



RENEWABLE HEAT  
INCENTIVE INQUIRY

**WIT-13462**

RHI Inquiry

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By post and email ([Glynis.Aiken@education-ni.gov.uk](mailto:Glynis.Aiken@education-ni.gov.uk))

1 May 2018

Dear Madam

**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 that you will be familiar, from my previous correspondence, with the RHI Inquiry's Terms of Reference, which remain available on the Inquiry's website. You will also be aware that the RHI Inquiry is conducting its investigations into the matters

set out in its Terms of Reference. In addition to having commenced its oral hearings, the Inquiry is continuing with the process of gathering all of the relevant documentation from relevant departments, organisations and individuals; and requiring individuals who have been, or who may have been, involved in the range of matters which come within the Inquiry's Terms of Reference to provide written evidence to the Inquiry Panel.

I am writing further to receipt of the first substantive witness statement you provided to the Inquiry, dated 15 December 2017, in response to Chairman's Notice No 545 of 2017. The Inquiry has had an opportunity to consider the content of that first statement and a range of other evidence touching upon your involvement with the RHI Scheme. The Inquiry would be grateful if you would provide a further substantive witness statement addressing the questions posed in the Schedule attached to the Section 21 Notice enclosed herewith.

As with previous Notices received by you from the Inquiry, the Section 21 Notice enclosed with this letter requires you to provide evidence to the RHI Inquiry Panel in the form of a written statement addressing the matters identified in the Schedule to the Notice. As the text of the Section 21 Notice explains, you are required by law to comply with it.

Again, the aim of the enclosed Notice is to require you to provide all relevant evidence you have within your knowledge, information or belief which is pertinent to the Inquiry's Terms of Reference. The Schedule to the enclosed Section 21 Notice provides further detail as to the matters which should be covered in the written evidence which is required from you. In the event that there is a category of information in respect of which you have no evidence which you can provide, please state this in your response. Where you can provide evidence, the more comprehensive your statement is, the less likely it may be that the Inquiry will have to revert to you at a later stage for clarification, although in many cases this is likely to be necessary to some degree.

It is again vital that the witness statement you provide to the Inquiry is your own evidence, absent the influence of others; that it is comprehensive; and that it fully explains your involvement in the matters about which you have been asked.

As before, I appreciate that you may require or desire access to some documentation in order to assist you in preparing your statement. In particular, you may wish to see document to which you previously had access but now no longer have access in your current post. If so, I understand that the Department for the Economy (DfE) has made arrangements to permit such access, at least in the first instance. You should contact Terence Coyne at DfE, who is the Department's RHI Task Force Information Manager, to organise this. He is contactable at [Terence.Coyne@economy-ni.gov.uk](mailto:Terence.Coyne@economy-ni.gov.uk). I have informed Mr Coyne that you may be making contact with him to arrange access to documentation; but there is, of course, no obligation upon you to do so. A similar arrangement is available in relation to documentation held by the Executive Office and the Department of Finance. The relevant contact in the Executive Office is Ms Olive Maybin, in the Office of the Head of the Civil Service, who is contactable at [Olive.Maybin@executiveoffice-ni.gov.uk](mailto:Olive.Maybin@executiveoffice-ni.gov.uk); and the relevant contact in the Department of Finance is Emer Morelli, Head of Supply, who is contactable at [Emer.Morelli@finance-ni.gov.uk](mailto:Emer.Morelli@finance-ni.gov.uk).

I remind you of the terms of Restriction Order No 2 made by the Chairman of the RHI Inquiry on 22 June 2017. This restriction order prohibits you from publishing any documentation received from the RHI Inquiry (save that you may show it to your legal representative) unless you first obtain the consent in writing of the Inquiry Chairman.

In addition to the four restriction orders made by the Chairman of the RHI Inquiry (which you will find published on the Inquiry website) receipt of this correspondence and its enclosures also places you under a duty of confidentiality to the RHI Inquiry in respect of them. You may share the correspondence and the enclosed Notice and documents with your legal representative(s), but neither you nor they may show, communicate the contents of, nor provide this correspondence or the Notice or documents to any other person or organisation without the express permission of the RHI Inquiry. Any breach of this duty of confidentiality is actionable at the suit of the Inquiry Chairman.

You will also find attached to the Section 21 Notice a Guidance Note explaining the nature of a Section 21 Notice and the procedures that the RHI Inquiry has adopted in relation to such a notice. In particular, you are asked to provide your evidence in the form of the template witness statement which is also enclosed with this 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.

A copy of this correspondence has also been provided to your legal representative, Mr Ed Boyle (by email only).

Finally, I would be grateful if you could acknowledge receipt of this correspondence and the enclosed notice by email to [Patrick.Butler@rhiinquiry.org](mailto: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 45 of 2018]**

*Origin of Private Office Guidance*

1. The Inquiry has been provided with a version of DETI Private Office Guidance (DFE-416559 to 416571), and with emails of 22 August 2008 (DFE-423663 to 423708) in which you circulated this guidance within DETI. In the emails you noted that this was “updated Private Office guidance to reflect some minor changes to procedures following the change of Minister”. Arising from this please indicate to the best of your knowledge:
  - a. from where and when the previous version of this document originated;
  - b. any discussions, comments, decisions etc. that led to the minor changes you referred to being made;
  - c. what role, if any, the then Minister and Special Advisor had in either the drafting of this version of the guidance, or the approval of its contents;
  - d. what the minor changes to the document were;
  - e. whether any further changes were ever made to this guidance while you were in DETI Private Office; and
  - f. what, prior to the issue of this version of the guidance, had been the arrangement for the taking of minutes of meetings between officials and the Minister? If this version of the guidance brought about changes in that process please explain the circumstances relating thereto.

