



Northern Ireland
Assembly

Public Accounts Committee

OFFICIAL REPORT (Hansard)

Inquiry into Non-domestic Renewable Heat
Incentive Scheme: Ofgem E-Serve

26 October 2016

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Robin Swann (Chairperson)
Mr Daniel McCrossan (Deputy Chairperson)
Mr Robbie Butler
Mr Trevor Clarke
Mr Gordon Dunne
Mr Alex Easton
Mr Declan Kearney
Ms Carla Lockhart
Mr Trevor Lunn
Mr Oliver McMullan

Witnesses:

Ms Alison Caldwell	Department of Finance
Mr Kieran Donnelly	Northern Ireland Audit Office
Ms Jane Pierce	Ofgem E-Serve
Mr Chris Poulton	Ofgem E-Serve
Dr Edmund Ward	Ofgem E-Serve

The Chairperson (Mr Swann): With us from Ofgem E-Serve are Chris Poulton, managing director; Dr Edmund Ward, head of technical and compliance, renewable heat incentive (RHI); and Ms Jane Pierce, head of policy and communications, renewable heat incentive. Folks, you are very welcome. Thank you for taking up the Committee's invitation. Members, we also have the Comptroller and Auditor General and the Treasury Officer of Accounts with us as witnesses if necessary. Chris, do you want to make an opening statement?

Mr Chris Poulton (Ofgem E-Serve): I will say just a few short opening lines. Thank you. I will introduce us. I have been at Ofgem E-Serve since January 2014, when I joined in a role responsible for the delivery of all the schemes under the Ofgem umbrella. Since December 2014, I have been acting managing director, taking control of the entire business unit and, in essence, delivering the schemes within Ofgem. Edmund Ward is head of our technical and compliance team for the RHI schemes. He joined Ofgem in August 2011 and has had administration responsibilities on the Northern Ireland RHI after implementation since 2013. Jane Pierce has been with Ofgem since September 2015 and heads our policy implementation and communications team for the RHI schemes.

The Chairperson (Mr Swann): Thanks, Chris. Just before we open the meeting to members, who have a number of questions for you, how was Ofgem appointed?

Mr Poulton: I will refer the question to Edmund, who was there at the time.

Dr Edmund Ward (Ofgem E-Serve): The Energy Act 2013 makes provision for the Department and Ofgem to enter into arrangements. The Department contacted Ofgem on the basis, I think, of our existing administration of the parallel scheme in Great Britain. The Department and Ofgem entered into correspondence and discussions, we conducted a feasibility study and, ultimately, we entered into arrangements whereby the functions of administration were split between the Department and Ofgem in the day-to-day running of the scheme, while, ultimately, the Department retained overall responsibility for the policy.

The Chairperson (Mr Swann): There was no tender process. It was through the Department coming to you, and you ascertaining whether you wanted to do the work.

Dr Ward: Absolutely. We looked at whether it was appropriate for us to do so and at whether we had the legal powers, and we identified that we did, under the Energy Act arrangements.

The Chairperson (Mr Swann): As a matter of curiosity and to put things into context, what is the value of the work?

Mr Poulton: Do you mean the funding received to do the work?

The Chairperson (Mr Swann): Yes.

Mr Poulton: When the scheme kicked off in 2012-13, it was around £526,000.

The Chairperson (Mr Swann): That is payment to Ofgem.

Mr Poulton: That is payment to Ofgem. That included the set-up of the scheme, the contribution towards the IT systems and any changes that needed making. The cost in 2013-14 was £165,000. As the volume increased into 2014-15, the cost was £211,000, and in 2015-16 that increased to £253,000. The forecast for this year, due to the additional volume and the additional work that has been going on, is £394,000.

Dr Ward: I will just clarify that, as a Civil Service department, we just pass through the costs of administering the scheme, so we are not taking a profit from that. We are just passing on the costs of administering the scheme.

The Chairperson (Mr Swann): OK, thanks for that.

Mr McCrossan: Welcome to the Committee. When the Department was planning to establish a renewal heating incentive scheme in Northern Ireland, did it consult you on its plans?

Mr Poulton: Yes. At the time, the teams were working together, and, as Edmund said, that resulted in a feasibility study. The feasibility study that we created was in advance of the final regulations. There were a few caveats on the delivery, but the broad view of the feasibility study was around it being a very similar scheme to deliver, based on the GB scheme that we were already doing.

Mr McCrossan: At that stage, did Ofgem raise any concerns about the Department's proposals?

Mr Poulton: There were three areas highlighted in the feasibility study where we felt that there might be an impact on the administration of the scheme. One was considerations related to heavy industry and the potentially different tariffs for very large biomass boilers at the time. One was the inclusion of bio-liquids as a specific, which was being investigated. The other one was to do with technologies that were not on the GB scheme but were being considered. Aside from those, nothing was raised that was different from how the GB scheme was operating at the time of the feasibility study.

The Chairperson (Mr Swann): How were those concerns addressed?

Mr Poulton: They were, I guess, caveats in our feasibility study. That is the best way to describe them. None of those made it into legislation and into the regulations. There was discussion in the document about how we might initiate a risk assessment based on those three areas that were not in

the GB scheme. However, given that they did not make it into regulations, that money was never taken out of the central pot and used to do that risk assessment.

The Chairperson (Mr Swann): In your opinion, were they removed from the scheme because you highlighted the risks?

Mr Poulton: No, I do not think so. I think that they were just considerations at the time and, I guess, were in the melting pot with other considerations. I was not there at the time, but my view is that they were considerations local to the market that were being looked at. Obviously, as administrators, we would react, if needed, to those differences.

Mr Butler: Thank you for attending. Did Ofgem realise at any stage that the lack of tiering and a rate of payment that was higher than the marginal cost of fuel meant that the Northern Ireland scheme was wide open to abuse?

Mr Poulton: I think that, throughout the administration of the scheme, we had raised concerns by giving forecasts of what particular installations could achieve in payments based on that tariff. As well, there was a known risk around cost control, which was mentioned in open discussion between our organisations. The consultation was in October 2013, so it was a potentially known issue. My view on the volumes that we saw early in the scheme was that they were not something that we were seeing. Of course, that tariff had been set specifically for Northern Ireland by an independent body. We were aware of the differences specifically around gas and oil that were considerations in the setting of that tariff. We were aware that cost controls might be needed, but we were not aware early on in the scheme that there was abuse, and we did not see it in our auditing.

Dr Ward: We discussed with the Department the fact that we were sharing data — the information needed to understand what the profile of sites would be and what the usage was in practice. We had ongoing discussions with the Department in which we were clear that, were mechanisms such as degression or tiering to be introduced, we could do that, particularly given that we already had the experience and the IT systems from delivering the parallel implementation of those on the GB scheme.

Mr Butler: Am I right to take out of that that concerns were raised at the beginning about the lack of tiering, but, because the scheme had not been abused and because it had been monitored at that stage, it was not a priority risk? Given that you had raised the concerns to the Department, how did it respond to your initial recommendation about tiering and to the view that there was perhaps a weakness in the scheme?

Mr Poulton: It was raised in different forums. I think that the Department was aware through the consultation that it was something that it needed to consider. Ultimately, the Department decided not to proceed with it at the time. We would not have been aware of what analysis or local policy insight it had. Our position, as administrators, was very much along the lines that we had degression technology, and, if it were an appropriate cost-control measure, we could, if it were needed, implement it.

Mr Butler: Ofgem's fraud prevention strategy highlights a two-tier tariff system and degression as key preventive controls. When you realised that the Northern Ireland scheme did not have those controls, you, as you have said already, raised those concerns on multiple platforms; is that fair to say? You did not raise them only through email, for instance, but through discussions and so on.

Mr Poulton: I joined in January 2014, and, very quickly, we arranged to come to Belfast to meet the team. We acknowledge that, until that time, there had maybe not been not a lot of communication. We made a great effort to improve that. When we came over, we talked about the specifics of the degression mechanism as one thing that we could do amongst a number of topics. Edmund also sent details of things that we had seen on the high usage, I guess, of boilers and what that could mean for the tariffing. There were different levels of information. There was information at a technical level and at an operational level and discussions about what we were seeing at a senior level.

