



Department for the
Economy
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Non-Domestic Renewable Heat Incentive:

**Unit to consider hardship
Call for evidence**

Consultation Report
October 2019

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1. Introduction

Scheme background

- 1.1 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.
- 1.2 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.
- 1.3 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

- 1.4 In September 2017 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.
- 1.5 DfE carried out a public consultation on the future of the Non-Domestic RHI Scheme, which finished in September 2018. 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.
- 1.6 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).

- 1.7 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

- 1.8 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 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.

Call for evidence

- 1.9 On 17 June 2019, the Department launched a consultation process seeking stakeholder views and evidence to inform the design and function of the unit. In particular, evidence was sought on the nature of financial hardship and its direct relation to NIRHI. The consultation closed on 10 July 2019. This paper summarises and provides an analysis of the responses received to the Call for Evidence as well as indicating next steps.

Note to Reader

- 1.10 The Department's analysis accurately summarises and reflects the responses that were received. The presentation of comments within this document does not constitute the Department's agreement with the views expressed.

2. Overview of responses

2.1 The call for evidence paper consisted of 7 sections:

- Section 1: Your details
- Section 2: The independent Chair and panel
- Section 3: The nature of hardship
- Section 4: Other factors
- Section 5: Outcomes
- Section 6: Any other information

Section 1: Who responded, and number and format of responses

2.2 The Call for Evidence was accompanied by an Answer Template which respondents were asked to complete. A total of 78 responses were received. Of these, 27 were submitted using the template, 50 were in free text, and one was provided by telephone.

2.3 Respondents were asked to describe their connection to the NIRHI. Of the 27 who completed the template, 25 were participants in the Scheme and two had other connections to the Scheme. Of the 51 who did not complete the template, 50 were participants, with one having another connection to the Scheme. No respondents were without connection to the Scheme.

Response	Template	Other	Total	Participants	Other	Total
Number	27 (35%)	51 (65%)	78 (100%)	75 (96%)	3 (4%)	78 (100%)

2.4 Responses in formats other than the template varied in how closely they aligned with the consultation questions. These have been considered as part of the analysis where answers to the consultation questions could be determined or views on the approach to hardship were outlined.

2.5 Many respondents advised that it was difficult to answer all of the questions without more information on how the panel would work, when it would be established, what relief it would be able to offer, or prior to the Department responding to the Northern Ireland Affairs Committee's report on changes to the NI RHI Scheme payments.

Section 2: The independent Chair and panel

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

2.6 The responses of those who used the template are recorded in the table below. Seven respondents stated that they agreed with the Department's approach.

Yes	No	Not sure	Not answered	Total
7 (9%)	10 (13%)	11 (14%)	50 (64%)	78 (100%)

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

- 2.7 The majority of respondents to this question believed that if the panel were to act independently then it should call for evidence rather than the Department. Several raised concerns about the Department's involvement in the process.
- 2.8 Several respondents wished to know how the panel would be remunerated and had concerns about the cost of appointments and value for money of the proposed work.
- 2.9 Many respondents expressed discontent with the options available to the panel, stating that offers of assistance such as 'rescue aid' in the form of a short term loan at commercial rates would be inadequate and would not address the root of the problem.
- 2.10 A small number of respondents commented that there should be representation from the Renewable Heat Association for Northern Ireland (RHANI) on the panel. Other suggestions included that a business community representative on the panel should have a good understanding of banking in the agri-business sector, that panel members should have experience of working in the commercial sector of biomass in GB, working in a medium sized finance department, and an understanding of the difference between 'modified IRR' and 'IRR', and an understanding of gearing and liquidity.

Section 3: The nature of hardship

Section 3: This section asked a number of questions in respect of loans for biomass boilers. Participants were asked to provide evidence of being in financial hardship as a result of being a participant on the Scheme.

- 2.11 The majority of respondents claimed that their business was currently suffering hardship, namely cash flow issues as a result of the introduction of the 2017 and subsequent 2019 legislation. Some reported that this hardship had required actions such as re-mortgaging or selling property. A small number reported actual or potential staff redundancies, or fears that the future of their business was at risk. Several reported health issues as a result of the tariff changes, such as stress and anxiety.
- 2.12 Many respondents stated that they would not submit financial information to the Department due to concerns about data security and prior data breaches.

- 2.13 Some took the opportunity to submit financial information against the specific questions asked by the Department, including boiler costs, the nature of relevant loans, and the potential to re-profile financing arrangements. Many reported having taken out loans, with the majority of loan periods reported as between 3-10 years.
- 2.14 Three respondents provided documentary evidence in support of the financial information reported.
- 2.15 Respondents were asked whether they had held discussions with their loan providers, for example, in relation to re-profiling loans over longer periods. Of those who reported having held such discussions, some had been able to avail of restructured arrangements, while others reported an unwillingness from the institutions. The table below summarises these responses.

