

**FROM THE PERMANENT SECRETARY**  
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10 April 2017

Dear Paddy

**RHI NOTE FOR THE RECORD 27 MARCH 2017**

It has been drawn to my attention that there is an error in the note for the record I sent to you as part of my response to Chairman's Notice 2. I mistakenly attributed a boiler owned by another applicant to John Crawford. The correction has been made in the attached revised version, and involved deleting a line from the table at paragraph 68 of the note.

I apologise for this inaccuracy.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Andrew McCormick', written in a cursive style.

**ANDREW McCORMICK**  
Permanent Secretary

## RENEWABLE HEAT INCENTIVE (RHI)

### NOTE FOR THE RECORD BY DR ANDREW McCORMICK, PERMANENT SECRETARY, DEPARTMENT FOR THE ECONOMY

1. This note sets out a summary of some key relevant information known to me concerning a number of stages in the work on the Non-Domestic RHI, concentrating on issues not fully explored in the PAC evidence sessions and/or aspects that were covered in my personal conversations, mainly with DUP SpAds. For most of the content, I have not attempted to interpret the evidence, as I recognise it is incomplete.

#### *Design Flaws in the Non Domestic RHI Scheme*

2. As has been covered very fully elsewhere, there were very significant design flaws in the scheme from the outset – notably that:
  - a. because the biomass tariff was higher than the cost of fuel, there was a perverse incentive to excessive usage. The absence of tiering and the consequences for the market were drawn to DETI's attention several times by an external source (the Concerned Citizen) from October 2013 onwards; and
  - b. the source of budgetary cover was mistakenly considered to be open ended, despite clear indications from the outset that it was not.
3. I first became aware of the fact that the initial RHI biomass tariff had been excessively generous through the draft NIAO Report on DETI's accounts. Chris Stewart copied me in to an email on 19 May 2016 (Annex 1) with his initial comments on the draft. In that email he said (by way of conclusion) (emphasis added):
 

“We will need to discuss this with Andrew, but my reading is that we will receive even more serious criticism than I had thought, particularly around **the setting of a tariff which appears to have been too generous from the outset**, our response to DECC correspondence (but I would like to know more about that), and our monitoring of OFGEM”
4. I looked in more detail at the draft NIAO Report over the weekend of 21-22 May 2016, and sent an email with my comments and drafting notes to the team on the morning of 23 May, and in a further email that morning (Annex 2), I said that we needed: “...to consider the tariff point (which is new to me as of last week) and the 2011 emails” (the latter show that from the outset, DETI was told that the budget for RHI was not standard Annually Managed Expenditure (AME) – which is the standard classification for demand-led expenditure, but would have implications for the mainstream Departmental Expenditure Limit (DEL))

### **Initial Information**

5. RHI was mentioned in my first day brief when I arrived in DETI in July 2014. This described the scheme as funded by a separate budget of Annually Managed Expenditure (AME). As has been fully explained to the PAC, a key root cause issue in relation to all the difficulties is the misconception that RHI was standard AME and would, like other demand-led expenditure, receive additional budget cover from HMT as necessary without opportunity cost to the Executive's Resource DEL. The record shows clearly that this was a misconception from the beginning and a key aspect of the fact-finding investigation (currently suspended to give precedence to the Public Inquiry) is to seek to establish how this went wrong.
6. My first substantive discussion on this issue was on 27 May 2015, at a pre-meeting for a meeting in London with the Department for Energy and Climate Change (DECC) the next day. Energy Division explained that the Renewable Heat incentive was paid as "a form of AME", that we had a Budget of £25m for the three years to March 2015, but had only spent £12m. The scheme had only delivered something over 3% [of heat from renewables], not the 4% target. There was uncertainty over the budget for 2015-16, but spending was now increasing, with a projected spend of over £20m in 2015-16. The scheme was described as demand led, and there was now a need to secure an increased budget.
7. Energy Division suggested that I take the opportunity of raising with DECC the possibility of securing additional budgetary cover for the RHI as costs had begun to trend above the level that would be affordable within the budget for 2015-16 and beyond. At the meeting on 28 May, my contact in DECC referred me to his colleague with responsibility for renewable heat, but it became clear before long that seeking additional budget cover from DECC was a blind alley.
8. Around this time, DETI officials had realised that the financial approval for RHI had expired on 31 March 2015 and all the expenditure to that date would be irregular. There was an exchange of views between the Finance and Energy Directors at the Senior Management Team meeting on 29 May, and I arranged a separate meeting with my senior team for 3 June 2015.
9. Those present at the meeting on 3 June were Eugene Rooney, Trevor Cooper, John Mills, Stuart Wightman and myself. The informal notes I jotted down at that meeting are at Annex 3. It was noted that there should have been a review of the tariffs in 2014-15, and that, unlike the GB scheme, we did not have a tiered tariff, nor a mechanism other than new legislation to make any changes to the tariff. Energy Division was aware that there was now a high level of use in the poultry sector.
10. We identified three tasks for urgent action:
  - a. to engage further with DECC and DFP to seek to additional budgetary cover. This strand of work was avoidably confused by the DEL/AME issue identified above (paragraph 5). In fact, HMT did provide

additional AME budget cover twice in 2015-16, (£11.3m was added in the June Monitoring Round, as confirmed on 20 July 2015, and a further £7.2m was added in the January Monitoring Round, as confirmed on 19 January 2016). While this was very helpful in avoiding a Resource DEL pressure in that year, it had the unfortunate effect of reinforcing the misconception that extra funds would be available. There was far too much reliance on an HM Treasury email which had suggested informally that the maximum degree of penalty for overspend on the AME allocation would be 5%;

- b. to identify and take the steps necessary to secure a new DFP approval for the scheme, by drawing up a new business case. It was clear that this would only succeed if we introduced new cost control measures and reduced the incentive to lower levels. This was done and DFP approval to the revised RHI, with lower tariffs, was secured on 29 October 2015; and
  - c. to seek to resolve the irregularity of the expenditure from 1 April 2015 as soon as possible – ultimately this could not be granted and hence the expenditure committed between 1 April and 29 October 2015 is irregular.
11. The point we did not address was the ultimate root cause – the fact that the tariff was higher than the cost of fuel. The evidence to date suggests that that point had never been understood from the outset of the scheme following the mistake in the Business Case in 2012. Also, as far we know to date the information on that point from the Concerned Citizen had not been escalated to Deputy Secretary or Permanent Secretary level (nor to John Mills who was the Director of Energy Division at that time, according to his interview with PwC in autumn 2016). Hence I and the other decision makers were mistakenly of the view that the upsurge in demand was simply happening because the scheme was (at last) fulfilling its intended purpose. We did not recognise that the tariff was too generous – that point only became clear in June 2016 in the NIAO Report (see above, paragraphs 2-4).

