Department for the Economy

Non-Domestic Northern Ireland Renewable Heat Incentive (NIRHI)

Guide to 2019/20 Voluntary Buy-Out Arrangements

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Overview and context

Voluntary buy-out arrangements

The Renewable Heat Incentive Scheme Regulations (Northern Ireland) 2012 ("the Principal Regulations") established a Renewable Heat Incentive Scheme for non-domestic use ("the Scheme"). The Scheme is sponsored by the Department for the Economy ("the Department") and the Principal Regulations confer certain functions on the Department with regard to the general administration of the Scheme. The Scheme was intended to promote the use of renewable heat by providing for periodic payments to be made to accredited installations.

In accordance with regulation 23B(2) of the Principal Regulations[1] the Department may prepare and publish, in such manner as it thinks appropriate, arrangements for a voluntary buy-out ("VBO") in respect of renewable heat installations accredited to the Scheme.

This guidance document sets out the terms of the 2019/20 VBO arrangements and seeks to assist those who wish to avail of the arrangements.

Background

The Principal Regulations, which were made under section 113 of the Energy Act 2011, have been amended on several occasions to address concerns about the operation of the Scheme.

The Renewable Heat Incentive Schemes (Amendment) Regulations (Northern Ireland) 2015 ("the 2015 Regulations") amended the Principal Regulations in order to introduce a tiered tariff and an annual cap for certain installations accredited after 18 November 2015. They also effected changes to the tariff banding of medium and large biomass boilers. Installations accredited before that date continued to receive untiered

[1] Regulation 23B was inserted by section 4 of the Northern Ireland (Regional Rates and Energy) Act 2019 [2019 c13]

and uncapped payments—a situation which created unacceptable pressures on public expenditure. Accordingly, the Renewable Heat Incentive Scheme (Amendment) Regulations (Northern Ireland) 2017 (the "2017 Regulations") amended the Principal Regulations in order to apply the same tiered tariff and annual cap set out in the 2015 Regulations to installations accredited before 18 November 2015. The provisions of the 2017 Regulations were to cease to have effect on 31 March 2018, but were extended to 31 March 2019 in accordance with the Northern Ireland (Regional Rates and Energy) Act 2018 (“the 2018 Act”).

That extension was to allow for a review of the Scheme and the introduction of a long-term tariff structure. The Northern Ireland (Regional Rates and Energy) Act 2019 (“the 2019 Act”) amended the Principal Regulations in order to provide for the continuation of a tiered tariff structure and tariff bandings. The new tariffs were set following an extensive review of the costs involved in installing and operating a biomass installation versus a fossil fuel alternative (“the counterfactual”). The long-term tariff structure for medium biomass boilers, which has applied from 1 April 2019, is set at a level to provide a 12% prospective internal rate of return.

The Scheme is now closed to new applicants by virtue of the Renewable Heat Incentive Schemes (Amendment) Regulations (Northern Ireland) 2016.

While the Department expects the revised tariffs to provide an internal rate of return of at least 12% over the 20 year period for the majority of accredited installations, there will be a small group of participants who will see a lower return. For this reason, alongside the revised tariffs, the 2019 Act includes provision for the Department to prepare and publish VBO arrangements.

These VBO arrangements allow participants to apply for a one-off payment equivalent to an internal rate of return of 12% over a 20 year period on the additional capital cost of their biomass boiler, taking account of the amount of periodic payments already received in respect of heat used to date. Some applicants to the VBO arrangements may not be eligible for a buy-out payment due to the level of periodic payments received in respect of heat used to date. The VBO arrangements are completely voluntary and no onus is put on any participant to apply for, or accept, a buy-out offer.

However, upon acceptance and subsequent payment of a buy-out offer, the relevant installation will no longer be accredited under the Scheme and no further periodic payments will be made.

Please note - this document merely provides guidance and is not intended to be a definitive statement of the law. In the event of any conflict between the relevant legislation and this guidance, the legislation will take precedence. Those who wish to avail of the VBO arrangements should read the relevant legislation and may wish to seek independent legal advice from their own lawyers.

The Department will advise participants of any substantive updates to this guidance.

Associated documents

Readers should also read the following legislation, which is referred to in this guidance and which can be found at www.legislation.gov.uk:

- The Renewable Heat Incentive Scheme Regulations (Northern Ireland) 2012
- The Renewable Heat Incentive Schemes (Amendment) Regulations (Northern Ireland) 2015
- The Renewable Heat Incentive Schemes (Amendment) Regulations (Northern Ireland) 2016
- The Renewable Heat Incentive Scheme (Amendment) Regulations (Northern Ireland) 2017
- Northern Ireland (Regional Rates and Energy) Act 2018
- Northern Ireland (Regional Rates and Energy) Act 2019

The Department has also published the additional documents below which can be accessed through the following link:
Guidance for applicants to the Non-Domestic RHI VBO Arrangements

NIRHI 2019/20 VBO arrangements - FAQs
NIRHI 2019/20 VBO arrangements - Guide to calculation of VBO payment
NIRHI 2019/20 VBO arrangements - Guide to online calculators
NIRHI VBO Online Calculator (0-19kW)
NIRHI VBO Online Calculator (20-99kW)
NIRHI VBO Online Calculator (100-199kW)
NIRHI 2019/20 VBO arrangements - application form
Privacy Notice - Non Domestic RHI Scheme – Voluntary Buy Out Scheme

Introduction

Policy Context

Following the introduction of the Scheme in November 2012, there were 2,128 applications prior to the Scheme being suspended in February 2016. Participants on the Scheme currently receive payments which are calculated by applying the tariffs (p/kWh) to the amount of heat (kWh) generated. At the inception of the Scheme the tariffs were calculated with the intention of compensating for the additional costs of renewable heat, as well as providing a 12% internal rate of return over 20 years on the net capital investment, however, it transpired that the original tariffs delivered rates of return significantly in excess of that intended. Tariff levels vary depending on the renewable heat technology being used to generate heat and the size of the installation. Since 1 April 2017 there has been no distinction between the tariffs applicable to installations with an effective accreditation date prior to 18 November 2015 and those accredited after this date.