Mr Butler: OK. Not having those controls in place would obviously increase the risk of fraud. As regulators, did you put any other controls in place to mitigate the risk?

Mr Poulton: Initially, we did not see any changes or anything to suggest that the tariff was being abused. The volume was very low, and a lot of the focus at the beginning of the scheme was on trying to increase the number of people applying for it. We were aware that it was a risk, but, at that stage, it was not one that we saw materialising, so we did not make any specific changes to tackle the fact that there was no cost-control mechanism. What we saw in 2015-16 was an unprecedented spike over a very short time; it was close to half of the volume of the entire scheme over three and a half years. We had a lot of engagement then about whether we should do anything differently, and we put measures in place at that point.

Mr Butler: In simple terms, that realisation about the spike goes back to the concerns raised at the inception of the scheme. What came to pass was the risk that had been identified right at the beginning.

Mr Poulton: Yes, I think so, and, obviously, the announcement on the future of the scheme prompted a rush to get on it.

Mr Butler: OK.

The Chairperson (Mr Swann): I have a couple of members who want to ask a supplementary. Chris, in your response to Robbie, you talked about the communication between you and the Department. The Comptroller and Auditor General for Northern Ireland's report, point 27, says that Ofgem provided weekly reports. Whom were they going to?

Mr Poulton: We provided a weekly data extract across all the installations on the accreditation status et cetera. I will defer to Edmund on where they went.

Dr Ward: They were provided via secure transfer to our counterparts in the Department.

Mr Clarke: Who?

The Chairperson (Mr Swann): Do you have a name?

Dr Ward: I am conscious of the conventions on naming individuals.

The Chairperson (Mr Swann): Trevor, we covered names earlier in the closed session. It will be forthcoming.

Point 27 of the Comptroller and Auditor General's report states:

"the Department said that from August 2014, it has held formal meetings with OFGEM by conference call".

That is when things were starting to go wrong. Did you find it peculiar that they were not formally minuted until November 2015? Is that normal practice for Ofgem on a government contract?

Mr Poulton: We feel that we fell short — ourselves or we and the Department jointly — in minuting those discussions. It is fair to say that they should have been minuted. We have internal reflections on what we spoke about in the discussions, but, with hindsight, we should have been better at minuting them. We were having regular discussions at all levels through the Departments, but we should have been better at keeping records of what was discussed.

The Chairperson (Mr Swann): You said earlier that the reason why you had the contract was that you were replicating what you were already doing for GB. Did you minute those meetings?

Mr Poulton: Again, probably at an operational level —

Dr Ward: The governance arrangements are slightly different. The way in which the GB scheme was set up involved some boards, which were minuted from 2011, for example. It was a different approach. On the GB scheme, Ofgem is named as the administrator, whereas, on the Northern Ireland scheme, we are acting under arrangements with the Department. The relationship is slightly different.

The Chairperson (Mr Swann): As a corporate body, did you not think it necessary? If you were doing it for the GB operation, why did you not think that minutes were necessary for the —

Mr Poulton: It is not that we thought them unnecessary; it was an administrative oversight. One of the two of us should have been minuting the meetings. Obviously, there was written documentation, conversations and emails reflecting those discussions, but they were not formally minuted.

Mr McMullan: Were all those meetings face-to-face?

Mr Poulton: There are weekly calls on operational activity.

Mr McMullan: There were phone calls.

Mr Poulton: There are phone calls. There are monthly calls on higher-level operations and policy discussions.

Mr McMullan: Did meetings ever take place here, or were there just phone calls from England?

Mr Poulton: I had two meetings in Belfast, in April and October 2014, and colleagues have had subsequent face-to-face meetings in Belfast as well.

Mr McMullan: At what level did you meet the Department?

Mr Poulton: It was a senior level meeting with me and operational colleagues.

Mr McMullan: Are there minutes of that meeting?

Mr Poulton: I do not believe that there were minutes of the meetings that I had in April and October. I took notes of what was discussed, and colleagues took notes.

Mr McMullan: Were you there on your own?

Mr Poulton: No, there were many of us.

Mr McMullan: How many were there?

Mr Poulton: Probably three or four.

Mr McMullan: Of your team?

Mr Poulton: Three to four of our team and probably an equivalent number of the team here.

Mr McMullan: There were eight people in the room and nobody was taking notes. I want to get this right. In 2015-16, you started to see abuse; is that correct? Did I pick you up correctly?

Mr Poulton: In 2015-16, we started to see the surge of activity around September. Until then, it had been consistent with the volumes that we had seen towards the end of 2014-15, which was 40 or so applications a month. That climbed heavily in September, October and November.

Mr McMullan: Not before?

Mr Poulton: Not before then.

Mr McMullan: There were no concerns.

Mr Poulton: In 2013-14, we had seen 119 applications. In 2014-15, that climbed to around 30 to 35 a month, so that was 430 applications.

Mr McMullan: Was that not concerning?

Mr Poulton: No, not necessarily. I think that it was a slow ramp-up of the volumes from what we had seen. We know that there was activity in the Department to encourage people to apply. In the first three years, 2012-13, 2013-14 and 2014-15, activity was quite a significant way under the expected volume.

Mr McMullan: When did you first relay your concerns about abuse to the Department here?

Mr Poulton: On volume, it was very much when we saw the volumes in September. There were daily conversations saying, "This is what we have seen". At that stage, we started to implement changes in how we were processing and to ask whether there was anything that we should do differently at that stage.

Mr McMullan: Were you talking to the same people or the same person all the time?

Mr Poulton: They were operational conversations, so I will pass to my colleague.

Ms Jane Pierce (Ofgem E-Serve): We spoke regularly to the operational teams in the Department.

Mr Clarke: I apologise that I missed the start. Chris, I find your evidence a bit contradictory. You said that you raised concerns at the start, but you went on to say that you became concerned and ramped up that concern at the end of 2014-15. Did the concerns come at the start or when anyone on a galloping horse would have seen that people were joining the scheme because it was a very lucrative scheme to be involved in?

Mr Poulton: I think that the understanding that cost control might be needed was known quite early on and was something that, obviously, was consulted on. On the matter of whether we saw huge increases in volume and issues with what we were finding on site audits, we did not see those until there were large ramp-ups in volume. That is when we were asking, "What should we do about this?". We did not see in our audits throughout 2013-14 and 2014-15 things that were necessarily reflective of people exploiting a tariff.

Mr Clarke: Do you believe that Ofgem has any blame to apportion to your organisation for what has gone wrong?

Mr Poulton: I think there are things administratively that we could have done better, such as updating records and minuting meetings. On escalating risks and having ongoing conversations and dialogue about those risks, I think that we have done a reasonable job raising those to the Department.

Mr Clarke: I have to say that I would not pat you on the back, given that you had a scheme based on an English model and said that you were best placed to deliver this because you were delivering a scheme in England. You could not replicate that here and changed the system. What brought about that change? I am intrigued by some of the other questions: you were best placed and you had the other scheme, but you did things differently here. I am appalled to hear that you do not keep minutes of meetings. I am getting to the stage of not believing that you had some of the conversations that you suggest you had. If there is no record of those, how are we in a position to believe anything?

Dr Ward: We acknowledge that formal minutes shared and agreed between Ofgem and the Department would have been the sensible standard to reach. Historically, we have not achieved that. We have internal records of meetings and contemporaneous notes. We reviewed and scrutinised those in preparation for the Committee so that we could reassure you that what we are providing today is our understanding of the discussions and conversations that happened.

On the approach and your point on doing things differently, I would like to clarify that our approach to administration was guided by the fact that the administrative approach and, in some ways, the regulations are different between the Great Britain and Northern Ireland schemes. Where it has been appropriate for us to operate the same procedures to make sure that we have consistency and develop best practice, we have done that. Where there are differences between the two schemes, we have made sure that we have processes that are distinct and that we have training in place and dedicated members of the team able to operate to those differences, but it is not an exact parallel between the two schemes. Ultimately, different policy decisions have been taken by the Department of Energy and Climate Change, as was, in Great Britain and the Department of Enterprise, Trade and Investment (DETI) in Northern Ireland.