### ***Initial Briefing of Minister and SpAd***

12. It was however clear that urgent action on all the three issues in paragraph 10 was needed and hence we briefed then-Minister Bell at the “Issues” meeting on 8 June, pointing out that the projected spend for 2015-16 was now £23m, and that the tariff had not been reviewed as had been planned for 2014-15. I explained that urgent action was needed and that officials were preparing advice on how best to resolve the problems as we understood them.
13. Timothy Cairns told me in January 2017 that he and Minister Bell had a discussion about the RHI the evening before a meeting with the then Secretary of State for Energy and Climate Change (Amber Rudd) in DECC in London on 10 June. I was told that in that conversation the Minister had made clear his determination to bring the RHI under control.

14. Jonathan Bell and Timothy Cairns had a disagreement at a breakfast meeting, just ahead of the meeting with Secretary of State Rudd. The question arose as to whether it was necessary for the decision on the options for the future of the NI Renewables Obligation (NIRO) was within Jonathan Bell's discretion as Minister (as he saw it) or whether (as Timothy Cairns said) it was necessary to take a view from party colleagues (in effect from the First Minister). John Mills (Head of Energy Division) and Sean Kerr (the Minister's Private Secretary) were also present. Following a sharp disagreement, we three officials left the breakfast room. When we arrived at DECC, Jonathan Bell explained that Timothy Cairns was not attending the meeting – and he was away from the Department from then until 29 June.
15. An unusual part of the context of this issue is that throughout Minister Bell's tenure as Minister some differences of view between, him, his SpAd and other SpAds were talked about much more openly than in any other context I have known. And it cannot now be a secret that there were tensions within the DUP Ministerial and Special Adviser team – in effect a breakdown of trust - and while that is far from unusual within governments, it created an additional challenge for the officials who have a specific responsibility to the Departmental Minister.
16. The specific period of difficulty arising from the dispute on 10 June in London which was only patched up a few days before the key submission on the RHI came forward for consideration in early July 2015. Hence these tensions made the RHI difficult issue significantly harder to resolve.

### ***Resistance to the tariff changes to the RHI in 2015***

17. I had a further meeting with officials on 17 June 2015, by which time DFP had been alerted to the problem, and legal advice had confirmed that we had no means of introducing cost control without new Regulations. Hence we concluded that the introduction of a broad range of cost controls was a matter of urgent necessity.
18. The concerns around RHI were mentioned at the Departmental Audit Committee meeting on 24 June 2015.
19. I understand from Chris Stewart that in the course of the preparation of advice to the Minister (ie between 29 June and 8 July 2015) the DETI SpAd had expressed the view to officials that any controls introduced should be no more than was necessary and proportionate; and that any action should not curtail the benefits of RHI in terms of carbon reduction and public investment in the Northern Ireland economy.
20. The key document is the Energy Division submission of 8 July 2015. The submission sets out the urgency of the need to act, and the proposed introduction of tiering as a means of reducing the incentive.
21. The submission was not approved immediately. This was the holiday period: Minister Bell was away for parts of July and August though he undertook a number of meetings and visits for example in week commencing 27 July

2015. The Minister had taken seriously in June the conversation when I first briefed on the emerging crisis, but neither Chris Stewart nor I recall him expressing any views on the issue between then and the decision making meeting on 24 August. In particular, I have no recollection whatsoever of any conversation where I told him that he had to accept a delay in the tariff reduction because of “collective responsibility” (see paragraphs 81-86 below). We had few if any meetings over the summer period and the emails available show that officials were pressing for early action to reduce the tariff.

22. There is a note from Energy Division of 30 July (Annex 4) which shows the nature of the discussion with Timothy Cairns, and a further email exchange on 11 August 2015 (Annex 5) which shows that officials were asked to explore a lesser reduction in the tariff regime than we were proposing. There is of course nothing remotely wrong in principle with exploration of options: the point is that this process delayed the time when the proposals for reduction in the incentive were approved. I was expressing my increasing anxiety as is reflected in a couple of references to the possible need for an Accounting Officer direction in emails that went to the DETI SpAd. So the fact that there was no decision, despite the strong pressure for urgent action from officials, reflects my perception at the time that there was a countervailing pressure to delay or soften the proposed reductions in the tariff.
23. On reflection, describing this stage as one of “reluctance” to reduce the incentive (my submission of 28 January to Malcolm McKibbin (Annex 6), and my email response to Timothy Cairns of the same date – Annex 7) is if anything an understatement.
24. During July and August 2015, it was clear to officials in DETI including myself that the source of the influence to delay or soften the proposed reductions in the RHI tariff was not Timothy Cairns himself. Stuart Wightman’s email of 17 July 2015 (Annex 8) refers to the issue being referred to party colleagues. I do not recall Timothy Cairns ever naming Dr Andrew Crawford in that period but officials shared the general perception that he was the most likely source.
25. As First Minister Foster stated in the Assembly on 19 December 2016, I was not told at the time who had been behind the pressure, and I had no hard evidence on that point. It was clearly not coming from Minister Bell himself, and the DETI SpAd also said he was not the origin of the questions and alternative ideas that were in play. The pressure was conveyed to officials by the DETI SpAd, Timothy Cairns. Our speculation at that stage was that these views had probably originated from Andrew Crawford. I do not recall any hint that this stage of the process involved any input by or discussion with the SpAds of the then First Minister, Peter Robinson.
26. The key decision was taken at a routine “Issues” meeting on 24 August, the first such meeting since the submission of the advice on 8 July. There was discussion as to how long the tariff changes could be deferred, with a clear desire from the SpAd that that should be as long as possible. Officials reluctantly accepted deferral to 4 November. I do not recall precisely, but this may have been on the basis that any later would have required a Ministerial Direction. My minute of 28 January 2016 records my view with hindsight that I

might have pressed harder, but not having done so, I accepted responsibility for defending the value for money, regularity and propriety of the expenditure on the unamended scheme – at the time, knowing what we knew then, that was reasonable but of course does not look reasonable based on what we now know, with hindsight. To the best of my knowledge, no-one who was present at this meeting recalls any question being raised that the Minister had to accept the pressure to delay the tariff reduction because of “collective responsibility”. The decision to change the date for the introduction of the tariff reduction is clearly shown in the tracked changes which were retained on the copy of the submission which constitutes the formal record. That submission was placed in the Assembly Library by Minister Hamilton at the time of First Minister Foster’s Statement to the Assembly on 19 December.

