



## INQUIRY INTO THE RENEWABLE HEAT INCENTIVE SCHEME

**RHI REF: Supplementary Statement of Agnes Lennon**

**DATE: 16 March 2018**

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**Witness Statement of: AGNES LENNON**

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I, Agnes Lennon, will say as follows: -

1. In view of comments made during the oral evidence sessions of the RHI Inquiry to date, including Day 10:  
Page 67 (lines 7 to 11);  
Page 71, (lines 6 to 9 and 17 to 23); and  
Page 72, (lines 5 to 10);  
I wish to assist the Inquiry further in relation to the actions which I (as the official in the Department of Finance (CED) with responsibility for AME exercises) took following the 20 October 2010 Chief Secretary to the Treasury letter, "the Settlement Letter".

### Background

2. I was not aware of the RHI overspend issue during my employment in the NI Civil Service. The first time I heard of the RHI overspend was by a radio report in late 2016. My immediate reaction was - that is the capped Scheme that was in AME and I could immediately visualise the paragraph in the Settlement Letter, I recalled speaking to HMT as a consequence of that Settlement Letter and I could visualise the lines in the AME return to OBR/HMT. I particularly recalled having the Settlement Letter on my desk for a period of some months while I chased DFP Supply (and, in turn, DFP Supply chased DETI) to set up the necessary expenditure lines in the NI Public Expenditure System known as the Resource Budgeting and Management System or RBM (after DETI had confirmed it was going to deliver a Renewable Scheme and feed into the AME exercises) – my email to Stuart Stevenson and Sylvia Sands dated 16 December 2010 is one such email (DFE-195322).

## Actions

3. At that time, Settlement Letters primarily focused on DEL issues and control totals and, in relation to AME, normally just confirmed the latest total AME forecast. For those reasons to have a paragraph on a specific AME allocation in respect of a particular programme (a NI Renewable Heat Incentive Scheme) was a little unusual. As a direct consequence, I contacted HMT in late October/early November 2010 and discussed this specific AME allocation. While not remembering the detail or the depth of those conversation/s I am certain that as a result I re-emphasised to DFP Supply the key facts that the allocation was capped, it was a population based share of the GB Scheme and if DETI was going to take forward a Renewable Heat Scheme then DFP would need to inform HMT and include it in the AME exercises – facts that were already clear from the Settlement Letter. The initial contact with HMT would have been by telephone and verbally with DFP Supply (as was normal practice in CED). It is quite probable that there were emails in relation to the matter. Unfortunately, the Department of Finance has advised me that email evidence from this period is not available. At the time, such emails would have been part of normal everyday business and (without the benefit of hindsight) I did not consider them significant enough to TRIM. That should not, however, be interpreted by the Inquiry as evidence that I did not contact HMT.
4. As the official in CED in charge of AME, Estimates and the bi-annual Budget Bill, my responsibility (in conjunction with DFP Supply and DETI) in relation to this paragraph in the Settlement Letter was threefold:
  - a) Ascertain if DETI was going to deliver a NI Renewable Heat Scheme and inform HMT,
  - b) Ensure the necessary expenditure lines were set up in the NI Public Expenditure System and hence uploaded to the HMT Public Expenditure System in order to obtain the funding in the NI Block Grant for 2011-12 onwards via the NIO Estimates and the Westminster Supply and Appropriation Acts, and
  - c) Ensure the RHI Scheme was included in the DETI services listed in Schedules 3 & 4 of the Budget Act (NI) 2011 in order to obtain NI Assembly statutory authority to spend on the Scheme. To be clear if Renewable Heat Incentive was not included in the Budget Act then DETI could not have spent the RHI AME allocation given to NI in the Block Grant.