Following the introduction of the 2017 Regulations, analysis by the Department suggested that participants on the Scheme continued to be over compensated, i.e. participants were achieving a rate of return in excess of 12%. The energy consultancy Ricardo Energy & Environment was commissioned to undertake a review of the tariff structure, with the recommendations of their review being incorporated in the amendments for which the 2019 Act provides.

European Commission State aid approval was a significant factor in setting the new long-term tariffs. Whilst an 8-22% range of rates of return was referenced in earlier State aid approvals for the Scheme, Commission officials clarified in 2019 that State aid approval is based on a 12% rate of return rather than a range of rates or specific tariffs. As such, any tariff that provided participants with an internal rate of return higher than 12% would be in breach of those approvals.

The long-term tariffs were calculated on the basis of the 'typical' boiler on the Scheme achieving a 12% internal rate of return. Boilers purchased at a lower than average cost will achieve higher rates of return and, conversely, boilers purchased at a relatively high cost and/or operated at lower load factors may not achieve a 12% internal rate of return over 20 years. It was with these atypical installations in mind that provision was made in the 2019 Act for VBO arrangements. These arrangements allow for one-off VBO payments which will deliver the equivalent of an internal rate of return of 12% over a 20 year period on the net capital investment associated with an installation, taking account of periodic payments received in respect of heat used to date.

The Department estimates that approximately 50% of installations currently accredited on the Scheme would be able to receive a buy-out payment, i.e. after accounting for the capital element of previous incentive payments, these installations have not yet achieved a 12% internal rate of return on their net capital investment. Therefore, while not all installations will be eligible to receive a payment, it is anticipated that the VBO arrangements may allow for a significant number of installations to receive a one-off payment. Applications in respect of installations which have already achieved a 12% internal rate of return on net capital invested will receive an offer of £nil.

The calculation of VBO offers will be based on an installation’s eligible capital costs, eligible indirect costs, the costs of a relevant counterfactual fossil fuel installation, and the installation’s energy heat output and periodic payments to date.

Before any buy-out offer can be paid the Department will need to take steps to ensure the installation is compliant with the Principal Regulations, as amended. The Department will seek to complete a site inspection of the installation if such an inspection has not previously been carried out under the Department’s inspections programme. In such circumstances, the inspection, and any resulting compliance activity, must be completed in all material respects prior to any buy-out offer being paid. The Department will prioritise scheduling any necessary inspections.

The budget available for the VBO arrangements will be initially limited in each of the financial years 2019/20 to 2021/22 to £4m. Should demand for the VBO arrangements significantly exceed the available budget in any financial year, the Department may seek further budgetary approval. In order to remain within budget, applications will be considered on a ‘first come first served’ basis.

The Department intends to open windows for voluntary buy-out applications periodically during 2019/20, 2020/21 and 2021/22. The Department will write to inform authorised signatories of NIRHI installations when a window opens.

The powers conferred on the Department in respect of the VBO arrangements may only be exercised during the period in which there is no Executive in Northern Ireland.

Reporting

The Department will report after the end of each financial year on the operation of the VBO arrangements in that year. The report will include the number of participants who have received a buy-out payment in that financial year and the total amount of buy-out payments made by the Department in that year.

Queries

Any queries relating to the VBO arrangements should be made in writing to RHIVBO@economy-ni.gov.uk. Existing participants should quote the relevant installation number to which the query relates. The Department will only advise on specific cases where the request has been made by the authorised signatory, using the email address recorded as being the contact email address of the accredited installation, currently held by the Department/Ofgem. Postal queries should be sent to RHI VBO Team, Netherleigh, Massey Avenue, Belfast, BT4 2JP.

Scope of this guidance

This guidance does not claim to anticipate every scenario which may arise. Where a scenario arises which is not addressed in this guidance, the Department will adopt an approach which they consider to be consistent with the relevant legislation. Any further guidance published in addition to the guidance contained in this document will be made available on the Department's website.

As noted above, this guidance is not intended to provide a definitive statement of the law. At all times, the onus is on the applicant (registered owner) of an installation to ensure that they are aware of the requirements of the legislation.

Treatment of personal data

All personal data collected from participants by the Department will be processed in accordance with the Data Protection Act 2018. In line with other data collected in respect of the Scheme, information may be shared with Ofgem. The Department or Ofgem may also share this information, where necessary to prevent and detect fraud, with other government organisations involved in the prevention and detection of crime.

Privacy notice

The Department's Privacy Notice can be accessed from the following link:
Guidance for applicants to the Non-Domestic RHI VBO Arrangements

The Application Process

Overview

The diagram below provides an overview of the application process.