Mr Clarke: I missed the start and what was said about names, but I appreciate that you do not want to go into that. Maybe, Dr Edmund, you could share with us in writing who you had the conversations with about there being a shift in the policy between how you did things in GB and how you did them here. I am intrigued to find out why that was. You are the so-called experts in the field. You had done this work on the mainland and were commissioned to do it here at a reasonable cost to the public purse — you were reasonably well paid to do it. Who in the Department gave you instructions to do things slightly differently? I appreciate that you will not give me that now, but, if we could get that in writing, it would be useful.

The Chairperson (Mr Swann): Edmund, you said that there were no formal minutes, but you referred to notes that you kept. If there is correspondence between you and the Department, can we have full sight of everything you have?

Mr Clarke: The only difficulty with that is that they are their own notes; no one else has seen them. Given what I am hearing today, I am a bit sceptical.

The Chairperson (Mr Swann): We will be able to match them with what the Department has on record.

Mr McMullan: You said that there was an agreed method of minute-taking between you and the Department.

Dr Ward: From November 2015, there was an agreed approach whereby those formal meetings were formally minuted.

Mr McMullan: Why was that agreement made in November 2015?

Dr Ward: My recollection is that it was raised by the Department as an example of practice that we should be committed to it —

Mr McMullan: Why was it raised as practice? Was something said or brought up about there being no minutes to refer to? People did not bring that up out of the blue in 2015 and say, "This is what we want you to do". Did they realise that there were no minutes?

Dr Ward: The context for that and many of the other discussions around that time was that, given the unprecedented surge in applications, we were in frequent dialogue with the Department about how to deal with that surge operationally. Some elements of that were to do with how we would process those applications and in what order. There were concurrent threads, and those meetings focused on a number of areas. I think that it was reasonable at that stage for us to be sure that we were not missing any actions between the Department and Ofgem.

Mr McMullan: Are you telling me now that you did that to cover your back? Did you think, "There's an awful surge in applications, so we better cover our back and keep minutes"? No minutes were kept before that: you said that. Why, all of a sudden, in November 2015, did you decide to keep minutes? There had to be some reason other than the surge in applications. What was the view of the Department here?

Ms Pierce: I want it to be clear that it was the Department's decision to take those minutes, and an official in the Department was responsible for taking them.

Mr McMullan: Did he say why? Did he come to the meeting and say, "We better keep minutes today, boys, and we will carry on like this for ever more"? Did he say why?

Ms Pierce: My understanding is that, as the scheme grew, we needed to have improved mechanisms for recording those discussions.

Mr McMullan: Why? Why did there need to be a new method of recording discussions? Was something said that no minutes were taken of that was causing a problem? Why did the Department come in and say, "We need to keep minutes"? Where did the direction come from?

Ms Pierce: We were told of the decision to keep minutes. We were happy to agree to that. With hindsight, we should have been taking minutes earlier —

Mr McMullan: I did not ask you that; I want to know why that direction was given other than, "We better take minutes at this meeting in November 2015" all of a sudden. Why? A surge in applications would not have meant taking notes or minutes. Why? Was it because that was being done in other places? What was being said at these meetings that meant that you needed to take minutes? What was the fear or the worry about the conversation?

Ms Pierce: The meetings typically focused on discussion of the application volumes that were coming in and our experience of delivering the scheme. It was an information share on both sides. From the point that I joined Ofgem in September, I sat in on those discussions regularly. It was an open exchange of views. In my experience, there was nothing that would not have been minuted had we minuted those meetings. With hindsight, we probably should have minuted those meetings much earlier.

Mr McMullan: Did you have the same surge of applications in England as you have had here?

Mr Poulton: It was not of the same magnitude, but what we have experienced is that, around depression points, you tend to find that people might try to get in before the tariff reduction.

The Chairperson (Mr Swann): Oliver, you are going further into our line of questioning.

Ms Lockhart: My question is probably in the same vein as Trevor's. You said clearly that concerns were raised and there was a known risk in relation to tiering. What discussions did you have with the Department about that concern and the risk that you had identified right at the start of the scheme? You also said that you had consulted on the risk: I just wonder what consultation had taken place and what you had done with the findings of the consultation. I would also like more clarity on how much you were getting from the Department for — I will not use the word "administering" because I know that you do not call yourselves administrators of the scheme — whatever the loose term would be. Did you get about £1.5 million?

Mr Poulton: I want to be clear on the consultation: there was a consultation by DETI in October 2013 on cost controls, but we were not involved in that.

Ms Lockhart: Had you no input into that?

Mr Poulton: I have to defer to Edmund on whether we did.

Dr Ward: It would not be normal practice for us to respond formally to a consultation. It is fair to say that, in advance of the Department's consultation, our discussions with the Department, as would be normal practice, focused on them asking us, as the administrator, questions such as, "If we were to do this, how easy would it be? What would be the administration costs, risks and impacts?". We had that level of discussion with the Department.

Ms Lockhart: Is that discussion documented? Is it documented that, before the consultation went out, you, as the administrator of the scheme, had said to the Department very clearly that there were risks around tiering and abuse of the system?

Dr Ward: That is not something of which we have documentation that we have identified in preparation for this session.

Ms Lockhart: You do not have that documentation.

Dr Ward: We have not.

The Chairperson (Mr Swann): At the minute, we have only your word.

Ms Lockhart: In relation to the cost —

Dr Ward: You could ask the Department as well. I do not think that there would be a dispute on that point.

Ms Lockhart: Can you clarify the amount of money you receive from the Department? At a tot-up, it is £1.5 million.

Mr Poulton: Yes, over the period up to and including this year.

Ms Lockhart: OK, that is a substantial amount of money.

Mr Poulton: It is. In terms of our administration, it would cover the following: the application processing; the IT system; the ongoing meter reading team; the periodic data submissions; the team that receives those meter readings; the general enquiries phone line; issuing payments to recipients — we actually run the banking process that sends out those payments; a contribution to the banking and ID verification tools used in the application process and, obviously, support as necessary from the team. It covers a reasonable range.

On that point, calculation of the administration costs, and it is a thread through the feasibility study as well, was based on the Barnett formula that it would be around 3% of the scheme size, and therefore, where possible, administration costs should also be around that 3% mark. Other than this year, where there has been exceptional activity, it has very much been in that place.

The Chairperson (Mr Swann): OK, Chris, the more people who apply for this, the more money our Government pay out and the more Ofgem makes?

Mr Poulton: No, we do not make any money; the administration costs just pay for the cost of the team that is focused on the Northern Ireland —

The Chairperson (Mr Swann): Did you have to increase your team due to the spike?

Mr Poulton: Yes, we did, and we logged a change request at that period in time. That change request was to increase the number of audits that were being done, and it was also to increase the team so that we could look at the applications that were coming in.

We also made a couple of changes. We put in a triage team to deal with the influx of applications, take a first look at them, see what themes there were in that large group of applications, start feeding back what we were seeing, and look at any risks and concerns around what we might have seen in that influx. Additional people were brought in to deal with the additional applications, and that change request was finalised. It was agreed in December and finalised in writing in February.

Ms Lockhart: Very quickly, your website states your overall mission, your aim and how you operate:

"promoting value for money; promoting security of supply and sustainability, for present and future generations of consumers, domestic and industrial users; the supervision and development of markets and competition; regulation and the delivery of government schemes."

Do you think that in administering this scheme you have actually stood up to your ethos as an organisation, particularly around promoting value for money and the regulation and delivery of government schemes, because from what I am hearing today I certainly am not confident, particularly on the last point, that you have done that effectively?

Mr Poulton: In terms of the administration of the schemes and their value for money, we run a number of schemes that pay out over £6 billion in certificates and cash value per year. We do that for less than 0.5% of the output of those schemes, which by any benchmark would be a reasonable measure of value for money.

In terms of cost; by utilising the systems that we had already built, the feasibility study shows that there was a saving of around £3 million made through being able to re-utilise things, and that contributes to that value for money discussion.

In terms of regulations; we had an application process, and there was a small, but targeted, audit regime to try to make sure that applicants adhered to those regulations.

