



David Beck
c/o Jonathan Killen
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9 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 on one particular area of evidence in order that the Inquiry might gain an early understanding of your position in respect of it, namely a particular allegation contained within the witness statement of the independent DETI Board member Claire Hughes of the 23 August 2017 (WIT-18112 to WIT-18118) (and, relatedly, observations made about this in the recent oral evidence of Michael Woods of the 19 October 2018, found at TRA-15975 to TRA-16088).

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

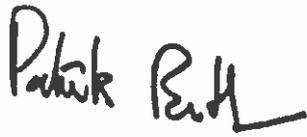
I remind you again of the restriction orders made by the Chairman of the RHI Inquiry, which affect how you may deal with this correspondence and its enclosures (which are also provided to you under a duty of confidentiality to the RHI Inquiry). You may, of course, share the correspondence and the enclosed 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

A handwritten signature in black ink that reads "Patrick Butler". The signature is written in a cursive, slightly slanted style.

Patrick Butler

Solicitor to the RHI Inquiry

02890408928

SCHEDULE
[No 208 of 2018]

The evidence of Claire Hughes

You are referred to:

- Trevor Cooper's first witness statement 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;
- the witness statement of Claire Hughes 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
- your witness statement 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);
- 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 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 24 May 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 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. You have said to the Inquiry (see WIT-24530) that the discussion was about the “*emerging issues of DFP approvals and funding pressures*”. Claire Hughes has said (see paragraph 10 on WIT-18115) that Trevor Cooper informed you 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 you and Claire Hughes 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?

The independent board member, Claire Hughes, has said to the Inquiry (see paragraphs 6 to 10 of her witness statement of the 23 August 2017) that when Trevor Cooper "*briefed*" her and you on the 5 June 2015 she would have told him:

- that she had an installation in the Domestic RHI Scheme, and
- of information she had received from Neil Elliott, the installer of her 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; and
 - 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. What, if anything, did Claire Hughes tell you about her own installation on the 5 June 2015, and what, if anything, did you do with that information?
- b. What, if anything, did Claire Hughes tell you, again on the 5 June 2015, about the information she had received from her installer as to the

allegations of abuse of the RHI Scheme, and what, if anything, did you do with that information?

Claire Hughes 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, she commented that what was known and being discussed concurred with what her installer had said.

3. As to this:

- a. What Board meetings or committee meetings would you have been present at along with Claire Hughes?
- b. To your knowledge, when was the first "Board meeting" when Claire Hughes discussed information received from her installer?
- c. What was the information she disclosed?
- d. What was done with this information?
- e. Where, if at all, was this information recorded?

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

4. As to this:

- a. Please give an account, as far as you can, of the events to which Claire Hughes refers.
- b. When do you say any such events occurred (and please explain the basis for your answer)?
- c. Was any note or record made of the disclosure? If not, why not?

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 Claire Hughes that appears to resemble the conversation that Claire Hughes says she had with you and Trevor Cooper on the 5 June 2015. Trevor Cooper says the discussion involved Claire Hughes' installation on the Domestic RHI scheme, a discussion she had with her installer, and the installer having mentioned to her that "*people may generate heat excessively under the non- domestic scheme*". He says poultry was also mentioned.

5. 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 did on foot of the discussion.
- b. If you were involved in the discussion, was the information you received about what may be happening on the Non Domestic RHI Scheme new information to you? If not, when did you receive similar information, from whom, in what context, and what was the similar information? If it was new information, what questioning did you engage in of what Ms Hughes was telling you?

6. Trevor Cooper says that following the discussion he spoke to Eugene Rooney, who sent Trevor Cooper back to Claire Hughes to find out was she prepared to put the

matters "*on the record*". It is said that Claire Hughes was not prepared to do so. As to this, please give an account of any knowledge you have of the events referred to above.

7. Claire Hughes has said to the Inquiry (see paragraph 10 of her witness statement of the 23 August 2017 at WIT-18115), albeit potentially dating the conversation to the 5 June 2015, that at no stage was she asked to put what she had told Trevor Cooper "*on the record*". What, if anything, can you say about the assertion by Claire Hughes that at no time was she asked to put her information on the record?
8. What written record (if any) did you make, at the time, of any of the exchanges on the subjects referred to above? If no written record was made about any of these exchanges, please explain why that was the case.
9. Who else did you speak to about what (if anything) Claire Hughes 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.
10. You are referred to the oral evidence Michael Woods gave to the Inquiry, in particular the passages at TRA-16031 to TRA-16036. To the extent that Claire Hughes spoke to you about the matters referred to above, did you ever tell the DETI Head of Internal Audit, Michael Woods, about what Claire Hughes had told you? If not, why not?
11. 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)?

