

Chapter 19 – The business case for the domestic RHI

- 19.1 As mentioned previously, the Inquiry has not investigated and is not reporting on, the NI domestic RHI scheme *per se*. Rather it has looked at aspects of decision making around the domestic RHI scheme in DETI and DFP in terms of how decisions had an impact on the non-domestic RHI scheme.
- 19.2 During early 2014, work continued on developing the business case to seek approval for the introduction of the domestic RHI scheme. On 23 May 2014 Energy Division, now without Ms McCutcheon and Mr Hutchinson, submitted the domestic RHI proposals for consideration by a DETI Casework Committee.¹⁰²³ The proposals were again supported by a covering letter from Mr Thomson.¹⁰²⁴

The DETI domestic RHI Casework Committee

- 19.3 The domestic RHI Casework Committee met on 9 June 2014 and approved the proposals. Mr Cooper, who had chaired the March 2012 Casework Committee that had considered the non-domestic RHI, also sat on the domestic RHI Casework Committee. Mr Cooper had sought and received a copy of the 27 April 2012 DFP approval of the non-domestic scheme on the day of the domestic RHI Casework Committee meeting.¹⁰²⁵

Changes to the review required of the non-domestic RHI scheme

- 19.4 As discussed further in chapter 32 of this Report, there was a clear requirement for DETI to review the non-domestic RHI scheme. This was set out, for instance, as condition 2 of the DFP approval of 27 April 2012, which required arrangements to be put in place for scheduled reviews and noted that the first review was scheduled to start in 2014.¹⁰²⁶
- 19.5 The Inquiry also notes that paragraph 10.10 of the business case for the introduction of the domestic RHI scheme of 15 August 2014, originally prepared by Mr Hutchinson before his departure in May 2014, then revised by Mr Wightman and approved by Mr Mills, incorrectly stated that the first formal review of the commercial non-domestic RHI scheme would begin in early 2015, rather than 2014, with changes to be implemented in 2016, rather than 2015, as indicated in earlier documents.¹⁰²⁷ The Inquiry was shown no evidence of a conscious decision being made for this and Mr Hutchinson, who had drafted the document, gave oral evidence to the effect that it may have been an error, or had been changed by someone other than him.¹⁰²⁸
- 19.6 Whatever may have been the source of the change, it was then replicated in all future documentation regarding the review. In fact, DETI had neither carried out the review of the non-domestic RHI scheme originally scheduled for January 2014 nor the urgent review of the biomass tariffs under 100kW recommended in Mr Hutchinson's handover note of May 2014.

1023 DFE-269737 to DFE-269937

1024 WIT-13099 to WIT-13100

1025 DFE-144451 to DFE-144455

1026 DOF-03244 to DOF-03245

1027 DFE-163958; DFE-163896 to DFE-164103

1028 TRA-05145 to TRA-05150

DFP's approval of the domestic RHI business case

- 19.7 The Inquiry looked closely at DFP's handling of the approval of the DETI domestic RHI business case because of its potential ramifications for events relating to the non-domestic RHI scheme. The Department of Finance (DoF, formerly DFP) told the Inquiry that its primary function in respect of granting approval for business cases was to assess whether the business case represented value for money.¹⁰²⁹ DETI submitted the domestic RHI business case to DFP Supply on 15 August 2014.¹⁰³⁰
- 19.8 By this point, there was a new DFP Supply Officer responsible for DETI, Michelle Scott. Ms Scott had not been involved in the DFP approval for the non-domestic scheme in 2012. DoF informed the Inquiry that none of the DFP Supply team involved with the 2012 approval were involved with the 2014 approval of the domestic case; the handover process had not included RHI (as there was no live business case at the time); and the need to treat the domestic RHI business case as an extension of the non-domestic RHI scheme was not recognised.¹⁰³¹
- 19.9 The 15 August 2014 DETI covering letter to DFP in respect of the domestic RHI business case material was sent under the name of Iain McFarlane, who worked in the DETI Finance Division's Accountability and Casework Branch.¹⁰³² This letter contained a number of errors, omissions and inconsistencies:
- (i) Paragraph 5 wrongly stated that "funding of £25 million is available to 2015-16 for the scheme" whereas the original £25 million offered by HMT was only to cover the period up to 2014-15. There was no clarification to explain that HMT had also committed to paying the ongoing incentives arising from accreditations to the scheme in this period, and that these 'tail payments' needed to be included in AME forecasts from 2015-16 onwards alongside estimates for payments to new scheme members.
 - (ii) Paragraph 6 implied that for the one year, 2015-16, DETI should receive a population share of DECC's £430 million award. This would have amounted to £12.9 million to cover payments to existing and new scheme members for that year, although no confirmation of this had been received from HMT, and there had been no mention of RHI in the NI Executive's July 2013 settlement letter from HMT that dealt with the single financial year 2015-16.
 - (iii) In contrast to the implication of paragraph 6, paragraph 7 summarised DETI's then current AME forecasts for the scheme, which only recorded £9.5 million for the year 2015-16 as part of a total cumulative forecast of £103 million for the years from 2014-15 to 2019-20. That same figure of £103 million was then carried over into the second page of the DFP Supply Division business case *pro forma*.¹⁰³³
- None of these issues were identified by DFP Supply.
- 19.10 The letter of 15 August 2014 made no reference to the fact that DFP approval of the non-domestic RHI scheme, as set out in DFP's letter of 27 April 2012, was time-limited. This was in spite of the fact that the £103 million being referred to as available for the domestic RHI

