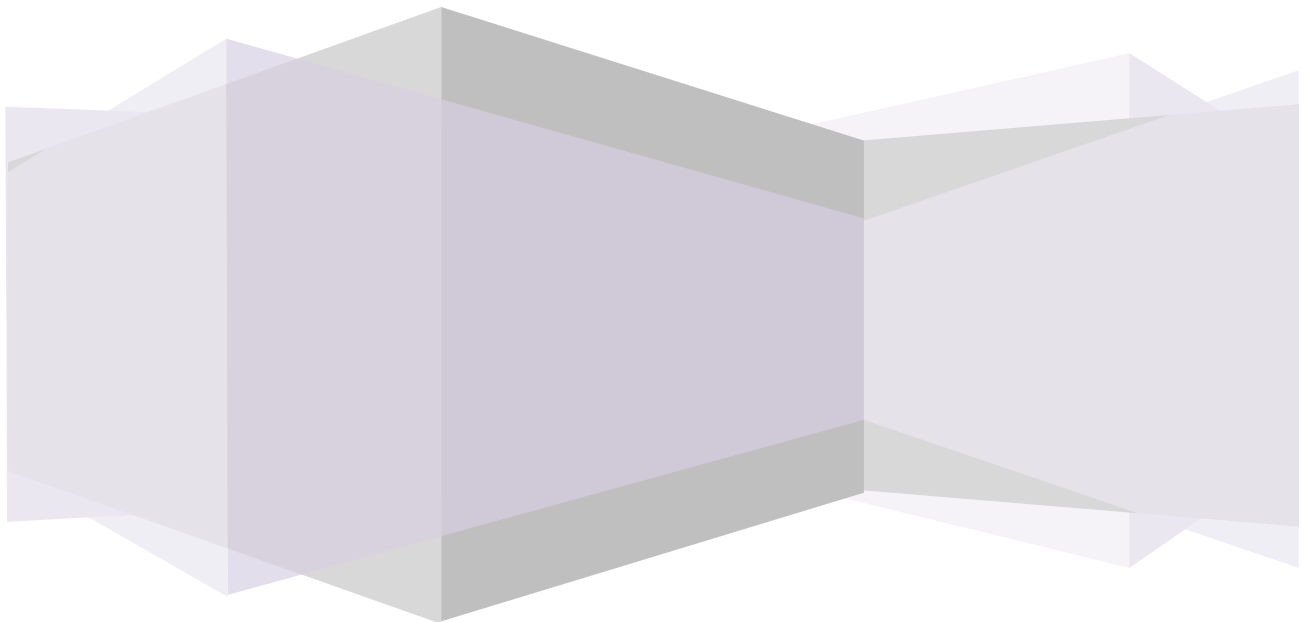




Department for the
Economy
www.economy-ni.gov.uk

Non-Domestic Renewable Heat Incentive: Unit to consider hardship

Call for evidence



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1. Introduction

Scheme background

1. The Northern Ireland Non-Domestic Renewable Heat Incentive Scheme (NIRHI) was introduced in November 2012. The Scheme was designed to increase the uptake of renewable heating technologies by providing ongoing payments to cover the projected difference in cost between renewable heating and fossil fuels, as well as a 12% rate of return on the additional capital cost of a renewable heat boiler. The NIRHI was based on the GB Renewable Heat Incentive Scheme but with different tariff rates and the absence of important cost control measures, including a tiered tariff structure.
2. In early 2015, the cost of NIRHI was projected to be much more than the available budget for 2015-2016 and future years. This led to the introduction of tiering and a heat generation cap for small and medium biomass installations for new participants on 18 November 2015. However, an unprecedented spike in applications immediately prior to the introduction of the new tariff structure resulted in a further increase in the projected cost of the Scheme. Therefore further action was required and, as a result, the Scheme was suspended to new applicants on 29 February 2016.
3. However, even with the above measures, expenditure on the Scheme was still expected to breach the available budget. In response, the Department for the Economy (the Department) introduced the Renewable Heat Incentive Scheme (Amendment) Regulations 2017 as an interim measure to extend the tiered tariff and cap to all participants with small and medium biomass installations whilst a long term policy was being developed. The tariff structure introduced under the 2017 Regulations was extended by Parliament for a further 12 months through the Northern Ireland (Regional Rates and Energy) Act 2018.

