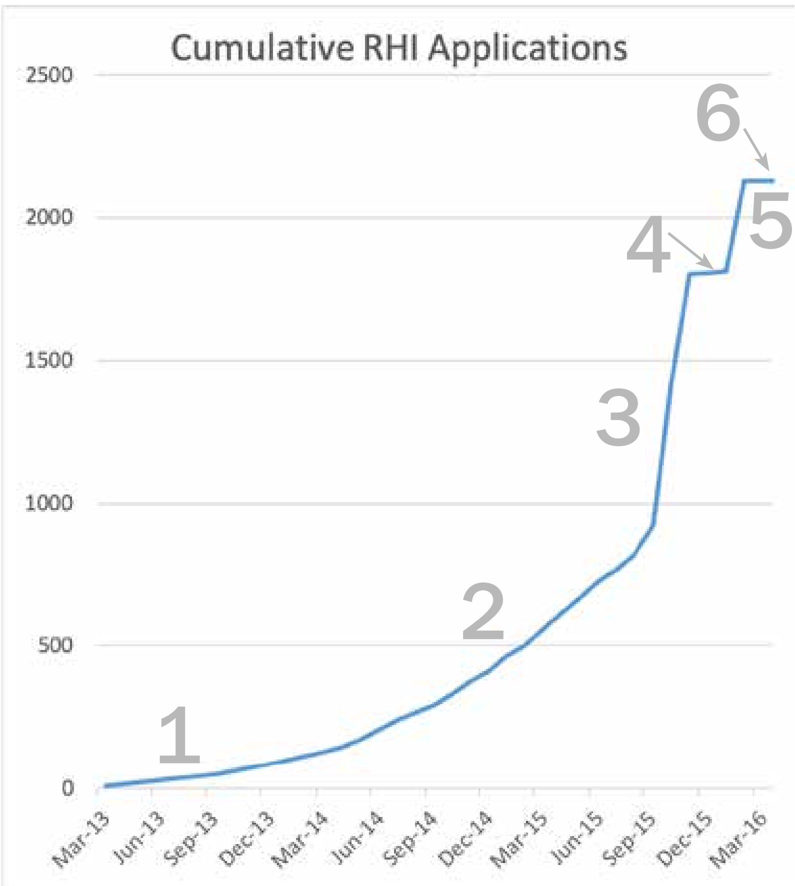
Chapter 25 – Increasing uptake levels

25.1 The Inquiry pauses at this point in the Report to look at the specific issue of the rapidly increasing number of accreditations on the NI RHI scheme, particularly from mid-2014 onwards. Some of the information contained in this chapter will take the reader beyond the point the Inquiry has reached in the chronological examination of the RHI story, but examining the theme here will ultimately assist the understanding of the reader in respect of the issues addressed in the forthcoming chapters.

An illustration of the uptake levels

25.2 As previously noted, the initial uptake levels for the non-domestic NI RHI scheme had been low. The table of "Monthly data in relation to the NI RHI Scheme", provided to the Inquiry by Ofgem as Exhibit DJN3 to Mr Nolan's first witness statement,[1402] sets out a summary of all monthly applications and accreditations for the lifetime of the scheme. The Inquiry has drawn from this table as the basis for Figure 4 below, prepared by the Inquiry, which shows cumulative applications (not accreditations)[1403] throughout the lifetime of the scheme.

Figure 4 – Cumulative RHI Applications



1402 WIT-95150 to WIT-95151
1403 Accreditations followed a similar pattern as applications albeit with a slight time delay.

25.3 The graph illustrates six distinct phases in the life of the NI RHI scheme. The numbers marked on the graph from one to six correspond with the 6 stages described below.

1 The initial uptake levels until March 2014, while the market was still unsure about the scheme and the supply chain was beginning to develop.

2 A steadily increasing uptake between March 2014 and September 2015, as the market realised how attractive the scheme was and the supply chain became established.