*Ministerial correspondence*

2. Please describe, to the best of your recollection, any procedure or practice for handling and tracking correspondence received by DETI Private Office while you worked there. If the procedure or practice changed at any point during your time in the DETI Private Office then please explain what the change was, when it occurred, and what brought about the change.
3. On 13 April 2018 DFE provided the Inquiry with a description of "a process in place in Private Office for handling and tracking Ministerial correspondence" (DFE-423437). With reference to the contents of DFE-423437 please indicate:
  - a. whether this accurately reflects the practice that existed while you were in the DETI Private Office (specifying, if appropriate, the period during which the practice applied); and/or
  - b. which parts, if any, differed from the practice in DETI Private Office as you recollect it and, if they did differ, how they differed.
4. The Private Office Guidance states at paragraph 1 that "Private Office will decide whether a letter addressed to the Minister should receive a Ministerial reply, and if so which division should prepare the advice, or whether it can be answered by the Minister's Private Secretary, or an official." (DFE-416560) Arising from this, please:
  - a. indicate whether this was the practice as you recall it and, if it was not, what was the practice;
  - b. describe how, or in accordance with what criteria, Private Office decided whether a letter addressed to the Minister should receive a Ministerial reply; and
  - c. describe the practice or procedure for dealing with correspondence treated by Private Office as not requiring a Ministerial reply.

*Unanswered DECC Ministerial Correspondence*

5. It appears to the Inquiry, from material received by it, that on a number of occasions correspondence relating to the RHI Scheme which was received by the DETI Minister from DECC Ministers, did not receive a reply from the Minister. For instance, the DECC ministerial letter of 31 May 2013 (DFE-53262 to 53264) was received into Private Office on 31 May 2013 (WIT-02451) and was sent to Energy Division later the same day (WIT-02450). Energy Division replied on 3 June 2013 (WIT-02449) that it did not consider a response was required. It seems a response was not sent to the DECC Minister. On 4 June 2014 (DFE-234709) a further letter from DECC Minister Barker (DFE-234711 to 234712) arrived into Private Office and was forwarded to Energy Division (DFE-234709). Energy Division replied on 6 June 2014 (DFE-417742 to 417743) that no response was required. It seems a response was not sent to the DECC Minister. On 24 October 2014 a further letter was received from a DECC Minister (DFE-349626 to 349627). Private Office sent the letter to Energy Division on the same day (DFE-349625). Energy Division replied on 27 October 2014 that no response was required (DFE-420830 to 420831). On this occasion Private Office indicated that a copy was placed in the "green folder". It seems a response was not sent to the DECC Minister. As to this please explain:

- a. why the letter was not automatically turned into a Correspondence Case before being sent to Energy Division for a proposed response;
- b. how the process worked for correspondence which had not been turned into a Correspondence Case;
- c. where the relevant Division responded that a response was not required, how the correspondence was then dealt with, including how it was brought to the Minister's attention;
- d. what was the "green folder", what was its purpose, and during what period was it used; and

- e. why the various Whitehall Ministers would not receive a response, even confined to an acknowledgment of their letters.

*Meetings between the Minister and DETI officials*

6. Was it the practice that you attended all, or some, meetings between the Minister and DETI officials? How was it decided which meetings you would attend?
7. Paragraph 38 of the Private Office Guidance (DFE-416566) states that: "The Permanent Secretary has directed that for all internal and external meetings involving officials it will be the responsibility of the agency, branch, division etc to record a relevant note of the discussion, decisions taken and action agreed. The author should ensure that he/she has issued the minutes to any relevant official – including PS/Minister. This will allow the Private Secretary to concentrate on following up on the Ministers action points. At the same time the minutes will properly record the discussions on complex issues as officials will have the advantage of a closer knowledge of topics. Please provide details of note taker in briefing, as requested." Arising from this:
  - a. Was the relevant note/minutes of the meeting always recorded by the agency, branch, division etc, or was it sometimes recorded by you, or by both? If the person who carried this out varied, how was the decision taken as to who should record the note of the meeting?
  - b. When the relevant note/minutes of the meeting was recorded by the agency, branch, division etc, was a copy routinely provided to you? If so, what was then done with these records?
  - c. If you did not routinely receive the note/minutes, as appears to be envisaged by paragraph 38 of the Private Office Guidance, what did Private Office do to seek and obtain the notes/minutes from agencies, branches, divisions etc?



- d. If Private Office did not take steps to obtain the relevant notes/minutes of meetings with the Minister then please explain why that was so.
  - e. If Private office did not obtain the notes/minutes of the meetings officials had with the Minister, then how would you go about “following up on the Ministers action points” as envisaged by paragraph 38 of the Private Office Guidance?
  - f. To the best of your recollection did the Minister or SPAD ever request to see a note/minute of a meeting recorded either by you or by the agency, branch, division etc? Did any such requests ever relate to the RHI scheme?
8. Arlene Foster’s evidence to the Inquiry was that, owing to the “technical nature of some parts of the Department”, you considered that it would be better if those parts took a note at meetings with the Minister (TRA-08276). Arising from this please indicate:
- a. whether in your recollection this was the case (or provide any other information you have that is relevant to this evidence); and
  - b. whether it was the practice that you were responsible for taking notes (for the record of the meeting) at some types of meeting but that division or branch officials were responsible for taking notes at other types of meeting.
9. David Sterling’s evidence to the Inquiry indicated that, given the pace of day-to-day life, “you would quite often have had a meeting [with the Minister] where you might have been just called up at short notice” or that he would quite often have said to the private secretary, “Is the Minister in? I wouldn’t mind a quick word”, and that he would have gone in and had a quick word. (TRA-06121 to 06122)
- a. Please describe from your point of view the degree to which it was possible for the Minister and/or SPAD and officials to have fairly informal chats or meetings at short notice.

- b. To the extent this was the case, would you indicate to the best of your knowledge whether this extended to other grades of officials (beyond David Sterling) and, if so, which grades or officials (relevant to the RHI scheme)?

*Phone calls to the Minister*

10. Please outline the practice or procedure that applied when an official wished to speak to the Minister by phone. In your reply please address the following:
  - a. Were officials required to arrange phone calls with the Minister by contacting you in advance of the call and, if so, did you or anyone else diarise or maintain a record of calls arranged in this or any other way?
  - b. Could officials phone you and, if the Minister was available, be immediately connected to speak with the Minister? If so, was a record kept by you or anyone else of these calls?
  - c. Could, and did, officials phone the Minister directly?
11. Were there occasions when a pre-arranged call between officials and the Minister were not entered in the Minister's diary?