12. 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?

13. In your witness statement of the 19 October 2017, at WIT-24533, you make reference to a formal record relating to Claire Hughes and her Domestic RHI installation from June 2016. The record from which you are quoting appears to relate to the 6 June 2016 Departmental Audit Committee Focus Group meeting on RHI (DFE-395371). As to this:

- a. When did you first know that Claire Hughes had an installation on the Domestic RHI Scheme?
- b. What discussions did you have, when, and with whom, about that fact?
- c. What steps did you take to ensure that that fact was formally recorded?
- d. Was the entry of the 6 June 2016 the first time that the fact that Claire Hughes had an installation on the Domestic RHI Scheme was formally recorded?
- e. If the answer is 'yes', then please explain why that was so?
- f. If the answer is 'no', then please identify any previous formal records in this regard.
- g. What advice (if any) did you give as to whether Claire Hughes should participate in any discussions relating to RHI? Please explain the advice you gave, when, to whom, and what happened on foot of it.

14. To the extent that it is not already addressed in answers to any of the above questions, please detail any discussions you had, whether with Claire Hughes or others, about any abuse that was or may be occurring on the Non Domestic RHI

Scheme. Please include who the discussions were with, when they occurred, and what those discussions entailed.

Generally

15. 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 208 of 2018

DATE: 16/11/2018

Witness Statement of: DAVID BECK

I, **David Beck** , will say as follows: -

The evidence of Claire Hughes

You are referred to:

- Trevor Cooper's first witness statement 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;
- the witness statement of Claire Hughes 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
- your witness statement 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);
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- The minutes of the 21 July 2015 Departmental Board meeting (DFE-396590 to DFE-396592);
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- 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 24 May 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 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. You have said to the Inquiry (see WIT-24530) that the discussion was about the “*emerging issues of DFP approvals and funding pressures*”. Claire Hughes has said (see paragraph 10 on WIT-18115) that Trevor Cooper informed you 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 you and Claire Hughes 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, present were myself, Trevor Cooper and Claire Hughes.

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

The discussion was on the 5th June 2015.

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

Trevor briefed myself and Claire as to the Non Domestic RHI Scheme emerging issues.

To the best of my recollection in addition to giving an overview of the scheme, his two major themes (as highlighted in my previous witness statement) were the lapsing of DFP approvals and the budget/funding pressures that increased demand was creating.

I do recollect Trevor advising us that the poultry sector (Moy Park suppliers) was a major component of the increased take up of the scheme.

I also believe that he indicated there were differences between the GB and NI Schemes which made the NI Scheme more attractive to applicants and difficult for the Department to control. At that point I do not recollect the specific terms tiering or indeed regression being used or discussed.

I do not recollect any discussion or briefing about a 5% DEL penalty, but this may simply be due to my inability to clearly recall the discussion. The 'take away' point on the funding source for me was



that this was AME funded, and not that there were potential DEL consequences.

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

I think the use of 'fully understood' in connection with Trevor's briefing would be an overstatement.

I certainly left the discussion aware that the Department believed a major issue had arisen in respect of RHI and that the issues were around the lapsing of DFP approvals leading to irregular spend and the budget/funding pressures that increased demand was creating. To say that this amounted to a 'full understanding' of all of the issues and potential implications would not be correct.

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

My view of the potential implications were as indicated above

- **the potential of irregular spend arising from the lapsed DFP approvals, the need to attempt to obtain approval / regularise the situation, the probable qualification of the Annual Accounts etc.**
- **the increasing demands upon the Departmental Budget from a Scheme where the ability to control its cost appeared severely limited.**

The independent board member, Claire Hughes, has said to the Inquiry (see paragraphs 6 to 10 of her witness statement of the 23 August 2017) that when Trevor Cooper “*briefed*” her and you on the 5 June 2015 she would have told him:

- that she had an installation in the Domestic RHI Scheme, and



- of information she had received from Neil Elliott, the installer of her 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; and
 - 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. What, if anything, did Claire Hughes tell you about her own installation on the 5 June 2015, and what, if anything, did you do with that information?