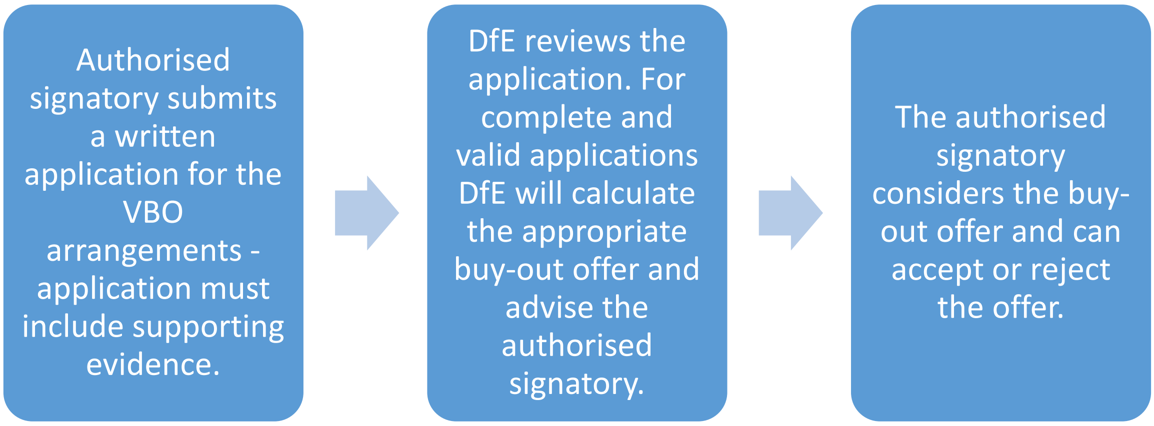

Fig 1. Overview of the voluntary buy-out application process

Eligibility criteria

There are certain eligibility criteria that must be met before an application for a buy-out payment will be progressed by the Department.

The following checklist summarises the key eligibility requirements:

1. The applicant is the authorised signatory for the relevant installation.
2. The relevant installation is a small or medium biomass boiler (with a capacity of 1kWth and above, up to but not including 200kWth) currently accredited to the NIRHI Non-Domestic Scheme.
3. An application for a buy-out payment has not previously been made, or a buy-out offer rejected or deemed rejected, in respect of the installation under the current call for applications.

The authorised signatory is the person who is recorded as such, in respect of the relevant installation, on the Ofgem database. This will be the person who is authorised to use the installation account on the Ofgem NIRHI website, provide information by post, submit reporting information and complete the NIRHI annual declaration. If the applicant is not an organisation this person must, as appropriate, be the owner, or representative owner, of the installation or where the applicant is an organisation, the nominated individual.

Multiple plants

Where an applicant is the authorised signatory for a number of installations, and the applicant wishes to seek a buy-out payment for more than one accredited installation, a separate application must be made in respect of each installation for which a buy-out payment is sought. Where multiple plants have previously been treated as a single installation, an application should be made for the “installation”, as opposed to individual plants.

Before making an application

Applicants should read this guidance in full before making an application for a buy-out payment under the VBO arrangements. It provides detailed information on the process to be followed by the Department, the assumptions applied in the calculation and information on conditions and obligations attached to accepting a buy-out offer under the VBO arrangements.

Suspension of periodic payments

The calculation of a buy-out payment takes into account the value of the periodic payments made in respect of heat used to date for each installation. For this reason, following receipt of a request for a buy-out payment, the Department will direct Ofgem to place a hold on all further periodic payments whilst the buy-out offer is being calculated and considered. During this period, the applicant must continue to meet all obligations associated with participation on the Scheme, including submission of meter readings and retention of records.

Online calculator

Applicants should first seek an estimate of the amount of buy-out payment likely to be offered by the Department in respect of their installation by using the appropriate online calculator, available through the 2019/20 VBO arrangements guidance section of the Department's website: Guidance for applicants to the Non-Domestic RHI VBO Arrangements. As outlined in the Introduction section above, while it is anticipated that the VBO arrangements may allow for a significant number of installations to receive a one off payment, not all will be eligible for an offer of payment. Any buy-out payment quoted using the calculators is an indicative amount only, based on the input values entered by the applicant and includes a number of simplified assumptions. For example, rather than taking account of precise records of heat produced, it relies on the applicant inputting an average or typical estimate of annual heat output. Therefore, the actual amount subsequently offered by the Department will likely differ.

Where the online calculator suggests a positive buy-out payment amount, based on the installation data as input by the authorised signatory, or where the authorised signatory disputes the estimate determined by the online calculator, the authorised signatory may choose to submit an application for a buy-out payment.

Specific guidance on the use of the online calculators is available on the Department's website.

How to apply

The application for a buy-out offer must be made in writing on the application form provided, and must be accompanied by the evidence noted below. Incomplete applications will not be processed. Applications will be assessed and budget allocated on a "first come, first served" basis, based on when a complete application is received by the Department.

The following information must be provided in support of an application:

- Application form – available through the following link: Guidance for applicants to the Non-Domestic RHI VBO Arrangements;
- Invoice and any other documentary evidence (e.g. bank statements, loan agreements etc) to substantiate costs of the biomass installation. An invoice without additional corroborative documentary evidence is unlikely to be considered sufficient by the Department. Documentation must clearly identify the "eligible installation" costs – see section on Eligibility later in this guidance;
- Invoices and other documentary evidence in respect of other eligible capital costs claimed;
- Supporting evidence for any indirect costs being claimed in the application; and
- Supporting evidence for any alternative counterfactual[2] costs being claimed in the application.