*Contact between Fiona Hepper and the Minister between 26 June 2012 and 5 July 2012*

12. On 26 June 2012 Ofgem advised Energy Division officials to wait until forthcoming amendments to the GBRHI Regulations were made before bringing into effect the NIRHI Regulations. Fiona Hepper's evidence to the Inquiry is that she "sought a word with the Minister, on the basis that I needed to have a word with her quickly, because the Committee were meeting in the next day or so [i.e. 5 July 2012], and there was a chance this would be on their agenda ...." (TRA-02686 to 02687). In relation to this Arlene Foster's evidence to the Inquiry is that the wording "suggests to me that she would've spoken to my private secretary

as opposed to, "I lifted the phone". .... That she would've gone through Glynis to speak to me." (TRA-08252, see also TRA-08248 to 08249). Arising from this:

- a. please outline to the best of your knowledge any recollection you have of Fiona Hepper contacting you in June 2012 to arrange a call or meeting with the Minister;
- b. please state to the best of your knowledge what typically happened, or what steps Fiona Hepper typically took, whenever she wished to speak with (or arrange to speak with) the Minister; and
- c. if such a call took place what record you would expect there to be of it. Please explain the basis of your answer.

*Submissions to the Minister*

13. Please describe to the best of your recollection any procedure or practice for handling and tracking submissions to the Minister received by Private Office. Please include in your answer a description of:
  - a. the system for ensuring that the Minister and SPAD could see and comment on submissions, how any such comments and consequent actions were communicated as between Private Office and the relevant division or branch; and
  - b. any system or log kept by Private Office for tracking submissions and their progress through the system.

**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 45 of 2018****DATE: 24<sup>th</sup> May 2018**

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**Witness Statement of: GLYNIS AIKEN**

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I, Glynis Aiken , will say as follows: -

1. The Inquiry has been provided with a version of DETI Private Office Guidance (DFE-416559 to 416571), and with emails of 22 August 2008 (DFE-423663 to 423708) in which you circulated this guidance within DETI. In the emails you noted that this was “updated Private Office guidance to reflect some minor changes to procedures following the change of Minister”. Arising from this please indicate to the best of your knowledge:
  - a. The document was the guidance which was in place when I commenced work in the DETI Private Office.
  - b. I recall discussing the specific references to the Press Office with a member of the Press Office team.
  - c. Neither the Minister nor the Special Adviser had a role in the drafting of this guidance nor the approval of its contents.
  - d. The Department for the Economy has provided me with a copy of the guidance which was in place prior to June 2008 – copy attached to this statement. I have conducted a comparison between that version and the version I circulated in August 2008 and have identified the following minor changes. The names of the Minister, Special Adviser, and Private Secretary were updated throughout. The second paragraph on Page 2 was added to reflect that all papers would be considered by the Special

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Adviser before being submitted to the Minister. Paragraph 16 was updated to state that the Press Office should clear press releases before being submitted within a submission. Paragraph 19 was updated to reflect that the Minister would not normally be available to clear papers on a Friday. Paragraph 21 was updated in relation to the procedures for handling Executive Papers. Paragraph 63 was updated to reflect changes made by the Assembly in relation to holding events in Parliament Buildings. Paragraph 64 was updated to reflect the change in the Ministerial Driver.

- e. I do not recall making any further changes to this guidance during my time in DETI Private Office.
- f. I did not make any amendments to paragraphs 37-39 of the guidance in reference to the taking of Notes of Ministerial meetings. Therefore these were the arrangements in place prior to the updated version of the guidance being circulated.

*Ministerial correspondence*

2. The Correspondence Secretary or the Assistant Correspondence Secretary would consider correspondence received in the Private Office, either by email or by post, in the first instance. If the correspondence was an invitation or a meeting request it would be passed to the Diary Secretary/Assistant Diary Secretary to take forward. The Correspondence Secretary/Assistant Correspondence Secretary would process all other correspondence. The Correspondence Secretary/Assistant Correspondence Secretary would read the correspondence to make a preliminary assessment as to whether, in their opinion, the correspondence was for information only, or if it required a response. Normally correspondence from Whitehall would make it very clear if it was designed to provoke a response. In all cases, if the Correspondence Secretary/Assistant Correspondence Secretary believed that the correspondence was for information only, the letter would then be sent to the relevant business area to canvas their views. The Private Office was aware that



the business area was in contact with their counterparts in Whitehall, and so was best placed to advise as to whether the correspondence required a response or was purely for information.

If Private Office staff were unsure which business area should lead in preparing a response to correspondence, they would send it initially by email to the business area they thought would be the most appropriate to seek their advice.

Correspondence was processed differently, depending on who the correspondence was from, and the purpose of that correspondence, for example:

- I. The practice would be that correspondence received from an elected representative would be set up as a 'correspondence case' (referred to as a COR case) to receive a response from the Minister. This was not specifically set out in the Guidance but was the working practice of the Private Office, and this general rule in relation to correspondence from elected representatives was not applied when we received correspondence from Whitehall (or the Scottish or Welsh Ministers) which the Private Office considered was for the purpose of updating our Minister on their general approach (see point IV below).
- II. Correspondence from members of the public in relation to a policy issue would be set up as a 'correspondence case' to receive a response from the Private Secretary.
- III. Correspondence from members of the public in relation to departmental operational issues would be set up as a 'Treat Official' case (referred to as a TOF case) to receive a response from an official within the Department.
- IV. Correspondence for information only and not requiring a response would be registered on Knowledge Network as a General Mail (referred to as a GM case) and copied to the relevant business area where applicable.

## Processing

Central to the procedures and practices for recording and tracking Private Office correspondence was the use of the Knowledge Network system, which was used to record and track Private Office cases.