27. On Friday 16 December 2016, Chris Stewart and I had a phone call with Timothy Cairns when he confirmed clearly and explicitly that Andrew Crawford had been the source of the influence. Around the same time, Timothy Johnston said to me that he had seen emails from Andrew Crawford to Timothy Cairns that he thought would probably match the questions which Timothy Cairns had been asking officials in July 2015.
28. On the evening of Wednesday 18 January 2017, after I had named Andrew Crawford as the possible source of the influence in my evidence to the PAC, I had a phone conversation with Timothy Cairns in which he told me that:
- a. Andrew Crawford had not been the only influence – others including William Irwin MLA had also wanted to keep the high tariffs available; and
  - b. There was some substance to Jonathan Bell’s allegation that Timothy Johnston had said that there would be resistance to the reduction in the RHI tariff in that he (Timothy Cairns) did recall some such conversation.
29. On or around the following day, 19 January 2017, following Andrew Crawford’s resignation, I was told (I think by Richard Bullick) that Andrew Crawford had produced an email to Timothy Cairns to the effect that it would be necessary to accept that the tariff reduction would be applied from 1 October. Timothy Cairns told me subsequently (either later that day or on 20 January) that he had taken the approach he had in August 2015 in fulfilment of a previous conversation with Andrew Crawford who had suggested that he (Timothy Cairns) should seek to keep the high tariff open as long as possible as long as officials did not insist on a Ministerial Direction.
30. On 24 February 2017, I saw an email of 12 August 2015 **from** Timothy Cairns to Andrew Crawford (Annex 9) referring to the need to accept 1 October 2015 date for the change: Andrew Crawford had sent this to another of his own accounts on 30 November 2016.

***Premature Disclosure of Possible Tariff Reductions***

31. In January 2017, I was sent documentary evidence from an anonymous source showing that:

- a. DfE officials briefed some contacts in the renewables sector that there were very likely to be reductions in the tariff, and
- b. this information was shared with other companies, accompanied by advice that all possible applications were submitted in time to take advantage of the original tariffs.

32. I also received a further set of emails from an anonymous source in February 2017 showing exchanges between officials and the Ulster Farmers Union, and within the Union. These showed that the UFU had pressed for a grace period between the announcement of a change in the tariff and its imposition.

***Explanation of the Spike in Applications in autumn 2015***

33. My view now is that the catastrophic spike in applications probably arose because:

- a. some applicants were well aware of how lucrative the incentive was, and took the full opportunity presented by the gap between the announcement of the tariff changes and their implementation. Early applicants would have seen the benefit of the scheme in the form of high payments that would increase with usage; and
- b. the prior information from officials about the prospective tariff reductions would have contributed to awareness of the need for applications to be prepared and submitted urgently.

34. DETI was unable to respond to the spike because of the combination of four factors:

- a. officials' lack of awareness of the excessive incentive resulting from the 2012 design flaw and the failure to respond to the repeated warnings of the Concerned Citizen who had drawn attention to the design flaws in the scheme from 2013 onwards;
- b. the fact that DETI had not made provision in the Regulations (either at the creation of the scheme or at any subsequent stage) to include controls within the scheme, or to make controls available for deployment - we now know that the only way to respond effectively to a developing spike is to have a measure such as degression enacted and available to deploy immediately when the market changes;
- c. the misconception that the budget was standard AME and would be increased by HM Treasury to meet demand – despite the clear warnings to the contrary dating back to 2011; and

- d. the tensions at political level which contributed to the Minister's decision to delay the introduction of the changes in the tariff from 1 October to 4 November. In effect he deferred to the DETI's SpAd's arguments, which we understood were coming from others in the party.
35. Officials have to accept responsibility for having allowed their misconception that the RHI funding was standard AME to affect the attitude we took as a team to the severity of the issue. It was probably also a factor in the SpAds' view that there was no great harm in continuing with the high tariffs for another month. When the issues arising from the emails from the Concerned Citizen came to my attention in September 2016, I initiated the fact-finding exercise which will help the NICS consider whether action is needed in relation to the performance or conduct of any individual civil servant(s). Because of the clear evidence that it had been known at one stage the funding for RHI was not standard AME, I decided to include within the investigation examination of why the misconception had proved so significant.
36. Private discussion with Andrew Crawford in October 2016 confirmed that he had been of the view that there was no good reason against maximising uptake of the RHI scheme and hence the HMT funding. In that conversation I also acknowledged that at some stage – I think in autumn 2015 – Andrew Crawford had drawn some concern about possible abuse of the scheme to me: my recollection is that that did not include any hard evidence and that I did no more than pass the point on within the Department.
37. The hard fact is that we are all obliged to manage budgets prudently, even if the source of the money is outside the mainstream DEL. It also needs to be remembered that in autumn 2015 – and indeed at all points before the suspension of the scheme in February 2016 - Energy Division believed strongly that the expenditure was good value for money, and additional activity would be fulfilling the stated policy objectives.
38. I had not been questioned about this aspect of the RHI story by the PAC in the sessions in autumn 2016. Robbie Butler MLA began to address the issue at around 5pm in the evidence session on 28 September, but as shown in the Hansard extract at Annex 10, drew back from asking a direct question, and given that we were nearing the first break in proceedings after nearly 3 hours, I took the opportunity to answer only the final question he put. The material above is consistent with my answers on this issue on 18 January.
39. In the event, a complex set of circumstances led to a further two-week delay in taking through the regulations which were debated and passed by the Assembly on 17 November. Given the other events at political level in the period from August to October 2015, it cannot be said that the original date of 1 October would have been secured, even if the original proposals from officials had been approved in August 2015. However, it is also clear that there was some degree of avoidable delay because of the influence on the DETI SpAd and Minister from others in the DUP which contributed materially to the spike in applications.