5. The first responsibility above was completed on 10 November 2010 – see Peter Jakobsen’s email in DOF-02344. In relation to b) above, the first expenditure lines were set up in January 2011 in the NI Public Expenditure System, included in AME exercises thereafter and the funding stream established. Finally, the RHI Scheme was included in Schedules 3 and 4 of the Budget Act (NI) 2011 which was taken through the Assembly by CED in February 2011 and received Royal Assent in March 2011 prior to the start of the financial year 2011-12.
6. Setting aside (for a moment) my firm recollection of speaking to HMT in October/November 2010, I must emphasise that I would never have proceeded as set out in paragraph 5 above without having first discussed the funding with my NI Spending Team in HMT (at that time, Keith Jarrett (DP) and Mark Parkinson (Grade 5)) – nor would it make any sense to have proactively proceeded as in paragraph 5 above without first speaking to HMT to get the background around the AME funding allocation.
7. On the other hand, I do feel that the Inquiry appear to see complexity in this AME allocation and, therefore, the need for protracted communication with the HMT Spending Team at this stage – the complexity did not exist in the straightforward capped allocation, the complexity arose from deficiencies in the RHI Scheme ultimately designed by DETI, namely the lack of cost controls. The RHI allocation was a simple AME allocation capped at £25 million over 4 years. It certainly would not have required protracted written communication with HMT or written records - the facts were clearly recorded in the Settlement Letter for all to see. It must also be borne in mind that NI is a devolved administration and it would not have been in order for HMT to interfere and discuss cost controls for any Scheme that NI may develop and deliver. Nor would it have been within my remit, on behalf of a devolved administration, to have sought advice or discussed possible NI cost controls with HMT at this stage. It was entirely the responsibility of NI to follow all the relevant guidance and develop a Scheme with robust cost controls in place in order to live within the capped allocation. However, if DETI, when designing its Scheme, had requested to explore with HMT the cost controls imposed on the GB Scheme then CED would have facilitated a video or audio conference with the HMT Energy Team (CED and the HMT NI Spending Team would have taken part in or chaired such a discussion).
8. My motivation in contacting HMT would have been to get some background and rationale behind the allocation (I would have been completely unaware of any proposed RHI scheme). I do not particularly recall but, with my knowledge of AME and DEL rationale, it is likely one of the first questions I



would have asked HMT would have been how the allocation was scoring in AME and once it was explained to me about the size of the DECC budget, etc, I would have immediately understood why it was agreed to score in AME and how our NI allocation was following suit. I would have gently probed around the population share (being acutely aware that this was much more advantageous than a Barnett consequential share) and the cap before communicating this to the DFP Supply team for DETI and setting the necessary train of events in motion as described in paragraph 5 above. The issue of the cap on the allocation (and, therefore, related risks of any overspend of an AME allocation) was discussed with Supply. The key message being: DO NOT OVERSPEND this capped allocation in AME as it will have a DEL impact.

***HMT Jon Parker's email of 15 April 2011 [WIT-30248]***

9. Additional to my witness statement dated 2 November 2017 (WIT-44636-WIT-44640), in order to assist the Inquiry, I wish to add further comments around the email above.
10. On 15 April 2011 I was on leave for a few days (due to a significant birthday on that date) and I cannot particularly recall my actions but, on return to the office (or, perhaps, from my Blackberry) I, no doubt, would have reminded my Line Manager, Mike Brennan, that this AME funding was a capped allocation set out in the 2010 Settlement Letter, that I had - at the end of 2010 - discussed it with HMT and discussed with Supply the cap on the funding and the associated risks of overspend (as per paragraph 8 above). I am confident that I advised my line manager that the AME funding was at that point already included in the January 2011 AME Exercise and in the recent Budget Act (NI) 2011 (the Budget Act (NI) 2011 received Royal Assent on 22 March 2011). Again, I am not sure whether I did this from my Blackberry or by email or verbally upon my return to the office but the Department of Finance has advised me that untrimmed emails of this time are not available.
11. To be honest, I probably found the Jon Parker email irritating, in that, a) DETI should not have communicated directly with HMT and b) any countenancing of overspend and later recovery flew in the face of the DFP message that overspend must not occur and the capped funding must be managed carefully to that end.



12. Jon Parker was joint head of the Energy Branch of HMT – he was not part of the NI Spending Team and, therefore, this email was not an official notification from the NI Spending Team. The imprudent actions of a department, such as DETI, communicating directly with HMT rather than DFP only resulted in misinterpretation and mixed messages. The Jon Parker email did not, in my view, contain anything particularly surprising from a DFP perspective – it was generally in line with AME guidance as contained in the Consolidated Budgeting Guidance – any AME overspend could be met from AME savings in future years and, at the discretion of HMT, a percentage of these savings may have to be met from DEL. I would not have considered it prudent at this stage to request the NI Spending Team to confirm in writing to NI any percentage DEL penalty thus leaving the door open for negotiation of more favourable terms if the scenario eventually arose. In any event, it is a savings scenario (to counteract any overspend) that is envisaged in the Jon Parker email – a scenario that could never materialise under the RHI Scheme as ultimately devised by DETI. For this reason the Jon Parker email was rendered somewhat irrelevant by the passage of time. The key message (and worst case scenario) from DFP to DETI was DO NOT OVERSPEND this capped AME allocation as it will have a DEL impact – such a stark message should have meant that cost controls would be uppermost and central when devising a RHI Scheme.
  