Mr Kearney: Edmund, you said earlier to Carla that you did not have the answer to her question because you had not prepared on that issue. How have you prepared for the hearing collectively?

Dr Ward: My intention was to say that we had prepared for the session and that, as part of that, we had identified any available information. Apologies if that was not clear. My intention was to say that we have reviewed all the records that we have of contemporaneous discussions. We have spoken to the individuals who are still in post in Ofgem in order to be able to provide the Committee with our best view of the events that took place.

Mr Kearney: This is going to sound pedantic, but that is not what you said. So, you have prepared comprehensively for today's hearing?

Dr Ward: Yes, apologies if that was not clear.

Mr Kearney: Thank you. I have a couple of other supplementary questions along that line. What did you discuss at the meetings that neither you nor the Department minuted?

Dr Ward: A number of themes were discussed. On our operational delivery, we were talking about volumes of applications received and processed and where there were issues around spikes in applications; for example, where there had been a block of applications and, maybe, the Department had been in discussion with a party that had submitted multiple applications across multiple sites or, where we had the correspondence, we discussed those cases to make sure that there was a common understanding between the Department and Ofgem on the processing of those applications. Internally, we were monitoring and compiling monthly performance reports, which included the identification and assessment of risk issues.

Mr Kearney: Has all that been systematically logged by your organisation?

Dr Ward: We have had, since we —

Mr Kearney: No. Has all that information been systematically logged by your organisation —

Dr Ward: Yes.

Mr Kearney: — from the inception of the scheme?

Dr Ward: Monthly performance packs, which we did not —. Discussion with the Department was not that we would share those routinely and, therefore, we did not share them routinely —

Mr Kearney: Sorry, just make that point again.

Dr Ward: At the onset of the scheme, we did not set up a data-sharing process that meant that were sharing those reports monthly. However, we were discussing them, compiling them and reviewing them through our internal governance and controls around the scheme.

Mr Kearney: Does that strike you as being odd? That sounds to me like the left hand would not know what the right hand was doing.

Dr Ward: We administer schemes for different organisations on different bases.

Mr Kearney: You will appreciate that we are dealing with the scheme that relates to this region. That is our focus. At the risk of sounding disrespectful to other schemes that you are operating, those are not our concern; this is our concern. Can you talk about our concern in our region?

Dr Ward: Our position has been and remains that we are happy to share any information that we hold. Ultimately, we are conducting certain functions —

Mr Kearney: Did the left hand know what the right hand was doing, given that there was an absence of communication between you and the Department in relation to what you claim was a systematic logging of detail and information as the project evolved?

Dr Ward: In terms of sharing data on a weekly basis, we were sharing a data extract from our IT system, which provided details of the applications that had been made, the sizes of those installations, the technologies etc. At operational level, weekly data extracts were being provided. Above that, internally, we were operating and administering the scheme in line with our normal governance procedures, and the mode of discussing cases with the Department was that we summarised issues or themes and, where there were ad hoc requests, we provided further information. However, it was not the case that we were routinely sharing that information. We are now sharing, for example, the monthly reports that we generate.

Mr Kearney: Do you routinely share information with other partners in other schemes in other regions?

Mr Poulton: Yes, we do. There is reporting in place. Early on in a scheme, there is an operational decision on whether we produce a reporting pack or provide a data extract to the organisation. In this case, it was the data extract.

Mr Kearney: The outcome that we have at the minute, which has precipitated this inquiry, is a situation of quite catastrophic proportions. I am sure that you are aware of that. Yes?

Mr Poulton: Yes.

Mr Kearney: Given that that is the case and that you are saying that it would not be normal practice, did you, at any stage, have the responsibility to intervene and try to put in place the same type of practices that you would apply with other partners in other regions? If not, why not? This is my last point — Robin, I will finish with this — do you carry any responsibility for having been in any way negligent towards good governance?

Mr Poulton: As I say, at the outset of the scheme, there was a data extract that provided the installations. I joined in January 2014 and, within eight to 10 weeks, we had arranged a meeting in Belfast at which the additional data sharing that the Department wanted to see was discussed. A lot of that was focused on individuals' data that was linked to those applications, but that was an open discussion about what more they would like to see in addition to the data extract that had been received.

Mr Kearney: You made that offer.

Mr Poulton: Yes, and that resulted in a data-sharing protocol that was worked on.

Mr Kearney: From 2014?

Mr Poulton: Yes, that was discussed at the meeting in April 2014. I have an email.

The Chairperson (Mr Swann): Ofgem made the offer to share data in 2014.

Mr Poulton: There was a — I do not —

The Chairperson (Mr Swann): To go back, Chris; you told the Committee that Ofgem made the offer to share data.

Mr Poulton: Yes, apologies. I do not know who initiated that discussion, but there was an open discussion about the need to have a further data-sharing protocol. We agreed, and the content of that data-sharing protocol and what was required in the form of additional data was agreed and that data-sharing protocol was put in place and signed off. When we got to the October meeting, there was further movement to have improved communication. That resulted in more formal but not, I accept, minuted monthly meetings, as well as the other operational meetings that we were having.

The Chairperson (Mr Swann): I am sorry, Declan, I came in there. I just wanted clarity.

Mr Kearney: No; that was helpful. Go ahead, Chris.

Mr Poulton: Sorry, I think that I —

The Chairperson (Mr Swann): He is finished.

Mr Poulton: That was only part of the question. Apologies.

Mr Kearney: You both, if you will forgive the term, "sleepwalked" into the scheme — that is at its most benign — and decided that there was no need for any recording of information, even though you have systematic logs of all the information that was not shared up until 2014, when there was data-sharing protocol offered by you and instituted. We then went through the period of 2014 and into 2015 and saw the spike in applications in 2015. There was clearly something wrong in relation to the governance practices that were being applied, even from April 2014 onwards. There must have been some flaw in relation to the data-sharing protocol. Regarding responsibility; in response to earlier questions, you said that the Department felt that there was no requirement for greater controls to be applied and you agreed to that or acquiesced to that. Given that that is the case, where does responsibility lie for not intervening at an early stage and for not identifying a flaw in relation to best and optimal governance for the scheme, particularly in light of the fact that, from April 2014, you had a data-sharing protocol in place?

Mr Poulton: The setting of the tariff and whether a price control mechanism is placed on the tariff is a policy decision for DFE to make. As administrators, we were there, as Edmund said, inputting and suggesting the sort of mechanism that could be put in. There was a degression mechanism; that was one of the options. The reason why the October 2013 consultation did not result in a change in regulations that would allow those control mechanisms to come in is not a question for us, but there was a clear concern about what may have happened if there was no control over the tariffs.

Mr McCrossan: If I go into anyone else's area, Chair, just stop me in my tracks. I thought that today, when you were coming to give evidence to the Committee, we would get into some detail, but I am sitting here sickened and shocked by the lack of detail that we are getting from you. You are supposed to be the regulator. It is very clear that the Department was asleep at the wheel, but I am completely horrified that you too were asleep at the wheel — no minutes, limited records, no responsibility and no ownership. It is appalling. You are bound to accept that. This is public money. We can hardly afford to fund the health service and now we are having to fork out for this — utterly ridiculous.

At what point did you realise that this was going to blow up in everyone's face and cost an unprecedented amount of money? This is probably one of the biggest scandals that we have faced since powers were devolved. At what point did you realise that this was going to blow up in everyone's face? When you did realise it; what conversations took place with the Department in relation to it? What conversations took place with those whom you were supposed to be communicating with in relation to the work that you did not do over the last number of years?

Mr Poulton: There are a number of parts to our role, as stated before, including the processing of the applications and the IT. We were raising concerns on a lack of tariff control. As I said, there was a consultation, and the Department decided not to introduce those controls. As an administrator, we are saying, "We have a tool to introduce degression mechanisms, should they be required." We were not involved in setting the tariff, which was set at a specific Northern Ireland level, with insight from other parties as to whether it was appropriate. I completely agree that the minuting of meetings, the administration around that, and following-up in that regard was not good. That is something that we absolutely take on board and remedied to fix. There was data-sharing in place, and we went to enhance that in 2014.