***Enquiry about possible further extension of the high tariff***

40. The only contact relating to the timing of the tariff reduction between 3 September 2015 and January 2016 that I recall took place on 13 November 2015, the Friday before the planned Assembly debate. I took a phone call from Timothy Cairns. He asked if it would be possible for the debate on the reduction in the tariff to be delayed by a week or so. My recollection of the conversation is that he referred to a concern that not enough businesses in Fermanagh had been able to apply – there was certainly a reference to Fermanagh. It was clear that the call was on behalf Minister Foster. I said I thought that any extension would be impossible but undertook to check and get back with detail.
41. I obtained some data from Energy Division – this was set out in an email from Chris Stewart of 13 November 2016 (Annex 11). I sent Timothy Cairns a text message, to the effect that: a one week delay would cost £2.6m a year for 20 years; DFP approval was conditional on an early clampdown; and that a Ministerial Direction would be required. Timothy replied by text late that day to confirm that he had passed my information back to the Minister and awaited her instructions. I checked with him early on the morning of Monday 16 December (again by an exchange of texts) and he confirmed the debate could go ahead and we were “back from the brink” (the texts are reproduced at Annex 12).
42. I spoke to Timothy Cairns twice about this on 17 December 2016. He and I confirmed our shared recollection of the sequence of events in relation to the query from Minister Foster. I sent Timothy Cairns a text message drawing attention to the fact that the “investigation” (which was the term being used at that stage before the Public Inquiry was launched) would see the email from Chris Stewart mentioned above. In his text reply and in the second phone call later that day he went on to explain that Minister Foster had asked on behalf of a constituent who had six biomass boilers that were not yet ready to meet the conditions for accreditation under the scheme. The indication was that the application was planned to be submitted as soon as possible, and would be made whether or not it met the deadline of 17 November 2015 for entitlement to the original tariff. Timothy Cairns confirmed that he had gone back to Minister Foster with the information I provided, she had seen that there was no question of changing the planned date of the debate.
43. I have no recollection and I am not aware of any record of Minister Bell pressing for early action on the RHI during the period between 3 September and the end of December 2016, nor did I tell him of the exchanges with Timothy Cairns on 13 and 16 November.

***Events Leading to the Suspension of the RHI in February 2016***

44. The RHI crisis escalated significantly when, in December 2015, HMT confirmed that from 2016-17 financial year onwards, the entire gap between the approved AME budget and the level of spend would be a call on the Northern Ireland Executive Resource DEL. This led to unprecedented

attention on the issue at Ministerial and senior official level in DETI, DFP and OFMdfM.

45. Energy Division advised on the issues in a series of submissions from 31 December onwards. In particular, a submission of 19 January advised on the way ahead. In line with normal procedure and legal advice, our proposed timetable envisaged a very short consultation period (three weeks) and, in line with convention, an opportunity for the ETI Committee of the Assembly to consider the proposed regulations in draft. The submission explicitly shows that the issues were now matters for decision by the Executive, and not solely DETI. At that stage, Minister Bell had not formally approved the submission of 31 December 2015.
46. In an email of 19 January 2016 (Annex 13), I drew Timothy Cairns attention to the Accounting Officer issues in relation to the case, as a key aspect of the urgent need for decisions. I do not recall much if any specific discussion of the possible issue of Ministerial Directions to me as Accounting Officer in this period, as there was never any indication that either Minister Bell or anyone else did not appreciate the immediate need to act – the only question was precisely how quickly and by precisely what procedure.
47. It is also worth noting that, because the tariff regime had been altered in November 2015, we had unwittingly removed the incentive to “burn to earn” and hence the effect of delay in the suspension of the scheme was materially less significant in financial terms than the November changes.

***Events during the US Visit of 25-28 January 2016***

48. Minister Bell approved the submission of 19 January on the afternoon of 22 January. He was leaving for the US the following day. I travelled separately to the US on Sunday 24 January. Energy Division were told by DETI Private Office that within half an hour of the Minister having approved the submission of 19 January the approval had been recalled. When Chris Stewart and I sought clarification the next day, Timothy Cairns told us by email (Annex 14) and text message that the intervention had been by “party officers” though our understanding, subsequently confirmed in an email exchange between Timothy Johnston and me, was that there was no question of party officer involvement (Annex 15). Jonathan Bell referred to these emails during the Assembly debate on 23 January 2017. As explained below they have no particular significance in relation to the expenditure on the scheme – though they show the nature of the tensions between the then-Minister and his party colleagues (see further at paragraphs 14-16 above).
49. On this occasion it is clear that the First Minister’s SpAds had intervened, though given that this issue had escalated so significantly, and was now explicitly for Executive consideration, that is not so surprising, nor inherently untoward. In a fast developing situation, where OFMdfM had not had detailed involvement up to that point, it was not unreasonable for them to seek to create an opportunity for further consideration. While we found it frustrating that the submission had not been cleared, I have no evidence to suggest that the intention of the intervention was to delay the suspension, and indeed the

outcome of the involvement of OFMdfM was to bring suspension forward compared to the approach proposed in the submission of 19 January.

50. Around this time, the First Minister received allegations of very serious abuse of the Non-Domestic RHI scheme. She passed these to the Head of the NICS, who forwarded them to me under a minute of 27 January (Annex 16). That minute also suggested that DETI was delaying action to suspend the scheme.
51. I received HOCS's minute while using the WiFi facilities on the flight from San Francisco to New York on 27 January and replied immediately by email (Annex 17), passing on the fact that the delay in approval was because of the intervention by FM SpAds (this was where I re-used Timothy Cairns erroneous reference to "party officers"). I also started to draft the minute (Annex 6 to this Note) which was finalised the next day, 28 January, when we were in New York – this was issued by my secretary in Belfast as PS/DETI 009/2016, the document released to the Assembly Library on 20 December 2016.
52. While we were in the US, there were a number of heated discussions involving Minister Bell, Timothy Cairns and myself – it was clear to me that the Minister had received information from several sources that he found somewhat confusing. Given that the issue was now recognised as a crisis (because of the severe budgetary implications, and the allegations of abuse), there was concern about where responsibility would be found to have lain, both in the immediate present and at earlier stages of the process. This is illustrated by the exchange of emails between Timothy Cairns and me on 28 January about my response to HOCS (Annex 7), which were reported in the Nolan Show on 14 December 2016. I found it surprising that Timothy Cairns disputed the references to delay in the approval of the tariff changes, given that the time sequence is clearly supported by an email trail as well as the recollection of officials – and he did not reopen that point in the discussions in December 2016 referred to at paragraphs 27-28 above.
53. The substantive effect of all the exchanges (both in the US and between the US and Belfast) was that DETI was asked to review the procedural options for action to suspend the scheme. A submission was provided on 29 January, and in line with fresh legal advice that was attached to the submission, it recommended against cutting out orthodox stages of procedure namely consultation and an ETI Committee stage consideration of the proposed regulations – though it also included an explanation of options that would leave out one or both of those stages.
54. Over the following few days, there were discussions at political level and I was only involved personally in a few of these. The issue at stake was the balance of risk and advantage between:
  - a. suspension by the fastest possible route, which would risk a legal challenge which might ultimately lead to a longer delay; and