My recollection is that Claire did indeed inform me that she had obtained assistance under the Domestic RHI Scheme in respect of her home. However, I cannot clearly recollect whether it was at the meeting with Trevor and myself or at a subsequent Board Meeting.

On balance however I do accept that it would have been logical for Claire to raise it at the meeting on 5 June 2015.

I did nothing with the information in respect of her installation, I regarded it as relating to a different scheme, immaterial in value, and not directly relating to the issues under discussion.

b. What, if anything, did Claire Hughes tell you, again on the 5 June 2015, about the information she had received from her installer as to the allegations



of abuse of the RHI Scheme, and what, if anything, did you do with that information?

My best recollection at or around spring / summer 2015 when the RHI issues first came to my attention is that, as stated above, Claire did advise that she was a beneficiary of the Domestic Scheme.

In addition I also recollect her comments that her installer had said they were extremely busy with RHI boiler installations and that the scheme was very attractive financially. From my perspective this would have aligned with Trevor's briefing, in that the Non Domestic Scheme was seeing a substantial increase in demand, and the rates being paid were attractive.

I must say however that during this period I cannot personally recollect any discussion with Claire directly or indirectly about the additional comments attributed to her installer that she mentions in her statement , i.e. that:

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

I believe that comments such as those, with the implication that the scheme was providing what became known as 'cash for ash', had the potential to fundamentally alter my then view on the issues in respect of RHI.

At that stage there was nothing for me to act upon.



Claire Hughes 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, she commented that what was known and being discussed concurred with what her installer had said.

3. As to this:

a. What Board meetings or committee meetings would you have been present at along with Claire Hughes?

I was present at Departmental Board and Audit Committee Meetings with Claire.

My review of the 2015 Meeting Minutes show that I was at every Board and Audit Committee Meeting Claire attended.

b.. To your knowledge, when was the first “Board meeting” when Claire Hughes discussed information received from her installer?

To the best of my recollection Claire mentioned at a number of meetings from July 2015 that she was a claimant on the domestic scheme and shared some comments made by her installer.

c. What was the information she disclosed?

As I recall it, her comments regarding information from the installer were more general in nature as to the high uptake of the scheme and its attractiveness and this aligned with other information we were receiving.

I should state that, as we moved into late 2015 and early 2016, my sense is that Claire's comments were in response to and acted to support further information coming to the Board such as the financial attractiveness of the Scheme. However other Board Members and /or Claire may have a more meaningful recollection of this.

I am uncertain if the information disclosed by Claire was based upon one discussion with her installer or several over the course of 2015.

Given the potential view of the Inquiry that here was yet another opportunity missed to better understand the schemes fatal flaws and ease of abuse I must reiterate that I believed (as I think did the rest of the Board) that no additional / new information was being provided.

I do not recollect specific installer comments in respect of the heating of empty sheds / churches etc being relayed.

If I received such clear warnings, yet failed to act upon them, then that would be a very clear personal and professional failing on my behalf.

If having received the warnings, I did not fully understand or appreciate them and did not seek further clarification, I would also view as a failure on my behalf.

d. What was done with this information?

I was not aware of anything being done with this information.

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

I was not aware of this information being recorded

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

4. As to this:

a. Please give an account, as far as you can, of the events to which Claire Hughes refers.

I do believe that during a discussion at Board Claire did disclose she was a beneficiary of the Domestic Scheme. I cannot recollect if she formally posed the question as to whether it was a potential conflict of interest or whether it was a short side discussion during an overall Board RHI debate.

My recollection is that as per her statement the view of the Board Chair (Andrew McCormick) was that no conflict existed. There was no dissent to this view from other members (including myself).

b. When do you say any such events occurred (and please explain the basis for your answer)?

My immediate recollection was that this occurred at the first Board Meeting after 5 June 2015 (when myself and Claire were briefed by Trevor Cooper).

Upon inspecting the minutes for that meeting (23 June 2015) it records that the Permanent Secretary had sent his apologies and Eugene Rooney acted as Chair. I therefore think it must have been the next meeting on 21 July 2015.

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

This question is perhaps best put to the Board Secretariat, however I do not see any relevant or formal comments in the Board Minutes of that period.



It may be that if the matter was raised informally and that the unanimous view was that no conflict existed, then it was not deemed necessary to formally record it.