Mr McCrossan: The terms I would use are these: incompetent, maladministration, completely unprofessional and utterly embarrassing. That should be noted throughout your organisation. We are not pleased, and I am sure that the rest of the members will echo what I am saying.

I am asking the three of you a direct question: what conversations took place when you realised that this was about to explode in everyone's face? You did not carry out the duties that you were bound to do in the interests of good governance. So, who did you speak to in the Department when you realised that a horrible mistake had been made that was going to cost the Northern Irish taxpayer hundreds of millions of pounds? Someone had conversations with the Department. What were those conversations about? Who were they with? What actions did you take in relation to it?

Mr Poulton: In terms of the spike in the number of applications that came in when the announcement was made; administratively, we put in place a triage team to start looking at the applications that were

coming in. We said that more money would be needed for audit to look at the installations that came in at that time. We had previously flagged that there might be a risk from not having a tariff-control mechanism. However, as administrators, we do not set the policy that drives that volume.

Mr McCrossan: You had a duty to flag concerns, and you did not do it in a professional way. There is no record. We do not know if you flagged anything; we only have word of mouth up until a certain point. That is the concern that we have.

Dr Ward: To clarify; as we said, there was some routine data-sharing. From June 2013, weekly data was being provided that clarified the number of installations, their size and their technology, from which it was possible to project the committed spend. We were providing monthly financial information. So, Ofgem and the Department had access to that same data on a weekly level from June 2013.

In addition, it is a matter of public record that the Department consulted on introducing cost controls. It was a topic of frequent conversation between us but, ultimately, our duty, remit and scope was to administer in line with the regulations as they were in place. That is what we have continued to do. We have raised risks in terms of operational delivery, and, indeed, once we began to see that particular spike in applications in September, I can confirm that we were in daily discussion with the Department about the number of applications that were being received. It was clear what the impact of that would be with respect to the overall impact on the scheme and budgets. Again, our role has been to share data in line with the arrangements, which I can confirm we have done. We have shared data in line with those arrangements and discussed it. We accept the point that some of the governance and minuting of those meetings could have been improved, but that data was available and that shared understanding was there.

Mr McCrossan: I do not think that I am going to get the answer to this. I stress it now for the third time. There was a responsibility on the part of Ofgem and the Department. When it was realised that this thing had gone horribly wrong, clearly conversations took place between you and the Department. We want to get to the bottom of what those conversations entailed. Clearly, both sides have a responsibility in relation to this.

Mr Clarke: I will just go back to you, Chris. When I came into the room, you were saying that, at the outset of the scheme, you raised concerns. I am not trying to rehearse this whole issue about records. Was there any record of the concerns raised? You described them as the "known risks", when I came in late to the meeting. I appreciate that you were not there at the time but had your predecessor any record of where those known risks were recorded or to whom they were notified?

Mr Poulton: There was an initial risk log in the feasibility study, which focused on the three areas that were raised then. There was not a degression or tariff control risk raised in that study because, at that stage, there was no tariff control on the GB scheme either, and therefore there was no comparator. Certainly, in my meetings in April 2014 —

Mr Clarke: Let us go back to the start. I want to focus on the start. When you were answering Robbie, you talked about "known risks" at the start of the scheme, and those were flagged up. Edmund, are you better placed to answer this, as you were there at the time?

Dr Ward: I am happy to answer in terms of the feasibility study which was attached to the business case and which, I understand, the Committee may have had sight of. If you have not had sight of it, I am happy to talk about the details of it. For example, in our feasibility study, prepared in 2011, we recognised specifically that at present there were no mechanisms in place to control the costs of the scheme in the event that the uptake was considerably higher than anticipated.

Mr Clarke: Is that what you would describe as flagging up the risk, or did you specifically flag the risk?

Dr Ward: There is a specific section in our feasibility study around cost control, and it was acknowledged also that DETI had expressed some concerns around the need for controls to be developed to ensure that the costs of the RHI remain within budget. And again, we had a specific —

Mr Clarke: Sorry. I must stop you again. We have all to be very careful about the language we use. Chris said in response to Robbie that you raised concerns. Were they formally raised concerns or

were they part of this feasibility study? Again, Edmund, I think you are best placed to answer, given that you were there at the time.

Dr Ward: I was in Ofgem at the time but, to be clear, I was not involved in all these discussions personally. However, from the preparation that we have done for the Committee, I would say that there were discussions specifically around the fact that our risk register identified developmental and operational risks —

Mr Clarke: I have to stop you again. Chris, you have rehearsed for today. We got that in response to Declan's question: there was a rehearsal for today. In part of your rehearsal, someone has put words in your mouth that you flagged up a risk early in the scheme. You clearly said that, and it will in the Hansard report. Where was that flagged up? To whom did you flag it up? Where is it coming from?

Mr Poulton: Apologies, if I was not clear. In April 2014, we discussed in the meeting that we had arranged after I had started, whether to take on the degeneration mechanism although the consultation had closed —

Mr Clarke: Can I stop you now? You were not clear. What I picked up in response to Robbie was that, at the start of the scheme, you raised concerns. It is now clear to me that you did not raise concerns at the start of the scheme. It was a case of, "When everyone else starts to see the wheels falling off the wagon, everyone is going to jump to their own defence." In your rehearsal, someone has prompted you wrongly, because you said in response to Robbie that, at the start, you raised concerns about control mechanisms. It is clear, Chairman, that they have not.

Mr Poulton: I believe that they are contained in the feasibility study.

The Chairperson (Mr Swann): That feasibility study is for Ofgem to pick up the business, not in the management of the scheme. Is that correct?

Mr Poulton: I think that the term "pick up the business" is not necessarily —

The Chairperson (Mr Swann): Sorry. That feasibility study is for Ofgem to be able to deliver this scheme then.

Mr Poulton: Yes, so it was our —

The Chairperson (Mr Swann): That is your feasibility study. It is not in the management of the scheme.

Mr Poulton: Yes, it is a proposal on what we do in administering the scheme.

Mr Clarke: I am clear now that it was not flagged up.

Mr Kearney: On that point; you flagged it up in the feasibility study, and then you secured the work. Did a business plan emerge from the feasibility study?

Mr Poulton: Further to the feasibility study, there were operational procedures —

Mr Kearney: Was there a business plan?

Mr Poulton: There was no document entitled 'Business Plan'. We developed a suite of standard operating procedures and governance arrangements, and we delivered those.

Mr Kearney: You say a suite of operating procedures; I will say business plan. Did the concern, which you claim was flagged in your feasibility study, go into the ground floor of your operational procedures/my business plan?

Mr Poulton: There was not anything specific to say, "because there is not a cost-control mechanism, we will do something differently in terms of the administration." It was not something that we saw early on with the low volume.

Mr Kearney: It was a risk. It was a potential error. It was a potential skew of how the project would go.

Mr Poulton: I think the risk was that it could result in high volumes, with it being a demand-led scheme. However, those high volumes were not seen until much later in the scheme with the spike in 2015. The previous years had all come in below the volume, so, with the risk being that it may result in unprecedented volume, it had not resulted in unprecedented volume.

Mr Kearney: Having identified that as a possibility, as a variable, you walked into a scheme and did not take any records of meetings, did not maintain any records or minutes and did not apply appropriate governance systems from the get go.

Mr Poulton: I think that, in terms of the —

Mr Kearney: That is a yes or a no.

Mr Poulton: On the minuting of meetings, that is a yes.

The Chairperson (Mr Swann): Edmund, I am not going into whether there was a business plan or not, but you talked about governance. What is the follow-on into governance from the risks that you identify in your governance documentation?

Dr Ward: Our framework was to have a risk register specific to our administration of the scheme. Again, there was a clear demarcation of functions between us and the Department. We had monthly governance arrangements in Ofgem with the board, which would sit to look at performance statistics in relation to our scheme.

The Chairperson (Mr Swann): So, you ignore the initial risks then. Your governance documentation is on how you process an application form, make a payment and all the rest of it. You forget about the risks that you identify initially.

