

From: Richard Bullick [Personal information redacted by the RHI Inquiry]
 Subject: Re: FINAL VERSION (PROVISIONAL TO 7AM)
 Date: 19 December 2016 at 06:45
 To: Andrew McCormick [Personal information redacted by the RHI Inquiry]

RB

A

your amendment deals with two separate issues the AME / DEL misunderstanding which I'm not sure is that helpful as an explanation though clearly was the truth.

The second issue deals with the role of the Minister.

I think we agree on the actual likely facts around this but perhaps not the way in which it is interpreted.

the facts as I understand them are

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That's the question obviously begged by the release of the submission of 8 July - which I showed to John in September. Minister Bell may have been passive, but it would be wrong to attribute the drive for the delay to him.

And in September, I had no knowledge of the identity of applicants to the scheme.

This is as far as I could take it. Talk soon.

2016-12-18 22:57 GMT+00:00 Richard Bullick [Personal information redacted by the RHI Inquiry]

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We will not start printing till 8:30 so any final comments before 7:30.

Thanks to all concerned

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Statement by the First Minister in relation to the RHI

Introduction

Mr Speaker, I am grateful to you for agreeing to recall the Assembly today and permitting me the time to make a statement about my role in the Renewable Heat Incentive Scheme. Unlike the normal practice on these occasions, I want to make it clear that this statement has not been cleared or approved by the deputy First Minister. In this Christmas week I am sure there are other things most members would prefer to be doing rather than be recalled to Stormont, but the deputy First Minister and I felt it was important that I come before the House at the earliest possible opportunity.

For almost two weeks now, there has been a barrage of media coverage of this matter including wild claims and allegations, many of which have been based on spin, rather than reality. However, Mr Speaker, this morning I want to set out the actual facts to the Assembly.

To repeat what I have already said in media interviews, I also want to make it clear that in order to get to the bottom of this entire issue, I am prepared to waive the normal convention and to give evidence to the Public Accounts Committee.

Mr Speaker, the one issue on which we can all agree is that there were shocking errors and failures in the RHI scheme and a catalogue of mistakes all of which coincided to create the perfect storm, resulting in the position in which we now find ourselves.

In all of this, it is critical that lessons are learned and that the costs of the scheme are brought under control.

As First Minister I am determined that this will be done.

Mr Speaker, today I want to cover, in some detail, the establishment of the scheme, the operation of the scheme and the eventual closure of the scheme. I want to set out the policy objectives behind the scheme and the flaws that there were in its operation. I also want to address some of the more common questions that have arisen over the past two weeks. And, most importantly, to put to rest some of the myths that have grown up around the scheme.

However, I also want to make clear that this is not a statement setting out every failing and flaw in the scheme and the process, every missed opportunity and every mistaken assumption. That work has been and will continue to be carried out by the Public Accounts Committee.

Ministerial Accountability

Before I move to the chronology of what occurred, I want to say a few words about Ministerial accountability.

By convention, Ministers are answerable to the Assembly, not only for their actions and decisions, but for those of civil servants in their department, regardless of any personal responsibility for actions or omissions by officials.

In practice, Ministers determine their department's policies and delegate the implementation of these policies to officials. It is the departmental accounting officer (normally the Permanent Secretary) who is responsible for the stewardship of resources within the department's control.

While it may have been lost amidst the media hype, I am on record as saying I entirely accept that I am accountable to the Assembly for the actions of the department during my tenure as Minister.

I am sorry that the initial scheme did not contain cost control measures and that there were fundamental flaws in its design.

This is the deepest political regret of my time in this House.

As Minister, I accept responsibility for the work of the department during my time at DETI.

Once again, and for avoidance of doubt, I believe it is right and proper that I answer to this Assembly for my role in the RHI scheme. Not for one moment do I seek to shirk or avoid that responsibility, but if we are to learn lessons from this entire experience it is essential that we know exactly where things went wrong.

The Renewable Heat Incentive Scheme

The Non Domestic RHI Scheme was introduced in November 2012. It supports the UK objective of contributing to the EU wide target that, by 2020, 20% of energy consumption should be from renewable sources. The UK's share of this target is 15%, and the plan is to achieve this through a combination of 12% renewable heat and 30% renewable electricity by 2020. In Northern Ireland, the renewable heat target is 10% by 2020.

The non-domestic scheme incentivises the uptake of renewable heat technologies, such as biomass, heat pumps and solar thermal installations. It provides payments for 20 years, based on heat energy generated. The level of tariff is dependent on the size and type of technology and the calculation of the tariff was intended to cover capital costs, operating costs and non-financial hassle costs over the lifetime of the technology. A domestic RHI scheme was introduced in December 2014.

