

RHI Inquiry

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Mrs Claire Hughes

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RHI Inquiry

13 November 2018

Dear Sir

Re: The Independent Public Inquiry into the Non Domestic Renewable Heat Incentive (RHI) Scheme
Provision of a Section 21 Notice requiring the provision of evidence in the form of a written statement

I am writing to you in my capacity as Solicitor to the Independent Public Inquiry into the Non Domestic Renewable Heat Incentive (RHI) Scheme (known as 'the RHI Inquiry') which has been set up under the Inquiries Act 2005 ('the Act').

I know you will by now be familiar with the work of the Inquiry and its Terms of Reference from your previous engagement with the Inquiry. The Inquiry is grateful for the witness statement you have already provided to it.

As you may be aware, the Inquiry is now in the process of seeking some further written evidence from witnesses and participants, particularly where issues have arisen in evidence recently provided in respect of which it is necessary, or appropriate, to provide an opportunity for further response. The Inquiry Chairman also retains the right to require witnesses to

attend to provide further oral evidence, and consideration will be given to whether that is necessary in light of additional written evidence which is received.

In this context, the Inquiry is providing you with a further Section 21 Notice requiring you to provide evidence in relation to your time as an independent DETI Board member.

Please therefore find enclosed with this letter a further Section 21 Notice requiring you to provide evidence to the RHI Inquiry Panel in the form of a further written statement addressing these two matters, as identified in the Schedule to the Section 21 Notice.

You may wish to avail of legal assistance in respect of the provision of your witness statement. In this regard you may wish to contact Jonathan Killen of the Departmental Solicitor's Office; he can be contacted by email at Jonathan.Killen@finance-ni.gov.uk

I remind you again of the restriction orders made by the Chairman of the RHI Inquiry, which affect how you may deal with this correspondence and its enclosures (which are also provided to you under a duty of confidentiality to the RHI Inquiry). You may, of course, share the correspondence and the enclosed Notice and documents with your legal representative(s), under the same conditions as I set out in my previous correspondence.

Given the tight time-frame within which the RHI Inquiry must operate, the Chairman of the Inquiry would be grateful if you would comply with the requirements of the Section 21 Notice as soon as possible and, in any event, by the date set out for compliance in the Notice itself.

Finally, I would be grateful if you could acknowledge receipt of this correspondence and the enclosed notice by email to Patrick.Butler@rhiinquiry.org.

Please do not hesitate to contact me to discuss any matter arising.

Yours faithfully



Patrick Butler

Solicitor to the RHI Inquiry

02890408928

SCHEDULE
[No 214 of 2018]

Your 1st witness statement

You are referred to:

- The first witness statement of Trevor Cooper of the 19 July 2017, and, in particular, the first paragraph on WIT-18544, paragraph 59 on WIT-18553 and WIT-18554, your 5 June 2015 email at WIT-18755, and paragraphs 75 and 76 at WIT-18558 and WIT-18559;
- your witness statement of the 23 August 2017 (WIT-18112 to WIT-18118), and in particular paragraphs 6 to 10 on WIT-18114 and WIT-18115, and paragraph 19 on WIT-18117, and
- The witness statement of David Beck of the 19 October 2017 (WIT-24501 to 24555).

You are also referred to:

- The minutes of the 23 June 2015 Departmental Board meeting (DFE-396586 to DFE-396589) and the Six Monthly Assurance Statement for the period ending 31 March 2015 that was provided to the Board (DFE-471744 to DFE-471749);
- The minutes of the 24 June 2015 Departmental Audit Committee meeting (DFE-394720 to DFE-394725), and paragraph 19 in particular in relation to RHI (DFE-394723);
- The minutes of the 21 July 2015 Departmental Board meeting (DFE-396590 to DFE-396592);
- The oral evidence Trevor Cooper gave to the Inquiry on the 18 October 2018 (see TRA-15883 to TRA-15893) about the reference to the risk of gaming contained in

paragraph 5.13 (DFE-147540) of the 27 July 2015 first draft of the 2015 addendum business case;

- The minutes of the 22 September 2015 Departmental Board meeting (DFE-396593 to DFE-396595);
- The minutes of the 29 September 2015 Departmental Audit Committee meeting (see DFE-394846 at DFE-394848);
- The minutes of the 20 October 2015 Departmental Board meeting (DFE-396596 to DFE-396597);
- The minutes of the 17 November 2015 Departmental Board meeting (DFE-396598 to DFE-396600);
- The minutes of the 2 December 2015 Departmental Audit Committee meeting (see DFE-394959 to DFE-394969 at DFE-394963/4 and the RHI paper at DFE-394901 to DFE-394905);
- The minutes of the 19 January 2016 Departmental Board meeting (DFE-396601 to DFE-396603);
- The minutes of the 16 February 2016 Departmental Board meeting (DFE-396604 to DFE-396606);
- The minutes of the 2 March 2016 Departmental Audit Committee meeting (see DFE-395092 at DFE-395095/6 and the RHI paper at DFE-394972 to DFE-394981);
- The minutes of the 22 March 2016 Departmental Board meeting (DFE-396607 to DFE-396609);
- The minutes of the 21 April 2016 Departmental Board meeting (DFE-396610 to DFE-396612);
- The minutes of the 24 May 2016 Departmental Board meeting (DFE-396613 to DFE-396614);

- The minutes of the 25 May 2016 Departmental Audit Committee meeting (see DFE-395217 at DFE-395218 and DFE-395222);
- The 6 June 2016 DAC Focus Group meeting on RHI (DFE-395371); and
- The minutes of the 28 June 2016 Departmental Board meeting (DFE-396615 to DFE-396617).