Dr Ward: The risks that we identified to do with the administration and operation of the scheme on a day-to-day or month-to-month basis were transferred over to operational risk registers. The risks associated with policy decisions to do with, for example, implementation of cost controls are not something that we had overall responsibility for.

Mr Lunn: Can you clarify one thing for me? Did you say that you had responsibility for the introduction of degression, if it was necessary?

Mr Poulton: Yes. It was something that we had built into the system and was available.

Mr Lunn: It was your decision as a company.

Mr Poulton: No, not at all; it was the Department's decision. That is an operational tool that we had, so the discussions would be, "If you want to put in cost control, we have this built and it is easy to deploy". It is only one of the options on cost control, though.

Mr Lunn: The scheme in Great Britain preceded ours by maybe less than a year. It did not have degression at the start, but it was introduced subsequently. It was introduced before our scheme started — I am thinking back to the sequence of events — but if that was not before ours started, it was very shortly after that. Would the need for the introduction of degression in the GB scheme not point to the fact that we would probably need the same thing? Would it have been up to yourselves to recommend the introduction of that measure? If you thought it was necessary in GB, why did you not recommend its introduction here at an early stage?

Mr Poulton: It was a tool that was available. Edmund made the point that there was a consultation specific to Northern Ireland on cost control where we would have fed in that that was a mechanism that was already built. There was a consultation done that ran till October 2013. For whatever reason, that did not result in it being requested that we should deliver something from an IT perspective or that we would implement a cost control mechanism, be that degression or anything else.

Mr Lunn: Would you have flagged up to the Department here that you found it necessary to introduce a degression scheme in the UK?

Mr Poulton: It was known that it was there; it was a known tool we had and it was known that it had been introduced. I should say that it was not our decision to introduce it in GB; that was a decision the Department of Energy and Climate Change (DECC) made at the time.

Dr Ward: We have supported engagement between the Departments; as a common administrator, we have fostered discussions between DECC and DETI as was, for example. DETI was aware that GB introduced a degression mechanism. We then had follow-up discussions. For example, in May 2014 we had discussions on opportunities for introducing tiering and degression, and there was an exchange of emails on those opportunities and how they would look in practice. For example, we had that ongoing dialogue, and we have records of that. Again, I can confirm that that dialogue happened.

The Chairperson (Mr Swann): Can you share them?

Dr Ward: Yes.

The Chairperson (Mr Swann): Those were between DECC, DETI and you.

Dr Ward: The discussions I just mentioned were between myself and the Department, but separate arrangements were put in place for the Department and others to talk.

Mr Lunn: Could you explain the application process and what checks you carried out on applications received to see whether they were kosher or otherwise?

Mr Poulton: Absolutely. The application comes in, which is a web-based application or a form-based application. It is around 42 pages in its paper version and is relatively comprehensive. The applicant will fill in the general personal details and the details of the site. If it is a microgeneration certification scheme (MCS), which is for a small installation, they will provide the MCS certification of that site. They will also provide a schematic alongside their application and photos of the commissioning information. They will also, in 50% of circumstances, provide an independent metering report that comes alongside that and the commissioning certificates. They will provide bank and ID information, which we externally verify against for prevention. They will also provide information on any grants they may have received; because of state aid issues, it is important those grants are taken into account. There are more than 70 questions on the form for them to fill in.

Mr Lunn: I am actually looking at them. Who was responsible for the construction of this form? It has your name on it. Did you construct the form, or was it the Department?

Mr Poulton: The form will have been taken from the GB scheme, and, in essence, at the time they were very similar. They have diverged since with new regulations in GB, but, operationally, this was what was deemed important to capture the details of the site to make a judgement on whether that installation meets or does not meet the regulations to secure payment.

Mr Lunn: Who constructed the GB form, then? Was it you or the Department across the water?

Mr Poulton: It was us.

Mr Lunn: Are you satisfied that the application form captures in sufficient detail the information you need to properly assess the applications? Did you get legal advice on the construction of the form?

Dr Ward: The regulations are complex, and having an application form is a trade-off between asking absolutely everything in a great deal of detail and asking a subset of information and then going back for further information where needed. Based on the application form we have, in about 46% of applications we need to go back to the applicant on four, five or more occasions to get the supplementary evidence we need to be satisfied that we have everything. We will not accredit until we have received all the evidence we need to be satisfied. The form is a subset of that. The online form is tailored, so some applicants get different questions depending on their technology or size, for example. On that basis, yes, we are satisfied that the form asks the questions we need, with

subsequent review and correspondence, to reach a position where we are satisfied enough to either approve or reject.

Mr Lunn: Are you satisfied that the form and the declarations on it are of sufficient weight to enable a scheme to be subsequently discontinued or turned down on the basis of fraud or wrong information being given at the start?

Dr Ward: Yes. To address your previous point, we took legal advice on the construction of the form. One of the specific purposes of that was to establish that we have all the information and declarations provided in a sufficient way at the application and accreditation stage if we need to take subsequent compliance action. There are various sanctions we have the ability to impose in line with the regulations and the provisions within them.

Mr Lunn: I do not want to intrude into the next person's questions, but one question on the form asks for the average number of hours per week the installation operates. It teasingly says:

"If it is 168 hours, say so."

That almost invites the answer, "168 hours, 24/7." If you compared the answer to that question — 168 hours — with occupation or use, could that have flagged up further inquiries, because it was usage for 24 hours a day —

Mr Poulton: Absolutely.

Mr Lunn: — for something like, say, a retail car showroom?

Mr Poulton: In some cases there is full or close to full usage.

Mr Lunn: I am well aware of that. I know that processes, such as having plastic stuff, in things like a mushroom house or a chicken house need a constant temperature. Fair enough. I am thinking of ones that clearly do not need 24/7 heat, but the person making the application may well say, "Yes, we do need that". Were there many occasions when you had to query the anticipated level of usage?

Mr Poulton: The application processing team — there are people specifically dedicated to processing applications to the Northern Ireland scheme — would query that if they saw that and found it did not match the usage declared. They would ask for more information if appropriate on the amount of usage; absolutely.

Dr Ward: There are a number of questions we ask. Some relate directly to eligibility for the scheme at accreditation stage, and some have been developed so that the Department can have intelligence on the anticipated usage for the purposes of forecast, for example. Those figures are also available to our team that processes payments on a quarterly basis when participants provide meter readings to us. We conduct checks of the usage to see whether it is proportionate and reasonable or whether we need to ask for further information. It was one of the many tools we use to assess that metering data.

Mr Lunn: The basic answer is that, if the occupation did not match the 24/7 usage, your investigations team would clearly have investigated further.

Mr Poulton: Yes.

Mr Lunn: Yet we seem to have a number of schemes where, quite clearly, people have successfully obtained 168 hours a week of heat usage, and it is mostly going out windows.

Dr Ward: Again, just to clarify, the eligibility requirements for the scheme are generating heat used for a number of purposes, which are specified in the regulations. If somebody is generating heat predominantly for the purpose of increasing their RHI payments, that is not permitted behaviour, and there are powers to address that. That is something we might address either at the application stage, potentially following an audit or following further information.

The Chairperson (Mr Swann): I just want to go back over one point. With the application form we have in front of us, is there a follow-on contract after that is done, or is it solely the application form that the agreement is based on?

Dr Ward: Subsequent to the application form, which includes a number of declarations, and assuming an applicant is approved and accredited on to the scheme, they will receive a formal notification of accreditation that sets out a number of conditions and reminds them of their ongoing obligations in line with the scheme, including that they must submit an annual declaration that confirms that they are continuing to comply with their ongoing obligations.

The Chairperson (Mr Swann): Who does the annual declaration go to?

Dr Ward: The annual declaration is submitted by the participant online to the Ofgem systems.

The Chairperson (Mr Swann): To you?

Dr Ward: Yes.

The Chairperson (Mr Swann): Does that ask any specific questions, or is it just a simple —

Dr Ward: It is specifying that the participant is aware that they are complying with the relevant ongoing obligations. It lists the specific regulations the participant needs to comply with and makes some particular clarifications. For example, one of our earlier findings from the audit programme was that some participants were not keeping good fuel records, so we have specifically amended the annual declaration to focus participants' minds on complying. I will say again that the legal position we have adopted with that is that we are expecting participants to declare that annually. Ultimately, it is a participant's responsibility to understand the regulations and comply with them, and if they have not, we have duties to take some actions.