- b. an orthodox process, which would be less vulnerable but which would provide more time for businesses to lodge applications before the suspension took effect

55. As I understand it, the FM's team would have settled for the option of leaving out the consultation phase, but dFM's team pressed that the ETI Committee stage should also be left out, and that was then agreed by both sides of OFMdFM. There is a clear record of email and text exchanges which confirm some details of the discussions (examples at Annexes 18 and 19). These exchanges led to the submission from Chris Stewart to Minister Bell which was explained in the papers released by Minister Hamilton on 18 December (Annex 20).

56. As Chris's submission shows, a draft submission was amended at the request of Timothy Cairns without the knowledge of Minister Bell. My concern on this issue was and is that Timothy Cairns' email of 10.42 on 4 February 2016 (Annex 21) covering the amended document said

“The Minister made the decision to dispense with notice and consultation and no advice form (sic) other ministers or departments played a part in that decision.”

The trail of evidence clearly shows that was not the case. The agreed position was announced late on 5 February 2016.

57. Minister Bell had to fly to Canada on business on 7 February, arriving back in Belfast on the morning of 9 February. In the intervening few days, there had been an outcry against the rapid suspension of the RHI. There were a series of discussions and around lunchtime that day I received a text from Timothy Cairns saying that we needed to speak to the First Minister: I replied saying “She was with us just now. Open to an extension of the time.”

58. FM and dFM's teams formed a different judgement on the balance of risk and advantage as set out at paragraph 54 above. This led to the further announcement of 11 February, delaying the effective date for the suspension for two weeks. I do not recall any substantive discussion on that point with Minister Bell nor was I aware before the television interviews of the reported heated discussion between him and the FM. The awkward discussions explained in Chris Stewart's submission of 18 December 2016 (Annex 21) took place on the next day, 10 February, and it is now clear that they happened against a background of tension at senior political level.

### ***Preparation for the Public Accounts Committee Hearing***

59. Following the NIAO Report on the DETI Accounts for 2015-16, the DfE official team began preparation for the first evidence session at the Public Accounts Committee on 28 September. Clearly the spike of applications in the autumn of 2015 was a key issue in the NIAO Report. In my preparations for the PAC hearing on 28 September, I had explained the background to this issue fully to the Minister, Simon Hamilton and his SpAd. I had discussed with the SpAd the significance of the submission of 8 July 2015, ie that the decision to

amend the date of introduction for the proposed changes to tariffs (in particular the imposition of tiering) had been influenced by others in the party. I did not refer in any of those conversations to any information that would have identified who had been behind the requests for the changes in the tariff to be delayed (as at that time neither I nor Chris Stewart had been told specifically who had been behind that pressure).

60. I know from talking to Minister Hamilton and John Robinson in January 2017 that their recollection of the conversations in September 2016 was more focussed on the issue of the period of Ministerial resignations and reappointments in the autumn of 2015, but my clear recollection is that the point I was seeking to highlight was the influence on the delay in the tariff reduction. I believe that I told John Robinson that I had prepared a factual response to be used if I had been pressed at the PAC about this aspect of the case. This was essentially the same as the line used in the Statement by First Minister Foster on 19 December 2016, ie:

“I understand from Minister Hamilton that the Permanent Secretary recalls being told at the time that some in the party wanted the scheme to be kept open. He was unaware of the source of this suggestion, but believes it may have been based on the erroneous but widespread view at the time that because the scheme was funded through annually managed expenditure (AME), it was possible to maximise take-up without creating a problem.”

This was confirmed in a line issued in response to a BBC query on the morning of 18 January 2017 (Annex 22)

### ***Conversations with Former Minister Jonathan Bell***

61. The circumstances around the engagement with the former Minister were as follows. I took a phone call on Sunday afternoon, 11 December 2016, in which Jonathan Bell said he wanted to exercise his right to access the documents concerning the RHI which he had seen during his time as Minister. I agreed to meet him with the relevant documents the following afternoon.
62. I alerted Minister Hamilton and the Head of the Civil Service to this request. I discussed the approach with the Head of the Civil Service at a meeting at 2pm on 12 December in Stormont Castle. On the Minister's instruction, I took the papers which had been provided to me by Energy Division, and discussed them with the Special Advisers to the First Minister (Richard Bullick and Timothy Johnston) (also in Stormont Castle) later the same afternoon.
63. In the telephone conversation on 11 December, Jonathan Bell had said that the pressure to delay the changes in the RHI scheme had come from Timothy Johnston (though I cannot recall if he was precise in that conversation as to **when** this alleged intervention had occurred). The discussion with the FM SpAds covered the range of possible issues that might have needed to be considered: the key document, which I showed to Richard and Timothy, was the DETI submission of 8 July 2015, which showed through tracked changes

the amended timetable for intervention that had been agreed on 24 August 2015.

64. I am clear that up that point (except for the call from Jonathan Bell the previous day) no one had ever told me that Timothy Johnston had been involved in the issue in summer 2015, and that I had supposed that it was more likely that Andrew Crawford had been the individual behind the requests in the summer of 2015 to delay the tariff reduction, and that point was discussed at the meeting with Richard and Timothy. In that same meeting, I do not recall much if any discussion on the events of January-February 2016.
65. I then returned to Netherleigh, where former Minister Bell was waiting to meet me. Jonathan Bell was accompanied by Ken Cleland, who opened the discussion by explaining the contact between himself and former Minister Bell in terms that I respect as private but which created a tone of confidence and trust. Jonathan Bell then went on to say that he was motivated to ensure that the truth in relation to what had happened through the RHI would come out, even if it cost him his political career. He also said that he would strongly protect the interests of civil servants and not allow us to carry blame that should be carried by others.
66. My conversation with Mr Bell during the meeting was frank and candid, reflecting the seriousness of the matters under discussion, and our many similar candid conversations during his time as Minister. I am not sure if everything I said was wholly accurate, as I had not researched the sequence of events as fully as I did in the following days and weeks, though I am of course satisfied that any inaccuracies were unintentional. There are things that I might have said differently, or not said at all, had I been advised that there was any possibility that any aspect of our conversation might be made public. Also, it has been possible subsequent to the meeting on 12 December to check my recollection against other relevant evidence, and hence the account in this note is a fuller and better record than the any record of the meeting with Jonathan Bell.