At WIT-18544 Trevor Cooper refers to, on the 5 June 2015, briefing the independent board members of the DETI Departmental Board about RHI. At the bottom of WIT-18553 Trevor Cooper may be referring to the same conversation as occurring on the 3 June 2015. At WIT-18554 Trevor Cooper indicates that he informed the independent board members about 5 matters: that the RHI scheme was over budget, about a possible 5% DEL penalty, about the lapse in DFP approval and irregular expenditure, that demand was being driven by the poultry sector, and that a key difference between the GB and NI Scheme was the lack of tiering in the NI RHI Scheme. David Beck has said to the Inquiry (see WIT-24530) that the discussion was about the “*emerging issues of DFP approvals and funding pressures*” . You have said (see paragraph 10 on WIT-18115) that Trevor Cooper informed you and David Beck of an unprecedented spike in applications, and that many of the applications were from Moy Park poultry farmers. It appears that following the discussion (WIT-18755) Trevor Cooper emailed Eugene Rooney and informed him that he had briefed David Beck and you on RHI, and that you “*fully understood the issues and potential implications*” .

1. As to this:

- a. Where did the discussion between Trevor Cooper and the independent board members take place, and who was present?
- b. Was the discussion on the 3 or 5 June 2015?
- c. Give an account of the briefing you received from Trevor Cooper.

- d. What were the issues that you were subsequently said by Trevor Cooper to have “*fully understood*” ?
- e. What were the “*potential implications*” that you were subsequently said by Trevor Cooper to have fully understood?

You have said to the Inquiry (see paragraphs 6 to 10 of her witness statement of the 23 August 2017) that when Trevor Cooper “*briefed*” you and David Beck on the 5 June 2015 you would have informed Trevor Cooper (and presumably David Beck):

- that you had an installation in the Domestic RHI Scheme, and
- of information you had received from Neil Elliott, the installer of your domestic heat pump, in January or February 2015, that (in summary):
 - o Neil Elliott’s business was extremely busy because of RHI;
 - o The RHI scheme was open to abuse;
 - o The reason it was open to abuse was because the more fuel you burned the greater the return;
 - o As a result, there were:
 - reports of farmers heating empty sheds; and
 - reports of the heating of churches when no one was in them.

2. As to this:

- a. Is it not correct that you were appointed as an independent member of the DETI Departmental Board commencing on the 1 January 2015?

- b. What date in “*January or February 2015*” did you get the information from Neil Elliott, your installer, that is summarised above?
 - c. Assuming it to be the case that you were a member of the DETI Departmental Board when you received information from Neil Elliot that a DETI run scheme, the Non Domestic RHI, was open to, and was being abused, then why did you not bring this information immediately to the attention of senior officials in DETI?
 - d. When do you say you first did bring this information to the attention of senior officials in DETI? Please detail the information you conveyed, to whom, and when.
3. In respect of the discussion you say you had with Trevor Cooper (and presumably David Beck) on the 5 June 2015:
- a. What was the purpose of providing information about your own Domestic RHI installation? What did you expect to be done with that information?
 - b. What was the purpose of providing information about what your installer had told you about the abuse of the Non Domestic RHI Scheme?
 - c. When you provided the information about the abuse of the Non Domestic RHI Scheme:
 - i. what, if anything, did Trevor Cooper say;
 - ii. did it appear to you that this was new information that Trevor Cooper was receiving? Please provide reasons for your answer.
 - iii. what, if anything, did David Beck say;
 - iv. did it appear to you that this was new information that David Beck was receiving? Please provide reasons for your answer.

- d. What did you understand was going to happen with the information you had provided?

Your witness statement goes on to say (see paragraph 9 of her witness statement of the 23 August 2017) that at subsequent "Board meetings", when RHI was being discussed, you commented that what was known and being discussed concurred with what your installer had said:

4. As to this:

- a. When was the first such Board meeting when the subject was discussed, and which led you to respond that what was being said concurred with your installer had said?
- b. What was said at the meeting which you considered and explained concurred with what your installer had said;
- c. What did you say about what your installer had told you?
- d. What was done with the information, including what you had to say about it concurring with what your installer had told you?
- e. Where, if at all, was this information recorded?

5. Are you saying that at a DETI board meeting you explained to your fellow board members that you had been told that the Non Domestic RHI Scheme was: open to abuse; the reason it was open to abuse was because the more fuel you burned the greater the return; as a result, there were reports of farmers heating empty sheds; and reports of the heating of churches when no one was in them? If this is not what you are saying then please explain what you are saying you told fellow board members.

6. In respect of whatever you say you told the board members at the board meeting:

- a. when was the first "Board meeting" when you discussed the substance of the information received from your installer?
 - b. Who do you recall being present at that "Board meeting"?
 - c. What was the reaction from the other board members who were hearing this information from you?
 - d. What can you remember the other board members saying in response to what you told them?
7. From the Inquiry's examination of the available minutes of departmental board meetings, and departmental audit committee meetings, there does not appear to be any record of your information being recorded. Can you provide any explanation as to why that is?

You also say (see paragraph 10 of her witness statement of the 23 August 2017) that it is your recollection that at one of your early board meetings when the Non-Domestic RHI Scheme was being discussed, you did mention the fact that you were a claimant on the Domestic scheme and asked if there was a conflict of interest for you. You say then DETI Permanent Secretary Andrew McCormick thanked you for raising the issue, but he and the board members agreed that there wasn't a conflict of interest.