Correspondence received in hard copy would be date stamped, scanned as a pdf document, and a case registered on Knowledge Network. Correspondence received by email would be saved and a case registered on Knowledge Network. In respect of a COR case, an action sheet would be generated on the Knowledge Network system and issued to the appropriate business area requesting advice and draft reply for signature by either the Minister or PS/Minister to be returned to the Private Office by a specified date. In respect of a TOF case, an action sheet would be generated on the Knowledge Network system and issued to the appropriate business area requesting an official to respond by a specified date and to provide a copy of the response to the Private Office. In respect of a GM case, an action sheet would be generated on Knowledge Network system and issued to the appropriate business area for their information.

The correspondence would then be placed in a folder, which would have been passed directly to the Minister for information once or twice a week depending on the volume of correspondence.

In respect of COR cases, the Knowledge Network system would be updated on receipt of the advice and draft reply from the business area. A folder would be prepared containing the original correspondence, the advice from officials and a draft letter for signature. This would then be passed to the Special Adviser and then on to the Minister for consideration. Should the Minister or Special Adviser require additional information or changes made to the response this would be passed back to the Private Office to take forward. Once the final response has been approved and signed the folder would be returned to the Private Office. Private Office would update the Knowledge Network system with a copy of the Minister's approval and a copy of the final response, issue





the final response either by post or email as appropriate. A closing email would be generated through Knowledge Network and issued to the relevant business area with a copy of the Minister's clearance and the final response attached for their records. I do not recall the practice outlined above changing during my time in DETI Private Office.

3. On 13 April 2018 DFE provided the Inquiry with a description of "a process in place in Private Office for handling and tracking Ministerial correspondence" (DFE-423437). With reference to the contents of DFE-423437 please indicate:
  - a. Detailed information re the processing of Ministerial correspondence is set out at 2 above and I confirm that having reviewed the content of an email from Terence Coyne dated 13 April 2018 (DFE-423437) I understand that this information must have been relayed to him from the current Private Office. During my tenure in the Private Office, correspondence that was for 'information only' should have been set up on the Knowledge Network as 'general mail'. Furthermore, in respect of the second bullet point, in my experience, the Minister would only have made notes on the correspondence on very rare occasions. In my personal recollection, apart from these two minor differences, the account provided at (DFE-423437) accurately reflects the practice that existed in the DETI Private Office during my period working there.
  - b. As detailed in the reply to question 3 a. above.
4. The Private Office Guidance states at paragraph 1 that "Private Office will decide whether a letter addressed to the Minister should receive a Ministerial reply, and if so which division should prepare the advice, or whether it can be answered by the Minister's Private Secretary, or an official." (DFE-416560) Arising from this, please:
  - a. Please see 2 above, wherein the working practice was that the Private Office was on occasions assisted by input from the relevant business area.

- b. Please see 2 and 4a. above, wherein the working practice was that the Private Office was on occasions guided by the relevant business area.
- c. Please see 2 above.

*Unanswered DECC Ministerial Correspondence*

5.

- a. I assume that the Private Office staff wanted advice as to whether the correspondence required a response, and therefore it was sent by email to the relevant business area for its input. In this type of situation the correspondence would not be set up as a Correspondence Case or General Mail, until an opinion had been received from the relevant business area. The correspondence is not marked as a Correspondence Case at that stage (prior to sending to the business area) for practical reasons, as once correspondence is categorised in one way, it cannot easily be re-categorised on the Knowledge Network system. If correspondence received was confirmed by the relevant business area as being for information only it would then be set up as a GM (General Mail) case on the Knowledge Network system.
- b. Correspondence received which was for information only would be saved onto the Knowledge Network system as a GM (General Mail); an action sheet generated and issued to the relevant business area (if applicable) for their records.
- c. The correspondence would have been saved onto the Knowledge Network system as a GM, as outlined above. A copy of the advice from officials and the original correspondence would be placed in the Minister's correspondence received folder and passed to the Minister for information.

- d. When the DETI Minister took office she requested that practices be instituted to ensure that she would see a hard copy of all correspondence received in the Private Office. Once Private Office staff had saved the correspondence onto the Knowledge Network system, a copy of the correspondence was placed in a folder (on this occasion it seems a green folder was being used) and passed to the Minister for information once or twice a week, depending on the volume of correspondence received.
- e. I understood that Whitehall Ministers would frequently write to Ministers in the devolved administrations updating them on policy areas. It was widely accepted that this genre of correspondence was for information only and did not require a response. It was not the practice in DETI to routinely acknowledge receipt of correspondence, particularly in respect of this type of correspondence, which was considered to be by way of an update.

#### *Meetings between the Minister and DETI officials*

6. It was my practice that I would attend all meetings between the Minister and DETI officials. The only time that I would not attend those meetings would be if there was some other urgent matter that the Minister directed required my attention immediately, or if the Permanent Secretary asked for a word in private with the Minister.
7. Paragraph 38 of the Private Office Guidance (DFE-416566) states that: "The Permanent Secretary has directed that for all internal and external meetings involving officials it will be the responsibility of the agency, branch, division etc. to record a relevant note of the discussion, decisions taken and action agreed. The author should ensure that he/she has issued the minutes to any relevant official – including PS/Minister. This will allow the Private Secretary to concentrate on following up on the Minister's action points. At the same time the minutes will properly record the discussions on complex issues as officials will have the advantage of a closer knowledge of topics. Please provide details of note taker in briefing, as requested." Arising from this:



- a. As outlined in the Guidance it was the responsibility of the business area to record notes of the meetings. I assumed that the relevant official attending the meeting would produce these and save them to the relevant records on TRIM. The only occasion where I may have taken a note of a meeting or any action points agreed would have been when the meeting was with persons outside the civil service, and an official from the business area (for whatever reason) was not in attendance, but this would have occurred only on rare occasions.
- b. I do not recall receiving copies of notes of meetings in DETI and so the note/minutes were not routinely provided to me.
- c. As it was not common practice for officials to provide notes/minutes (as specified in the provisions set out in paragraph 38 of the guidance) and due to a lack of resources, competing priorities, and pressures on staff time, it did not occur to me that I should routinely request the minutes of the meetings, when they were not provided to the Private Office. When relevant I would have made a record of the Minister's action points and, per the Guidance, my focus was to concentrate on ensuring that those action points were followed up. With hindsight, I sincerely regret that I did not observe that officials failed to adhere to paragraph 38, and specifically prompt them to provide minutes from meetings.
- d. See answer to 7 c above.
- e. If I sat in on a meeting I would have noted for my own information any action points for the Minister e.g. if the Minister had agreed to meet with someone, write a letter or was being asked to give urgent consideration to an issue which would be sent to the Private Office in the next couple of days. I would generally revisit these notes at the end of the week and follow up on any that hadn't been actioned. I was not reliant on the minutes/notes of the meeting from the official to understand what the Minister's action points were.