The onus is on applicants to ensure the information submitted in support of their application is complete, accurate and authentic. If the Department subsequently finds that evidence submitted in support of an application was incorrect it may take compliance action. Receiving a financial gain through knowingly submitting false information could constitute fraud and, where this is suspected, the Department will pass information on to the relevant authorities for further action, which may lead to prosecution.

Applications for a buy-out offer should be submitted electronically to RHIVBO@economy-ni.gov.uk, by the authorised signatory, using the email address currently recorded by the Department/Ofgem as being the contact email address of the accredited installation. Hard copy applications can be submitted to RHI VBO Team, Netherleigh, Massey Avenue, Belfast, BT4 2JP.

The Department will allocate each application a sequential case reference number based on the date and time of receipt of complete applications. For electronic

[2] Based on the work of Ricardo (May 2018) the Department will assume a counterfactual cost of £215/kW (0-19kW), £114/kW (20-99kW) and £80/kW (100-199kW) (on the basis of a kerosene counterfactual boiler) where no substantive evidence is provided to the contrary.

applications this will be the date and time as per the Department’s electronic mail system. For hard copy applications this will be deemed to be 12.00 noon on the date the application is received by the Department.

Case reference numbers will not be allocated until all necessary evidence in support of an application has been provided.

Requests for further information

Once an application has been submitted, with all the necessary supporting evidence, the Department will use the information provided to determine an appropriate buy-out payment amount, in line with the calculation later in this guidance. The Department may need to contact the applicant for further information or clarification to enable it to accurately determine the appropriate buy-out payment amount. After submitting an application applicants should therefore check for follow-up communications from the Department.

Buy-out offer

The Department will notify the applicant in writing of the buy-out payment amount, through a “buy-out offer”, determined appropriate in the specific circumstances of each installation. The “buy-out offer” will include information in respect of how the Department determined the buy-out payment amount to enable the applicant to review the calculation. If the applicant disputes any aspect of the Department’s calculation, or considers that the Department has made an error in its calculation, the applicant has the right to submit their determination of the appropriate calculation or input data. An officer within the Department, who was not involved in the original calculation, will consider any evidence submitted and perform a separate calculation, responding to the applicant as appropriate. Any such requests must be made in writing within 28 days of the date of receiving notification of the buy-out payment and should be submitted in the first instance to RHIVBO@economy-ni.gov.uk, along with any supporting evidence.

If an application is not deemed eligible the applicant will be notified in writing of the reason(s) why. Applicants are entitled to request a statutory review of the decision to reject an application for a buy-out payment. Any request for a statutory review must be made within 28 days of the date of notification of the decision. For more information on how to request a review, please see Chapter Twelve, Volume Two of the NIRHI Non-Domestic Scheme Guidance[3] or later in this guidance.

Payment of a buy-out offer will be dependent on completion of a site inspection, in line with the Department's programme of 100% inspections. Where a site inspection of the installation highlights non-compliance with the Principal Regulations, the VBO offer may be amended if the non-compliance identified has a financial impact, including any deemed overpayment in the past. Where material non-compliances are identified, the VBO offer may be retracted.

[3] https://www.economy-ni.gov.uk/sites/default/files/publications/deti/NIRHI%20Guidance%20Volume%202%20-%20August%202019%20update.PDF

Eligible cost information

Eligible capital costs of an installation

The Department will determine the appropriate buy-out payment based in part on the 'eligible' capital cost of the installation, defined in line with Table 3 in Chapter 4 of Volume 1 of the NIRHI Non Domestic Scheme Guidance (August 2019[4]). Therefore the application must be accompanied by supporting evidence in respect of 'eligible' capital costs incurred at the point of accreditation. The Department will interpret the 'costs of purchasing and installing an eligible installation' as including the costs of purchasing and installing any equipment, apparatus or appliance which, in accordance with the table below, it considers to form part of the eligible installation. On this basis, the Department does not consider that such costs would extend to costs incurred in purchasing and installing plant which is not needed in order to generate heat, or costs relating to wider changes to a heating system, including, for instance, conversion to a dry heating system or to include financing costs.

The table below is an extract of Table 3 in Chapter 4 of Volume 1 of the NIRHI Non-Domestic Scheme Guidance (August 2019).

Technology Type	Examples of integral equipment usually included in definition of 'eligible installation' NB: this list is non exhaustive	Equipment which is usually not included in definition of 'eligible installation' NB: this list is non exhaustive
All heating installations (i.e. all technologies except biomethane)		• Heat (hot water/liquid and steam) meters • Heat distribution system (e.g. pipes delivering heat to users, heating controls, pumps, valves, radiators/heat distribution heat exchangers etc.) • Heat storage equipment • Other buildings housing the plant equipment (e.g. boiler house) • Foundations
Solid biomass plants (including solid biomass contained in municipal waste)	• Boiler (e.g. ignition equipment, heat exchanger, electrical wiring and	• Ancillary fossil fuel equipment (e.g. gas start-up equipment)