8. As to this:
- a. Please give as full an account as possible of the discussion that took place in respect of your own position.
 - b. When do you say this occurred (and please explain the basis for your answer)?
 - c. Did the board members discuss the issue in front of you? If so please summarise the discussion that occurred?

- d. Was any note or record made of the disclosure? If not, why not?
9. From the Inquiry's examination of the available minutes of departmental board meetings, and departmental audit committee meetings, there does not appear to be any record of you declaring that you had an installation on the Domestic RHI Scheme until an entry in a minute of the 6 June 2016 Departmental Audit Committee Focus Group meeting on RHI (DFE-395371). Can you provide any explanation as to why that is?

In paragraph 76 of Trevor Cooper's first witness statement (WIT-18558) he speaks of an occasion in "*the autumn of 2015*" when he says he did have a conversation with you that appears to resemble the conversation that you say you had with Trevor Cooper and David Beck on the 5 June 2015. Trevor Cooper says the discussion involved your installation on the Domestic RHI scheme, a discussion you had with your installer, and the installer having mentioned to you that "*people may generate heat excessively under the non- domestic scheme*". He says poultry was also mentioned.

10. As to the events Trevor Cooper speaks of in paragraph 76:

- a. Were you involved in any discussion that resembles the discussion Trevor Cooper refers to? If so, please give an account of it, including where it occurred and when, who was present, what was said, and what you understood was to happen on foot of the discussion.
- b. If you were involved in such a discussion, how did Trevor Cooper (and anyone else who was present) react to what you were saying?
11. Trevor Cooper has said to the Inquiry that following the discussion he refers to in paragraph 76 of his first statement he then spoke to Eugene Rooney, who sent him back to you to find out were you prepared to put the information "*on the record*". Trevor Cooper goes on to say that when he spoke to you about it you indicated that you were not prepared to do so. He then confirmed your position to Eugene

Rooney. Can you recollect any discussions or interactions that might resemble the events that Trevor Cooper speaks of? If so please detail them including when they occurred, who was involved, and what precisely was involved.

12. You have said to the Inquiry (see paragraph 10 of your witness statement of the 23 August 2017 at WIT-18115), albeit potentially dating the conversation to the 5 June 2015, that at no stage were you asked to put what you told Trevor Cooper "on the record". Were you at any stage (whether on the 5 June 2015, or on some subsequent date) asked by Trevor Cooper to formalise the provision of the information from your installer, whether Trevor Cooper used the phrase putting the information "on the record" or otherwise?
13. What written record did you make, at the time, of any of the exchanges on this subject? If no written record was made about any of these exchanges, please explain why that was the case.
14. Who else did you speak to in DETI, or government more generally, about what your installer had told you? If you did not speak to anyone else then please explain why not. If you did speak to others please outline who they were, when you spoke to them, what you told them, and for what purpose.
15. You are referred to the oral evidence Michael Woods gave to the Inquiry, in particular the passages at TRA-16031 to TRA-16036. Did you ever tell the DETI Head of Internal Audit, Michael Woods, about what your installer had told you? If not, why not?
16. For the avoidance of any doubt:
 - a. when did you first learn of allegations of members of the RHI Scheme heating empty sheds (and please provide an account of how you came to know about this allegation, and what you did when you found out about it)?
 - b. when did you first learn of allegations of members of the RHI Scheme heating empty churches (and please provide an account of how you came

to know about this allegation, and what you did when you found out about it)?

17. Reflecting on whatever your evidence is in respect of the above matters, please set out whether you consider you should have done anything differently from that which you did do at the time and, if so, what?

DETI Departmental Board Meeting of 23 June 2015

18. It appears from the minutes of the departmental board (DFE-396587) that the Non Domestic RHI Scheme was discussed at the departmental board meeting of 23 June 2015, potentially in the context of an entry in the 6 monthly assurance statements. As far as you can recall:

- a. what were you told about the Non Domestic RHI Scheme at the meeting?
- b. The 6 monthly assurance statement from Chris Stewart appears to have confirmed that DFP approval for the Non Domestic Scheme RHI had expired, and that, due to demand, the Non Domestic RHI Scheme was over its budget. Given these facts, what steps did you take to:
 - i. ensure that the Board members understood that you had an accredited installation on the Domestic Scheme,
 - ii. ensure this fact was recorded in the Board minutes;
 - iii. ensure that the Board members understood your relevant information as to why there may be high demand on the Non Domestic RHI Scheme;
 - iv. ensure that your relevant information was recorded in the Board minutes.

- c. Were you told at the Board meeting of the 23 June 2015 that it was considered that the Non Domestic RHI Scheme may be overcompensating its membership?

Departmental Audit Committee Meeting of 24 June 2015

19. It appears from the minutes of the departmental audit committee (DFE-394723) that the Non Domestic RHI Scheme was discussed at the departmental audit committee meeting of 24 June 2015, through, potentially amongst other things, an update provided by Trevor Cooper, then DETI Finance Director. As far as you can recall:

- a. what were you told about the Non Domestic RHI Scheme at the meeting?
- b. The update from Trevor Cooper appears to have confirmed that DFP approval for the Non Domestic Scheme RHI had expired, and that the Non Domestic RHI Scheme was over its budget (a reason is not recorded). Given these facts, what steps did you take to:
 - i. ensure that the Committee members understood that you had an accredited installation on the Domestic Scheme,
 - ii. ensure this fact was recorded in the Committee minutes;
 - iii. ensure that the Committee members understood your relevant information as to why there may be high demand on the Non Domestic RHI Scheme;
 - iv. ensure that your relevant information was recorded in the Committee minutes.
- c. Were you told at the Audit Committee meeting of the 24 June 2015 that it was considered that the Non Domestic RHI Scheme may be overcompensating its membership?