- f. I have no recollection of the Minister or SPAD requesting to see a note/minute of a meeting.
8. Arlene Foster's evidence to the Inquiry was that, owing to the "technical nature of some parts of the Department", you considered that it would be better if those parts took a note at meetings with the Minister (TRA-08276). Arising from this please indicate:
- a. I attach a copy of the guidance which was in place prior to August 2008. It was the practice that notes of meetings were recorded by the relevant business area. The guidance states "At the same time the minutes will properly record the discussions on complex issues as officials will have the advantage of a closer knowledge of topics. I would agree with the Guidance, given the technical nature of energy and telecoms issues which I didn't understand, however it would be wrong to conclude that the decision was mine to make, or that I made it: rather this decision was set down by the Guidance.
- b. The only occasion I would have been responsible for taking notes of a meeting would have been when an official from a relevant business area was not in attendance, however this would have been rare.
9. David Sterling's evidence to the Inquiry indicated that, given the pace of day-to-day life, "you would quite often have had a meeting [with the Minister] where you might have been just called up at short notice" or that he would quite often have said to the private secretary, "Is the Minister in? I wouldn't mind a quick word", and that he would have gone in and had a quick word. (TRA-06121 to 06122)
- a. The Minister and SPAD were very accommodating and would always have agreed to meet with officials at short notice if they were available.
- b. The Minister and SPAD would have agreed to meet with any grade of official.

*Phone calls to the Minister*

10. Please outline the practice or procedure that applied when an official wished to speak to the Minister by phone. In your reply please address the following:
- a. It would have been normal practice for officials to contact either myself or the Diary Secretary to arrange phone calls with the Minister. If the telephone call was being scheduled for a particular day/time it would have been noted in the diary as a reminder. However if a telephone call was urgent and if the Minister was available, the call would have been put through to the Minister. This would not have been noted in the diary. However, it should be noted that I do not recall there being many phone calls of either nature to the Minister from officials.
  - b. Officials could have contacted me requesting an urgent word with the Minister. If the Minister was available, the call was put through. There would not have been a record made of these calls.
  - c. I have no recollection of officials contacting the Minister directly.
11. I have no recollection of a pre-arranged call between officials and the Minister not being entered in the Minister's diary.

*Contact between Fiona Hepper and the Minister between 26 June 2012 and 5 July 2012*

12. On 26 June 2012 Ofgem advised Energy Division officials to wait until forthcoming amendments to the GBRHI Regulations were made before bringing into effect the NIRHI Regulations. Fiona Hepper's evidence to the Inquiry is that she "sought a word with the Minister, on the basis that I needed to have a word with her quickly, because the Committee were meeting in the next day or so [i.e. 5 July 2012], and there was a chance this would be on their agenda ...." (TRA-02686 to 02687). In relation to this Arlene Foster's evidence to the



Inquiry is that the wording "suggests to me that she would've spoken to my private secretary as opposed to, "I lifted the phone". .... That she would've gone through Glynis to speak to me." (TRA-08252, see also TRA-08248 to 08249).

Arising from this:

- a. I have no recollection of Fiona Hepper contacting me in or about late June or early July 2012 to arrange a call or meeting with the Minister.
- b. Fiona Hepper would have telephoned me initially to ask if the Minister was available and if she could be put through. If Fiona was seeking an urgent word in person she would call in to the Private Office and ask if the Minister was free. I would check if the Minister was available and if she was agreeable to speak to Fiona. If Fiona was seeking to arrange a slot in the Minister's diary either Fiona or her Secretary would contact either myself, the Diary Secretary or the Assistant Diary Secretary to request same. A date and time would be agreed and noted in the Minister's diary.
- c. If the Minister had made an agreement to a particular course of action during the call I would expect the official to have made a note of it or even conveyed it in an email to their team. I would have expected that if a decision about a major policy issue was made in the course of a telephone call or an impromptu meeting that it should have been followed up by a formal submission.

### *Submissions to the Minister*

13. Please describe to the best of your recollection any procedure or practice for handling and tracking submissions to the Minister received by Private Office. Please include in your answer a description of:
  - a. To the best of my recollection the normal process for handling submissions would have been as follows. On receipt of a submission, Private Office staff would register the case on Knowledge Network and





attach a copy of the submission. The submission would be annotated with the Knowledge Network case number, printed out and placed in a folder. A check would be carried out to ensure that all attachments referred to in the submission had been received and were attached to the case. A summary of what the Minister was being asked to do was handwritten at the top of the submission. The folder would then be passed to myself to be included in the next batch of papers to be given to the Special Adviser. I would double check the submission to ensure that all attachments referred to had been included and that the recommendation clearly set out what was required from the Minister. I also noted the timescale of the submission and prioritised the papers before passing them to the Special Adviser for his consideration. The normal process would have been for the Special Adviser to pass the batch of papers back to myself. On occasion, due to logistics or timing, the Special Adviser may have passed papers directly to the Minister. If the Special Adviser had requested any further information/clarification on a submission, this would have been passed back to the Private Office to request a response from the relevant officials – the response would have been attached to the case and the submission resubmitted to the Special Adviser. If there were no requests for further information/clarification the submission would be passed to the Minister when she was next taking papers. Once the Minister had considered a submission it would be returned to the Private Office where the Minister's comments would be scanned and saved onto Knowledge Network and a closing email generated enclosing the Minister's comments and issued to the relevant business area for their records. On rare occasions, due to timescales, it would have been necessary to send a submission to the Minister/Special Adviser by email.