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 Claire Hughes that appears to resemble the conversation that Claire Hughes says she had with you and Trevor Cooper on the 5 June 2015. Trevor Cooper says the discussion involved Claire Hughes' installation on the Domestic RHI scheme, a discussion she had with her installer, and the installer having mentioned to her that "*people may generate heat excessively under the non- domestic scheme*". He says poultry was also mentioned.

5. 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 did on foot of the discussion.

I do not believe I was involved in any such discussion.

b. If you were involved in the discussion, was the information you received about what may be happening on the Non Domestic RHI Scheme new information to you? If not, when did you receive similar information, from whom, in what context, and what was the similar information? If it was new information, what questioning did you engage in of what Ms Hughes was telling you?

It is my view that any similar information I would have received would have been via Board / Audit Committee meeting updates from officials as knowledge of the Scheme weaknesses and potential / actual abuse widened within the Department.



I had no interactions directly or indirectly with anyone outside the Department and its advisors (such as NIAO) in respect of similar information.

6. Trevor Cooper says that following the discussion he spoke to Eugene Rooney, who sent Trevor Cooper back to Claire Hughes to find out was she prepared to put the matters "*on the record*". It is said that Claire Hughes was not prepared to do so. As to this, please give an account of any knowledge you have of the events referred to above.

I have no knowledge or recollection of these events.

7. Claire Hughes has said to the Inquiry (see paragraph 10 of her witness statement of the 23 August 2017 at WIT-18115), albeit potentially dating the conversation to the 5 June 2015, that at no stage was she asked to put what she had told Trevor Cooper "on the record". What, if anything, can you say about the assertion by Claire Hughes that at no time was she asked to put her information on the record?

I did not know anything about whether Claire was asked and I would have expected to have learnt of it had it happened as Trevor alleged.

8. What written record (if any) did you make, at the time, of any of the exchanges on the subjects referred to above? If no written record was made about any of these exchanges, please explain why that was the case.

As I was unaware of the exchanges I made no written record.

9. Who else did you speak to about what (if anything) Claire Hughes 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.



I do not recollect speaking to anyone in respect of what Claire had said except perhaps in general terms that she was a claimant under the domestic scheme.

Although not certain it would be my expectation that it would have come up in informal discussions with members of the Audit Committee but purely by way of background and limited to my knowledge that she was a claimant.

10. You are referred to the oral evidence Michael Woods gave to the Inquiry, in particular the passages at TRA-16031 to TRA-16036. To the extent that Claire Hughes spoke to you about the matters referred to above, did you ever tell the DETI Head of Internal Audit, Michael Woods, about what Claire Hughes had told you? If not, why not?

Michael Woods quite correctly would expect to be advised if there were any suggestions the scheme could or was being abused / defrauded.

My best and consistent recollection is that (notwithstanding my comments in Question 12 below) at no stage until late 2015 possibly early 2016 did I understand that the scheme was open to and possibly being systematically abused.

In the period up to Internal Audit being requested by the Audit Committee (December 2015) 'that the review of Energy Non - Domestic RHI is brought forward and should start immediately' my albeit developing view was this was primarily about budgetary pressures arising from a rapidly accelerating uptake in a generous difficult to control scheme for which the necessary approvals had lapsed.

It was not therefore my view during spring / summer 2015 that this was a fraud issue that needed to be referred to Michael Woods and/or Internal Audit.



11. 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)?

See 11.b below

- 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)?

I can only apologise in advance for my answers to Questions 11 a + b which at best will not be particularly beneficial to the Inquiry.

As throughout my responses, without always having the advantages of clear recollection and / or helpful personal notes I have often struggled to respond in a meaningful and productive way, none more so than in response to this question.

I have watched parts of the enquiry evidence sessions, read a number of session transcripts and witness statements in an attempt to anchor and assist my recall of events, none of which helps me in responding to this question.

My fear is that given the tsunami of information made available I respond with a version more guided and influenced by other peoples' recollections than my own. I would however offer the following observations.

- **I have no recollection of a major 'wow', or 'that could explain a lot of things' moment, rather that, as a long timeline of investigations**



and revelations intensified there were more issues of major concern.