### ***Family Connections of RHI Beneficiaries***

67. During December 2016 and January 2017 a number of beneficiaries of the RHI with family connections to MLAs or SpAds were reported or acknowledged publicly. On 10 December, it became public that Andrew Crawford's brother James was a beneficiary. A few days later, Timothy Johnston suggested that I find out further details in relation to John and Richard Crawford, who he said are cousins of Andrew.
68. The details of the RHI installations and the application dates for John and Richard Crawford are as follows:

Richard Crawford	three 99 Kw boilers	accredited on 13 October 2014
	three 99 Kw boilers	accredited on 9 September 2015
John Crawford	two 99Kw boilers	accredited on 16 November 2015
	one 99 Kw boiler	accredited on 17 November 2015

I told Minister Hamilton and Richard Bullick of these applications as soon as I received them on 13 December (though I did not have all the precise details of the applications until later in January 2017 – see email from the RHI Team at Annex 23).

***Preparation for the FM's Interview with Stephen Nolan on 15 December 2016***

69. Under the authority of Minister Hamilton, I worked with him, his SpAd, David Gordon and the FM's SpAds on the preparation for the First Minister's interview with Stephen Nolan on the evening of 15 December. This was of course before the interview with Jonathan Bell had been broadcast, though an extract had been heard on the Nolan Show on radio that morning. The focus of the preparations was on the allegation that there had been inappropriate influence to delay the tariff reduction and suspension of the RHI scheme.
70. There were several discussions on 15 December and the following days around the key question of SpAd influence in the summer of 2015, and it was generally known and accepted in those discussions that Andrew Crawford had been the source of the influence on Timothy Cairns to delay the tariff reduction.
71. David Gordon and I urged the FM SpAds that if the facts as we understood them were to emerge later, that would be more damaging to the FM, and hence there was a strong case for making the facts known as soon as possible. The main point made against the idea of naming Andrew Crawford was a perception that "He has done nothing wrong". I made it clear that the issue of the causes of the spike in applications in the autumn of 2015 was bound to come up when I would next appear at the PAC, and I would have to answer clearly and candidly. By that stage as well, Minister Hamilton had publicly committed to securing the publication of the names of the RHI recipients, and it was obvious to me that that would draw attention to the relatives of Andrew Crawford, especially the applications that had been accepted just on the deadline before the tariff reduction.
72. Specifically on the preparation for the FM's interview with Stephen Nolan on 15 December, my role was to fact check material that was to be provided to the BBC that evening. The documents I cleared are attached as Annex 24. I also saw but did not (and could not) fact-check the statements provided by a number of named individuals (also attached as Annex 25), though I did see some of these in the course of the preparations. In particular, I commented on the point attributed to Andrew Crawford:
- "....However, I never sought to keep the RHI scheme open at the original higher tariff against the wishes of the Minister. Indeed, I was never aware that the Minister had expressed a view on the scheme when I spoke to the DETI SPAD."**
73. I queried this and it was emphasised to me that the words used are truthful, and were not actually inconsistent with the understanding that Andrew

Crawford had sought to maintain the original tariff, **because Minister Bell had not expressed a view on the scheme.**

74. I told Stephen Nolan (as he and his team passed through the waiting area in Stormont Castle to the FM's office) that the material he had been given was factual and accurate, and that was true in relation to the material I understood I had been asked to clear. In a fraught and hurried context, there may have been some miscommunication on this point, as I was later told that the SpAds had told the BBC that I had fact-checked all the documents.

***Record of the Conversation with Jonathan Bell***

75. Jonathan Bell sent me an email on 20 December saying: “.. I would like to give you the opportunity to put the exact detail of our Sunday afternoon telephone conversation and of our meeting in Netherleigh, both of which I have a record of, immediately into the public domain today.” It had by then been suggested to me that the telephone call and the meeting had been recorded surreptitiously. However, as there had been no indication of that in any contact I had had with Jonathan Bell, I replied with an email later on 20 December including the following:

“I do not recall that you or Ken were taking notes during our conversation, but if you have a written record, I would be grateful if you would provide a copy of the information that you have and propose to put into the public domain. For the record, I do not consent to any release of any supposed record of a private conversation I was involved in. I could not give such consent without access to this record to check that it is not a partial or inaccurate account.”

I have not had any response to that email or a subsequent email of 29 December.

76. I do not have a precise recollection of the discussions with Jonathan Bell. A number of matters were discussed, some of which were subsequently addressed by Jonathan Bell in his television interview of 15 December with Stephen Nolan, and some were quoted specifically by Jonathan Bell in the Assembly debate on 23 January 2017. I have sought to draw out in the paragraphs below my understanding and interpretation of what has been said publicly. To clarify the analysis, I prepared a correlation between my account above and the interview – with reference to the transcript of the television interview as attached with paragraph numbers added. Annex 26 is the transcript, and Annex 27 is the correlation.

### ***Delays in Controlling the RHI***

77. The most significant issue I discussed on 12 December 2016 with Jonathan Bell was the delay in the approval of the introduction of cost controls in 2015. The DETI submission of 8 July 2015 was the most important document in the bundle that we made available for the former Minister to see.

78. I believe I told Jonathan Bell of the fact that I had drawn this issue to the current Minister's attention as described above. Further details around the substance of this issue, and a reference to the one occasion when I was nearly asked about this point at the PAC, are covered fully above (paragraph 33-39).

79. In the Assembly debate on 23 January, Jonathan Bell said the following, the implication being that this was a quotation from the recording of our conversation on 12 December. He said that he had said:

“When it was coming to me to close it, had I not been interfered with by the higher Department, I could have closed this on 1 October and halved the bill. Isn't that right?”

He then said that I had said “Well, that's right”.

