

**INTIMIDATION OF CIVIL SERVANTS**

1. At the end of the closing submission on 12 December 2018, the Chairman asked Counsel for DfE

*"Is there a real problem in intimidation of civil servants, or civil servants feeling, "We've just got to get an appointment made here because we can't offend the Minister."?" (TRA-16899)*

2. On the specific issue about the letters signed by Ministers in relation to SpAd appointments, the Department can confirm that the officials who assisted with the paperwork did not have any direct involvement in the selection and appointment processes, and had, in fact, the right to assume that the Minister knew and accepted the formal (and legal) responsibilities that arose from signing the letters in question. There was with hindsight probably a sense of seeking to assist Ministers through the process.
3. By way of context, it is important to emphasise that officials act under the direction and control of Ministers, and do not and should not have any responsibility independent of Ministers.
4. The Department would emphasise that it is not aware of evidence of subtle or overt intimidation from any SpAd or Minister that affected the specific issue of the RHI.
5. The Department would simply make the point that the *de facto* and *de jure* power of Ministers, and SpAds acting on their behalf, was a pervasive, unspoken, part of the atmosphere. The civil service had in practice no power or practical leverage to prevent or correct actions by Ministers, as the statutory position means that disobeying a Minister's instruction is only to be contemplated in very extreme cases.
6. The Department therefore contends that in the context of the unique political institutions in Northern Ireland, it is very difficult for anyone to enforce the rules that should ensure appropriate behaviour on the part of Ministers and SpAds, and the checks and balances around the exercise of power. It is certainly outwith any constitutional analysis of the role of the civil service, which exists to serve the administration of the day and to be ready to serve future administrations.