The long-term tariffs

4. The original 2012 tariffs and the interim tariffs put in place in 2017 were based on assumptions and hypothetical models for a Scheme that was yet to exist. DfE commissioned an independent consultant, Ricardo Energy and Environment

(‘Ricardo’), to undertake a comprehensive review of all the main elements of the tariff and the rates of return for small and medium sized biomass installations.

5. Following receipt of the Ricardo report, DfE launched a public consultation on the future of the Non-Domestic RHI Scheme. Following consideration of the Ricardo report, consultation responses and engagement with the European Commission with regards to the rate of return allowable under State aid, the Department identified a preferred option and requested that legislation was brought forward in Parliament.
6. As such, the Northern Ireland (Regional Rates and Energy) (No. 2) Act 2019 introduced a revised tariff structure applicable to all small and medium sized biomass installations (0-199kW). The revised tariffs were calculated on the basis that the typical boiler on the Scheme would achieve a prospective 12% internal rate of return (IRR).
7. Additionally, the Department recognises that some installations, for a variety of reasons, such as higher costs or lower usage would not achieve the 12% IRR. For this reason, the legislation includes a power for the Department to offer participants a voluntary buy-out, under which they may withdraw from the NIRHI in return for a one-off payment. The one-off payment would be equivalent to a 12% IRR on their net capital investment, taking account of payments received to date and the timing of payments.

Independent Chair and unit

8. A number of NIRHI participants have written to the Department to say that they face financial hardship as a result of the legislative changes. In response, the Department has committed to establishing a unit, under an independent Chair to consider the individual circumstances of any NIRHI participant who believes they face financial hardship as a result of participating in the Scheme.
9. This paper sets out some of the Department’s considerations in relation to this new unit and seeks views and evidence from stakeholders to help inform the design and function of the unit. In particular the paper seeks evidence on the nature of the stated financial hardship and how it is said to directly relate to NIRHI.

2. Evidence gathering

Many of the questions are targeted at NIRHI participants however, where other stakeholders have information or evidence or wish to provide views, this will also be considered by the Department.

2a. The Independent Chair and panel

The key essential criteria is that the Chair must be independent of the Northern Ireland Civil Service. The Chair must also not have any direct links to the RHI Scheme or any other scheme run by the Department such as the NI Renewables Obligation. In particular they must not be a NIRHI participant or be an employee or close relative of a participant. In order to avoid such potential conflicts of interest, it may be that the Chair would not reside in Northern Ireland.

It will also be vital that the Chair has the appropriate skills to carry out the role effectively. In particular, the Department considers that key criteria include:

- Knowledge of this type of government support scheme (for example the RHI Scheme in GB or feed-in tariffs)
- An understanding of business finance including familiarity with financial statements, funding models, management accounts.

In order to ensure access to a broad range of skills and the achievement of a suitably rounded review, the Department is proposing that the independent Chair is supported by two panel members. These members would bring additional expertise and experience to the consideration of cases. The Department currently considers that an experienced senior civil servant (with no current or prior involvement in NIRHI) and a member of the business community in Northern Ireland would have appropriate and relevant skills to enhance the panel and ensure that robust decisions are reached.

Questions on the Independent Chair and Panel

- Do you agree with the Department's approach to the Independent Chair and panel?
- If not, what elements should change or what other factors should the Department consider?

2b. The nature of hardship

This section considers the specific information and evidence that would likely need to be considered by a unit when assessing whether or not a participant was facing financial difficulties due to their participation in NIRHI. While the new tariffs are lower than the previous tariffs which were overcompensating the majority of participants, the Department is not seeking to recoup past overcompensation except in cases of abuse of the Scheme. Hence, participants will continue to receive incentive payments while their installations remain accredited to the Scheme.

It is on this basis that the majority of representations to the Department to date have referenced difficulties in relation to loan repayments. Below is a list of questions in relation to NIRHI-related loans that the Hardship unit could ask participants to complete.

- Do you believe you are facing financial hardship as a result of being a participant on the Scheme?