	Bank unwilling to restructure	Loan restructured	Additional loan taken out	Financing is fixed term Hire Purchase rather than loan	Other	Total
Discussed with bank	8	5	1			14
Not discussed with bank				2	7	9
Total	8	5	1	2	7	23

Section 4: Other factors

Section 4: This section asked what other factors, if any, should be considered by the Chair / panel?

- 2.16 Many respondents expressed the view that, as a result of the tariff changes, continued operation of biomass boilers would be unsustainable. Respondents stated that tariffs would no longer cover the operating and maintenance costs of boilers, the costs of fuel, or the costs of loan repayments.
- 2.17 A small number stated that consideration of hardship should incorporate loss of business customers and reputation as a result of stigma associated with participation on the RHI Scheme.
- 2.18 Other factors mentioned included costs associated with building control, compliance with fire regulations, electricity, architect and structural engineer fees, and time associated with administration relevant to participation on the Scheme.

Section 5: Outcomes

Question 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?

2.19 The majority of those who responded to this question using the template were unsure of other types of support that could be recommended.

Yes	No	Not sure	Not answered	Total
5 (6%)	3 (4%)	9 (12%)	61 (78%)	78 (100%)

2.20 Overall, the majority of consultation respondents expressed desire for adjustment of tariffs.

2.21 Many made reference to the Northern Ireland Affairs Committee recommendations in respect of reviewing tariffs, with some emphasis on parity with GB and Irish tariffs. Many referred to the reintroduction of earlier tariffs, and grandfathering rights.

2.22 Some stated that compensation or 'back-pay' to take into account the shortfall in payments since tariff changes were introduced would be appropriate. Many expressed the view that only the Courts could be expected to provide long-term relief.

2.23 One respondent questioned the extent to which the voluntary buy-out scheme would mitigate the potential impact of the tariffs, suggesting that it would exclude those worst affected by the tariff change.

Section 6: Any other information

Question 6.1 sought any further information relevant to the issue.

2.24 Other general comments included within responses, as well as those specifically incorporated within Section 6, included:

- Several respondents reported reversion to fossil fuels, in whole or in part, while many advised that they are considering reverting.
- Many suggested that the 2019 legislation had been introduced as a solution to departmental accounting problems.
- Some called for the removal of DfE from further involvement in the Scheme.

- Many highlighted the perceived disadvantages of biomass heating systems over fossil fuel heating systems, such as higher maintenance costs and electricity costs.
- Some expressed the view that the Department's counterfactual costs were inaccurate. The view that the most appropriate counterfactual fuel should be LPG rather than kerosene was expressed by some.

3. Departmental response and next steps

- 3.1 The purpose of the Call for Evidence was to consult both on the presence and nature of hardship as a result of changes to the NIRHI tariffs, and on the Department's proposed approach. The Department wishes to record its thanks to all those who took the time to respond.
- 3.2 The majority of respondents sought an adjustment of tariffs, with desirable outcomes including the restoration of earlier NIRHI tariffs, parity with GB tariffs, or financial compensation. The Department has now committed to a further independent review of the medium biomass tariffs which will consider any movements in the underlying variables which underpin the tariffs. Should sustained and significant changes be observed, the Department would seek amendment to the tariffs.
- 3.3 The majority of participants who responded stated that their business was suffering hardship as a result of the changes to the NIRHI tariffs, however, only a very small number of responses included supporting evidence such as loan repayment documents etc. The Department considers that a significantly wider and more detailed range of information than that collected through the Call for Evidence would be required to assess the presence, nature and extent of hardship, and its link specifically to participation in NIRHI.
- 3.4 Due to the relatively small number of Scheme participants who responded to the consultation (75; or around 6% of the total number of participants) it is difficult to draw conclusions on the scale of the issue across the Scheme as a whole. The unwillingness of many respondents to share financial information with the Department further increases the challenge of drawing robust conclusions on hardship based on the Call for Evidence.
- 3.5 The Department's proposed approach, as signalled in the Call for Evidence paper, would have seen the establishment of a panel / unit with an independent Chair to consider hardship on a case-by-case basis. The Department proposed that in determining whether a business is suffering hardship, the Chair / panel would take account of the European Commission's Guidelines on State aid for rescuing and restructuring, and in particular the definition included of an "undertaking in difficulty". In cases where the Chair / panel determined that hardship was present, the actions available to assist those businesses would be limited to existing Government supports, including potential availability of support schemes, such as through Invest NI.
- 3.6 The Department acknowledges that respondents have expressed significant discontent with the proposed approach and in particular that the available supports did not include grant funding or other forms of financial compensation. As a consequence, the Department does not consider that moving ahead with this approach to hardship would be the most appropriate course of action.

