We have planned to mitigate this by exploring two options: 1) Temporary recruitment or 2) A Band C from the GB RHI team spending 2-3 weeks in Glasgow/London to oversee the period between the NI RHI launch and the Band C being trained and in place.
- 4.7. The Legal costs have been revised and due to greater certainty regarding the regulations and their similarity to the GB scheme regulations they have been revised down to £..... but have retained the same contingency levels;
- 4.8. The IT costs have also been revisited and are likely to be reduced to around £..... and will certainly not exceed the previously forecast cost contained in the original Feasibility Study.