3 A significant spike in October and November 2015 as the market tried to secure access to the scheme before rumoured, and then confirmed, tariff changes were made.

4 A short period of relative inactivity in December 2015 and January 2016.

5 A resurgence in applications in February 2016 as the market recognised the continuing attractiveness of the scheme with the new tariffs, and tried to secure accreditation before the scheme was closed.

6 Scheme closure.

Awareness of uptake levels

25.4 From early 2015 officials in Energy Efficiency Branch were aware of the increasing uptake.

25.5 In a handwritten note relating to a teleconference with Ofgem on 27 January 2015 Mr Hughes recorded that "NI RHI applicants (51) for Jan as high as GB!!"[1404] In theory, the number of applications to the NI scheme should have been tracking at around 3% of the number of applications in GB.

25.6 In an email he sent to HMT's Jon Parker of 12 March 2015 (Mr Parker was, by that time, no longer with HMT) Mr Hughes referred to RHI uptake as "good and increasing".[1405]

25.7 Arising from information he had received from David Mark of Moy Park, on 25 March 2015 Mr Wightman sent an email to Sandra Thompson of Energy Division's Energy Co-Ordination Branch, in which he said:

> "As you are aware, the level of uptake has increased significantly over the last few months and we're expecting uptake to remain high with over 200 new applications for biomass heating systems from the poultry industry (linked to Moy Park's expansion) expected over the coming 12 months."[1406]

25.8 On 14 April 2015 Mr Hughes passed on to Mr Wightman the details of a conversation that he had with Mr Mark at Moy Park. He said that he had been informed that, to that point, 360 of the 782 Moy Park poultry sheds had converted to biomass with the expectation that they would achieve 60% by the end of the year (a further 109). Moy Park was also planning to build 45 new poultry sheds in Northern Ireland before the end of 2015, which would operate on biomass. Mr Wightman assumed that, as things currently stood, all these sheds were likely to install 99kW biomass boilers and he asked Mr Hughes to pass the information to Ofgem.

1404 DFE-385810
1405 DFE-153167
1406 DFE-153164

25.9 Mr Hughes passed the information to Nadia Carpenter at Ofgem informing her that a significant number of RHI applications should be expected before the end of 2015 and beyond "as Moy Park seek to move all growers to biomass heating."[1407]

25.10 In an update for an Energy Division heads of branch meeting scheduled for 16 April 2015 Energy Efficiency Branch explained that the rolling monthly expenditure on RHI was now close to £1 million and that its officials were now working with DETI Finance to obtain clarity around future RHI budgets. The meeting was also told that, in the circumstances, consideration was being given to including future reductions of the most popular biomass tariffs as part of the Phase 2 proposals.[1408]

25.11 In the course of his 2016 PwC interview Mr Hughes accepted that his monitoring of the April/May 2015 returns from Ofgem confirmed that applications were increasing.[1409]

25.12 In a further update for the heads of branch meeting scheduled for 14 May 2015 Energy Efficiency Branch recorded that uptake of the non-domestic scheme had increased over recent months with Northern Ireland applications running at 5% of GB figures in January. Rolling monthly expenditure was around £1.2 million in March 2015 (as compared to £129,000 for the same month in 2014) and consideration was being given to future tariff reductions. Mr Wightman reported that uptake of the non-domestic scheme had increased dramatically with 470 applications in 2014-15 as compared to 130 in 2013-14. Further, over £22 million of RHI expenditure was now forecast for 2015-16, and the current AME profile, assumed at £11 million, would consequently run out in September, only 6 months into the financial year.[1410]

