



Kieran Donnelly
Comptroller and Auditor General for Northern Ireland and
Head of the Northern Ireland Audit Office
Northern Ireland Audit Office
106 University Street
Belfast

By post and email (info@niauditoffice.gov.uk)

13 October 2017

Dear Sir

**Re: The Independent Public Inquiry into the Non Domestic Renewable Heat
Incentive (RHI) Scheme**
**Provision of a Section 21 Notice requiring the provision of evidence in the
form of a written statement**

I am writing to you in my capacity as Solicitor to the Independent Public Inquiry into the Non Domestic Renewable Heat Incentive (RHI) Scheme (known as 'the RHI Inquiry') which has been set up under the Inquiries Act 2005 ('the Act').

I know that you will already be familiar with the work of the Inquiry and its Terms of Reference from my previous correspondence with you.

The Inquiry is grateful for the witness statement dated 27 July 2017 provided by you. That witness statement has, along with others, been considered by the Inquiry and there are a number of further matters arising therefrom in respect of which the Inquiry wishes to ask you questions.

In the circumstances, please find enclosed with this letter a further Section 21 Notice requiring you to provide evidence to the RHI Inquiry Panel in the form of a further written statement addressing the matters identified in the Schedule to the Section 21 Notice.

As the text of the Section 21 Notice explains, you are required by law to comply with it.

The Schedule to the enclosed Section 21 Notice provides further detail as to the matters which should be covered in the written evidence which is required from you.

As you are aware, receipt of this correspondence and its enclosures places you under a duty of confidentiality to the RHI Inquiry in respect of them. You may share the correspondence and the enclosed Notice with your legal representative(s), but neither you nor they may show, communicate the contents of, nor provide this correspondence or the Notice to any other person or organisation without the express permission of the RHI Inquiry. Any breach of this duty of confidentiality is actionable at the suit of the Inquiry Chairman. In addition, a similar restriction is contained in Restriction Order No 2 of 2017 made by the Inquiry Chairman and available on the RHI Inquiry website.

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

Given the tight time-frame within which the RHI Inquiry must operate, the Chairman of the Inquiry would be grateful if you would comply with the requirements of the Section 21 Notice as soon as possible and, in any event, by the date set out for compliance in the Notice itself.

Finally, I would be grateful if you could acknowledge receipt of this correspondence and the enclosed notice by email to Patrick.Butler@rhiinquiry.org.

Please do not hesitate to contact me to discuss any matter arising.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Patrick Butler', with a long horizontal flourish extending to the right.

Patrick Butler

Solicitor to the RHI Inquiry

0289040892

SCHEDULE**[No 513 of 2017]***Financial implications – CEPA*

1. The Inquiry refers you to the witness statement, plus annexes, of Mark Cockburn of Cambridge Economic Policy Associates ('CEPA') (served herewith under Inquiry reference WIT-105001 to WIT-107708). In the witness statement, particularly at paragraphs 1.5.2 and 2.28.1 to 2.28.3, and in the draft report of July 2017 at Annex 65, in particular at pages WIT-107573, WIT-107615-6, and WIT-107643-4, it is suggested in terms that, once appropriate adjustments have been made for discount rates and inflation (and taking no account of the 2017 amendments to the RHI Scheme), the difference between the estimated lifetime expenditure on, and estimated lifetime budget for, the NI RHI Scheme may be much lower than the £490 million deficit figure that has in the past been attributed to the Scheme. Indeed, CEPA appears to suggest that there may in fact be no deficit. Please address the following issues arising out of the relevant parts of the CEPA witness statement and draft report:
 - a. Clarify whether or not you agree with the CEPA analysis;
 - b. If you disagree with the CEPA analysis, please set out your reasons for so doing, including details of any relevant calculations (where appropriate);
 - c. Set out your opinion (including full details of any relevant calculations and, if appropriate, incorporating or expanding upon Tables 7 and 8 of your Report of June 2016) on the following issues:
 - i. The estimated lifetime cost of the RHI Scheme (having no regard to the 2017 amendments to the Scheme);
 - ii. The estimated lifetime budget / AME allocation for the RHI Scheme;

- iii. The estimated lifetime deficit (if any) in respect of the Scheme based upon the figures at sub-paragraphs i. and ii. above;
- d. If you require further information before answering any or all of the questions posed at sub-paragraphs a. to c. above, please identify precisely the information or class of information required and the source, or likely source, from whom you or the Inquiry might obtain that information.

Financial implications – RHANI

- 2. The Inquiry refers you to a submission purportedly made by counsel for the Renewable Heat Association for Northern Ireland on or about 5 October 2017 in the course of its application for Judicial Review of the 2017 amendments to the RHI Scheme, wherein it was suggested that the lifetime deficit for the RHI Scheme (having no regard to the 2017 amendments) would be in the region of £161 million or, if two separate CHP installations were removed from the Scheme, approximately £60 million. Please address the following issues arising from the RHANI submission:
 - a. Clarify whether or not you agree with the RHANI figures;
 - b. If you disagree with the RHANI figures, please set out your reasons for so doing, including details of any relevant calculations (where appropriate); and
 - c. If you require further information before answering either or both of the questions posed at sub-paragraphs a. and b. above, please identify precisely the information or class of information required and the source, or likely source, from whom you or the Inquiry might obtain that information.