Internal Audit's work on the Non Domestic RHI Scheme

20. Did you at any stage gain the impression, from anything said or done, that DETI Internal Audit considered that DETI Energy Division's engagement with DETI Internal Audit was in any way unsatisfactory? If the answer is yes, then please:

- a. give details; including when you gained the impression, from whom, and based on what information.
- b. Give details of any steps taken by you on learning of that position.

Generally

21. To the extent that the said issues have not already been addressed in your existing written evidence, please set out any further evidence you wish to provide to the RHI Inquiry on any relevant issues having regard to its Terms of Reference.

NOTE:

It is important for the efficiency of the RHI Inquiry that the issues identified above are addressed as fully as possible and by reference, where available, to the dates and locations of specific incidents to which reference is made. The statement should be broken down into paragraphs, which should be numbered sequentially from '1' to the end. The use of appropriate section headings or sub-headings is also encouraged. A template witness statement is provided with this Notice for your assistance and should be used as the format for your response.

**INQUIRY INTO THE RENEWABLE HEAT INCENTIVE SCHEME****RHI REF: Notice 217 of 2018****DATE: 18th November 2018**

Witness Statement of: Claire Hughes

I, Claire Hughes, will say as follows: -

Your 1st witness statement

You are referred to:

- The first witness statement of Trevor Cooper of the 19 July 2017, and, in particular, the first paragraph on WIT-18544, paragraph 59 on WIT-18553 and WIT-18554, your 5 June 2015 email at WIT-18755, and paragraphs 75 and 76 at WIT-18558 and WIT-18559;
- your witness statement of the 23 August 2017 (WIT-18112 to WIT-18118), and in particular paragraphs 6 to 10 on WIT-18114 and WIT-18115, and paragraph 19 on WIT-18117, and
- The witness statement of David Beck of the 19 October 2017 (WIT-24501 to 24555).

You are also referred to:

- The minutes of the 23 June 2015 Departmental Board meeting (DFE-396586 to DFE-396589) and the Six Monthly Assurance Statement for the period ending 31 March 2015 that was provided to the Board (DFE-471744 to DFE-471749);



- The minutes of the 24 June 2015 Departmental Audit Committee meeting (DFE-394720 to DFE-394725), and paragraph 19 in particular in relation to RHI (DFE-394723);
- The minutes of the 21 July 2015 Departmental Board meeting (DFE-396590 to DFE-396592);
- The oral evidence Trevor Cooper gave to the Inquiry on the 18 October 2018 (see TRA-15883 to TRA-15893) about the reference to the risk of gaming contained in paragraph 5.13 (DFE-147540) of the 27 July 2015 first draft of the 2015 addendum business case;
- The minutes of the 22 September 2015 Departmental Board meeting (DFE-396593 to DFE-396595);
- The minutes of the 29 September 2015 Departmental Audit Committee meeting (see DFE-394846 at DFE-394848);
- The minutes of the 20 October 2015 Departmental Board meeting (DFE-396596 to DFE-396597);
- The minutes of the 17 November 2015 Departmental Board meeting (DFE-396598 to DFE-396600);
- The minutes of the 2 December 2015 Departmental Audit Committee meeting (see DFE-394959 to DFE-394969 at DFE-394963/4 and the RHI paper at DFE-394901 to DFE-394905);
- The minutes of the 19 January 2016 Departmental Board meeting (DFE-396601 to DFE-396603);
- The minutes of the 16 February 2016 Departmental Board meeting (DFE-396604 to DFE-396606);

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- The minutes of the 2 March 2016 Departmental Audit Committee meeting (see DFE-395092 at DFE-395095/6 and the RHI paper at DFE-394972 to DFE-394981);
- The minutes of the 22 March 2016 Departmental Board meeting (DFE-396607 to DFE-396609);
- The minutes of the 21 April 2016 Departmental Board meeting (DFE-396610 to DFE-396612);
- The minutes of the 24 May 2016 Departmental Board meeting (DFE-396613 to DFE-396614);
- The minutes of the 25 May 2016 Departmental Audit Committee meeting (see DFE-395217 at DFE-395218 and DFE-395222);
- The 6 June 2016 DAC Focus Group meeting on RHI (DFE-395371); and
- The minutes of the 28 June 2016 Departmental Board meeting (DFE-396615 to DFE-396617).

At WIT-18544 Trevor Cooper refers to, on the 5 June 2015, briefing the independent board members of the DETI Departmental Board about RHI. At the bottom of WIT-18553 Trevor Cooper may be referring to the same conversation as occurring on the 3 June 2015. At WIT-18554 Trevor Cooper indicates that he informed the independent board members about 5 matters: that the RHI scheme was over budget, about a possible 5% DEL penalty, about the lapse in DFP approval and irregular expenditure, that demand was being driven by the poultry sector, and that a key difference between the GB and NI Scheme was the lack of tiering in the NI RHI Scheme. David Beck has said to the Inquiry (see WIT-24530) that the discussion was about the *“emerging issues of DFP approvals and funding pressures”*. You have said (see paragraph 10 on WIT-18115) that Trevor Cooper informed you and David Beck of an unprecedented spike in applications, and that many of the applications were from Moy Park poultry farmers. It appears that following the discussion (WIT-

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18755) Trevor Cooper emailed Eugene Rooney and informed him that he had briefed David Beck and you on RHI, and that you "*fully understood the issues and potential implications*".