The Chairperson (Mr Swann): I will ask you for a copy of that as well, Edmund, because we have not had sight of the annual declaration, nor did the Department inform us of it prior to today. I thank you for that bit. I will come back to this point. There is an annual declaration, but is there a legally binding contract rather than a declaration of commitment to obligation?

Dr Ward: The final stage of submitting an application includes declarations that the application has been submitted to the best of the applicant's knowledge and belief.

The Chairperson (Mr Swann): Is that this form we have?

Dr Ward: That is the form you have. There is an additional signed letter of authority that is provided by the owner of the installation. We assess the identity of the person applying so that we are satisfied they are the person they say they are, and they provide a signed declaration that they are an appropriate person to be applying for the scheme and that the information they are providing is full and correct.

The Chairperson (Mr Swann): I just want to go back to the application process. I think this is something we need to clarify. The application process does not actually commence until the burner is installed. Is that correct?

Dr Ward: There is preliminary accreditation for a small number of applications, but, yes, the normal process is that an application cannot be submitted until the boiler has been installed and commissioned, and then an application is subsequently submitted.

The Chairperson (Mr Swann): OK. How many have you refused?

Dr Ward: There have been 12 outright rejections.

The Chairperson (Mr Swann): Out of how many applications?

Dr Ward: There were 2,128 applications.

The Chairperson (Mr Swann): There were 2,128, and 12 have been turned down.

Dr Ward: Yes. A number of other applications have been cancelled or withdrawn in cases where they have not been progressed for more than 12 weeks, for example, as a result of dialogue we have had with participants whereby they identify that they are not eligible for the scheme. There have been other examples of that. Overall, our view is that around 3% of applications have not been approved.

We also run an inquiry line, and we have had a number of speculative inquiries about the scheme. A number of potential applicants do not get as far as submitting an application, because we are very clear to them about the Department's guidance and the regulations. Our inquiry line has provided information such that potential applicants have not applied.

The Chairperson (Mr Swann): I am just doing the calculation. The 3% was 64 applications.

Dr Ward: It was 59.

The Chairperson (Mr Swann): That is less than 3% of the 2,128 applications. If that is your level of mathematics, that is maybe where we started to go wrong in this scheme. For those 12 you rejected, is there an appeal mechanism?

Dr Ward: There is indeed. It is set out in the Department's guidance. Ultimate responsibility for a statutory review rests with the Department; that is clear from our arrangements. There is an initial review stage that is conducted by Ofgem. An applicant who is rejected has the option of submitting an appeal. Ofgem would then review that in line with documented processes. If the decision is not varied, an applicant then has the ultimate right to appeal to the Department for statutory review.

The Chairperson (Mr Swann): Did that ever happen?

Dr Ward: It could happen, and it has happened.

The Chairperson (Mr Swann): How many times?

Dr Ward: It has happened in the Northern Ireland scheme. Apologies; I do not have the full detail of exactly how many times.

The Chairperson (Mr Swann): Could you get me that? I want to know what stage of the appeal the applications got to, how many were then processed and who approved them.

Mr Lunn: The application form to me seems to be very loose. I cannot help thinking that the contract and annual declaration are probably loose too. The only declaration I can see on the application form is where it says:

"the information I have given is accurate and complete."

I am almost going back to my insurance days here. Would there not normally be some sort of warning on the form, within the contract or even on the annual declaration, that an attempt to misuse the scheme, defraud it or misrepresent the details you are giving or repeating would render the scheme null and void in that case? Should there not be a fraud warning? Why would your legal adviser not have recommended that you put one in?

Dr Ward: I think that is clear from the guidance. Again, this is a scheme for non-domestic applicants, and the expectation is that they are sufficiently conversant with and understand the regulations and that therefore we would take action on that basis. As I mentioned, the letter we send at the point of accreditation sets out conditions that must be complied with. It is explicit that we have sanctions and powers and that there are consequences to not complying with the scheme regulations.

Mr Lunn: Could we see that letter as well?

The Chairperson (Mr Swann): Just for clarity, Edmund, this is being covered by Hansard, so we will be able to give you specific details of what you agreed to.

Mr Lunn: The reason I ask is that the upshot of all this may well be that a lot of these schemes will have to be scrutinised and revisited and some of them, hopefully, terminated. The information we have got so far does not appear to me to be of sufficient weight to allow for automatic termination in the event of fraud. In fact, I have described this before as legalised fraud, because you can defraud the system while not telling any lies on the form. It is that bad. That is why I am concerned and why it is getting quite heated in here. The whole thing seems so loose and badly managed; it is just wide open. I just hope that, in the future, we can close some of the loopholes and some of the schemes where people receive an awful lot of money from the public purse when they do not deserve it. That is why I ask you about the weight and strength of whatever warnings and caveats are in the documentation.

Dr Ward: We have taken legal advice and carefully considered the construction of forms and declarations. Again, our view is that participants must comply with their ongoing obligations. There are sanctions available, and we treat any case seriously and on its merits and take the appropriate action.

Mr Lunn: Yes, but you also said a moment ago that these are commercial applications, that it is a non-domestic scheme and that you thought the applicants would be well aware of what was involved. That is what worries me; they are well aware of what is involved and perhaps how they can get round the system.

We can move on, I think.

Mr McMullan: Very quickly, how long does it take you to evaluate an application from the start until you say, "You're OK. Go ahead"?

Dr Ward: The average end-to-end processing time is around seven to nine months, historically, through application of the scheme. As for the time with us, we are typically going back to applicants five or more times in almost 50% of cases, so there is a significant amount of clarification, seeking further information and making sure it is all documented and clear within our IT systems.

Mr McMullan: It is seven to nine months per application. How many people work on that?

Dr Ward: That is the elapsed time, and the average time spent for a reviewer within Ofgem on a single application, when you add up all those individual reviews, is of the order of one application per day per person, given the complexity of the scheme and the robustness of the checks we employ.

Mr McMullan: What size of team had you?

Dr Ward: Where the number of employees focused specifically on applications is concerned, we have a core team of around three people with specific Northern Ireland training and expertise. Where there have been spikes, we have —

Mr McMullan: How do you get Northern Ireland training? Is that how you speak or walk or what? What is "Northern Ireland training"?

Dr Ward: Given that there are many similarities with the parallel GB scheme — equally, there are differences — it is about making sure that anybody working on this scheme is clear on the specifics of the Northern Ireland scheme and acts in line with them.

Mr McMullan: What discussions had you with the Ministry of Agriculture — DARD?

Dr Ward: To my knowledge, we have not had any discussions with that Department.

Mr McMullan: None? How, then, in the Northern Ireland training did you find out whether, if somebody applied for an agricultural building through the single farm payment, they were actually farmers?

Dr Ward: The regulations are clear. Again, we are administering in line with the regulations.

Mr McMullan: You have nothing in your regulations that refers to farming on the application. Do you know what the single farm payment is?

Dr Ward: Yes.

Mr McMullan: How, then, do you ask, for farming, "Does that comply with your single farm payment, if you are getting extra payments on top of that?"

Dr Ward: The regulations are clear on eligibility constraints. They are also clear on potential grants or other state aids, so we have detailed knowledge of grants and —

Mr McMullan: Have you details of the single farm payment?

The Chairperson (Mr Swann): Oliver, I am unsure where you are going with single farm payments and RHI payments.

Mr McMullan: I am just trying to see whether it makes a difference if it is an agricultural shed. Do you understand?

The Chairperson (Mr Swann): Right.

Mr McMullan: It could be very easy to find that out if we enquired of the Department. They would say, "Yes, that person is in receipt of the single farm payment". That is all.

The Chairperson (Mr Swann): We can come back into that, if you do not mind.

Mr McMullan: That is where I am coming from on that. Clearly, we did not do that.

On the team you sent over here to look at the applications —

The Chairperson (Mr Swann): Oliver, you are moving into somebody else's questions now.

Mr McMullan: OK; that is all right.