[4] https://www.economy-ni.gov.uk/sites/default/files/publications/deti/NIRHI%20Guidance%20Volume%201%20-%20August%202019%20update.PDF

	controls, combustion chamber, grate, air control, housing/container) • Pipework required for the effective start up and shut down of the plant (e.g. back end loop/valve) • Fuel feed equipment (e.g. auger, moving floor etc.) where these are likely to be integral to the operation of the plant • Flue gas treatment equipment (where it is different to the equipment required for a comparable gas installation) • Fuel storage equipment (e.g. fuel hopper)	• Fuel delivery, processing (e.g. chipping/drying) and preparation equipment • Fuel store housing (e.g. fuel storage sheds, bunkers) • Flue stack

The capital cost claimed must be supported by an appropriately detailed supplier invoice(s) and associated corroborative documentary evidence (e.g. bank statements, loan agreements etc). In verifying capital costs to invoice the Department may request further evidence and may compare information provided to other information/documentation already held by the Department/Ofgem obtained at application for accreditation, during any inspection process or provided to the Department for any other purpose in respect of the Scheme. Whilst the work of Ricardo (May 2018) observed direct capital costs recorded in applications for accreditation to have a median of £683/kW (0-19kW), £362/kW (20-99kW) and £241/kW (100-199kW), the Department recognises that capital costs vary across installations and hence applicants should submit evidence of their specific costs which the Department will take into account in calculating the appropriate buy-out payment. However, the Department does not expect any installation to have eligible capital costs exceeding double the median cost for the capacity banding as identified by Ricardo, hence a maximum of such will be applied to all applications in calculating a buy-out offer.

Where an applicant fails to submit substantive supporting evidence in respect of the capital costs claimed, in calculating a buy-out offer the Department will replace the capital cost being claimed with the capital cost recorded in the application for accreditation, subject to a maximum of the median capital cost for the relevant installation capacity as identified by Ricardo (as noted above).

Eligible indirect costs of an installation

The Department will include relevant indirect costs, incurred at the time of installation, in determining the appropriate buy-out payment. Indirect costs considered relevant are costs directly related to the application for accreditation, and include:

- Research and development.
- Regulatory approvals costs (over and above those required for a fossil fuel alternative).
- Administration.
- Technical support (including installer costs).

In the application for accreditation applicants were asked to provide a figure for indirect costs, which represent upfront barrier costs and include costs not directly attributable to the purchase or construction of the physical plant. Ricardo (May 2018) observed that the median value of indirect costs recorded in applications for installations accredited before 18 November 2015 was £21/kW (0-199kW biomass installations).

The indirect cost data recorded in applications, from which the above median values were derived by Ricardo, were not verified at the time of accreditation and no breakdown of costs included was requested by the Department at that time. Therefore it is unclear what specific indirect costs applicants incurred. Ricardo identified the above categories of indirect costs, or upfront barrier costs, they considered appropriate and estimated that these should be in the region of £434 for 0-19kW biomass installations and £987 for 20-199kW biomass installations.

The indirect costs claimed in the VBO application must be supported by appropriate evidence/documentation. The Department will take into account each applicant's specific indirect costs in calculating the appropriate buy-out payment, however, the Department does not expect any installation to have indirect costs exceeding £5,000, hence, a maximum of £5,000 will be applied to all applications in the calculation of a buy-out offer.

Where an applicant fails to submit substantive supporting evidence in respect of indirect costs claimed, the Department will replace the indirect cost being claimed with estimated upfront barrier costs based on those identified by Ricardo, of £450 for 0-19kW biomass installations and £1,000 for 20-199kW biomass installations.

Eligible counterfactual costs

The VBO arrangements are intended to ensure all current participants on the Scheme have the potential to achieve a 12% internal rate of return on the **additional** capital investment of installing a renewable technology, as opposed to its fossil fuel alternative. Therefore, in calculating the buy-out payment the Department needs to take account of the capital cost of the relevant fossil fuel counterfactual boiler the installation owner would otherwise have most likely installed. Whilst the tariff under the Scheme has been set at a population level, and, as such, is based on assumptions on the most relevant counterfactual for the 'typical' installation, the VBO arrangements are individually tailored to each installation and hence can take account of differing counterfactuals, ensuring the most appropriate counterfactual is used for the specific installation.

Ricardo (May 2018) determined that the appropriate kerosene counterfactual boiler capital cost was £215/kW (0-19kW), £114/kW (20-99kW) and £80/kW (100-199kW). VBO applicants are invited to submit additional information in respect of the appropriate counterfactual boiler for their specific circumstances. Applicants must include evidence to support their claim, including evidence of the fossil fuel source most appropriate to their installation, contemporary cost (i.e. at the time of application for accreditation) of any alternative counterfactual installation and, where a back-up boiler is attached, a copy of the installation schematic and invoices related to the back-up boiler.

Where an applicant fails to submit substantive supporting evidence in respect of counterfactual costs claimed, the Department will assume a kerosene counterfactual cost based on the installation capacity as identified by Ricardo (noted above).

Buy-Out Payment

Calculation of buy-out payment

On receipt of a valid request for a buy-out payment the Department will determine the appropriate buy-out offer according to the following calculation.

Buy-out Payment	=	Amount due to provide 12% internal rate of return on “net capital cost” over 20 years[5]	-	Payments received to date[6]

Where the net capital cost is:

Direct capital cost	+	Indirect costs	-	Counterfactual capital cost

Worked example

Whilst the Department will calculate the appropriate VBO payment for individual installations by undertaking the necessary calculations on a quarterly basis in line with the quarterly periodic payments under the Scheme, the following demonstrates the Department’s calculation on an annual basis for ease.