80. It appears that Jonathan Bell was and is convinced that the delay in reducing the tariff had been at the instigation of OFMdFM, and it is possible that I may have contributed to that if I was imprecise in any of the comments I made in the meeting. It was indeed right that Jonathan Bell could have closed the scheme (or more precisely introduced the reduced tariff for the scheme) from 1 October 2015. My recollection, and the evidence from the official files, is set out more fully above (paragraphs 17-30). At the time of the conversation, I had no independent evidence as to the source of the influence for the delay. But it appears that I confirmed a hypothetical proposition in the conversation.

### ***Collective responsibility***

81. During the Nolan interview, Mr Bell stated that I had told him that he must accept that his Ministerial decisions could be overruled by the First Minister,

or by political advisors from The Executive Office<sup>1</sup>. He referred to this as 'collective responsibility'.

82. Mr Bell was greatly concerned at the idea that his ministerial decisions were being overruled or 'second guessed' by the First Minister or others from his party. That is not strictly a matter of the formal convention of collective responsibility, but rather one of party governance – or indeed simply *realpolitik* - though we may have used collective responsibility loosely in the conversation.<sup>2</sup> I may have said that it is quite normal in many jurisdictions for there to be discussions between the Minister and/or SpAd of a Department and party colleagues within other parts of Government and such discussions could affect decisions. I do not recall specific discussion of the fundamental principles that: legally, and constitutionally, a Minister exercises control and direction over his/her department; that a Minister is responsible for the decisions taken, and for the actions of the department; and that he or she is accountable to the Assembly for them.

83. I do not recall a specific discussion on “collective responsibility” in the period leading to the key decision on the timing of the tariff changes on RHI, as confirmed on 3 September 2015, as Jonathan Bell claimed in his television interview (“Because the Permanent Secretary told me **at that time** you are under collective responsibility as a Minister in this Government and as part of the ministerial collective responsibility you cannot breach those codes. What I did do **at the time** was I did raise my concerns.” – emphasis added). The time references in the interview are not very clear, but if they are intended to imply that this conversation affected the timing of the changes in the tariff in summer/ autumn 2015, that is not my recollection. Nor do I recall any clear reference in the meeting on 12 December 2016 that such a discussion had taken place about RHI in summer/autumn 2015, though we did discuss the general issue as described at paragraph 82 above. Whatever may or may not have been said on 12 December 2016, I am certain that I did not advise him at any time between June and September 2016 that he had to accept being overruled on the decision about the timing of the tariff changes. My account of what happened is set out above (paragraphs 17-30).

84. Jonathan Bell again appears to have been quoting from the recording of the conversation on 12 December when he said on 23 January:

“Your special adviser, Timothy Cairns is right: you’re a member of a party, and your party decides these things collectively”

Jonathan Bell went on to say:

“At that time, I said to the permanent secretary — I will quote the evidence:

<sup>1</sup> Formerly the Office of the First Minister and deputy First Minister.

<sup>2</sup> Collective responsibility is the convention under which cabinet (or Executive) Ministers agree to endorse any collective decision that they take; regardless of the view that they held on the matter before the decision was taken.

"That's OK, but I don't want somebody coming back and saying to me, 'Jonathan, you had the authority to do it on 1 October and you did not do it'".

The permanent secretary replied "No" and said that everybody would recognise that every government worked by and on collective responsibility.

85. This I recall clearly as a reference based mainly on the conversation mentioned in paragraph 14 above, about the separate issue of the Renewables Obligation (NIRO). I stand by the view attributed to me that individual Ministers work within a framework of party policy, and that checking with party colleagues is absolutely normal as part of the workings of any Government. But I do not recall that specific consideration being discussed in 2015 as part of the actual decision making process on RHI. I was not aware of any formal intervention by FM's team and was not aware of any corroboration of Jonathan Bell's allegation to that effect before the phone call with Timothy Cairns on 18 January 2017, after the PAC evidence session (paragraph 28 (b) above).

86. Also I am not aware of any time or occasion when Minister Bell raised concerns about the need for early action to change the tariff – all the concerns were being raised by officials, primarily with the SpAd as the Minister was away for a significant proportion of July and August.

### ***The source of external influence on the Minister's decisions***

87. In the phone call on 11 December, and the meeting on 12 December, Jonathan Bell was clear that he recalled that there had been influence from outside DETI on the timing of the introduction of cost controls (ie the changes which took effect in November 2015). In the phone call, I remember being surprised to hear him attribute that influence to Timothy Johnston, as I had and have no recollection of being told (in summer 2015, or at any subsequent stage) that Timothy Johnston had played any part in that period (and I certainly have no personal memory of him being involved).

88. I am concerned that the television interview presented a confusing picture of the separate episodes in this period. In particular, there was a very misleading conflation of different episodes in this story (emphasis added):

SN: When? What date

JB: September 2015

SN: So why didn't they?

SN [JB?]: Other DUP Spads involved themselves in the process.

[a few exchanges later:]

SN: Which Department are you talking about had the power to overrule you?

JB: The office of the first minister's special advisers and the department of finance and personnel special advisers.

SN: Do you know for a fact that they influenced this scheme staying open?

JB: **Here's the fact that I do know which reveals it.** The Deputy permanent secretary of my department Chris Stewart asked for something that was highly unusual and only done once in the five years that I sat in the Executive. He asked to speak to the Minister as he is entitled to do to whistle blow on a one-to-one basis.

89. The conversation with Chris Stewart happened in February 2016 and hence cannot possibly reveal anything about what happened in or before September 2015. My clear understanding is that Timothy Johnston **was** involved (totally legitimately) in aspects of the work on the final closure of the scheme in 2016. While I do not have a detailed recollection of the conversation of 12 December 2016, I may well have said that it had been our supposition that the influence in summer 2015 was coming from Dr Andrew Crawford. This is drawn out in more detail below.

### ***Departmental records***

90. Mr Bell was concerned that Departmental records may have been altered to remove references to the input from OFMdfM and/or advisors. This particular matter is dealt with in some detail in the submission by my colleague, Chris Stewart dated 18 December (Annex 20).

91. During the conversation I may have used the word 'expunge' when referring to the alteration of a document, as Jonathan Bell claimed in the Assembly debate on 23 June ("the Permanent Secretary ... replied "Because the record was expunged"). If so, I now recognise that using that particular word was inaccurate, as it may have given rise to the mistaken impression that documents were altered after signature, or that changes were concealed, and it would be wholly wrong to give that impression. There is no evidence of this, and I am satisfied that the changes made are properly reflected in the Departmental record.

