

Non-Domestic Renewable Heat  
Incentive (NDRHI) Stakeholders

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## **Our response on the proposed revisions to the NDRHI (GB and NI) formal review process**

This open letter outlines Ofgem's decision following the review of proposed changes to the Non-Domestic Renewable Heat Incentive formal review process, for both Great Britain and Northern Ireland schemes. It summarises the consultation and the next steps on our administration of the scheme in respect of this matter. Context to the consultation is available in Annex 1.

### *Consultation process*

On 13 February 2019, we opened a consultation<sup>1</sup> requesting views on the proposal to streamline our decision review process, by removing the formal review stage and instead carrying out the review of any decision requested by applicants / participants under the Statutory review process provided by the schemes Regulations. In addition, changes to the relevant guidance documents were proposed to support such a transition.

The consultation closed on 12 March 2019.

We received no responses to this consultation, as such we have no information which indicates any objection to our proposals.

### *Our decision*

We will implement the proposed changes to the decision review process, for both Great Britain and Northern Ireland NDRHI schemes. This means that we will be removing the formal review stage, allowing applicants / participants to request a review of any decision made by us under statutory provisions in place, in line with the NDRHI GB Regulations (Regulation 86) and the NDRHI NI Regulations (Regulation 50). This will aim to improve the review and decision making process, enabling us to make a final, robust decision in a much shorter timescale. The intended process change date is 1 May 2019.

### *Next Steps*

Ofgem will continue to administer the decision review process using the current approach until the specified date of change. Once the change is implemented, updated guidance will be published and made available. In addition, all decision letters issued to applicants / participants post process change will include details on the revised decision review process.

Yours faithfully

Adrian Ross  
Change Hub Deputy Director

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<sup>1</sup> [https://www.ofgem.gov.uk/system/files/docs/2019/02/formal\\_review\\_consultation\\_-\\_nigb\\_ndrhi\\_3.pdf](https://www.ofgem.gov.uk/system/files/docs/2019/02/formal_review_consultation_-_nigb_ndrhi_3.pdf)

## **Annex 1. Context**

The Non Domestic Renewable Heat Incentive Scheme in Great Britain (NDRHI GB), is administered by Ofgem on behalf of the Department for Business, Energy and Industrial Strategy (BEIS); and, is governed by the Renewable Heat Incentive Scheme Regulations 2018, which replaced the 2011 regulations and came into force on 22 May 2018 (the GB Regulations).

The Non Domestic Renewable Heat Incentive Scheme in Northern Ireland (NDRHI NI), is administered partly by Ofgem on behalf of the Department for the Economy (formerly DETI). DfE established a NDRHI Scheme under section 113 of the Energy Act 2011 and the Renewable Heat Incentive Scheme Regulations (Northern Ireland) 2012 as amended (the NI Regulations).

As part of Ofgem's administration of the NDRHI GB scheme, "any prospective, current or former participant affected by a decision made by the Authority in exercise of its functions under these Regulations may have that decision reviewed by the Authority" as documented within Regulation 86 – Right of Review (NDRHI GB Regs).

As part of Ofgem's administration of the NDRHI NI scheme, "any prospective, current or former participant affected by a decision made by the Department in exercise of its functions under these Regulations (other than a decision made in accordance with this regulation) may have that decision reviewed by the Department" as documented within Regulation 50 – Right of Review (NDRHI NI Regs).

Currently, as per the administrative process and the guidance documents, where an applicant/participant is dissatisfied with a decision made by Ofgem, they can request a review of the decision. Ofgem initially undertake a formal review of the decision, of which there can be a number of formal reviews for a case. The formal review process provides Ofgem up to twenty working days to respond to the customer with a decision. If after the formal review process, the applicant/participant is still unhappy with the conclusion they may then request a Statutory Review. As an example, this means that a customer who goes through two formal reviews can have a forty working day delay before requesting a Statutory review to reach a definitive, final decision. Statistics show that only 14% (across both GB and NI NDRHI) of cases result in the original decision being overturned by a Statutory review. This suggests that it is unlikely that the original decision will change across a multiple review process and for the majority of cases only delays the customer in reaching a definitive answer.

As noted, there are statutory provisions under both the NDRHI GB Regulations (Reg 86) and the NDRHI NI Regulations (Reg 50) that give rights to participants under both NDRHI NI and NDRHI GB schemes to request statutory reviews of Ofgem's decisions. However, there is no statutory right to request a formal review. The formal review process was created by Ofgem/DfE and is set out in their respective guidance documents as part of the administrative process.

While the number of requests for review is relatively low in comparison to the volume of decisions taken on the scheme, as highlighted there is a significant period of time where applicants/participants are placed in a period of uncertainty while the reviews are taking place. Given this context, we now wish to review the dispute resolution process and remove the formal review stage, so that when a request for review is raised, it is dealt with as a Statutory Review in the first instance, with the aim of improving the review and decision making process for those requesting reviews of decisions.