A 99kW boiler with eligible capital costs of £35,000, indirect costs of £850 and annual heat generation of 130MWh per annum, commissioned and accredited in 2015-16

[5] Adjusted to reflect the one-off payment being received earlier than under an ongoing tariff using a rate of 12%

[6] Reduced to include only the capital element of previous periodic payments and adjusted to apply a 12% interest rate to the amount of previous “excess payments”. Excess payments defined as being the difference between the capital element of payments received and the quarterly amount that would have been required to deliver a 12% rate of return, the interest being applied to the period between receipt of overcompensation and the one-off payment being made.

(prior to 18 November 2015). The one-off payment is assumed to be made in 2019-20.

A kerosene counterfactual capital cost of £11,286 (£114 x 99kW) is assumed.

Therefore the net capital cost is £24,564.

Determination of amount due to provide a 12% internal rate of return on “net capital cost” over 20 years

Firstly, the amount due to provide a 12% internal rate of return on the “net capital cost” over 20 years will be calculated.

Table 1 below shows discounted annual payments required to deliver a 12% internal rate of return over 20 years. (Future annual payments required to deliver a 12% internal rate of return need to be discounted using a 12% rate from the year that payment is expected to be made).

Table 1: Annual Required Payment

	Annual Required Payment (undiscounted)	Discount Factor	Annual Required Payment (discounted)
Year 1	3,289	1.000	3,289
Year 2	3,289	1.000	3,289
Year 3	3,289	1.000	3,289
Year 4	3,289	1.000	3,289
Year 5	3,289	1.000	3,289
Year 6	3,289	0.893	2,936
Year 7	3,289	0.797	2,622
Year 8	3,289	0.712	2,341
Year 9	3,289	0.636	2,090
Year 10	3,289	0.567	1,866
Year 11	3,289	0.507	1,666

Year 12	3,289	0.452	1,488
Year 13	3,289	0.404	1,328
Year 14	3,289	0.361	1,186
Year 15	3,289	0.322	1,059
Year 16	3,289	0.287	945
Year 17	3,289	0.257	844
Year 18	3,289	0.229	754
Year 19	3,289	0.205	673
Year 20	3,289	0.183	601
Total	65,780		38,844

Determination of relevant payments received to date

Secondly, the relevant capital element of payments received to date need calculated.

Assuming an annual usage of 130MWh the table below documents Tier 1 payments received to date. In the years 2015-16 and 2016-17 the Tier 1 tariff applied to all heat output. Following the introduction of the 2017 Regulations the Tier 1 tariff applied to the first 1314 hours of heat output in the year, i.e. the first 130,086kWh in our example installation.

Payments received to date need adjusted in order that only the capital element of tariff payments received to date is included in the calculation. The Department has determined that the original tariff set in 2012 of 5.9p/kWh included 4.5p/kWh to reflect the capital element. Therefore, the relevant element of Tier 1 payments for use in this calculation is 76.3% (4.5/5.9).

A further adjustment is required to account for actual periodic payments received (capital element) being greater than the annual payment that would have been required to deliver a 12% internal rate of return. The “excess payment” in each year needs to be uplifted by 12% per annum for the period of time between the periodic payment (capital element) and the one-off payment.

Table 2: Payments Received to Date

	Periodic Payments Received	Periodic Payments Received (capital element (76.3%)	Annual Required Payment	Excess Payment	Excess Payment uplifted by 12% p.a.	Adjustment for previous payment[7]
Year 1	8,320	6,348	3,289	3,059	4,813	8,102
Year 2	8,450	6,447	3,289	3,158	4,437	7,726
Year 3	8,710	6,646	3,289	3,357	4,211	7,500
Year 4	9,100	6,943	3,289	3,654	4,092	7,381
Total						30,709

Combining these calculations results in a Buy-Out Payment of £8,135, i.e. £38,844 minus £30,709.

The payments delivering a 12% internal rate of return (IRR) are presented in the table below:

Table 3: Demonstration of IRR Calculation

	Net Capital Investment	Periodic Payments (capital element)	One-off VBO payment	Net cashflow
Year 0	-24,564	0	0	-24,564
Year 1	0	6,348	0	6,348
Year 2	0	6,447	0	6,447
Year 3	0	6,646	0	6,646
Year 4	0	6,943	0	6,943
Year 5	0	0	8,135	8,135
Years 6-20	0	0	0	0
IRR				12.00%

[7] Annual required payment plus excess payment uplifted by 12% p.a. to date of payment

Typical examples

The Department has published a document entitled ‘Guide to Calculation of Voluntary Buy-Out Payment’ on its website, which includes the worked example above, as well as a number of “typical” examples, to assist applicants in the understanding of the application of the above principles to potential real life installations. The examples shown in the published guide are not reflective of any specific installation, and the individual circumstances of each installation will be considered in determining the appropriate buy-out payment amount.

Buy-Out Offer

Issue of a buy-out offer

The Department will process applications in tranches, initially of 50. The Department will notify applicants of their tranche number, and write to advise when the processing of that tranche has begun. The Department will aim to calculate a buy-out offer within 30 working days of beginning to process a tranche, where applications are valid and complete. Where this will not be possible, the Department will write to the applicant within 30 working days to provide an update.