- Does this hardship relate to loan repayments? If so:
 - Approximately how much did you spend on your biomass boiler? (Please provide a breakdown of boiler cost and other eligible installation costs)
 - How much did you borrow?
 - What was the purpose of the loan and how has it been used?
 - Is your borrowing with a bank / asset finance company / other?
 - Was the borrowing an individual loan or an addition to an existing facility?
 - What interest rate is being charged on the loan?
 - Over what period was the loan taken out for?
 - How much of the loan period remains?
 - How much are your repayments? (please specify if annual / quarterly / monthly amount)
 - Have you discussed options with your loan provider (e.g. re-profiling of the loan over a longer period)? Please provide as much information as you can and where possible include any relevant attachments.

- If the financial hardship is not related to loan repayments, please provide details. Please provide as much information as possible with documentary evidence where available.

Questions on the nature of hardship

- If you are a NIRHI participant and can provide any evidence in line with the listed questions, this will be considered by the Department.

2c. Other factors to be considered by the Chair / panel

The Department considers that the Chair / panel should take a wide view when considering cases of hardship. As well as the specifics of any loans and repayments, the panel could consider:

- The amount of RHI payments a participant has already received
- The amount of future RHI payments a participant can expect to receive in future
- The amount of any loan in relation to the cost of the biomass installation
- The date any loan commenced in relation to the date the biomass boiler was accredited
- Relevant counterfactual costs that a participant would otherwise have faced i.e. the fossil fuel alternative
- Other relevant sources of income or funding e.g. housing payments made by suppliers which were affected by participation in NIRHI

Questions on other issues to be considered

- Are there any factors other than those factors listed in Section 2c which you believe are relevant to consideration of hardship?
- If so, what additional questions should be asked?

2d. Outcomes of a review by the chair / panel

Key to the work of the independent Chair / panel will be in the first instance determining the nature of the hardship faced by a participant as a result of being a participant in NIRHI.

The Department is proposing that in determining whether or not a business is in 'difficulty', the Chair / panel will take account of the European Commission's Guidelines on State aid for rescuing and restructuring¹ and in particular the definition included in this of an "undertaking in difficulty". This could be measured by, for instance, where more than half of a company's capital has been depleted as a result of accumulated losses or where the company meets the criteria for being placed in collective insolvency proceedings at the request of creditors.

In cases where the Chair / panel find that there is hardship, it will make recommendations as to options and sources of help, assistance or advice which may mitigate / alleviate the hardship.

Bringing the prospective returns on the NIRHI into line with the level allowable under State aid rules (i.e. 12%) has been a key consideration in introducing the long-term tariffs. This has been referenced in policy documents published by the Department, throughout Parliamentary debates in relation to the NI (Regional Rates and Energy) (No.2) Act 2019 and most recently in evidence provided to the Northern Ireland Affairs Committee's Inquiry into the tariff changes.

The tariffs for small and medium sized biomass boilers and the proposed Voluntary Buy-Out Scheme are therefore designed to provide a 12% prospective rate of return to all participants. Ongoing tariff payments or one-off payments made via the Voluntary Buy-Out Scheme are the only means available for the Department to make NIRHI payments to participants, as set out in the legislation.

As such any recommendations from the independent Chair / panel must take account of the limits on the Department's powers and State aid rules. In particular, where further assistance is potentially given to participants this would be on a "no aid" basis. For instance, where support was potentially available through a loan, this would be fully repayable and provided at commercial loan rates.

¹ http://ec.europa.eu/competition/state_aid/legislation/rescue_restructuring_communication_en.pdf

The types of support the panel may recommend include:

- Directing participants towards the Voluntary Buy-Out Scheme as a suitable option for their circumstances; or
- Directing and referring claimants to other available support schemes e.g. through Invest NI. (Note that in any such referral, the participant would still be required to meet the criteria and conditions specific to any other support scheme).

Question on outcomes

- Are there other types of support, within the constraints detailed above, that the Chair / panel could recommend in cases of hardship?

3. How to respond

Responses to this call for evidence are invited before 12.00pm on **10th July 2019.** Throughout the document a number of issues have been specifically highlighted for comment and feedback. Please respond using the question and answer template provided. Completed templates should be sent electronically to:

RHI.Public@economy-ni.gov.uk

Or, you can respond by post to:

RHI Taskforce Call for Evidence

Department for the Economy

Netherleigh

Massey Avenue

Belfast

BT4 2JP

4. Next steps

The period for evidence gathering will finish at 12.00pm on 10th July 2019. Following this, the Department will carefully consider all submissions received and will bring forward draft Terms of Reference for the independent Chair / Panel considering cases of hardship.