25.13 Mr Mills, Mr Wightman and Mr Hughes of Energy Division as well as Mr Rooney and Mr Cooper of Finance Division met Paul McGinn, of the Departmental Solicitor's Office, at Adelaide House in May 2015 in order to seek legal advice in relation to the NI RHI scheme. There was discussion about the fact that the RHI budget had been exceeded but no reference, at that stage, to any possible impact upon the DETI DEL budget. Mr McGinn was sceptical as to whether the scheme could be suspended other than through legislative amendment, which would require a number of months given the fact that section 113 of the Energy Act 2011 required a draft of the regulations to be laid before, and approved by, a resolution of the Assembly. Mr McGinn also recalled, in his Inquiry witness statement of 17 December 2018, reference at the meeting to very high use by some operators of small and medium boilers to generate heat and that, accordingly, payment to the owners was significantly higher than anticipated.[1411]

25.14 The energy efficiency update for the heads of branch meeting scheduled for 28 May informed the reader that there had been an unprecedented increase in uptake of the non-domestic RHI scheme with the total number of applications at 22 May 2015 being more than triple what it had been in June 2014.[1412] However, monthly expenditure was by then running at £1.5 million and the total forecast expenditure for 2015-16 was £23.2 million against an expected available budget of approximately £13 million.[1413]

1407 DFE-106906 to DFE-106907
1408 DFE-410275
1409 PWC-04643
1410 DFE-410283 to DFE-410284
1411 WIT-28740 to WIT-28741
1412 DFE-410290
1413 DFE-410290 to DFE-410291

Identifying or understanding the reasons behind the increasing uptake

25.15 A significant issue for the Inquiry was why it appeared to take so long for officials in DETI properly to understand why there was such a large uptake on the RHI scheme.

25.16 Following a senior management team meeting on 29 May 2015, a meeting about RHI took place on 3 June 2015. The meeting was attended by Dr McCormick, Mr Mills, Mr Wightman, Mr Rooney and Mr Cooper. It was noted that there had been no review of tariffs, that there was no tiering of tariffs and there was now a high level of use in the poultry sector. Mr Cooper told the Inquiry that "the big problems were all discussed", which he thought included value for money and appropriate control of costs.[1414]

25.17 On 12 June 2015 Mr Wightman provided Mr Cooper with a briefing paper on RHI to assist Mr Cooper with a meeting he was to have with DFP. The paper, amongst other things, stated that the NI RHI "still provides value for money". As a result of considering the paper Mr Cooper sent an email to Mr Murphy, on the same day, in which he expressed the view that there was "a fair bit of naivety around the issues." The email referred to assurances around reviews of the RHI scheme and tariff having been "glossed over" and, with reference to Energy Division officials, continued:

> "There is no self-awareness that the reason they may be delivering greater renewables than GB counterparts is the simple fact that they may be overcompensating so it's not actually over-performing indeed potentially quite the contrary."[1415]

25.18 Mr Cooper said that he had also mentioned the risk of overcompensation and potential breach of the State Aid approval at a further meeting of the senior officials engaged with RHI on 17 June 2015, which was attended by Dr McCormick, Mr Rooney, Mr Mills and Mr Wightman. In a written statement of evidence to the Inquiry, Mr Cooper stated that a proposal by Mr Murphy for a quick review of the whole non-domestic scheme, including all tariffs, which he had discussed earlier with Mr Murphy, was rejected by the DETI Permanent Secretary, Dr McCormick, on the basis of legal advice that any changes beyond the introduction of tiering of tariffs would take a long time to do.[1416]

25.19 None of the foregoing concerns were apparently drawn to the attention of Michael Woods, then head of DETI Internal Audit Branch, with a view to stimulating an early audit of the scheme. In a written statement of evidence to the Inquiry Mr Cooper stated that at some point between July and November 2015 he did discuss whether Internal Audit should review Energy Division's failure to seek the March 2015 reapproval of the scheme from DFP, but that such a review had not been initiated because of the "virtually complete turnover in staff within Energy Division."[1417] The involvement of Internal Audit is dealt with in greater detail elsewhere in this Report.

25.20 On 24 June 2015 a Governance Statement, which would appear in the published departmental accounts for the financial year 2014-15 and which was signed off by Dr McCormick, was presented at a meeting of the Departmental Audit Committee (DAC). Paragraph 50 simply stated, with regard to the non-domestic RHI scheme, that "The Department is currently working to address governance and financial requirement issues arising with the scheme."[1418] The

1414 TRA-15830
1415 WIT-18759 to WIT-18765
1416 WIT-18544
1417 WIT-18547
1418 DFE-394652 to DFE-394660

Inquiry acknowledges that at the time this public statement was made there had been concern expressed within DETI that being more specific may have caused an unwanted spike of further RHI applications.[1419]

25.21 Paragraph 19 of the minutes of the DAC meeting of 24 June 2015[1420] record Mr Cooper referring to "financial and governance issues that had emerged in connection with the Non-Domestic Renewable Heat Incentive (RHI) Scheme". The RHI funding is described as AME, without qualification. There are then a number of references to budgets and approvals.[1421] However, there was no reference in the minutes to any discussion of issues of control, potential abuse, overcompensation or the need for tiering of tariffs.

25.22 In a 1 July 2015 memo[1422] to Michelle Scott, the Supply Officer at DFP, Mr Cooper stated on behalf of DETI, in paragraph 7, that uptake for the non-domestic RHI scheme had "taken off" from late 2014 and forecast expenditure had roughly doubled from the previous forecast made in November 2014. He explained that the overwhelming majority of renewable heating installations in Northern Ireland, supported under both non-domestic and domestic RHI schemes, had been for biomass and that the rapid increase was due to the Northern Ireland poultry industry adopting biomass heating technologies for its chicken houses. While the memo referred to the "consideration of measures to control expenditure and maximise value for money", it did not suggest that there were underlying difficulties with the RHI scheme that might explain the extent of the uptake.

25.23 A draft that began as the 'Supplementary Business Case', and which would later become the 'Business Case Addendum' for the NI Renewable Heat Incentive, of October 2015, was sent by Mr Wightman to Mr Mills, Mr Cooper and Mr Murphy on 27 July 2015. It recorded at paragraph 5.13 that the introduction of tiered tariffs would reduce "the risk of 'gaming' and installations being operated over and above the required kilowatt hours just to gain RHI income."[1423] The document did not say this was in fact what was already happening, and that, consequently, this may be the reason for the significant uptake. Indeed, Mr Wightman told the Inquiry that he did not know, in July 2015, that this was the case. Mr Cooper had apparently sought and received an assurance from Mr Wightman that it was not possible to make money from the scheme.[1424] However, it did raise the issue as a risk.

25.24 Having raised naivety and lack of self-awareness about potential overcompensation on 12 June 2015, neither Mr Cooper nor Mr Murphy seem to have undertaken, or caused to be undertaken, a detailed investigation into whether the scheme was in fact overcompensating applicants, or whether the risk referred to in the 27 July 2015 draft was in fact much more than a risk, but what in fact was occurring on the NI RHI scheme. Mr Cooper agreed that the reference should have set off an alarm bell at that stage, "but it didn't".[1425]

1419 DFE-146867 to DFE-146870
1420 DFE-394723
1421 DFE-394720 to DFE-394725
1422 WIT-30268 to WIT-30270
1423 DFE-147524 to DFE-147549
1424 WIT-18544; TRA-15886 to TRA-15887
1425 TRA-15885 to TRA-15887

Findings

140. **There was clear evidence available to DETI officials, particularly in Energy Division, of the increasing uptake on the NI RHI scheme from at least January 2015 onwards, including when compared to the uptake in GB.**

141. **Insufficient steps were taken by officials, particularly in Energy Division, or by the Department, to understand the underlying reason for the increased uptake.**

142. **On 12 June the DETI Finance Director identified to a senior colleague that Energy Division's approach appeared naïve, and that the reason for the increase in uptake might be because the scheme was overcompensating its members. That possibility, that the increased uptake could be due to overcompensation, should have been the subject of thorough and detailed scrutiny in June 2015.**