Next steps

- 3.7 The Department reaffirms its commitment to consideration of financial hardship.
- 3.8 The consultation responses have confirmed the importance that consideration of hardship is led by an independent party. The Department is in full agreement, and will appoint an independent expert to progress this work.
- 3.9 The consultation responses have reinforced the understanding that individual business circumstances vary significantly, and that these must be taken into account as part of any consideration of hardship.
- 3.10 Assessment of hardship will require a significantly more comprehensive and detailed consideration of business financials, including investments, than was achieved through this Call for Evidence. This should take into account all aspects of participation in NIRHI.
- 3.11 In line with these principles, the independent consideration of hardship will require further research into the circumstances of those NIRHI participants who feel they face hardship as a result of involvement in the Scheme.
- 3.12 The Department will ensure there is substantial freedom for the independent examination of hardship to set the relevant definition or definitions of hardship, and research methodology. The work will be informed by the Northern Ireland Affairs Committee report on changes to the NIRHI Scheme tariffs, and with this report summarising the Call for Evidence consultation responses. The Department will also seek the consent of those who responded to the consultation to share their Call for Evidence responses with the independent expert after their appointment.
- 3.13 The key outputs of the work will be a recommended definition or approach to hardship, including any financial metrics that should be applied and a process which could be followed as well as recommendations as to what support should be offered in cases where hardship is found.

4. Call for Evidence – frequently asked questions

4.1 This section addresses the key points and questions raised during the consultation which did not specifically fall within the scope of the questions asked on hardship.

4.2 Many respondents asked whether the Department accepted the findings and recommendations of the Northern Ireland Affairs Committee report into changes to the NIRHI Scheme payments.

The Committee’s report was published while the Call for Evidence consultation was ongoing. The Department has now responded to the Committee’s recommendations and the response can be found on the NI Affairs Committee website at:

<https://publications.parliament.uk/pa/cm201719/cmselect/cmniaf/2646/2646.pdf>

4.3 Many respondents expressed desire for amendment of tariffs. Responses referred to the reinstatement of earlier tariffs, grandfathering rights, parity with tariffs available on GB or Irish schemes, and financial compensation.

The Department has now commissioned a further independent review of the non-domestic tariffs. The review will examine the current costs afforded for fuel, servicing and maintenance, compared with the fossil fuel alternatives.

The Department recognises that some of the costs involved in operation of renewable heat installations will vary over time, such as the cost of biomass fuel and the price differentials between it and counterfactuals. The Department would seek legislation to amend tariffs in future if sustained and significant changes in variable costs are observed.

Due to differences in market conditions in Northern Ireland, Great Britain and Ireland, and operational differences between the schemes in each jurisdiction, it is to be expected that the tariffs on each scheme will differ.

4.4 Many participants stated that they needed to know whether acceptance of a hardship payment would affect their ongoing participation on the Scheme, and whether they would be expected to give up rights.

Engagement with this process will not affect ongoing participation on the Scheme.

4.5 Many respondents questioned when the panel would be established, how it would operate, and what criteria and factors it would consider.

The working arrangements for the investigation of hardship, and the detail of the relevant criteria and factors for consideration, will be determined by the independent expert.

- 4.6 Many respondents emphasised the importance of independence from the Department. Many questioned whether the Chair, rather than the Department, should seek evidence of hardship.

The Department accepts that for the consideration of hardship to be truly independent, it must be carried out by someone who is not, and has never been employed by the Northern Ireland Civil Service. Further, they should not have had any prior involvement with NIRHI.

It was hoped that this Call for Evidence process would provide information and evidence that would define the nature and presence of hardship, allowing the Department to appoint a panel empowered to address these issues (within the powers available to the Department). However, it is recognised that many respondents did not wish to provide detailed information to the Department. This therefore means that further evidence and information must be sought.

- 4.7 The means of remunerating the independent Chair and panel was queried.

The Department will meet the costs involved.

- 4.8 Many respondents stated that as a result of the tariff changes, operation of biomass boilers was no longer sustainable. Respondents noted that tariff payments no longer covered the costs of boiler maintenance, operation, or fuel. A large number of respondents stated that they were considering reverting to fossil fuels as a result, with some noting the environmental implications of reversion.

The tariffs have been designed to bridge the gap between the cost of generation of heat from renewable sources and fossil fuel alternatives, taking account of the higher capital cost of biomass boilers and different ongoing operating costs. These variable costs will be re-examined during the forthcoming tariff review.

While the purpose of the Scheme was to incentivise production of renewable heat, it was not the intent that tariffs should provide free fuel. Data available to the Department suggests that biomass continues to be available at a lower cost than the fossil fuel alternative (kerosene).

- 4.9 One respondent suggested that the voluntary buy-out was dependent on a functioning Northern Ireland Executive.

The powers conferred on the Department by the Northern Ireland (Regional Rates and Energy) (No. 2) Act 2019 in relation to the voluntary buy-out may only be exercised in the period while there is no Executive.