1029 WIT-34719

1030 DFE-163895

1031 WIT-34729

1032 DFE-145074 to DFE-145075

1033 DFE-145076 to DFE-145077

scheme as far as 2019-20 (a figure said, in paragraph 9 of the letter, to render the domestic RHI scheme affordable) was in fact the AME profile for the already existing non-domestic RHI scheme. The DFP approval for the non-domestic scheme was due to expire at the end of March 2015.

- 19.11 It seems that during DFP's 2014 consideration of the domestic RHI business case no one in DFP looked at the 27 April 2012 approval it had previously granted for the non-domestic RHI scheme. DoF accepted before the Inquiry that DFP considered the domestic RHI business case as a stand-alone case.¹⁰³⁴ DoF fully accepted before the Inquiry that it was not a stand-alone case and should not have been considered as such.¹⁰³⁵
- 19.12 On 18 August 2015, DFP Supply Division's Ms Scott sent the DETI domestic RHI business case to DFP Economic Appraisal Branch, which housed the DFP economists, for their comment.¹⁰³⁶ Ms Scott also delegated, within DFP Supply, the further consideration of the domestic RHI business case to her deputy principal, Angela Millar.
- 19.13 The DETI domestic RHI business case was looked at by DFP economist, Michael Houston, who enquired about the inconsistency of the funding information provided and also asked whether there was any confirmation of the funding coming to Northern Ireland and whether it had been agreed by CED that any Barnett consequential of DECC's GB RHI funding would be allocated to DETI.¹⁰³⁷
- 19.14 Emer Morelli, who came into post as head of DFP Supply Division in September 2014, gave oral evidence to the Inquiry on behalf of DoF in respect of DFP's handling of the domestic RHI business case. Ms Morelli said that she could not find any evidence of DFP Supply turning to DFP CED (the then section of DFP responsible for AME and engagement with HMT) with regard to Mr Houston's enquiries.¹⁰³⁸ DoF also accepted that, in September 2014, Supply should have engaged with CED with questions about the funding of the RHI scheme.¹⁰³⁹
- 19.15 However, Ms Millar did ask DETI about affordability and, on 5 September 2014, DETI Accountability and Casework's Rachel Linton sent on to DFP Supply a series of finance-related correspondence that Mr Wightman had located.¹⁰⁴⁰ That material included the 15 April 2011 HMT Parker email as well as the correspondence between DETI Minister Foster and DECC Minister Barker at the end of 2013 and early 2014, which culminated with Minister Barker's letter of 7 January 2014. That DECC letter referred to the GB RHI funding of £430 million for 2015-16 and how, while DETI's funding for 2015-16 would be derived from the figure of £430 million through the population-based share, DETI should have received notification of its RHI funding directly from HMT in the 2015-16 Spending Round. DETI's handling of the DECC 2013 and 2014 correspondence, particularly relating to the issue of budget control, is dealt with later in this Report. It does not appear that, in September 2014, the potential significance of the HMT Parker email, or the import of the Barker letter, as to the funding position was recognised in DFP.