- b. The Knowledge Network system was used to track submissions.





Statement of Truth

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

Signed: GAiken

Dated: 24/5/18

## PRIVATE OFFICE GUIDANCE

### MINISTERIAL CORRESPONDENCE

Any papers sent to the Private Office ([private.office@detini.gov.uk](mailto:private.office@detini.gov.uk)) should be sent electronically (unless by prior arrangement) and should be copied to the Permanent Secretary, the relevant Deputy Secretary and Head of Division, as well as the Press Office ([press.office@detini.gov.uk](mailto:press.office@detini.gov.uk)) and the Special Adviser ([wallace.thompson@detini.gov.uk](mailto:wallace.thompson@detini.gov.uk)).

#### Responses

1. Private office will decide whether a letter addressed to a Minister should receive a Ministerial reply, and if so which division should prepare the advice, or whether it can be answered by the Minister's Private Secretary, or an official.
2. First names should be used when the Minister is corresponding with fellow MPs, MLAs and Peers. The exception to this rule is correspondence with the Prime Minister, First Minister and deputy First Minister who must referred to by these titles in all circumstances. The Minister will sign letters as **Nigel Dodds OBE MP MLA**.

#### Transfers

3. If a division is allocated a letter that they feel would be more appropriately answered by another division Private office should be alerted immediately and the letter will be reallocated. If the division considers that a letter should be answered by another department, or an official should reply instead of the Minister, or vice-versa, then Private Office should be contacted and the division's reasoning laid out. No action should be taken without the awareness of Private Office. The Private Office will arrange any Departmental Transfer.

#### Deadlines

4. A prompt response to Ministerial correspondence is an essential part of the department's commitment to openness and accountability. All correspondence should be answered within 10 working days of its receipt by the department, with a draft reply to Private Office within 5 working days. If this deadline cannot be met Private Office should be informed and a holding reply should be provided and an extension to the due back date negotiated for the full reply.

- 5. N.B. Inputs to FM and dFM briefings etc. operate on tighter deadlines and need time to be cleared by the Minister before going to FM and dFM.**

**Form of response**

6. The Minister has asked that draft letters be as polite and helpful as possible and use simple and concise language and relatively short sentences. The degree of complexity of the answer should take account of the likely expertise of the ultimate recipient.
7. The names of organisations should be written in full on the first occasion they occur and drafts should not normally be more than one page unless there are several points to get across. The use of jargon, acronyms and foreign terminology should be avoided, where possible.
- 8. Draft replies for any signatory other than the original recipient of the letter should make clear that the letter has been passed to them for reply.**

**TREAT OFFICIAL REPLIES**

9. Treat Official replies (TOs) are letters sometimes addressed to the Minister or a named official, usually from members of the public, which the Private Office has decided should receive a reply from an Official on the Minister's behalf. Private Office must be copied in on the final reply.
10. The same rules that apply to Ministerial Correspondence apply to TOs; i.e. deadlines, courtesy and clarity of language.
11. Correspondence relating to the day-to-day operations of the department's NDPBs should be answered directly by those organisations. The Minister will, however, continue to respond to correspondence on policy matters.
12. A transfer of correspondence to an NDPB should not normally be notified to the sender and the reply should therefore make it clear that the letter is being sent at the Minister's request.

**MINISTERIAL SUBMISSIONS**

13. Submissions to the Minister should be brief and to the point. They should be submitted to the Private Office in enough time to allow the Minister, should they wish to, to request further advice and hold a meeting before taking a decision. **Even in the case of urgent submissions this should be at least 48 hours before the deadline for decision. This is particularly relevant to Invest NI casework submissions which need the Minister's careful consideration.**

14. Submissions should normally only be copied to those who need to see them rather than those who might just be interested.

*\*(All submissions to FM/dFM should go through the Minister, except in cases of great urgency or by agreement with the Private Office, and should be copied to the Permanent Secretary and to the Special Adviser)*

15. The Permanent Secretary must have been consulted on policy proposals which have major resource implications, raise Accounting Officer issues, or have Machinery of Government implications before a submission is sent to the Minister.

16. The Press Office should be copied in on all submissions, as should Assembly Section if the submission is likely to result in action in the Assembly.

17. If a change in the law or a significant decision is being proposed, or where there are legal problems of any kind, the submission should have the appropriate legal advice/clearance.

18. Submissions should follow a standard format, which aids the Minister's speedy consideration of the issues involved. They should be **Ariel font, point 12 and single spacing**. The text of the submission should follow the subheadings detailed below:

**SAMPLE SUBMISSION**

**FROM:** A.N. Official

**Date:** 24 May 2007

**Copy Distribution List Below**

**TO:** Nigel Dodds OBE MP MLA

**Issue:** To Notify Colleagues of the Appropriate Style of Submission

**Timing:** Desk Immediate, Urgent or Routine

**Need for referral to  
The Executive:**

There **MUST** be a comment here, even if it is simply Not Applicable

**Presentational Issues:**

Likely interest from Media, Political Parties, Interest Groups etc.

**Freedom of Information:**

Most Submissions are likely to be disclosable – if in doubt speak to your Local Information Manager

**Financial Implications:**

There **MUST** be a comment here, even if it is simply Not Applicable

**Legislation Implications:**

There **MUST** be a comment here, even if it is simply Not Applicable

**Statutory Equality  
Obligations:**

There **MUST** be a comment here regarding compliance with Section 75

**Recommendation:** An indication of what is required from the Minister

### MINISTERIAL BOXES

19. The Minister will not usually have time to clear paperwork on a daily basis. Divisions should not automatically assume that the Minister will be able to clear a submission overnight or over a particular weekend. If divisions have papers to go into the Minister's Box, it will be for them to follow the instructions regarding Box closures that will be issued on a weekly basis by the Private Office. **Currently the Box closures are Tuesdays at 4pm and Thursdays at 4pm.** Private Office should be given good notice of any particularly weighty submission and they will advise on the best time for it to be sent to the Minister. It should not be assumed that this will be over a weekend.
20. If possible divisions should submit controversial/significant submissions well before the deadline for a final decision. This will allow the Minister to seek further advice, or a meeting, if necessary.
21. In if doubt regarding any aspect of sending a submission to the Minister it is advisable to contact the Private Office.