- I had no interactions in respect of any allegations of Scheme abuse with anyone external to the Department (including members of the Audit Committee and its advisors such as the NIAO).
- For the avoidance of doubt I had no interactions of any kind with
 - any SpAD's or political parties, their members or representatives.
 - the poultry industry, farmers, equipment suppliers and installers, or to the best of my knowledge and belief anyone who had or intended to install a system to benefit from the Scheme.
- it is my view that I came to know about these allegations from within the Department.
- I do not recollect first learning about the allegations from Claire Hughes.
- I believe I became aware of the allegations late 2015 early 2016.
- I believe that I became aware via a Board update / discussion from / with the Permanent Secretary.

12. 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?

Based on Claire Hughes' statement in respect of information from her installer, irrespective of Board discussions and whether I was given, heard or understood what I term the additional comments referring to potential abuse of the Scheme, I believe I could have been more proactive.

As Chair of the Audit Committee (or indeed simply as a fellow IBM) an opportunity was missed by me not 'sitting down' / more actively engaging



with Claire Hughes to understand what the issues were and what had been said.

Perhaps this could have accelerated our understanding of the issues / abuse, ensured a more informed and questioning discussion and decision making process at Board and the earlier involvement of Internal Audit either via officials or a referral from the Audit Committee.

Given the evolving nature of the issue, my main hesitation is at what point could or should I have intervened, what could or should have been the trigger.

Perhaps it might be useful to regularly carve out some time pre or post Board Meetings for Non Execs and the Chair/Permanent Secretary to less formally than Board or Audit Committee settings engage and discuss issues and concerns. Newly appointed Non Executives especially may find this a useful arrangement.

13. In your witness statement of the 19 October 2017, at WIT-24533, you make reference to a formal record relating to Claire Hughes and her Domestic RHI installation from June 2016. The record from which you are quoting appears to relate to the 6 June 2016 Departmental Audit Committee Focus Group meeting on RHI (DFE-395371). As to this:

a. When did you first know that Claire Hughes had an installation on the Domestic RHI Scheme?

As per my earlier response (Q2.a.) I believe that I first knew that Claire had an installation on 5 June 2015.

b. What discussions did you have, when, and with whom, about that fact?

Apart from the instances detailed in response to earlier questions I do not recollect any additional discussions.



c. What steps did you take to ensure that that fact was formally recorded?

I did not believe it necessary to ensure that the fact was formally recorded.

d. Was the entry of the 6 June 2016 the first time that the fact that Claire Hughes had an installation on the Domestic RHI Scheme was formally recorded?

Yes, in respect of Board and Audit Committee Minutes I believe 6 June 2016 was the first time that Claire's domestic RHI installation was mentioned.

e. If the answer is 'yes', then please explain why that was so?

My view as Chair of the Audit Committee was I believe similar to the views of the then Board Chair in that no actual or perceived conflict of interest existed and that a formal record, certainly within the context of conflict of interest, was unnecessary.

I understand the more recent view of DfE is that Claire should be excluded from any discussions on RHI, I do not know if this is because of:

- **additional information that has come to light;**
- **a different view taken by the new Board and Audit Committee Chairs; or**
- **an 'abundance of caution'.**

As the issues in RHI became more to the fore in 2016 it was (I believe) helpful to formally record that Claire Hughes had an installation and that therefore Audit Committee members were aware of that fact.



f. If the answer is 'no', then please identify any previous formal records in this regard.

-

g. What advice (if any) did you give as to whether Claire Hughes should participate in any discussions relating to RHI? Please explain the advice you gave, when, to whom, and what happened on foot of it.

I did not give any advice on this matter.

14. To the extent that it is not already addressed in answers to any of the above questions, please detail any discussions you had, whether with Claire Hughes or others, about any abuse that was or may be occurring on the Non Domestic RHI Scheme. Please include who the discussions were with, when they occurred, and what those discussions entailed.

I am unable to give a forensically detailed response to this question as I would have had numerous discussions with Departmental officials, Board Members (including Claire Hughes) and Audit Committee Members as the sorry saga unfolded.

I would repeat however that to my best recollection any discussions would have been of a briefing / update nature as to the various developments and enquiries, and were (in my view) not in any way in respect of new or undisclosed information about Scheme abuse that the Department was not already aware of.

For the avoidance of doubt I had no interactions or discussions directly or indirectly with anyone outside the Department and its advisors (such as NIAO) in respect of any abuse that was or may be occurring on the Scheme.



Generally

15. 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.

Having again reviewed the RHI Inquiry's Terms of Reference I have to the best of my knowledge and recollection no further relevant significant evidence to offer.

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.

Statement of Truth

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

Signed:

Dated:

16th November 2018