There was an increase in application numbers during 2015, which escalated quite rapidly to produce the crisis we now face. Focusing on the incentive for small to medium sized biomass boilers, the scheme provided a tariff of just over 6 pence per unit.

Just under £38 million of funding was provided by Treasury for the Northern Ireland RHI schemes during the five-year period 2011-16. However, Scheme uptake was initially low in the first few years with only 409 applications received by the end of 2014, leading to an underspend of around £15 million during the first four years. The total number of renewable heating installations under the non-domestic scheme has increased to over 2,000 by the time the scheme was suspended in February 2016.

Current estimates suggest that around 6% of our total heating needs in Northern Ireland are now met through renewable heating technologies. In addition to the resultant reduction in CO2 emissions, the local Northern Ireland economy is benefiting from the ongoing investment through the RHI schemes. That investment brings benefits in terms of job retention and creation in the energy services sector. I make these points simply to underline that however bad the execution has turned out to be, the aims of the scheme were good and necessary.

One question that has been asked by many people is why did we not simply replicate the GB arrangements in Northern Ireland. The answer to this is quite simple.

In GB, the main obstacle to the growth of renewable heat was, and is, the wide availability of affordable natural gas. Here, the main heating fuel is oil, and the gas market is relatively immature. It was even more so in 2012. Hence, it is clear that to simply import the GB arrangement to the Northern Ireland market at that time would not have been appropriate.

Mr Speaker, while this statement is not the place to rehearse every failing or flaw in the process there is one matter which I believe it is important that I address. For it is this error that goes to the heart of why the costs of the scheme ran out of control.

The crucial mistake in the scheme was that the tariff for the most commonly used boilers, small to medium biomass, was set at a level higher than the market price of the relevant fuel – mainly wood pellets. In essence, this created an incentive to continue to burn fuel over and above the levels required for the relevant function – whether a commercial business operation or a community facility such as a nursing home or church. Of course, the Regulations do not provide for payment for wasted heat, or heat that has no functional benefit. However, as the PAC has exposed, a further major failing of the scheme here has been that these necessary aspects of the Regulations have not been rigorously enforced: there clearly should have been more and better inspections of businesses long before the summer of 2016.

This is the heart of the RHI story – the tariff subsidy being higher than the cost of wood pellets. Yet DETI's 2012 business case on RHI wrongly stated that the tariff was lower.

This crucial misunderstanding informed DETI's attitude to RHI in the subsequent years. It helps explain why concerns were not taken seriously enough, and why action was not taken quickly enough when problems emerged.

With the greatest of respect to those who criticise me for this, I would remind them that I did not simply impose this scheme on the people of Northern Ireland. The tariff was set out in Schedule 3 of the legislation which was scrutinised by the Enterprise, Trade and Investment Committee and passed, after debate by the Northern Ireland Assembly. Indeed, the Chair of the Committee, Mr Patsy McGlone MLA at the time said,

“The Committee scrutiny of the development of the renewable heat incentive has been considerable and reflects the importance and long-term nature of the proposals. Before supporting the RHI, the Committee sought and received assurances on incentive and tariff levels, banding levels, incentives for domestic consumers, payments to participants and support levels for the renewable heat premium payment scheme.”

The unfortunate reality is that no one in government or in the Assembly in their work creating and passing this legislation picked up on this crucial failing.

And, contrary to some accounts, in the early years of the scheme, this was not widely picked up by the industry either. In fact, as has been previously stated, during the time I was the Minister responsible, Northern Ireland was underperforming in this area.

In my years as Minister, there was an underspend on RHI up to and including my final year at DETI, 2014/15. This is detailed in the NI Audit Office report. Take-up in its early years was low. Indeed, hard as it is to believe now, there was even a publicity campaign in 2014 to encourage more applicants.

The Concerned Citizen

The BBC Spotlight programme and subsequent comment has made significant play of a concerned citizen, and I would ask the entire Assembly to join me in thanking that person for all she did to try to prevent the calamity that we have fallen into.

She deserves our high respect and a sincere apology on behalf of my former Department, which should not have dismissed her claims with disbelief, but examined them with diligence. It is no exaggeration to say that had she been listened to on any of the three occasions when she approached DETI, this crisis would have been avoided.

Unfortunately, it has been difficult to establish the exact facts around contact between this concerned citizen and myself and the department.

When asked by Spotlight about correspondence from the concerned citizen I replied that, “I passed these concerns on to departmental officials to investigate. It is now obvious that these investigations should have highlighted the failings of the scheme and ameliorative actions should have been taken.”

I made this statement from memory and on advice that appeared to indicate that she had raised her concerns directly with me.

This is also my normal, and indeed the appropriate practice to pass any concerns received from members of the public to the relevant departmental officials. However, my response was made without the benefit of having reviewed the concerned citizen's original letter.

It is now clear that the initial communication to me did not raise any concerns with the RHI scheme and I understood from Department of the Economy officials who have spoken to the person in question that this was the only correspondence sent directly to me.

However, a subsequent email to my private account the following week has now come to light in which there is a passing reference to concerns about the scheme.

Mr Speaker, it has also been alleged that I contributed to the problem by putting the introduction of the Domestic RHI ahead of cost controls on the non-domestic scheme. It is quite wrong of anyone to describe this as a smoking gun. I make no apology at all for having pushed to see the Domestic scheme introduced, as that was a totally legitimate and rational decision on the information available to me at that time.

I did not receive any indication that cost control of the Non Domestic scheme was an urgent priority at that time.

The Department for the Economy is seeking to establish the facts as to why the warning signals that had been given, not least those from the concerned citizen, were not escalated within the Department and it is important that this work progresses to a conclusion as soon as possible.

To sum up, at no time during my period as Minister were any recommendations made to me to introduce cost controls, nor were there any warning signs that spending on this scheme was spiralling out of control. In fact, during my time in the department there was an underspend of the money available to us.

The decision to delay the amendment of the scheme

I now want to turn to touch on the period after I had left the Department of Enterprise, Trade and Investment.

In May 2015, I became Finance Minister and had no role whatsoever in relation to the decision of the DETI Minister to amend the scheme.

The then First Minister, Peter Robinson, has also made it clear that he was unaware of the issues around RHI as they had not been brought to him as either Party Leader or First Minister. Therefore, at no time did he seek to intervene either.

Let there be no doubt, the decision in relation to the amendment of the RHI scheme was a matter for the DETI Minister. The timing of the introduction of cost controls was entirely a matter for him.

It has been suggested that my Party sought to influence the decision in relation to the timing of the introduction of the cost controls.

It has only been in recent days that I have been aware of this allegation and have now taken the opportunity to investigate it.

The only person who would have been in a position to instruct the DETI Minister would have been the First Minister at the time.

This has been checked with the First Minister who has made it clear that the problems surrounding RHI were never brought to him either as First Minister or as Party Leader. He made it clear that therefore he could not and did not intervene in any way.

No other Minister took any role in this matter, nor did they make any representations in relation to it.

I can also confirm that the DUP Party Officers took no interest or role in the question of the RHI.

Therefore, regardless of what, if anything, was said in relation to the role of the Party, no one had any authority to instruct the DETI Minister to do anything.

I would add that there is no evidence whatsoever of Mr Bell raising any concerns with the First Minister if he felt that he was being pressurised.

Let me make it absolutely clear. Any suggestion that the Enterprise Minister was instructed to delay the changes to the RHI scheme is totally without foundation.

The decision to close

By way of a submission from John Mills, the then Director of Energy Division in DETI of 31 December 2015, a recommendation was made to the then Minister to close the RHI Scheme due to concerns over an overspend. The Minister agreed to this proposal.

A subsequent submission from John Mills of 19 January 2016 recommended steps to close the scheme by early to mid March 2016. These submissions were based on the assumption that conventional processes of consultation and Committee clearance were required.

The Minister signed off on this submission on Friday 22 January agreeing to the early to mid March closure. However, as a result of concerns, a hold was put on this decision within half an hour.

In late January 2016, complaints about the operation of the RHI scheme were made to me. I informed the deputy First Minister and I passed them on to the Head of the Civil Service.

I was deeply concerned about the proposed mid March closure date in light of the growing financial pressures and the Executive agreed on 5 February to a closure around 15 February.

Immediately after the announcement of the early closure of the scheme, concerns were raised in relation to those who had already installed boilers but had not yet applied who would be disadvantaged.

On the basis that (1) cost control measures were now in place, (2) there was a danger of legal challenges to those who had installed boilers but had not yet received authorisation and (3) with the agreement of senior civil servants, it was decided that the scheme should remain open for a further two weeks.

As the Enterprise Minister at the time highlighted in the Assembly, he took the decision with the agreement of the First Minister and the deputy First Minister.

The extension of the amended scheme was an entirely proper and proportionate step to take in all of the circumstances.

And once again, for the record, the scheme was closed earlier than initially approved by the Minister for the Department of Enterprise, Trade and Investment.

Jonathan Bell's allegations

Since the announcement of my decision to make this statement, the former Minister for Enterprise, Trade and Investment has given an interview to the BBC. In that he makes a number of allegations in relation to the decisions to amend and then subsequently to close the scheme.

I think that it is important that I also take this opportunity to put on record the factual position in relation to a number of these allegations.

Mr Bell alleged on several occasions that he took action 'immediately' to introduce cost control measures into the scheme and signed off the submission at the most immediate point he could.

This is untrue.

Today, my colleague, the Minister for the Economy, is placing in the Assembly Library a copy of the submission that was agreed by the former Minister. It will show that the Minister received a submission on 8 July 2015 recommending the introduction of cost control measures. It will also indicate that the original proposal from officials was to introduce cost controls from October 1, 2015 but was amended to 4 November 2015 and signed off by the Minister on 3 September 2015.

It is apparent from this document that action was not taken immediately but after a considerable delay.

Mr Bell further claims that 'other SPADs' become involved in the process who were and I quote 'not allowing the scheme to close'.

I asked officials for an explanation as to why date for the introduction of cost controls was changed from 1 October to 4 November. The Permanent Secretary has told me that his provisional view is that the root cause of the delay was the false perception that the budget for the scheme would be provided by the Treasury as Annually Managed Expenditure. This had led to the view that maximizing the uptake of the scheme would actually be beneficial because it would lead to additional money coming to Northern Ireland from the Treasury.

The discovery that this idea had been false and misguided from the very inception of the scheme in 2011 was one factor which led the Permanent Secretary to initiate a fact-finding investigation about how some critical aspects of the scheme were managed by DETI civil servants. If that process shows that there is evidence of actions that do not meet the standards expected of civil servants, that may lead to disciplinary action, but it would be wrong for me or anyone else to comment further on that point while the fact-finding is ongoing. In any case, it is never appropriate to seek to maximise spending from a public expenditure programme in this kind of way.

The Permanent Secretary believes that this misconception lay at the heart of the debate between 8 July 2015 when officials submitted their advice and 3 September when the decision was confirmed. Officials were becoming increasingly concerned that the urgent decision sought in July was not being taken. I accept that it was not Minister Bell who wanted the delay. The Permanent Secretary has told me that he was told during that period that others in the party were pressing for the scheme to be kept open longer.

Mr Speaker, all of this will now be subject to the independent investigation that is to be commissioned on this issue, when the full facts will become known.

The fact remains that the Minister signed off on a proposal which was to take effect from 4 November 2015. The only further delay to the introduction of cost control measures was as a result of legal and financial issues being resolved by departmental officials and were unconnected to any Ministerial decision.

The decision was solely for the DETI Minister to take.

Mr Bell also claimed that he acted in the way that he did because of what he referred to as 'collective responsibility.'

This demonstrates a total and fundamental misunderstanding of the convention of collective responsibility.

The doctrine of collective responsibility refers to a convention by which once Cabinet has taken a decision all other Ministers are expected to abide by it or resign. In this case there had been no decision of the Northern Ireland Executive, nor had there even been any conversation between DUP Ministers, much less a decision on the matter.

There has been no allegation from Mr Bell that the First Minister, Peter Robinson sought to delay the change to the scheme.

The issue of collective responsibility has no bearing whatsoever on this issue.

Indeed, it is clear from Mr Bell's statement concerning the 'two-week' delay in February that he could robustly defend his role as Minister and would not change his course on the basis of SPADs acting without any Ministerial authority or cover.

In discussing the decisions around autumn of 2015, Mr Bell also claims he has a fact that he says reveals the role of Special Advisors in the scheme staying open. He then refers to a conversation he had with the Deputy Secretary of the Department claiming his own Special Advisor had been asked by other Special Advisors to remove references to Arlene Foster and to the Department of Finance and Personnel.

This is the key allegation that documents were amended and is a crucial point.

The truth is very different than suggested by Mr Bell.

I can set out the simple facts based on the official records of the Department for the Economy.

Firstly, the only conversation approximating to this version of events took place in February of 2016 - not in 2015.

Secondly, it relates to paperwork concerning the closure of the scheme in 2016 - not the introduction of cost controls in 2015.

Thirdly, the DETI advisor accepts that any changes he made were made of his own volition and not on the request of others.

Fourthly, the amendment that was made relates to one draft submission – before it was finalised for the Minister to consider - not any attempt to delete emails or government records.

Fifthly, the reference that was removed was one highlighting the role of OFMdfM in wishing to see the scheme closed more quickly and without consultation. The removal of this reference had the effect of avoiding any impression that the DETI Minister had been told that he had agreed to a process of closing the scheme which was too slow.

Sixthly, this was a submission for the DETI Minister only and did not impact on the document which was being forwarded on for the First Minister and deputy First Minister.

Seventh – and most importantly – the change to the submission had absolutely no effect on anything in the real world. The timing and process for suspension of the scheme had already been agreed.

Minister Hamilton asked for urgent clarification of this issue from officials who provided a note setting out the factual position. That was released to the media last evening and the Minister has also placed in the Assembly Library copies of the draft submission with the tracked changes marked, and the final version that was approved by the then Minister.

In relation to the closure of the scheme in 2016 Mr Bell has alleged that he went to close the scheme ‘immediately’.

Once again, let us return to the documentary evidence.

Firstly, let me refer to a submission dated 19 January 2016.

This proposed a closure date of early to mid March 2016 and was signed off by the Minister.

The deputy First Minister and I believed that we should act more quickly and a further submission was prepared by DETI officials which provided three options.

Minister Hamilton has also left a copy of this submission in the Assembly Library.

In it officials recommended a longer process to close the scheme over a longer period of time but it was agreed that it should be closed as quickly as possible.

So, even taking into account the issue of the two-week delay that was agreed after the announcement, after all the complex processes, the simple truth is the scheme closed earlier than had initially been proposed by the DETI Minister.

The reality is that it was the intervention of OFMDFM that ensured an earlier closure of the scheme than would otherwise have been the case.

To deal briefly with that subsequent two-week delay in RHI closure. Let's remember it was decided after cross-party concerns that the scheme should not close within a fortnight of the announcement. Members across this house voiced concern that businesses that had just bought boilers would be left in the lurch.

The two-week extension Mr Bell then agreed to as Minister was supported by myself and the deputy First Minister. Other parties in this House, of course, wanted it to be longer. Cost controls were in place for RHI at this stage and civil servants were content with the two-week period.

This is not an exhaustive rebuttal of the allegations made by Mr Bell but I hope it will convey with documentary evidence what actually happened.

Independent Investigation

I also want to make it clear that I support the need for an independent investigation, free from partisan political interference, to establish the facts around the Renewable Heat Incentive scheme. I believe that the conclusions of any investigation must be made public and that any investigation must be conducted speedily to assist in the process of building public confidence.

I have been working to reach agreement with officials and others on the precise details of such an investigation over the last number of days.

I hope that this can be resolved in the next few days.

Mitigation

Mr Speaker, while there will be significant interest in how we came to the present position the most important issue for us now is to mitigate the costs of the scheme. Minister Hamilton plans to make a Statement to the Assembly as soon as possible in the New Year. The hope and intent is to reduce significantly the cost of the scheme to the Executive's budget, but the details are still subject to considerable further work. This matters - as we want to be fair to all those who responded to the incentive as it was intended to operate, and also to ensure that our process resolves completely the widespread abuse of the scheme.

Conclusion

Mr Speaker, unlike others my priority in all of this is not headline grabbing nor is it grandstanding. My priority – just as it was when I pressed for the earlier closure of the scheme rather than let it run to March - is to ensure lessons are learned and to reduce the projected cost.

When I became First Minister I said I could think of no greater honour than to serve my country and the people of Northern Ireland.

It is not a responsibility I take lightly.

I am not immune to the considerable anger and frustration this issue has caused.

Not only do I understand it, I feel it too. I share those emotions because I am proud of this place and I want the best for it. That is why I entered politics.

I did not enter politics to shirk or shy away from difficult decisions.

The record shows that I have always put Northern Ireland first.

The record shows that I have worked hard throughout my political and Ministerial career to bring more investment and more jobs to Northern Ireland.

The record shows that I have worked hard to keep Northern Ireland moving forward – and I will continue to do so as First Minister.

And that is why, Mr Speaker, rather than whipping up a media storm, I have been actually dealing with the problem, working along with my Ministerial colleague Simon Hamilton, and with the Finance Minister on a practical solution.

Because, Mr Speaker, that's what responsible politicians do. That's what government is about.

On a personal note, I very much want to thank each and every member of the public who has called my office at Stormont, and indeed DUP offices across the length and breadth of Northern Ireland, to offer words of support and encouragement.

It really is appreciated and I will continue to work hard – as I have done throughout my political career – on everyone's behalf to ensure a better and more stable future for Northern Ireland.