1. As to this:

- a. Where did the discussion between Trevor Cooper and the independent board members take place, and who was present?

The discussion took place in Netherleigh House. David Beck and I were at a Casework Training meeting, when Trevor Cooper came in and asked could we both meet him after the meeting. Present was Trevor Cooper, David Beck and myself.

- b. Was the discussion on the 3 or 5 June 2015?

5th June 2015.

- c. Give an account of the briefing you received from Trevor Cooper.

I agree with Trevor Cooper's statement where he informed us of 5 matters: The RHI scheme was over budget, about a possible 5% DEL penalty, about the lapse in DFP approval and irregular expenditure, that demand was being driven by the poultry sector, and that a key difference between the GB & NI Scheme was the lack of tiering in the NI RHI Scheme.

- d. What were the issues that you were subsequently said by Trevor Cooper to have "*fully understood*"?

The 5 issues which he informed us, as detailed above. However it would not be correct to say that I fully understood all of the potential implications of what Trevor said at that stage about the issues, as what he gave us was a high level overview of the key issues.



- e. What were the “*potential implications*” that you were subsequently said by Trevor Cooper to have fully understood?

My understanding of the potential implications was the irregular expenditure and the urgent need to get retrospective approval, approval for spend going forward and the need for legislation to address the situation going forward in terms of reviewing tiering. However, this would not be to say that I understood the potential ramifications or outworkings of these potential implications.

You have said to the Inquiry (see paragraphs 6 to 10 of her witness statement of the 23 August 2017) that when Trevor Cooper “*briefed*” you and David Beck on the 5 June 2015 you would have informed Trevor Cooper (and presumably David Beck):

- that you had an installation in the Domestic RHI Scheme, and
- of information you had received from Neil Elliott, the installer of your domestic heat pump, in January or February 2015, that (in summary):
 - o Neil Elliott’s business was extremely busy because of RHI;
 - o The RHI scheme was open to abuse;
 - o The reason it was open to abuse was because the more fuel you burned the greater the return;
 - o As a result, there were:
 - reports of farmers heating empty sheds; and
 - reports of the heating of churches when no one was in them.



2. As to this:

- a. Is it not correct that you were appointed as an independent member of the DETI Departmental Board commencing on the 1 January 2015?

Yes, that is correct.

- b. What date in "January or February 2015" did you get the information from Neil Elliott, your installer, that is summarised above?

On reviewing witness statements and rethinking the timeline of events, I realise that I have inadvertently made an error in my first statement regarding the date of my conversation with the installer Neil Elliott and Trevor Cooper and wish to rectify same. I apologise for this error and any inconvenience caused.

Therefore at this meeting on 5th June 2015, I did not say that I had a domestic RHI installation or any of the statements alluding to what Neil Elliott said (this was at a later date, and as suggested in Trevor Coopers statement where he stated it was most likely autumn 2015).

I did make comment at the meeting on 5th June 2015 that I understood how the poultry industry would drive a large demand. I explained that I was a former Bank Manager and that we had had an established tripartite agreement with Moy Park and our poultry farmer clients. I remarked that the RHI scheme would be particularly beneficial to poultry farmers as their main cost of supply is high energy costs.

- c. Assuming it to be the case that you were a member of the DETI Departmental Board when you received information from Neil Elliot that a DETI run scheme, the Non Domestic RHI, was open to, and was being



abused, then why did you not bring this information immediately to the attention of senior officials in DETI?

As set out in 2b above, I did not gain knowledge of the potential abuse from my installer until the evening of 2nd November 2015 when he called at my home to look at a problem with the water heating element of our installation. I now recall that we were on holidays 17th October – 1st November 2015 and returned home to find there was no hot water. I text Neill on 1st November and he arranged to call on the evening of 2nd November. I have been able to establish that this was the only possible date that this conversation could have occurred as this was the only time that Neil Elliott himself called at my house, as other times it was his employees who called to complete the work. At that stage, the rumours were widespread, and an announcement had already been made about the changes to the scheme which would come into effect on 17th November, so I did not think it was my duty to formally inform the Department.

- d. When do you say you first did bring this information to the attention of senior officials in DETI? Please detail the information you conveyed, to whom, and when.

See 2b and 2c above and subsequent answers to this Notice.

3. In respect of the discussion you say you had with Trevor Cooper (and presumably David Beck) on the 5 June 2015:

- a. What was the purpose of providing information about your own Domestic RHI installation? What did you expect to be done with that information?



See 2b above. When I did tell the Board and Trevor Cooper about my own domestic installation in the spring of 2015, it was for the purposes of ensuring that there was no conflict of interest in my continued involvement in the Non Domestic RHI.

- b. What was the purpose of providing information about what your installer had told you about the abuse of the Non Domestic RHI Scheme?

See 2b and 2c above and subsequent answers to this notice.

- c. When you provided the information about the abuse of the Non Domestic RHI Scheme:

- i. what, if anything, did Trevor Cooper say;

I did not make comments until the Board Meeting of 17th November 2015. In the context of how the matter was discussed I cannot recollect that Trevor Cooper made any comment in particular, as part of that conversation.

- ii. did it appear to you that this was new information that Trevor Cooper was receiving? Please provide reasons for your answer.