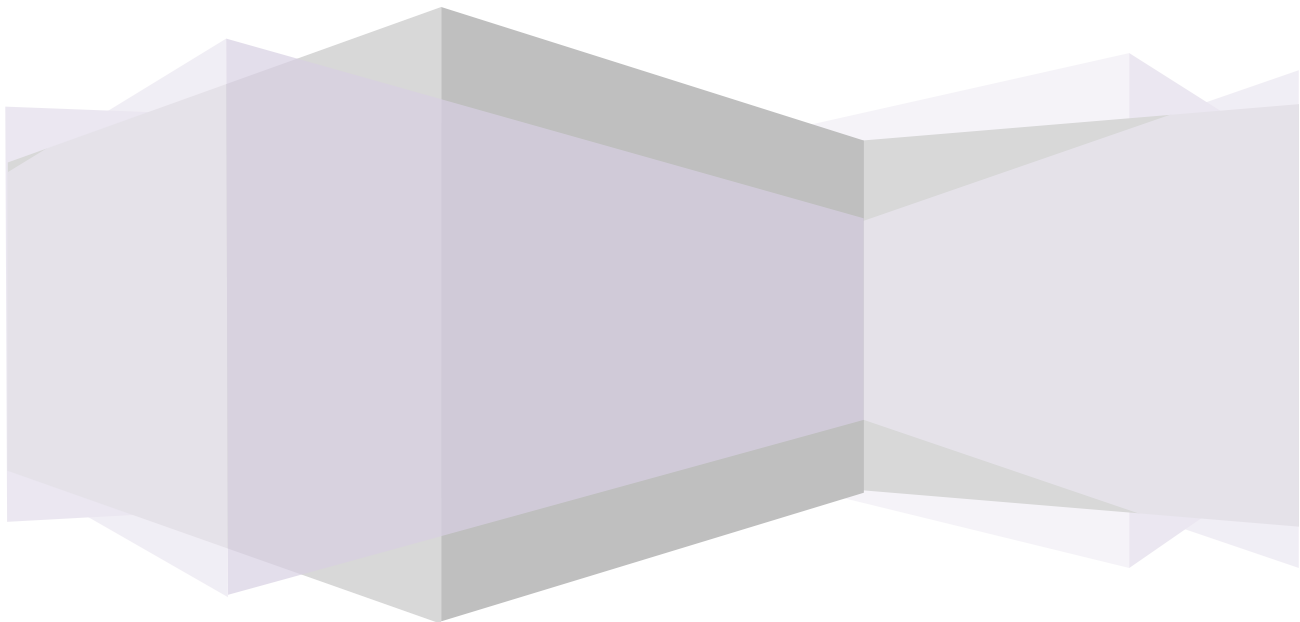
It is intended that an independent Chair, and any panel supporting the Chair, will be appointed before the end of the summer 2019. The Chair (and panel) will have the opportunity to input to the Terms of Reference for the unit before they are finalised and will begin accepting individual cases for consideration in the autumn.



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NIRHI Call for Evidence Claims of Hardship

Question and answer template



Annex 1: Answer Template

Section 1: Your details

1.1 What is your name?

1.2 What is your address?

1.3 How would you describe your connection to the NIRHI?

Select only one item

- I am / my business is a participant in NIRHI (please provide installation reference number(s))
- I work for a business which is a NIRHI participant (please provide details)
- I have another connection to NIRHI (please specify)
- I have no direct or indirect connection to NIRHI

Please provide details

Section 2: The Independent Chair and panel

2.1 Do you agree with the Department's approach to the Independent Chair and panel?

Select only one item

Yes

No

Not sure

2.2 If not, what elements should change or what other factors should the Department consider?

Section 3: The nature of hardship

3.1 If you are a NIRHI participant who considers they are facing financial hardship as a result of being a participant on the Scheme and can provide any evidence in line with the listed questions, this will be considered by the Department.