92. The email I was referring to in the conversation with Jonathan Bell which he reported in the Assembly debate is as quoted at paragraph 56 above (Annex 21):

"There is an email to that effect, yes."

93. I had not recalled this aspect of the conversation with Jonathan Bell when I was giving evidence to the PAC on 18 January 2017. Timothy Cairns' statement as quoted above in the email of 4 February 2016 (Annex 21) was demonstrably untrue. The point stands that the removal of the reference to the involvement of OFMdfM at that stage of the process had no consequence whatsoever, as the decision had been taken. At the PAC on 18 January 2017, Trevor Clarke asked me if the amendment to the document "actually put Mr Bell in a better light", and I stand by the answer I gave – though I am also

clear that Jonathan Bell did not feel at the time that the **intention** was to give him credit for taking the decision alone.

***First Minister's Interview with Stephen Nolan on 15 December***

94. I was not aware of the final advice given to the First Minister ahead of her interview with Stephen Nolan on 15 December, though I had participated in informal discussions in Stormont Castle for most of that day, and departed after a brief conversation with Stephen on his arrival around 8pm that evening.

95. While watching the televised interviews, I sent two text messages to the DUP SpAds (Richard Bullick, Timothy Johnston and John Robinson (Annex 28)). The first was to draw attention to the timing discontinuity in the interview with Jonathan Bell (see paragraph 88 above). The second was prompted by the exchange about the delay in the tariff reduction as follows:

STEPHEN NOLAN

What I'm asking you is, do you know why there were these delays then?

ARLENE FOSTER

I have no idea.

96. I pointed out that I had warned them that I would have to give further evidence to the PAC on this topic when the issues around Andrew Crawford, and the family members who had benefitted from the scheme would almost certainly become public knowledge.

***Statement to the Assembly of 19 December 2016***

97. I also worked over the weekend of 17-18 December with the FM team on the preparation of First Minister Foster's Statement for 19 December. In the course of this work, a key focus of discussion was the handling of the key allegation by Jonathan Bell that there had been inappropriate influence to secure the delay in the tariff reduction for the scheme.

98. In the exchanges of drafts I drew attention again to the point in paragraph 96 above. When, late on Sunday 18 December, Richard Bullick circulated a near-final draft and asked if there were any "show-stopper" points, I responded by text (Annex 28) to repeat the concern that I (and David Gordon, see paragraph 71 above) had been making. After an exchanges of drafts early on 19 December, the FM and her team agreed to the inclusion of the wording at paragraph 60 above in the Statement.

99. Later that day, following public statements by Jonathan Bell, my minute of 28 January 2016 to HOCS (Annex 6) was made public. It also contained clear reference to the "reluctance" to introduce the tariff reduction in July/August 2015.

**Summary of the Interactions between DETI and SpAds or Ministers from other Departments**

100. In understanding the facts behind the events described in Jonathan Bell's television interview with Stephen Nolan, it is important to be note that there were four distinct episodes when there was a degree of interaction between DETI and SpAds or Ministers from other Departments. The references to those episodes, and the comments attributed to me, were not clear in the Nolan interview. The relevant dates are as follows:
- a. from around 8 June to 3 September 2015, when there was avoidable delay in securing Ministerial authority to begin the actions needed to begin to bring the RHI scheme under control.
  - b. 19-29 January 2016, when there some confusion at political level as to what was being decided, partly affected by the fact that Minister Bell, his SpAd and I were in the USA on an Invest NI programme for the week commencing 25 January;
  - c. 29 January-5 February, which was the key period of decision making on the steps to suspend the RHI, leading to Minister Bell's announcement of the proposal to suspend the scheme; and
  - d. 5-15 February, during which a short extension was agreed and announced ahead of the Assembly debate when the regulations were approved.
101. Throughout all this period, there were contacts, discussion and correspondence with DFP officials. With hindsight, even in the first episode in summer 2015, the RHI might arguably have been treated as a cross-cutting issue with significant budgetary implications: in fact, it was treated as Departmental issue in that period. From December 2015 onwards, it was becoming increasingly obvious that decisions on the way ahead would be for the Executive collectively rather than DETI but that did not crystallise fully until after 19 January.
102. The most important clarification arising from this analytical approach is shown clearly by paragraph 46 of the transcript. There former Minister Bell refers to an incident that took place in February 2016, as revealing the influence of SpAds to keep the scheme open when all the previous discussion (paragraphs 19-45 of the transcript) has been apparently about the context of the delay in the decision to reduce the tariff as confirmed on 3 September 2016.
103. It is also apparent that the discussion around paragraphs 105-110 of the transcript draws together the three distinct stages of decision making on the suspension of the scheme in January and February 2016 when in fact they were clear and distinct decision making processes.
104. These points matter for two important reasons:

- a. there is no question that all the stages of decision making in January-February 2016 were and had to be collective – the issue was cross cutting, DFP approval was required and the implications for the Executive were very significant. So full engagement of FM and dFM advisers was not only legitimate but a normal and essential part of the process;
- b. the decisions in January- February 2016 were nothing like as significant for the ultimate cost of the RHI as the delay in reducing the tariff in the summer of 2015.

105. So if, as one interpretation of the interview would suggest, former Minister Bell is (possibly inadvertently) projecting the involvement of FM SpAds back into the summer of 2015, it is very important to resolve that. It is possible that the conversation between Jonathan Bell and myself on 12 December contributed to his confusion.

### ***Briefing for deputy First Minister's Adviser***

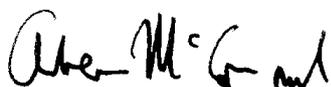
106. With Minister Hamilton's agreement I also offered background briefings to dFM's advisers, but it was clear that the focus of dFM's team and the Minister of Finance was much more on the action to introduce cost control rather than the issues arising from the Nolan Show.

### ***Allegations against Andrew Crawford's Relatives***

107. On Friday 20 January, OfGEM told DfE that it had received anonymous allegations that John and Richard Crawford were using RHI boilers to heat empty sheds. I made Minister Hamilton aware of those allegations.

### ***Conclusion***

108. As indicated at the start of this note, this is not an attempt to provide a comprehensive analysis of the whole RHI issue, nor even all my personal engagement on it – it is no more than a compilation of some key information known to me personally that for the most part has not been fully aired in, for example, the PAC hearings.



**ANDREW McCORMICK**

**27 March 2017**

**(One error at paragraph 68 corrected 6 April 2017)**