This was not new information to anyone in the room as the context in which I made my remarks was that there were widespread rumours of abuse that were being discussed at that meeting.

- iii. what, if anything, did David Beck say;

I do not recollect that David Beck made any particular comment.

- iv. did it appear to you that this was new information that David Beck was receiving? Please provide reasons for your answer.



See answers above to c iii.

- d. What did you understand was going to happen with the information you had provided?

See above. This information was offered as part of the general discussion about the rumours of abuse of the Scheme.

Your witness statement goes on to say (see paragraph 9 of her witness statement of the 23 August 2017) that at subsequent "Board meetings", when RHI was being discussed, you commented that what was known and being discussed concurred with what your installer had said:

4. As to this:

- a. When was the first such Board meeting when the subject was discussed, and which led you to respond that what was being said concurred with your installer had said?

As stated above, and with reference to Trevor Coopers witness statement where he recalls me giving the information that my installer had told me around autumn 2015. I am estimating it was the Board meeting of 17th November 2015, at which Trevor Cooper was present.

- b. What was said at the meeting which you considered and explained concurred with what your installer had said;

Under the agenda item 'Chair's Remarks' Andrew McCormick would have updated us on RHI. There would have been general discussion in the room, which covered news already in the public domain of allegations of fraud and I told them what my installer had told me.

- c. What did you say about what your installer had told you?



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He said his business was extremely busy because of the RHI scheme;

The RHI scheme was open to abuse;

The reason it was open to abuse was because the more fuel you burned the greater the return;

As a result, there were reports of farmers heating empty sheds; and reports of the heating of churches when no one was in them.

- d. What was done with the information, including what you had to say about it concurring with what your installer had told you?

I am not aware that anything was done with it as I believed that the officials were already aware of the rumours of abuse.

- e. Where, if at all, was this information recorded?

It formed part of the discussion, which was summarised in the minutes as Chair's Remarks. The specifics of what I said formed part of the general discussion and I do not believe they were recorded in any detail.

5. Are you saying that at a DETI board meeting you explained to your fellow board members that you had been told that the Non Domestic RHI Scheme was: open to abuse; the reason it was open to abuse was because the more fuel you burned the greater the return; as a result, there were reports of farmers heating empty sheds; and reports of the heating of churches when no one was in them? If this is not what you are saying then please explain what you are saying you told fellow board members.

Yes, that is what I am saying.

6. In respect of whatever you say you told the board members at the board meeting:

- a. when was the first "Board meeting" when you discussed the substance of the information received from your installer?

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I think it was most likely to have been 17th November 2015. The public announcement of changes to the scheme happened on 8th September so there was huge media interest at that time.

- b. Who do you recall being present at that "Board meeting"?

The minutes show that Andrew McCormick, Eugene Rooney, Chris Stewart, Trevor Cooper, Wendy Johnston, David Beck and I were at the meeting, and Secretariat Rod Robson. Andrew Cowan also attended for the first item on the agenda and then left.

- c. What was the reaction from the other board members who were hearing this information from you?

They were not surprised. The information was already in the public domain.

- d. What can you remember the other board members saying in response to what you told them?

I remember others also commenting and discussing similar stories they had heard but I cannot remember specifically.

7. From the Inquiry's examination of the available minutes of departmental board meetings, and departmental audit committee meetings, there does not appear to be any record of your information being recorded. Can you provide any explanation as to why that is?

The discussion took place under agenda item 'Chairs Remarks' and was simply recorded as that. This was the norm in my experience that discussions of this nature that were not seen as particularly controversial would not be recorded in detail.



You also say (see paragraph 10 of her witness statement of the 23 August 2017) that it is your recollection that at one of your early board meetings when the Non-Domestic RHI Scheme was being discussed, you did mention the fact that you were a claimant on the Domestic scheme and asked if there was a conflict of interest for you. You say then DETI Permanent Secretary Andrew McCormick thanked you for raising the issue, but he and the board members agreed that there wasn't a conflict of interest.

8. As to this:

- a. Please give as full an account as possible of the discussion that took place in respect of your own position.

As the Non Domestic RHI became a real issue I realised that there might be a perceived conflict of interest. Being new to the Board, I discussed it initially with David Beck. He was of the opinion that there was no conflict of interest but advised me to raise it at the next board meeting so it could be considered, which I did. I explained that I had an air source heat pump to heat my home instead of oil and we received a fixed grant (i.e. not based on usage) under the domestic RHI scheme of c£700 per year for 7 years. Andrew McCormick thanked me for raising it and gave his opinion that he didn't see any conflict of interest and the rest of the board members agreed.

- b. When do you say this occurred (and please explain the basis for your answer)?

I reckon it may have been at the Board Meeting on 21st April 2015. The reason I say this is that I attended Corporate Governance Training on 10th March 2015 which would have included training on Conflict of Interests.

- c. Did the board members discuss the issue in front of you? If so please summarise the discussion that occurred?



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See 8a above.

- d. Was any note or record made of the disclosure? If not, why not?

I presume that as it was agreed that there was no conflict of interest it wasn't recorded, but in retrospect it probably should have been recorded that it had been discussed.

9. From the Inquiry's examination of the available minutes of departmental board meetings, and departmental audit committee meetings, there does not appear to be any record of you declaring that you had an installation on the Domestic RHI Scheme until an entry in a minute of the 6 June 2016 Departmental Audit Committee Focus Group meeting on RHI (DFE-395371). Can you provide any explanation as to why that is?