Mr Dunne: Apologies for being late. Just on the application process, on reflection, would it not have been better that people got pre-approval for the whole scheme before they proceeded? Surely they were proceeding at risk.

Dr Ward: There are provisions in the regulations for some technologies to apply for preliminary accreditation that was not available to all participants. Ultimately, that is a policy decision. Our role was to administer this within the regulations. To make an observation, yes, applicants, if they did not choose or were not able to apply for preliminary accreditation, were not able to apply to the scheme until they had commissioned. So, to that extent, yes, they were operating at risk.

Mr Dunne: Were there two levels of accreditation?

Dr Ward: There is preliminary accreditation available for some categories.

Mr Dunne: For some but not for everyone. If some individual proceeded and had no advice on the specification and requirements, surely they were operating at risk if they did not have pre-approval at some level.

Dr Ward: Yes. That is a fair assessment.

Mr Dunne: So, with hindsight, it was a poor decision to run a scheme without having a pre-approval procedure in place.

Dr Ward: This was a demand-led scheme, and there were a number of policy decisions made about the stage applications would be provided. Again, I emphasise that our role here was to administer the scheme. I respectfully ask that that question go to the Department.

Mr Dunne: OK. We will dig that out later. We appreciate, and we have talked about this, that there is a risk right from the start with ownership. Who actually owns the scheme? Is it DETI, or is it Ofgem? That is something we need clarified further, Chair.

Mr Easton: Do you agree that, in the vast majority of cases, your work was only a desk exercise and actual inspections on the ground were virtually non-existent?

Mr Poulton: We carried out a small number of site audits that were very much focused on whether the installation met the regulations. A lot of the activity, such as verifying commissioning, metering, reports and schematics, was done as part of the application process. The small number of site audits were done to inform any changes we might wish to make to the application process and to operational ways of working, but it was also there to inform anything on policy.

Mr Easton: How many did you inspect?

Dr Ward: I will provide clarity on the inspections by year. In 2013-14, we conducted site audits on five installations; in 2014-15, we conducted a further 12 site audits; in 2015-16, we conducted 14 audits; and in 2016-17, reflecting the spike in applications, we have conducted 26 audits to date. In line with business as usual, we expect to conduct a further number of audits, also taking on board evidence from PwC and other findings.

Mr Easton: Do you consider it was your organisation's role to inspect the sites to see whether everything was being done properly?

Dr Ward: Yes. The arrangements we had with the Department were clear, in that we would procure the audits that had been agreed and funded by the Department. So, we employed a specialist third party.

Mr Easton: At that point, was there a level of agreement with the Department on how many you would go out and inspect?

Dr Ward: Yes. Again, that was based on the general approach —

Mr Easton: Is it fair to say that, out of the 2,128 applications, you agreed through some sort of mechanism with the Department to do only 57? Is that what has been agreed?

Dr Ward: Based on year-on-year discussions, that has been part of our annual funding arrangements with the Department.

Mr Easton: Would you like more inspections?

Mr Poulton: In 2014-15, because there was a higher volume than expected, we logged a change request to do some additional site audits in that year. In 2015-16, there was another change request to say that the volume had significantly gone up and there were more audits to be done. The ideal is to agree the funding at the beginning of the financial year. It is based on the volumes that are known at that time, so change requests follow later to request additional audits.

Mr Easton: About 57 have been inspected, and there have been 2,128 applications. The rest have never been inspected.

Dr Ward: In terms of site audits by us, yes. There have been the more recent PwC site visits. To put it in context, it is a 20-year scheme. Our robust upfront accreditation checks are then supplemented by audits, which are often done in subsequent years. Our expectation is that, in line with our normal business-as-usual approach to administration and at current audit volumes, the majority of applicants could expect an audit at some point during their participation in the scheme, and we reserve the right to inspect or audit stations on more than one occasion.

Mr Easton: So someone could theoretically put some of these in an empty barn and heat them up, and you will not inspect them, possibly, for 20 years because there are so many applications. Is that fair? Because of the amount you inspect every year.

Mr Poulton: Yes, under the view that we would not inspect every single installation. Correct.

Mr Easton: In a scheme, like this would you not expect some sort of agreement between you and the Department to inspect all these facilities in as short a period as possible, especially if they are not being used for what they should be?

Mr Poulton: There is a view now to do additional business-as-usual audits in 2016-17, but there were very issues identified in 2013-14 and 2014-15 when the volume was lower. A small number of site audits were carried out at that time, but there is a view to do more in 2016-17.

Mr Easton: Is the amount you have decided to inspect or been allowed to inspect by the Department because it is the number you were pushing for, or is it just the number the Department allowed you to do? Which was it?

Mr Poulton: It was a small targeted number. We put in a request for funding that is broadly in line with the Barnett formula —

Mr Easton: So the number inspected was the number you wanted. Is that fair enough?

Mr Poulton: It was part of the audit strategy, and it was agreed in the audit strategy how many we would do.

Mr Easton: And that was agreed by the Department.

Mr Poulton: Yes, as part of the change control process that finalises the funding, including for the number of audits.

Mr Easton: Did it not seek more inspections? Did the Department ever say to you, "We think you should be looking at more of these," or did it just accept the number that you wanted to do?

Dr Ward: In November 2015 we engaged in discussions, and the Department requested at that stage that we increase the number of site audits as part of our dialogue about the spike in applications. We mobilised and conducted further audits in 2014-15. After the change request that we mentioned previously, we conducted audits in March 2015-16 and again agreed that we would do more this year and in subsequent years.

Mr Easton: Out of the 57 that have been inspected so far, have any proven to be not compliant?

Dr Ward: Yes. There were no non-compliances identified in the early years prior to 2014-15. From 2014-15, non-compliances have been identified.

Mr Easton: How many?

Dr Ward: There were 20 individual non-compliances.

The Chairperson (Mr Swann): Sorry, Edmund — how many sites?

Dr Ward: Twenty non-compliances across 11 sites.

The Chairperson (Mr Swann): In what year?

Dr Ward: In 2014-15. I will give a short summary of what they were to the Committee. There were heat losses not being properly accounted for. The most common category was where there was external pipework, which may or may not ultimately have had a material impact on payments. The other most frequent issues were around lack of fuel records and meter components not being installed correctly. Again, that did not always have a material impact on payments but could be, for example, where meter components were not installed in line with the manufacturer's instructions.

Mr Easton: Were any of the ones that were inspected in locations that they should not have been in, or were they being used in a way that they should not have been?

Dr Ward: To clarify, the scope of these audits is to identify non-compliance with the scheme regulations, so this is slightly different to the PwC site inspections in terms of informing a policy approach. As a result of those site inspections, we have had to conduct sanctions. That has had a financial impact on payments.

Mr Easton: Was it serious fraud?

Dr Ward: We have not concluded any fraud investigations on the scheme. To date, we have a number of ongoing investigations —

Mr Easton: Which could potentially —

Dr Ward: — which could potentially lead to fraud prosecutions. We obviously have a robust process around referrals and then moving into investigations and engaging with other parties as appropriate, but, even in parallel to potential fraud or suspected fraud allegations, if there are compliance issues, there are situations where we have suspended payments or where payments have been adjusted on the basis of findings, both retrospectively and moving forward.

Mr Easton: I think I have finished.

The Chairperson (Mr Swann): Edmund, to go back, you talked about the site inspections and the non-compliances. In 2014-15, it was across 11 sites. In 2013-14, how many sites did you find non-compliances on?

Dr Ward: There were no non-compliances identified in 2013-14. Five sites were audited.

The Chairperson (Mr Swann): What about 2015-16?

Dr Ward: In 2015-16, 14 site audits were conducted and 19 non-compliances were identified.

The Chairperson (Mr Swann): How many sites?

Dr Ward: Less than 19. Sorry, I do not have the number immediately to hand, but I can confirm that.

The Chairperson (Mr Swann): The figure you gave us was that, in 2014-15, you inspected 12 sites and found non-compliances on 11 of them. Did you flag that with the Department?

Ms Lockhart: I thought that 11 sites were inspected and there were 20 non-compliances.

The Chairperson (Mr Swann): