Chapter 42 – Audit investigations in 2016

42.1 After the suspension of the NI non-domestic RHI scheme, a number of steps were undertaken to find out more about the scheme and what had gone wrong with it. This was partly in response to the anonymous allegations provided to First Minister Foster in January 2016, which were passed to DETI and then passed to Internal Audit for investigation.

The Comptroller and Auditor General's report

42.2 Before the DETI Internal Audit report was finalised, however, as noted in the introduction to this Report, Kieran Donnelly, the Comptroller and Auditor General for Northern Ireland published a report on the DfE Resource Accounts on 1 July 2016.[2166] Mr Donnelly's report confirmed the following basic conclusions (each of which have been dealt with in considerable detail already in this Report):

- Commitments under the scheme had exceeded the maximum amount that HM Treasury was prepared to fund. The excess funding would now have to be met from the NI block grant. Over the next five years, this addition to the NI block was estimated to be £140 million and significant costs would continue to be incurred until 2036.
- The Department failed to obtain required approvals from DFP for £11.9 million of expenditure over a seven-month period during 2015-16 (from the expiry of the original DFP approval on 30 April 2015 to the DFP grant of prospective approval only on 29 October 2015, discussed in chapter 33).
- The original design of the scheme did not introduce 'tiering' of payments as operated in GB where a reduced rate was applied after the equipment had been operated for 15% of hours in a year. Such tiering would have helped prevent potential abuse of the scheme by operating the equipment simply to increase the grant received.
- The scheme in GB also used 'degression', which allowed the amount of subsidy paid to change quarterly in response to changes in demand. From 2012 to 2016 the rates paid in GB fell by 50% while the rates in NI increased.
- Returns available to claimants under the scheme in NI appeared to be excessive and were guaranteed for the next 20 years.[2167]

42.3 Mr Donnelly also pointed out that since DFP had not approved the £11.9 million of expenditure in the seven-month period during 2015-16 such expenditure was irregular. Consequently, he qualified his opinion on the 2015-16 Department Resource Accounts as the expenditure had been incurred without conforming to the authorities which governed it.[2168]

42.4 A highly significant feature of the NIAO report was that it identified the existence of the perverse incentive, namely that as tariff levels were in excess of the cost of fuel, the subsidies available under RHI could incentivise scheme participants to waste heat simply to earn income under the scheme. Many witnesses, particularly those within the Civil Service, told the Inquiry that it was through the exposition of this issue by the NIAO that they first realised that, and how, the scheme provided such an incentive.

2166 CAG-04049 to CAG-04068
2167 CAG-04050
2168 CAG-04052

42.5 On 12 May 2016, following Assembly elections, Simon Hamilton had been appointed Minister for the Economy, succeeding Minister Bell as the Minister in charge of the Department which had responsibility for RHI (now re-named the Department for the Economy). Publication of the NIAO report was followed by a press release from Minister Hamilton on 4 July 2016. In that press release Minister Hamilton said:

> "The Audit Office's findings in respect of the Renewable Heat Incentive scheme (RHI) are deeply shocking and catalogue multiple failings in the design and administration of this scheme. The potential ongoing costs of this scheme to Northern Ireland taxpayers are incredible and the accusations of fraud will be vigorously investigated.
>
> Whether it is the absence of tiered tariffs or controls on costs, at various stages of the scheme there were serious systemic failings and opportunities were missed to remediate the situation by those directly responsible for administering the scheme."[2169]

42.6 Minister Hamilton noted that he had held meetings with senior officials about the RHI scheme and that external consultants were being appointed to conduct on-the-spot and thorough inspections of installations to ensure that they met the spirit and letter of the scheme. Consideration was being given to options for controlling the costs of the scheme and "lessons must be learned for the future to ensure this type of situation never arises again."[2170] In the event, the consultancy firm PwC was awarded the contract to conduct an independent review of the RHI scheme.

42.7 The publication of the NIAO report, however, and the consequential institution of an inquiry by the Assembly's Public Accounts Committee, understandably resulted in a significant amount of concerned public attention.

The DfE Internal Audit report

42.8 On 4 August 2016 an Internal Audit Service report was published by the DfE auditor, Michael Woods.[2171] The audit fieldwork for that report had been undertaken during the period December 2015 to April 2016.[2172] In expressing the overall audit opinion, he stated:

> "Internal Audit considers that the system of risk management, control and governance established by management over the Non Domestic Renewable Heat Incentive Scheme is **Unacceptable**."[2173] (Mr Woods' emphasis)

42.9 He noted that the scheme had been formally closed to new applications from 29 February 2016, at which point a total of 2,128 applications had been received over the life of the scheme and that, if all applications (many of which were still awaiting accreditation decisions) were found to be valid, approved and funded, the potential annual liability for 2016-17 was estimated at £50 million. The funding available from HM Treasury, based on 3% of DECC's projected budget (£640 million) was estimated at only £18.3 million. Mr Woods considered that the consequence of the shortfall between the scheme's commitments and the available

2169 POL-00127 to POL-00128
2170 POL-00128
2171 DFE-223638 to DFE-223682
2172 DFE-223640
2173 DFE-223653

HMT funding meant that there was a potential shortfall of £140 million in the period 2016-17 to 2020-21 and that this could rise to approximately £450 million over the life of the scheme.[2174]

42.10 Internal Audit considered that the NI RHI scheme was inherently vulnerable to the risk of any sudden major increase in demand, which was further exacerbated by the limited nature of the funding. Its report concluded that the scheme should have adopted robust cost control measures and that it lacked an appropriate automatic response which would have allowed it to close to new applicants until such time as additional budget was secured.[2175]

42.11 Despite being advised by Energy Division that formal programme/project management structures had not been adopted due to the small number of staff involved, Internal Audit considered that adopting a recognised structured programme/project framework would have been beneficial.

42.12 It was also noted that, despite the commitment given to the Casework Committee in this regard, the establishment of a Budget Monitoring Committee (BMC) had not been effected. A programme oversight board would have provided a challenge role on delivery of outcomes for the programme, the programme plan, programme budget and programme risks. A programme oversight board might also have reached a different view of the risks potentially likely to arise from the decision to prioritise introduction of the domestic RHI scheme in 2014 without the cost control structure that had been proposed and consulted upon in respect of both schemes.[2176]

42.13 The internal auditor's report also commented adversely on: the absence of a clearly documented fraud risk strategy for the NI RHI scheme; the omission to prepare for and obtain DFP reapproval of the business case in 2015; the loss of key members of the team together with their organisational knowledge in late 2013/early 2014; the Department's over-reliance on Ofgem for the administration and control of the scheme without adequate oversight arrangements; the lack of the Department's own programme of independent on-site inspections; and the failure to carry out regular monitoring to ensure that initial assumptions around VFM remained valid.[2177]

42.14 The Inquiry notes that the category 'Unacceptable' is the lowest audit opinion/assurance level, indicating that the system of governance, risk management and control has failed or that there is a real and substantial risk that the system will fail and that urgent action is required to improve the adequacy and/or effectiveness of governance, risk management and control. Indeed, the auditor, Michael Woods, said in his oral evidence to the Inquiry that he had never reached a conclusion of 'Unacceptable' in any other audit and that his conclusion in the RHI audit was "the worst opinion" he had ever had to give.[2178]

The RHI Task Force

42.15 In response to the difficulties with the scheme and its governance, which had been identified in both of the above reports, the RHI Taskforce was established by the Permanent Secretary of DfE in December 2016/January 2017 with the key aim of bringing the non-domestic RHI scheme back in line with policy, budget and governance requirements.[2179] In the summer of 2017 the Strategic Investment Board (SIB) was approached to support the work of the RHI Taskforce and

2174 DFE-223653 to DFE-223654
2175 DFE-223657 to DFE-223658
2176 DFE-223660
2177 DFE-223664 to DFE-223680
2178 TRA-16070
2179 WIT-23911; WIT-00025

in July 2017, following approval by the Civil Service Commissioners, Richard Rodgers, a project director with experience of the commercial energy sector, was then appointed as Head of the Taskforce, with Stephen McMurray, who had been Taskforce Head prior to that point, remaining a member of the Taskforce in the post of Director.[2180]

42.16 The Taskforce is run as a formal project with governance utilising PRINCE2 methodology including a project board meeting every six weeks to take key policy decisions and an oversight board providing a wider external perspective.[2181] In addition, an NI RHI operational board meets monthly chaired by Ofgem, membership of which includes the Director, RHI Taskforce.[2182] A detailed written statement dealing with the structure and work of the Taskforce to date was provided to the Inquiry on 22 October 2018.[2183]

2180 WIT-23910 to WIT-23911; WIT-00025
2181 WIT-23916 to WIT-23917
2182 WIT-23918
2183 WIT-23908 to WIT-23971

Findings

223. Like the NIAO report which was prompted by the irregularity of Departmental spend on the RHI scheme (arising from the lapse in DFP approval), the DfE Internal Audit report managed, within a relatively short period of time after the closure of the scheme, to identify a number of the significant failings and problems with the scheme and its administration, which are dealt with in further detail in this Report. It was an effective and helpful piece of work which the Inquiry hopes has already led to lessons being learned within DfE. It is unfortunate that Internal Audit's expertise was not brought to bear on the scheme in a more focused way earlier (an issue addressed in further detail later in this Report at chapter 55).