Approximately how much did you spend on a biomass boiler?

How much did you borrow?

What was the purpose of the loan and how has it been used?

Is your borrowing with a bank / asset finance company / other?

Was the borrowing an individual loan or an addition to an existing facility?

What interest rate is being charged on the loan?

Over what period was the loan taken out for?

Annex 1: Answer Template

How much of the loan period remains?

How much are your repayments? (please specify if annual / quarterly / monthly amount)

Have you discussed options with your loan provider (e.g. re-profiling of the loan over a longer period?)

Please provide as much information as you can and where possible include any relevant attachments.

If the financial hardship is not related to loan repayments, please provide details below:

Please provide as much information as possible with documentary evidence where available.

Annex 1: Answer Template

Section 4: Other factors

4.1 Are there any factors other than those factors listed in Section 2c which you believe are relevant to consideration of hardship?

Select only one item

- Yes
- No
- Not sure

4.2 If so, what factors should be considered by the Chair / panel?

Section 5: Outcomes

5.1 Are there other types of support (beyond those listed in the document) within the bounds of State aid and legal vires that the Chair / panel could recommend in cases of hardship?

Select only one item

- Yes
- No
- Not sure

If yes, please give details

Section 6: Any other information

6.1 Please use this section to add any further information relevant to the issue.

Section 7: Data Protection and Freedom of Information

Following the end of the evidence gathering exercise, the Department will publish a report summarising responses. This summary may include anonymised information or quotes from responses however it will not include any personal information you provide, or allow any commercial information to be attributed to your particular business.

However, the Department is subject to the Freedom of Information Act 2000, the Environmental Information Regulations 2004 as well as the Data Protection Act 2018/ General Data Protection Regulation and may receive requests for information about this Call for Evidence. For this reason you should identify in your response any information which you do not wish to be disclosed and explain why you consider this to be confidential. Please note that an automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

For further information about how we process your personal data, please see our Privacy Notice available at [Annex 2](#).



Privacy Notice

Data Controller Name: Department for the Economy
Address: Netherleigh, Massey Avenue, Belfast
Email: RHI.public@economy-ni.gov.uk

Why are you processing my personal information?

The Department launched a consultation on 17 June 2019 on the call for evidence relating to the establishment of a unit to consider possible hardship caused by the tariff structure introduced to Non-Domestic Renewable Heat Incentive Scheme in April 2019.

The lawful basis for processing the personal data you provide to the Department during this consultation is that of public task.

The personal data collected in this consultation exercise will be used for analysis and reporting of consultation responses. The Department may also use the information for other public task purposes in line with the Data Protection Act 1998, Freedom of Information Act 2000 and Environmental Information Regulations 2004.

What categories of personal data are you processing?

The personal data collected in this consultation exercise will consist of name, address, email address, and any additional personal data you provide in your responses, for example information which demonstrates evidence in relation to the nature of hardship.

Where do you get my personal data from?

Information is collected from you when you complete this survey and submit your consultation response.

Do you share my personal data with anyone else?

The personal data collected in this consultation exercise will not be shared outside of the Department for the Economy.

Do you transfer my personal data to other countries?

No.

How long do you keep my personal data?



The data you provide in your response will be stored on the Department's Record Management system and will be retained for seven years after the end of the consultation and destroyed in July 2026 in line with the Department's Retention and Disposal Schedule.

What rights do I have?

- You have the right to obtain confirmation that your data is being processed, and [access to your personal data](#)
- You are entitled to have personal data [rectified if it is inaccurate or incomplete](#)
- You have the right to ['block' or suppress processing](#) of personal data, in specific circumstances
- **You have the right to [object to the processing](#)**, in specific circumstances

How do I complain if I am not happy?

If you are unhappy with how any aspect of this privacy notice, or how your personal information is being processed, please contact the Department's Data Protection Officer at:

Data Protection Officer: Bernard McCaughan

Email: DPO@economy-ni.gov.uk

Telephone number: (028) 9052 9256

If you are still not happy, you have the right to lodge a complaint with the Information Commissioner's Office (ICO):

Information Commissioner's Office

Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Tel: 0303 123 1113

Email: casework@ico.org.uk

<https://ico.org.uk/global/contact-us/>