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Dear Kirsty,

Subsidy Control Bill Committee – matters connected to Clause 37

I am writing in response to your request for clarification, made during the Committee session on 2 November, in relation to Clause 37 and the procedural requirements for the provision of Minimal Financial Assistance (MFA).

As we discussed, MFA funding is used to describe smaller amounts of subsidies which can be given for almost any purpose or objective, provided that they comply with the relevant provisions of the Subsidy Control Bill. The most important of these is that the total amount a single beneficiary may receive cannot exceed £315,000 over the current, and the two preceding financial years (the Applicable Period).

When calculating subsidy amounts it is worth noting that we are seeking different objectives depending on whether a subsidy is given as MFA or not. The process in Clause 37 on giving MFA exists to ensure that beneficiaries do not exceed the MFA threshold, not to determine the amount of the subsidy *per se*. In contrast, subsidies which are not given as MFA may need to be uploaded to the database, depending on the amount, and therefore the process for non-MFA subsidies is to determine what the amount of the subsidy is for the upload to the database. This applies whether it is a subsidy in the form of a tax measure (where the amount may not be fully known for 12 months following the tax declaration) or a conventional subsidy measure where calculating an accurate amount for upload may take up to six months.

Timeline of MFA notifications and MFA confirmations

First, a public authority must provide an MFA notification to the potential beneficiary (see clause 37(1) and (2)). As you set out in Committee, this must be provided before the subsidy is given.

The MFA notification explains that a subsidy in the form of MFA is proposed, the gross value, and requests the potential beneficiary to confirm, in writing, that if it accepts the MFA it will not exceed the threshold of £315,000 of minimal and SPEI financial assistance (found in clause 36(1)). The beneficiary will need to calculate all the previous MFA and SPEI financial assistance it has received over the Applicable Period to ensure it provides an accurate figure to the public authority in response to the MFA notification. Only when the public authority has received the confirmation from the beneficiary, can it proceed to give the MFA.

As MFA is given, the public authority must provide an MFA confirmation to the beneficiary, setting out that it is receiving MFA, the date it is being given and the gross value amount (see Clause 37(4)). You asked me to confirm the timing of this MFA confirmation: it must be given at the same time as the MFA.

A beneficiary will need to keep a record of what it has received for a period of three years to enable them to accurately provide the relevant information to the public authority. The three-year period commences on the date the MFA was given. As I confirmed in Committee, the entire MFA notification and declaration process can be carried out by electronic means, such as email. Written records can also be kept electronically.

You also asked in Committee why the gross value of the MFA could be confirmed immediately, while subsidies that are not MFA require a deadline of six months to be uploaded to the database, or twelve months in the case of tax subsidies. There are two points to note here. Firstly, the confirmation of MFA 'gross value' may, in some instances, be a maximum upper limit rather than an exact amount. This will ensure that the recipient enterprise does not exceed the MFA thresholds.

Secondly, and as I set out in Committee, a longer deadline for upload to the database is necessary because for complex subsidies, it can take some time to determine all the relevant data, including the value of the subsidy. This is particularly likely to be the case for tax subsidies where some discussion between the public authority and recipient may take place after the tax declaration has been submitted. This is largely due to the fact that some tax returns can be amended for up to 12 months after the deadline.

There are some small tax subsidies which are currently given as Small Amounts of Financial Assistance, which is the equivalent to MFA and is explained in our current guidance. One example is the Employment Allowance. The Employment Allowance is assistance of up to £4,000 that a business or charity can claim from their employer National Insurance contributions bill each year, where their employers' Class 1 National Insurance liabilities were less than £100,000 in the previous tax year.

I hope this clarification on the points you raised is helpful. If you would find it useful, my officials will be able to provide you and any other Committee Members with a factual briefing, with more detail on how the MFA declaration process works in practice. Of course, we will be making clear in guidance how public authorities should be providing MFA whether in the form of tax measures or not. I am copying this letter to Seema Malhotra MP and all other members of the Committee and I will be placing a copy in the Libraries of the House.

Yours sincerely,



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