The buy-out offer will advise the applicant of:

1. the proposed value of the buy-out payment;
2. how the offer was calculated; and
3. the implications of accepting a buy-out payment, in relation to accreditation to the Scheme.

Where the Department determines that no buy-out payment is appropriate, the Department will advise the applicant in writing, setting out the basis of the determination.

On receipt of a buy-out offer the applicant will have three options:

1. Accept the buy-out offer; or
2. Decline the buy-out offer; or
3. Seek a review of the buy-out offer.

Acceptance of a buy-out offer

On receipt of a buy-out offer, should the applicant wish to proceed with accepting the offer, the applicant will need to return a signed letter of acceptance. The letter of acceptance will set out the terms of acceptance.

Obligations of the Department

On receipt of a signed letter of acceptance the next stage in the process will depend on the inspection status of the installation. Where the installation has been the subject of a site inspection previously, under the Department's programme of 100% inspections, and the Department's RHI Compliance Team and Ofgem has confirmed there to be no material non-compliances under the Principal Regulations, the Department will arrange for the buy-out payment to be paid. Payment will be made to the bank account advised by the applicant in the letter of acceptance within 28 days of receipt of the signed letter of acceptance.

In parallel to making payment, the Department will advise Ofgem to terminate the accreditation of the installation. The effective date of termination will be the date the buy-out payment is made, and the installation will cease to be accredited under the Scheme. The Department will cease to have an interest in the installation and the installation will be outside the scope of any future inspection schedule or compliance monitoring.

Where the installation has not been the subject of a site inspection previously, under the Department's programme of 100% inspections, the Department's RHI Inspections team will be instructed to undertake an inspection. Only once an installation has been physically inspected and the Department's RHI Compliance Team and Ofgem satisfied that no material non-compliances under the Principal Regulations remain unresolved will payment be progressed in line with the above.

The Department, in undertaking site inspections under the VBO arrangements, will follow the protocol for site inspections under the Department's programme of 100% inspections and, as such, will inspect all accredited installations at a single site, regardless of whether an application to the VBO arrangements has been made for all such installations.

Where a site inspection of the installation highlights non-compliance with the Principal Regulations, the VBO offer may be amended if the non-compliance identified has a financial impact, including any deemed overpayment in the past. Where material non-compliances are identified, the VBO offer may be retracted.

Further information on the inspection process is available on the Department's website at the following link: https://www.economy-ni.gov.uk/rhi-inspections-questions

Obligations of the applicant

The applicant will be required to return the signed letter of acceptance within 28 days of the offer being issued. After 28 days the offer will cease to be valid and the offer will be deemed to have been rejected.

As noted above, on payment of a buy-out payment the installation will cease to be accredited to the NIRHI Non-Domestic Scheme. Therefore, no quarterly meter readings will be required to be submitted to Ofgem and no further periodic payments will be made, including those on hold.

Following receipt of the VBO payment and revocation of the relevant installation from the Scheme, applicants will no longer be able to claim periodic payments in respect of the relevant installation under the Scheme. However, this does not preclude claims where it has been determined that periodic payments in the period prior to the buy-out have not been properly calculated in accordance with the relevant legislative provisions. Any future claim in this regard will need to take account of the VBO payment already received, including the impact increased periodic payments would have had on the VBO amount. Any decrease that should have applied to the VBO amount will be deducted from any amount relating to a future claim.

The final date of accreditation of the relevant installation will be the date the buy-out payment issues to the applicant.

Rejection of a buy-out offer

On receipt of a buy-out offer, should the applicant wish to reject the offer, they should advise the Department within 28 days of receiving the offer. The Department will assume the offer has been rejected if no response is received from the applicant within 28 days.

Obligations of the Department

On receipt of notification of rejection of a buy-out offer the Department will advise Ofgem to lift the hold on periodic payments. All periodic payments previously held while the Department calculated the VBO offer will be released by Ofgem to the applicant in line with Ofgem's payment scheduling.

The installation will continue to be accredited to the Scheme and be subject to the obligations and requirements of the Scheme.

Obligations of the applicant

Where a buy-out offer is rejected, the applicant should continue to submit quarterly meter readings in line with their obligations under the Principal Regulations. The applicant will continue to be bound by the obligations and requirements of the Scheme.

Request for review of a buy-out offer

On receipt of a buy-out offer, should the applicant dispute any aspect of the Department's calculation, or consider the Department to have made an error in its calculation, they have the right to submit their determination of the appropriate calculation or input data. An officer within the Department, who was not involved in the original calculation, will consider any evidence the applicant submits and perform a separate calculation, responding to the applicant as appropriate. This recalculation of the buy-out offer may result in a higher or lower offer being made, and in such circumstances, the latter offer will take precedence.

Any such requests must be made in writing within 28 days of the date of receiving notification of the buy-out offer and should be submitted in the first instance to RHIVBO@economy-ni.gov.uk along with any supporting evidence.

On receipt of a request for review of a buy-out offer, the Department will issue an acknowledgement including an indication of when the applicant can expect to receive a response. The Department will aim to reach a decision within 30 working days. If it is not possible to do so in that time, an update will be provided to the applicant within this time.

Where an applicant remains unhappy with the recalculated offer, an applicant can submit a request for a statutory review. Statutory review is available in respect of any decision made by the Department under the VBO arrangements. Requests for statutory review must be made, in writing, within 28 days of the date of notification of the relevant decision. Further guidance on the statutory review process is contained within the next section of this guidance.