1034 TRA-11418

1035 TRA-11426

1036 DOF-100212

1037 DOF-100210 to DOF-100211

1038 TRA-11416

1039 TRA-11417

1040 DFE-193421 to DFE-193452

- 19.16 Following a further exchange of questions and answers between DFP Supply and DETI, approval was given by DFP for the domestic RHI scheme on 15 September 2014.¹⁰⁴¹ The DFP approval letter of 15 September 2014 stated that the preferred option mirrored the approach taken in GB and “will see the introduction of a Domestic Renewable Heat Incentive Scheme at a capital cost of £103 million and a resource cost of £1.4 million.”¹⁰⁴² The characterisation of the funding as “capital” was incorrect. The reference to £103 million did not contain any recognition that this sum referred to AME forecasting for the non-domestic RHI scheme. It also did not suggest that it was a sum that would have to cover both schemes.
- 19.17 In written evidence to the Inquiry, Ms Scott conceded that, subsequently, she could see that the consideration of the domestic RHI business case in 2014 provided an opportunity for DFP to consider the progress of the non-domestic RHI scheme to that point, as well as the funding arrangements for both schemes. Ms Scott accepted responsibility for this missed opportunity.¹⁰⁴³
- 19.18 In response to questioning by Inquiry Counsel, Ms Morelli accepted that, had the matter been dealt with properly, at best DETI could have received a time-limited approval for the domestic RHI scheme to 31 March 2015, which would have mirrored the already existing time limit for the non-domestic RHI scheme approval.¹⁰⁴⁴ A realistic alternative would have been for DFP to have contacted DETI to explain that it could not give approval for the domestic RHI scheme until such times as DFP were satisfied that DETI were proceeding with the review which had also been a condition of the 2012 approval of the non-domestic RHI scheme.¹⁰⁴⁵ In such circumstances approval might have been given to the domestic RHI scheme conditional upon the satisfactory completion of the review of the non-domestic scheme.
- 19.19 Ultimately, Ms Morelli accepted, on behalf of DoF, that had DFP properly conducted its consideration of the DETI domestic RHI business case in the summer of 2014, the result would inevitably have meant a significant intervention in the chain of events relating to the non-domestic RHI scheme, rather than an unlimited approval of the domestic scheme for a proposed sum of money that did not really exist.¹⁰⁴⁶
- 19.20 Ms Morelli confirmed to the Inquiry that DoF had already introduced changes to its systems in respect of the approval of business cases, including the introduction of a formal triage system to ensure that business cases were subject to a much more rigorous assessment at the initial stage.¹⁰⁴⁷
- 19.21 Following the DFP approval, Mr Wightman sent a submission dated 16 September 2014 to the DETI Minister indicating that the launch date of the domestic scheme was considerably delayed. As discussed earlier in this Report, Minister Foster approved the submission on 29 September indicating that the scheme should be launched as soon as possible.¹⁰⁴⁸
- 19.22 On 8 December 2014 Minister Foster moved the motion before the Northern Ireland Assembly seeking approval of the domestic RHI regulations. The Assembly granted approval on the same

1041 DFE-145326 to DFE-145327

1042 DFE-145326

1043 WIT-44566

1044 TRA-11444

1045 TRA-11444 to TRA-11445

1046 TRA-11447

1047 TRA-11420

1048 DFE-303067 to DFE-303069

day and the Renewable Heat Incentive Scheme Regulations (Northern Ireland) 2014 (2014 No 301) came into force on 9 December 2014.

Findings

109. DETI should have provided a domestic RHI business case to DFP that was entirely accurate, including with regard to the funding position.
110. DFP should not have treated the domestic RHI business case as a stand-alone business case.
111. The mishandling of the approval of the domestic RHI business case by DFP in September 2014 amounted to a significant missed opportunity to break the chain of unsatisfactory events relating to the non-domestic RHI scheme.
112. The various steps and many individuals involved in the approvals process once again failed to pick up key errors, omissions and inconsistencies in the domestic RHI business case. This failure contributed to the need for the important review of the non-domestic RHI scheme being missed, to the need for reapproval of the non-domestic RHI scheme being missed and to further confusion about the available funding and its associated risks.
113. The Inquiry notes that many of these problems in DETI arose due to limited resources and the major turnover in staff that occurred during 2014, the extent of which, according to Mr Hughes, was unparalleled in his experience. The staff changeover in question is discussed in greater detail in chapter 18 of this Report.