As above. It had been discussed with Andrew McCormick in front of all board members, and it was agreed that there was no conflict of interest. At every meeting when the Chair would ask if there were any conflicts of interest, Andrew McCormick almost always would have said "we all know that Claire is a domestic RHI claimant, and it has been agreed that there is no conflict". From memory, David Beck as Chair of the Audit team and I discussed it before the meeting of 6th June 2016 and decided to have it recorded as it was a designated Focus Group on RHI and it seemed appropriate to do so.

In paragraph 76 of Trevor Cooper's first witness statement (WIT-18558) he speaks of an occasion in "the autumn of 2015" when he says he did have a conversation with you that appears to resemble the conversation that you say you had with Trevor Cooper and David Beck on the 5 June 2015. Trevor Cooper says the discussion involved your installation on the Domestic RHI scheme, a discussion you had with your installer, and the installer having mentioned to you that "people may generate heat excessively under the non- domestic scheme". He says poultry was also mentioned.

10. As to the events Trevor Cooper speaks of in paragraph 76:



- a. Were you involved in any discussion that resembles the discussion Trevor Cooper refers to? If so, please give an account of it, including where it occurred and when, who was present, what was said, and what you understood was to happen on foot of the discussion.

I believe this was at a board meeting at which Trevor was present, most probably 17th November 2015, which was the first board meeting after my discussion with the installer Neil Elliott. See 6b above. What I said, endorsed the information being discussed as part of the Chair's verbal update on RHI.

- b. If you were involved in such a discussion, how did Trevor Cooper (and anyone else who was present) react to what you were saying?

No one reacted specifically as similar rumours were already in the public domain, and formed part of Andrew McCormick's verbal update about what actions were being taken.

11. Trevor Cooper has said to the Inquiry that following the discussion he refers to in paragraph 76 of his first statement he then spoke to Eugene Rooney, who sent him back to you to find out were you prepared to put the information "on the record". Trevor Cooper goes on to say that when he spoke to you about it you indicated that you were not prepared to do so. He then confirmed your position to Eugene Rooney. Can you recollect any discussions or interactions that might resemble the events that Trevor Cooper speaks of? If so please detail them including when they occurred, who was involved, and what precisely was involved.

I do not recall a separate meeting with Trevor Cooper (other than the one on 5th June 2015 previously referred to when he updated David Beck and I). Therefore if my memory serves me right, my conversation about what the installer told me was said at a Board Meeting, most likely on 17th November 2015 at which



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Eugene Rooney was also present. This explains why it would have been nonsensical for Eugene to have had that discussion with Trevor, as he has

portrayed it. As Eugene was present at the meeting, he could have asked me, himself. I was never asked by Trevor Cooper or anyone else to put the information 'on the record' as he says he did in in his witness statement, and which I disagree with. I never had contact with Trevor Cooper outside of board meetings and if he had approached me in this way I would have definitely remembered it.

12. You have said to the Inquiry (see paragraph 10 of your witness statement of the 23 August 2017 at WIT-18115), albeit potentially dating the conversation to the 5 June 2015, that at no stage were you asked to put what you told Trevor Cooper "on the record". Were you at any stage (whether on the 5 June 2015, or on some subsequent date) asked by Trevor Cooper to formalise the provision of the information from your installer, whether Trevor Cooper used the phrase putting the information "on the record" or otherwise?

No, I was not so requested, as per my answers above.

13. What written record did you make, at the time, of any of the exchanges on this subject? If no written record was made about any of these exchanges, please explain why that was the case.

I did not make any written record. Firstly as far as I remember I made the statement of what the installer had told me, at a full board meeting at which a secretariat was the minute taker. Secondly at no stage did any further discussion with Trevor Cooper take place where he asked me to put it 'on the record' so there was nothing to record

14. Who else did you speak to in DETI, or government more generally, about what your installer had told you? If you did not speak to anyone else then please explain why not. If you did speak to others please outline who they were, when you spoke to them, what you told them, and for what purpose.



As far as I remember I repeated what the installer had told me at a board meeting so the other board members were there. I would also have mentioned it in discussion at the Audit meeting on most likely the 2nd December 2015.

15. You are referred to the oral evidence Michael Woods gave to the Inquiry, in particular the passages at TRA-16031 to TRA-16036. Did you ever tell the DETI Head of Internal Audit, Michael Woods, about what your installer had told you? If not, why not?

Michael Woods was at the Audit meeting on 2nd December 2015 when I reiterated what my installer told me. He, like everyone else at this stage, was already aware of the abuse allegations as they were in the public domain.

16. For the avoidance of any doubt:

- a. when did you first learn of allegations of members of the RHI Scheme heating empty sheds (and please provide an account of how you came to know about this allegation, and what you did when you found out about it)?

I first heard about it in the media and then from my installer. It was most likely around the autumn of 2015 following the announcement of the changes to the scheme. During the autumn months the terms 'cash for ash' and 'burn to earn' became common as a result of media reporting. It was already in the public domain so I did not see any personal responsibility to report it, but did discuss it at a board meeting as it concurred with what was being spoken about by Andrew McCormick.

- b. when did you first learn of allegations of members of the RHI Scheme heating empty churches (and please provide an account of how you came to know about this allegation, and what you did when you found out about it)?



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It formed part of the discussion with my installer – see 16a.

17. Reflecting on whatever your evidence is in respect of the above matters, please set out whether you consider you should have done anything differently from that which you did do at the time and, if so, what?

In retrospect, perhaps I should have contacted Andrew McCormick to let him know of my discussion with my installer Neil Elliott and recorded it, but did not feel this was necessary as all of what I was told was already in the public domain.