**N.B. Executive Papers will be handled by David McCune ([david.mccune@detini.gov.uk](mailto:david.mccune@detini.gov.uk)), Jo Kane ([jo.kane@detini.gov.uk](mailto:jo.kane@detini.gov.uk)), or Renee O'Cleary ([renee.o'cleary@detini.gov.uk](mailto:renee.o'cleary@detini.gov.uk)) and they must be copied to [alu@detini.gov.uk](mailto:alu@detini.gov.uk). DO NOT SEND THESE PAPERS TO THE PRIVATE OFFICE.**

### MINISTERIAL MEETINGS

22. When an external request for a Ministerial meeting is received, the Private Office will usually seek quick advice from Officials as to whether the Minister should agree to the meeting. It is helpful to have this advice quickly as an organisation that has requested a meeting will often press for an early response. This should be accompanied by the appropriate Accept or Decline draft letter. Advice to the Minister should be copied to the Special Adviser ([wallace.thompson@detini.gov.uk](mailto:wallace.thompson@detini.gov.uk)) and to the Press Office ([press.office@detini.gov.uk](mailto:press.office@detini.gov.uk)).
23. The ultimate decision on whether to accept the meeting will however remain with the Minister, although draft replies should be submitted on the basis of the official advice.

24. Officials need only advise on whether a Minister should accept or decline an invitation on its merits. The Diary secretary will inform Officials if the Minister is free or not.
25. It is essential that the purpose of the meeting and the agenda should be established with the visitors/hosts well in advance of the meeting, and preferably in writing. This ensures the best use of the Minister's time.
26. Officials should, where relevant, consider whether a particular meeting could prejudice the Minister's position in taking a subsequent decision.
- 27. Where a policy division is acting as secretariat for a meeting they should let the Private Office know well in advance of any potential dates. These should also be confirmed as soon as possible as it is difficult to keep a number of dates free in the Minister's diary for any length of time.**

**N.B. Dates in the Minister's diary will not be held without the minister seeing a relevant submission.**

### **Briefing**

28. If the Minister agrees to a meeting, briefing will be requested by Private Office who will set a clear deadline by which this is needed. The length and detail of the briefing will vary to suit the occasion and the Minister's tastes.
29. Briefing for courtesy calls, lunches, dinners, receptions and photoshoots should be as short as possible and usually no more than two sides of paper.
30. Fuller briefing for meetings should be clearly flagged with a 'contents' page at the front. This especially important for large meetings, but should not be overlooked for other meetings.
31. A meeting may deal with a number of different subjects, but the Minister needs to be presented with one agenda and one set of papers. Private Office will allocate co-ordination responsibilities where necessary.
32. Every brief should include the reason for the meeting; an agenda (agreed in advance with the participants); a list of participants (including pen pictures where relevant); lines to take in a form that can be read out, including defensive material and counter arguments on areas of vulnerability; and some background information (the length of which should be in inverse proportion to the Minister's knowledge of the subject).

33. In addition to this written briefing the Minister may ask for an oral pre-brief shortly before the meeting to clarify any outstanding issues. The Diary Secretary, Gillian Cahoon ([gillian.cahoon@detini.gov.uk/29440](mailto:gillian.cahoon@detini.gov.uk/29440)) should be notified if a pre-brief is required.

### **During the meeting**

34. The Minister will normally take the lead in the meeting, but may well invite the visitors to explain their views first. The visitors will want to hear the Minister's views, but officials should also contribute if appropriate.
35. If the Minister is the visitor it is customary for them to listen to their hosts and respond accordingly.
36. The physical arrangements for a meeting are the responsibility of the Private Office, except for some statutory or regular meetings where responsibility lies with a particular policy division.

### **Notes of Ministerial meetings**

37. Meeting notes are intended to record accurately any decisions taken or undertakings made by the Minister. They may also, if necessary, summarise the main facts and arguments used during the meeting. They will not however record, blow by blow, each turn of a discussion.
38. **The Permanent Secretary has directed that for all internal and external meetings involving officials it will be the responsibility of the agency, branch, division etc to record a relevant note of the discussion, decisions taken and action agreed. The author should ensure that he/she has issued the minutes to any relevant official – including PS/Minister. This will allow the Private Secretary to concentrate on following up on the Ministers action points. At the same time the minutes will properly record the discussions on complex issues as officials will have the advantage of a closer knowledge of topics. Please provide details of note taker in briefing, as requested.**
39. Officials are normally responsible for any follow-up action detailed in the meeting notes.

## **MINISTERIAL VISITS AND ENGAGEMENTS** **(including speeches)** **(Also see Press Office section below)**



40. A visit or engagement can have a variety of purposes including gathering information, public relations and promoting Government policy.
41. Ministers will have their own views on the engagements they want to undertake. Others may arise from invitations from outside organisations or suggestions put forward by the Department.
42. Most invitations will be sent to officials for advice on their merits. Ministers will expect a steer on whether it is a suitable occasion for ministerial participation. Is the occasion high profile enough? Will it be a valuable use of the Minister's time? Will there be anything newsworthy and suitable to say?
43. They will require background information on the organisation (including their relationship with the department) and the specific event (including the likely size and background of the audience). They will also need to consider who the immediate audience will be and what audience could be reached.
44. If it is a speaking engagement, an indication of the length of the speech and its main messages/purpose and whether it will be followed by a question and answer sessions are also valuable. Details of likely fellow speakers and whether they will precede the Minister are also useful.
45. For visits outside Belfast, a number of engagements in the area will usually be co-ordinated for a single visit.
46. The Press Office will incorporate the Minister's diary into their Planner/Media Grid as appropriate. They may also contribute to a central Media Planner which will allow them to check whether the Minister is likely to be competing with colleagues for news coverage and they will be able to advise on likely clashes of visits.
47. If the invitation is to be declined there should generally be a few words wishing the occasion well in the draft response.
48. In the majority of cases Private Office will ask the relevant policy division, NDPB, agency etc. to take the lead in organising the engagement, but they should be consulted before decisions are taken or programmes finalized. The private Office will usually be responsible for the Minister's travel arrangements.

