



BRITISH BROADCASTING CORPORATION
Broadcasting House
Ormeau Avenue
Belfast, BT2 8HQ
Northern Ireland

T +44 (0)28 9033 8000
F +44 (0)28 9033 8800
bbc.co.uk/northernireland

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FOR THE PERSONAL ATTENTION OF:

FIONA HEPPER (DEPUTY SECRETARY)
RATHGAEL HOUSE
BALLOO ROAD
RATHGILL
BANGOR
BT19 7PR

STRICTLY PRIVATE AND CONFIDENTIAL

Dear Ms Hepper,

BBC Spotlight is making a programme about the non-domestic Renewable Heat Incentive (RHI). We understand that the energy directorate at the Department of Enterprise, Trade and Investment (DETI) was responsible for the non-domestic RHI and that you were the head of the directorate between June 2010 and December 2013.

I am therefore writing to you now to outline to you some matters which we intend to address in our programme so that you can respond to them either by an on camera interview or in writing.

- 1) At a hearing of the Public Accounts Committee, the Permanent Secretary at the Department of the Economy, Dr Andrew McCormick, described the RHI as “fundamentally wrong” in its design. Specifically, he criticised the failure to introduce tiering and said he found it “disturbing and surprising” that between July 2011 and the initiation of the scheme the following year, there was no evidence of anyone having checked why tiering was not being introduced.

What is your response to the allegation that the scheme was fundamentally wrong in its design?

What is your response to the allegation that it is “disturbing and surprising” for you and your colleagues not to have checked why tiering was not being introduced?

- 2) At the same hearing, Dr McCormick said that the department got information early in the scheme which began to show that applications were not in line with assumptions of 50kw boilers being used at 17% but were actually more for 99kw boilers with use up to 24/7. He said there is no evidence in the department of it being “grasped as an issued or acted on” and that there was no good explanation for that.

What is your response to the allegation that this should have been acted upon at the time by your directorate within DETI?

- 3) The NI Audit Office on DETI resource accounts 2015-16 states that consultants employed by DETI suggested a rate of 4.5p per kw/h “based on a 20kw biomass boiler reference case. At this rate the consultants noted that there was no need for tiering as, at that time, the proposed rate was less than the cost of wood pellets and therefore there was no incentive to excessively use the boilers just to claim the subsidy.

It goes on to say that the consultants, after public consultation, produced a new paper which increased the rate to 5.9p per kw/h.

It then says that in a subsequent business case submitted to the Department of Finance, it stated that there was no need to consider the tiering because the rate proposed was lower than the cost of fuel and therefore there would be no incentive to abuse the system by generating heat just to claim the subsidy. The auditor’s report goes on to say: “However in the case of biomass boilers this was not the case and appears just to have been copied from the July 2011 consultant’s report without thought.”

The report goes on to describe the failure to consider tiering as a “critical mistake”.

What is your response to the allegation that the business case which DETI compiled for DFP contained a “critical mistake” i.e. that the tier proposed was not in excess of the cost of wood pellets and therefore there was no need for tiering and that this appears to have been copied from the initial consultant’s report “without thought”?

- 4) The Audit Office report on page 13 says that DETI officials, in an exchange of emails in May 2011, noted that the implication of the Treasury position was that it would be necessary to consider having controls in place to limit expenditure: there is no record of subsequent attention to this point.”

Were you one of these officials? If so, what is your response to the allegation that there is “no record of subsequent attention to this point”?

- 5) At the PAC hearing, Dr McCormick noted that the Department of Finance (DFP) had made clear that this scheme only had its approval up until the end of March 2015 and despite that the scheme continued without DFP approval. In response to a question which suggested that the issues which followed could have been prevented by a request for approval, he said that not seeking DFP approval in March 2015 was a “missed opportunity” which “it may not have been had a proper process been followed and had there been effective project management to look at the deadlines and the expiry of approval”.

What is your response to the allegation that the failure to seek DFP approval in March 2015 was a “missed opportunity” which was the result of the lack of a proper process and effective project management and a lack of communication and hand-over between personnel?

- 6) At the PAC hearing, Dr McCormick also noted that the “Treasury gave clear indications in the early days – I am now talking about Spring 2011 – that there would be budgetary limits. Our assumption was that the Department of Energy and Climate Change would get an allocation for renewable heat and for GB and that we would get a Barnett consequential of that. That was known and understood in the department. There is a clear email trail between the

energy and finance directorates in 2011 showing that it was known and understood that there was a limit.”

Dr McCormick goes on to say that he was “told repeatedly in the summer and autumn of 2015 that this is AME and that we should be able to get more from Treasury on this but that was a mistake.”

What is your response to the allegation that your directorate failed to properly and clearly communicate to colleagues that this was not normal AME but a Barnett consequential of DECC spending so that in the summer and autumn of 2015 they gave information to Dr McCormick which was “a mistake”?

- 7) At the PAC hearing Alison Clydesdale states that she “sought advice from finance branch” about how the scheme was set up and that the advice was “very clear that cost controls needed to be built into the scheme. The information on that risk was recognised by myself and passed on to the team that was drawing up the business case.”
- Ms Clydesdale goes on to say that she passed on to “some of the people in the team and copied in the director” advice from finance branch “that was very clear that cost controls needed to be built into the scheme”.

Do you accept that you are the director she is referring to? What is your response to the allegation that finance branch advised cost controls needed to be built into the scheme and that in effect these cost controls were ignored in the business case which was submitted to the Department of Finance?

- 8) We understand that the total cost of this scheme over 20 years is potentially £1.18 billion, with Treasury funding in London meeting potentially £660m of that, leaving a deficit of potentially £520m to be found from the block grant over 20 years. This has been described to us as a “black hole” which the Northern Ireland Executive is likely to struggle to fund given its significant budgetary constraints.

What is your response to the allegation that you and other colleagues through your negligence and failures created a “black hole” in the Northern Ireland public finances which the Executive is likely to struggle to fund and could mean cuts to vital public services?

- 9) Dr McCormick also told the PAC hearing: “I think we owe an apology to the Committee and others for the things that have gone wrong. A lot has gone wrong in this case; there have been some serious mistakes and failings. We need to acknowledge that and we are going to be very upfront in acknowledging it.”

Do you share Dr McCormick’s contrition and do you wish to join him in apologising for your role in “the serious mistakes and failings”?

Please let me know if you are willing to take part in a pre-recorded on-screen TV interview. Alternatively if you wish to answer the questions above in a written statement, please let me know that too.

We are giving you this opportunity in order to reflect your views in our programme so that it is fair and balanced. The programme is currently planned for broadcast before the end of year so for production reasons, we would need to receive your responses no later than 5pm on Friday 4th

November. If you would like any clarification, my contact details are conor.spackman@bbc.co.uk or

Personal information
redacted by the RHI
Inquiry

Sincerely yours,



Conor Spackman

BBC Spotlight

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