I know that at the start of meetings 'Any Conflicts of Interest' were always asked for. On numerous occasions Andrew McCormick mentioned that I was a domestic RHI recipient but this wasn't recorded on the minutes. In retrospect it possibly should have been recorded that the board had agreed at an earlier meeting that as the subject being discussed was Non Domestic RHI there was no conflict.

In hindsight also, the recording of the Chair's Report as a summary in the minutes was inadequate and something which should have been noticed and raised by all board members.

DETI Departmental Board Meeting of 23 June 2015

18. It appears from the minutes of the departmental board (DFE-396587) that the Non Domestic RHI Scheme was discussed at the departmental board meeting of 23 June 2015, potentially in the context of an entry in the 6 monthly assurance statements. As far as you can recall:

- a. what were you told about the Non Domestic RHI Scheme at the meeting?

From memory it was the same briefing that David Beck and I had been given by Trevor Cooper on 5th June 2015.

- b. The 6 monthly assurance statement from Chris Stewart appears to have confirmed that DFP approval for the Non Domestic Scheme RHI had



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expired, and that, due to demand, the Non Domestic RHI Scheme was over its budget. Given these facts, what steps did you take to:

- i. ensure that the Board members understood that you had an accredited installation on the Domestic Scheme,

All the board members knew I was a recipient of Domestic RHI and it had no relevance to the Non Domestic RHI debacle.

- ii. ensure this fact was recorded in the Board minutes;
See reply to 9 above.

- iii. ensure that the Board members understood your relevant information as to why there may be high demand on the Non Domestic RHI Scheme;

I did not believe that I had to 'take steps' to ensure that Board members understood the significance of the information I imparted as this was no different from many of the rumours that were circulating, and it was apparent to me that all present at the meeting fully understood the significance of what I had conveyed.

- iv. ensure that your relevant information was recorded in the Board minutes.

As detailed above, and given that what I was conveying was not in any way novel or revelatory I did not think that it was sufficiently serious that it required formal recording in the minutes.

- c. Were you told at the Board meeting of the 23 June 2015 that it was considered that the Non Domestic RHI Scheme may be overcompensating its membership?



Although on 5th and 23 June 2015 Trevor Cooper told David Beck and me that a key difference between the GB and NI Scheme was the lack of tiering in the NI RHI Scheme, I cannot recall that we were specifically told on 23 June 2015 that the scheme may have been overcompensating its membership.

From memory we were told that the RHI issue was drawn to the Accounting Officer's attention because of the spike in applications and that an additional budgetary cover would be needed. I think at that stage it became known that approval had expired on 31st March 2015 as a review brought forward date had not been scheduled.

Departmental Audit Committee Meeting of 24 June 2015

19. It appears from the minutes of the departmental audit committee (DFE-394723) that the Non Domestic RHI Scheme was discussed at the departmental audit committee meeting of 24 June 2015, through, potentially amongst other things, an update provided by Trevor Cooper, then DETI Finance Director. As far as you can recall:

a. what were you told about the Non Domestic RHI Scheme at the meeting?

The same as our briefing on 5th June 2015.

b. The update from Trevor Cooper appears to have confirmed that DFP approval for the Non Domestic Scheme RHI had expired, and that the Non Domestic RHI Scheme was over its budget (a reason is not recorded). Given these facts, what steps did you take to:

i. ensure that the Committee members understood that you had an accredited installation on the Domestic Scheme,

I did not take any steps to make sure that the Committee understood that I had a domestic installation (a) it was not necessary- everyone clearly understood, and (b) it had already



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been agreed that there was no conflict of interest. Furthermore, the relevance of my domestic installation (which pays £700 per year) was not relevant to the discussion of the Non Domestic RHI which cost millions per annum. I had no vested interest in the Non Domestic RHI Scheme as no changes to that Scheme could or would affect my personal position.

- ii. ensure this fact was recorded in the Committee minutes;

See 19b.1.

- iii. ensure that the Committee members understood your relevant information as to why there may be high demand on the Non Domestic RHI Scheme;

I had not received the relevant information from Neil Elliott at that stage in June 2015, and so had not provided it to the Committee.

- iv. ensure that your relevant information was recorded in the Committee minutes.

As I did not have the information at that stage, I did not provide it to the Committee, and so it was not capable of being recorded in the minutes.

- c. Were you told at the Audit Committee meeting of the 24 June 2015 that it was considered that the Non Domestic RHI Scheme may be overcompensating its membership?

As told to David Beck and me on 5th and 24 June 2015 by Trevor Cooper, a key difference between the GB & NI Scheme was the lack of tiering in the NI RHI Scheme. I cannot recall that we were specifically told on 23 June 2015 that the scheme may have been overcompensating its membership.

*Internal Audit's work on the Non Domestic RHI Scheme*

20. Did you at any stage gain the impression, from anything said or done, that DETI Internal Audit considered that DETI Energy Division's engagement with DETI Internal Audit was in any way unsatisfactory?

No

If the answer is yes, then please:

- a. give details; including when you gained the impression, from whom, and based on what information.

Not applicable.

- b. Give details of any steps taken by you on learning of that position.

Not applicable.

Generally

21. To the extent that the said issues have not already been addressed in your existing written evidence, please set out any further evidence you wish to provide to the RHI Inquiry on any relevant issues having regard to its Terms of Reference.

None.

Statement of Truth

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

Signed: 

Dated: 20th November 2018 _____