NOTE:

It is important for the efficiency of the RHI Inquiry that the issues identified above are addressed as fully as possible and by reference, where available, to the dates and locations of specific incidents to which reference is made. The statement should be broken down into paragraphs, which should be numbered sequentially from '1' to the end. The use of appropriate section headings or sub-headings is also encouraged. A template witness statement is provided with this Notice for your assistance and should be used as the format for your response.



RENEWABLE HEAT INCENTIVE INQUIRY

INQUIRY INTO THE RENEWABLE HEAT INCENTIVE SCHEME

RHI REF: Notice 513 of 2017

DATE: 26 October 2017

Witness Statement of: Kieran Donnelly, Comptroller and Auditor General for Northern Ireland and Head of the Northern Ireland Audit Office

I, Kieran Donnelly, will say as follows:-

Financial implications – CEPA

1. I have been referred to the witness statement, plus annexes, of Mark Cockburn of Cambridge Economic Policy Associates ('CEPA') (Inquiry reference WIT – 105001 to WIT – 10778). In particular, I have been asked to consider paragraphs 1.5.2 and 2.28.1 to 2.28.3, and in the draft report of July 2017 at Annex 65 pages WIT – 107573, WIT – 107615-6 and WIT – 107643-4 and the suggestion that once appropriate adjustments have been made for discount rates and inflation (and taking no account of the 2017 amendments to the RHI Scheme), the difference between the estimated lifetime expenditure on, and estimated lifetime budget for, the NI RHI Scheme may be much lower than the £490 million deficit figure that has in the past been attributed to the scheme, and the suggestion that there may in fact be no deficit. My comments are as follows:

1a. I would agree with CEPA that the £490 million figure referred to by CEPA as being the reported lifetime deficit on the RHI scheme (and with which they disagree) appears to have been based on the difference between the estimated lifetime expenditure of £1,150 million¹ projected by the Department for Enterprise, Trade and Investment (DETI) and included in our 2015-16 report (not estimated by me as suggested by CEPA at WIT – 107615, but assessed by me at that time as being a reasonable estimate – see below); and the original estimated cost of the scheme at its inception of £660 million which was expected to be fully financed by Treasury and was provided by Dr Andrew McCormick as part of his evidence to the Public Accounts Committee².

The £490 million figure has been widely reported in the press but is not something I have ever reported on, mainly because there is too much uncertainty about the amount of the total cost that would be financed by Treasury (the £660 million figure).

¹ Table 7, Report by the Comptroller and Auditor General on the 2015-16 DETI Resource accounts

² Evidence provided by Dr McCormick at the PAC session on 28 September 2016

Therefore, because I don't know the background of the £660 million figure, whether it has been discounted and how it was calculated, I am unable to say whether or not I agree with the CEPA analysis that the £490 million figure is incorrect due to non-comparable discounting practice.

1b. In my 2015-16 report I deliberately decided to only estimate the projected deficit for five years up to 2020-21 because that was the period for which the amount of funding available from Treasury was reasonably certain.

This projection at that time was for expenditure over the five years of £269.5 million³ and Treasury funding (as Annually Managed Expenditure – AME) of £129.5 million⁴ leaving a projected deficit in the period of £140 million⁵ for the five year period. All of the figures that I reported were not discounted.

My report also included an estimate of the total cost of the non-domestic RHI scheme over 20 years of £1,150 million⁶. This figure was also projected by DETI and reviewed by my team as being a reasonable estimate. Again the figure was based on the agreed subsidy rates at that time and allowed for 1.6% annual inflationary increases over the period. As stated by CEPA this figure is not discounted.

As stated above I did not report the £660 million figure quoted by Dr McCormick and am not sure how it has been calculated, whether or not it has been discounted and if so at what rate or what period this has been done over.

I do however note that CEPA state that if the lifetime budget figure was calculated differently then there may in fact be no deficit on the scheme, even based on the subsidy rates prior to the 2017 amendments. This appears to me to not be in line with the factual position which is that for the one year so far for which actual audited figures are available, 2016-17, the cost of the scheme was £45 million and the AME budget was £18 million which resulted in a deficit for that single year of £27 million⁷. Over the following 19 years, if the pre 2017 adjustment rates had continued to apply, it seems reasonable to assume that the cumulative deficit would have continued to increase for some time.

1c

i I still consider the figures projected by the Department in 2015-16 to have been a reasonable projection of the likely outturn of the total cost of the scheme based on what was known at that point. Since then I have not seen any further analysis or projections of the likely costs of the scheme based on the pre 2017 subsidy rates.