### **Briefing**

49. Briefing for the Minister should be as concise as possible. They should receive a detailed itinerary (including contact mobile telephone numbers and names of people and the full address of the venue and a contact name and number there); a short brief on the engagement and the people they will meet; briefing on the main issues likely to arise and, in the case of visits further afield, background briefing on major issues/problems within the area, especially where there is press involvement (this may be wider than departmental responsibilities).

### Speeches

50. Often the main reason for a visit or engagement will be to deliver a speech. **Generally the Minister requires that the speech be in the form of a deliverable text, rather than bullet points on which to elaborate.** Speeches should be submitted in double spacing with numbered paragraphs in **Ariel Point 16**. The deadline will be specified by Private Office when the speech is commissioned, but a final speech is needed a week in advance. This gives the Minister time to study it and incorporate any necessary amendments. Ministers speak at different speeds but, as a rough guide, allow for about 125 words per minute.
51. Whenever possible the minister should receive an outline of a speech well in advance of the engagement to enable their initial views to be incorporated in any fully worked up draft speech. The precise tone of the speech will depend on the occasion; an after-dinner speech will often be more light-hearted than a speech delivered to a conference of experts.
52. Early consultation between the policy division and the Press Office should take place to pinpoint potential announcements/publications which might be allied to a speech increasing its newsworthiness and to discuss attendant publicity.

### PRESS OFFICE

53. The public presentation of policies and activities is a key element in ensuring the effective implementation of policy. The Press Office is the primary source of advice to the Minister and Officials on presentational issues and acts as a channel for public and media attitudes, as well as providing the machinery for announcing decisions and issuing news releases.
54. The timing of announcements is crucial to the achievement of maximum impact. It is important to avoid bunching Departmental announcements and competing with other Government Departments for news coverage. The Press Office will liaise with OFMDFM to pinpoint potential dates for announcements.

55. The Minister will expect the Press Office/Special Adviser to be consulted about the timing, method and content of any significant submission before it is put forward. Where an announcement has positive news value the Minister will expect as a minimum a news release to be issued.
56. The policy division would normally be responsible for preparing a first draft which must then be cleared with the Press Office/Special Adviser before being submitted to the Minister.
57. Early consultation about the message, target audience and timing of an announcement is essential, particularly if paid publicity is involved.
58. It is important to ensure that any significant announcements on policy are made to the Executive before the media is informed when the Assembly is sitting.

**Press Office contacts:**

**Principal Information Officer:**

Ann Williamson [ann.williamson@detini.gov.uk](mailto:ann.williamson@detini.gov.uk) / 29263

**Senior Information Officer:**

Nicola Steele [nicola.steele@detini.gov.uk](mailto:nicola.steele@detini.gov.uk) / 29297

**General Office:**

[press.office@detini.gov.uk](mailto:press.office@detini.gov.uk) /29305 or 29604

**SPECIAL ADVISER**

59. The Minister is assisted by a Special Adviser, Wallace Thompson ([wallace.thompson@detini.gov.uk](mailto:wallace.thompson@detini.gov.uk)). He is employed as a temporary Civil Servant for the duration of his appointment.
60. All policy submissions and briefing for all Ministerial meetings should be copied to Mr Thompson when being sent to the Private Office for the Minister. It is often worth discussing policy proposals with the Special Adviser at an early stage.
61. When asked, Officials should provide non-political advice and information to the Special Adviser. Particular attention is drawn to the need to ensure political impartiality.

62. Officials can provide the Minister and Special Advisers with factual information for political speeches and documents and can check them for factual accuracy; but they should not comment on any part of the text which is essentially subjective or which seeks to draw political lessons or criticises other political parties.

### **TOURS AND FUNCTIONS IN PARLIAMENT BUILDINGS**

63. Anyone wanting to book a tour or function in Parliament Buildings (PB) should do so through Private Office. The Events Co-ordination Office in PB will **not** accept bookings through any other source. Please request booking form from John Morton ([john.morton@detini.gov.uk](mailto:john.morton@detini.gov.uk)/29624). This should then be returned to Private Office for Private Secretary's authorisation. Branches can discuss specific requirements and timings etc with the **Events Co-ordination Office** direct, on Belfast Tel 90521948 (direct dial ext. 21948). Private Office will forward a copy of the signed booking request to the organising Branch.

#### **Ministerial Car**

Rod Moore is the Minister's driver and his dairy will be managed from the Private Office by John Morton ([john.morton@detini.gov.uk](mailto:john.morton@detini.gov.uk) / 29624). Rod's priority will be driving for the Minister and the car will only be available for officials under exceptional circumstances.

#### **Private Office Contacts**

##### **Assistant Private Secretary:**

Valerie Stevenson [valerie.stevenson@detini.gov.uk](mailto:valerie.stevenson@detini.gov.uk) / 29316

##### **Correspondence:**

Michael Duffy [michael.duffy@detini.gov.uk](mailto:michael.duffy@detini.gov.uk) / 29209

Christine McLaughlin [christine.mclaughlin@detini.gov.uk](mailto:christine.mclaughlin@detini.gov.uk) / 29222

##### **Diary:**

Gillian Cahoon [gillian.cahoon@detini.gov.uk](mailto:gillian.cahoon@detini.gov.uk) / 29440

Janet McKernan [janet.mckernan@detini.gov.uk](mailto:janet.mckernan@detini.gov.uk) / 29504

##### **Ministerial Car and Parliament Buildings Bookings/Tour Forms:**

John Morton [john.morton@detini.gov.uk](mailto:john.morton@detini.gov.uk) / 29624