13. I do not recall taking any further action as a consequence of the Jon Parker email, either by communication with HMT or Supply. That should not, however, be interpreted by the Inquiry as evidence that I did not discuss it with DFP Supply. The Inquiry is already aware that my Line Manager had already raised it with Supply (WIT-44618). If I spoke to HMT after this email it would have been to strongly register an objection to HMT communicating directly with one of our departments. Equally, if I spoke to DFP Supply it would have been to strongly register a complaint that DETI had initiated communication with HMT rather than with DFP as well as repeating the stark message that the RHI AME allocation must not be overspent as it would impact on the DEL. I repeat, I had already discussed the capped RHI AME allocation with HMT and Supply in these terms in Oct/Nov 2010 prior to taking each of the actions set out in paragraph 5 above.



***DFP Joanne McBurney's email of 7 February 2012 [DOF-02434]***

14. Additional to my witness statement dated 2 November 2017, in order to further assist the Inquiry, I wish to expand on the email above.
15. Firstly, the Settlement Letter did not require the RHI Scheme details to be provided to HMT – it only required “NIE officials should inform my officials of their intentions to feed into AME forecasts”. Nor do I recall the NI Spending Team in HMT requesting any Scheme details during my conversation/s with them in October/November 2010 or at any later date.
16. Secondly, if, by February 2012, (some 15 months later) Keith Jarrett, during an impromptu phone call from Joanne McBurney (CED in DoF), suggested he should have obtained ‘some details of the proposed scheme so that they can confirm that they are content to provide the AME funding’ (wording in Joanne McBurney’s email) it was rather late in the day as the funding was already flowing via the Block Grant to NI for 2011-12 (this request is just seven weeks before the end of the financial year 2011-12) and in the pipeline for the years to 2014-15. Providing to HMT the high level objectives of our NI Scheme would not have been a problem at any stage if that was in fact what was being asked (and may even have been in the public domain by then) but providing details of ‘the Scheme’ would not have been entertained by either CED or HMT as both would have been of the view that this was a devolved matter. As the funding process was already ‘up and running’ for the past year and I was no longer responsible for AME at the time of this email I, personally, would not have considered it necessary to take any further action.
17. Thirdly, I refer to my email to Joanne McBurney dated 8 February 2012 (DoF 02434) where I stated “I didn’t realise I should have run it past Keith”. It has been suggested to me that this potentially contradicts my earlier statement at WIT-44635 where I stated that I had clarified by phone with HMT the population share AME allocation and discussed it with DFP Supply (including managing the risk of overspend) shortly after the 2010 Settlement Letter was received. For the information of the Inquiry, this statement relates ***only*** to the fact that I was never made aware by Keith Jarrett or any of the HMT NI Spending Team, up to that point in time, that any further detail of the Scheme (figurework or otherwise) was required. It did not mean, nor should it be interpreted as meaning, that I had not discussed with HMT the NI Renewable Heat AME allocation following the 2010 Settlement Letter or that I had not passed on any information I gleaned to DFP Supply. On the contrary, I am absolutely sure that I spoke to the HMT NI Spending Team within a few days



of the 2010 Settlement Letter in order to clarify the RHI paragraph. Also, please see paragraph 2 above about my instant recall upon hearing of the RHI overspend on the radio – long before I saw any of the evidence placed before the Inquiry that could have served as a reminder. As per paragraphs 4 and 5 above, I was proactive from the outset in relation to the RHI allocation to NI and very aware of the need to move swiftly in order to receive the funding for NI and facilitate the spending of it in 2011-12.

Statement of Truth

I believe that the facts stated in this seven page witness statement are true.

Signed:  \_\_\_\_\_

Dated: 16 March 2018