³ The expenditure was projected by the Department and allowed for an annual inflationary increase of the tariff by 1.6%

⁴ Projected AME was estimated by the Department based on actual expected budget receipts in the period

⁵ Table 8, Report by the Comptroller and Auditor General on the 2015-16 DETI Resource accounts

⁶ Table 7, Report by the Comptroller and Auditor General on the 2015-16 DETI Resource accounts

⁷ Table 1, Report by the Comptroller and Auditor General on the 2016-17 Department for the Economy Resource accounts

I do, however, note that the 2016-17 actual cost of the RHI scheme at £45 million was around 11% lower than what had been predicted in 2015-16 of £50.7 million⁸. Part of the explanation for the actual cost being lower than projected may include the possibility that the negative publicity surrounding the scheme might have caused people to reduce their use of the boilers. However, if the reduction in actual usage in 2016-17 was reflected across the projections for the total cost of the scheme then it would reduce the total projected cost by £127 million (11% of total projected costs) to around £1,023 million.

ii As previously discussed I cannot give any opinion on the estimated lifetime budget for the scheme as I have not seen the basis for the reported £660 million figure or any other estimate for this figure.

iii I have not at any stage reported on an estimated lifetime deficit, because as I stated above, any projection of the future budget available from Treasury in the form of AME beyond the agreed five year period would be too uncertain.

I still think the figures I set out in Table 8 of my 2015-16 report for the projected deficit over five years are a reasonable estimate of the outturn over that period based on the information which was available at that time.

However if the 11% reduction in projected usage that I discussed at c(i) above was projected over the usage in the remainder of the five year period then the projected deficit over that period would reduce as set out below:

As originally reported in Table 8 of the 2015-16 C&AG report

	16-17	17-18	18-19	19-20	20-21	Total
	£'000	£'000	£'000	£'000	£'000	£'000
	Projected	Projected	Projected	Projected	Projected	
Total cost	50,700	51,700	54,800	55,700	56,600	269,500
AME allocation	18,300	22,300	25,700	28,900	34,300	129,500
Deficit	(32,400)	(29,400)	(29,100)	(26,800)	(22,300)	(140,000)

Revised projection based on 11% lower actual usage in 2016-17 being repeated over future years

	16-17	17-18	18-19	19-20	20-21	Total
	£'000	£'000	£'000	£'000	£'000	£'000
	Actual	Projected	Projected	Projected	Projected	
Total cost	45,000	46,000	48,800	49,600	50,400	239,800
AME allocation	18,000	22,300	25,700	28,900	34,300	129,500
Deficit	(27,000)	(23,700)	(23,100)	(20,700)	(16,100)	(110,300)

⁸ Table 8, Report by the Comptroller and Auditor General on the 2015-16 DETI Resource accounts

d In order to assess the estimated lifetime deficit I would need to obtain details of the estimated lifetime budget for the scheme. This information, if available, would be likely to come from the Department for the Economy, Department of Finance and HM Treasury.

Financial implications – RHANI

2a and b. I have been asked to consider a submission purportedly made by counsel for the Renewable Heat Association for Northern Ireland ('RHANI') on or about 5 October 2017 in the course of its application for Judicial Review of the 2017 amendments to the RHI Scheme, wherein it was suggested that the lifetime deficit for the RHI Scheme (having no regard to the 2017 amendments) would be in the region of £161 million or, if two separate CHP installations were removed from the Scheme, approximately £60 million. As a general comment I would say that it is impossible for me to make a detailed assessment of the RHANI submission, which would allow me to agree or disagree with it without having detailed access to the figures/calculations on which the figures were based. However I would make the following points:

- As I stated above, the amount of AME funding that will be available from Treasury is difficult to predict beyond the five year period to 2020-21 which I reported on in 2015-16. In my reports I have not given any prediction of the lifetime deficit on the scheme because of this uncertainty.
- As also stated above, the actual deficit reported in 2016-17 was £27 million for that one year. Over the following 19 years, if the pre 2017 adjustment rates had continued to apply, it seems reasonable to assume that the cumulative deficit would have continued to increase for some time. The actual figures in 2016-17 do not include any additional deficit for the CHP plants which had not commenced at that point. Therefore to estimate that the cumulative deficit over 20 years would be only £60 million if the CHP plants are not included looks low, even on this crude basis.
- In my 2015-16 report I reported that the Department had estimated the lifetime cost of the non-domestic RHI scheme at £1,150 million. Included within this estimate was a total amount of £46 million to the two CHP schemes. In contrast, RHANI seem to imply a saving of £101 million from the two CHP schemes being removed from the scheme which is not consistent with the figures I have seen.

c. I would need full access to the RHANI figures to see how they have been compiled before I could give any further opinion.

Statement of Truth

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

Signed: *Kieran J Donnelly*

Dated: 26 October 2017