Dispute Resolution

General queries

Any queries relating to the VBO arrangements should be made in writing to RHIVBO@economy-ni.gov.uk. Participants should quote the relevant installation number to which the query relates. The Department will only advise on specific cases where the request has been made by the authorised signatory, using the email address recorded as being the contact email address of the accredited installation, currently held by the Department/Ofgem. Postal queries should be sent to RHI VBO Team, Netherleigh, Massey Avenue, Belfast, BT4 2JP.

Internal reviews of decisions

Any prospective, current or former participant affected by a decision made by the Department in exercise of its functions under the Principal Regulations may have that decision reviewed by the Department.

This guidance is intended to provide current participants with a source of reference for internal reviews of decisions in respect of the VBO arrangements only and does not extend to the review of decisions within the wider Scheme.

The internal review process is paper based and does not provide for oral representations.

Statutory review

Other than a request for review of a buy-out offer, under the terms outlined in the previous chapter, all requests for review will be treated as a request for statutory review in line with the Principal Regulations. The decision of the Statutory Review Officer is final and will not be subject to further internal review.

Requests for statutory review of a decision in respect of the VBO arrangements should be made in writing and submitted electronically to rhistatreview@economy-ni.gov.uk by the authorised signatory or alternatively, posted to RHI Statutory Review Secretariat, Netherleigh, Massey Avenue, Belfast BT4 2JP.

In submitting a request for statutory review the applicant (affected person) must:

1. specify the decision they wish to be reviewed;
2. specify the grounds upon which the application for review is made; and
3. sign the application for review or have it signed on their behalf.

The applicant should also include all information relevant to the review decision, including installation number and relevant supporting documents and information in support of the applicant's position. It is the applicant's responsibility to submit any evidence they deem important to the review, which has not previously been submitted to the Department under an application to the VBO arrangements, or which they deem critical to the decision being reviewed.

In addition, a person who has made an application for review must provide the Department with such information and such declarations as the Department may reasonably request in order to discharge its functions under the Principal Regulations, in respect of statutory review, provided any information requested is in that person's possession.

On receipt of a request for review the RHI Statutory Review Secretariat will issue an acknowledgement including an indication of when the affected person can expect to receive a response. The Statutory Review Officer will aim to reach a decision within six weeks. If it is not possible to do so in that time, an update will be provided to the affected person within this time. The update will give a timescale (normally 20 working days) for when the Department will next be in contact regarding the request for review.

Within 21 days of the Statutory Review Officer's decision on a statutory review, they will write to the affected person (and any other person whom they believe to be affected by the decision), to inform them of the statutory review decision with reasons.

The Statutory Review Officer can make the following decisions:

1. revoke or vary the original decision;
2. confirm the original decision;
3. vary any sanction or condition that had been imposed; or
4. replace any sanction or condition that had been imposed with one or more alternative sanctions or decisions.

A statutory review is the final stage in the internal review process in respect of the VBO arrangements. Should an affected person be dissatisfied with the outcome of the review, they may take their complaint to the Northern Ireland Public Services Ombudsman, who carries out independent investigations into complaints about public bodies. The time limit for making a complaint to the Ombudsman is 6 months from the date of notification of the outcome of any review. Details of how to make a complaint can be found on their website at www.ni-ombudsman.org.uk. Contact details are as set out below.

By email: nipso@nipso.org.uk

By phone: 0800 343424

In writing: Northern Ireland Public Services Ombudsman

Progressive House

33-37 Wellington Place

Belfast, BT1 6HN

All affected persons will be responsible for meeting their own costs in respect of requesting a review or taking a case to the Ombudsman.

Glossary of Terms

Accreditation Date	The effective date on which the relevant installation was admitted to the NIRHI Scheme.
Authorised Signatory	An Authorised Signatory is a person who is authorised to open and use an account with the Ofgem NIRHI website or provide information by post, submit periodic data and complete the NIRHI annual declaration.
Counterfactual Installation	The alternative fossil fuel installation that would have been installed in place of the renewable technology.
Days	All references to “days” relate to calendar days, unless explicitly stated otherwise.
Energy Heat Output	The amount of heat produced by an installation, measured in kWh, calculated by multiplying the installation capacity by the number of hours operated in any period.
Installation Capacity	The installation capacity is defined in the Regulations as the ‘total installed peak heat output capacity of a plant’ (which includes the ‘total installed peak heat output capacity’ of a single plant (installation) made up of two or more component plants).
Internal Rate of Return	A measure of an investment’s rate of return, taking into account the time value of money.
Nominated Individual	An individual within an organisation nominated to act on the organisation’s behalf in relation to the NIRHI.

Ongoing Obligations	Ongoing obligations refer to the obligations that need to be met to remain accredited or registered under the scheme. The term is defined in the Regulations.
Participant	A participant is defined in the Regulations as either the owner of an accredited NIRHI installation, a representative owner or a producer of biomethane who has registered with the Authority to receive the NIRHI. In practice this means that once the owner or representative owner of an eligible installation or a biomethane producer receives accreditation or registration respectively to the NIRHI scheme, they will be referred to as a participant in the NIRHI scheme.
Periodic Payments	NIRHI support delivered to participants in the form of quarterly periodic payments.
Representative Owner	Where there is more than one owner of an accredited NIRHI installation, the owner with the authority to act on behalf of all owners is referred to as the representative owner.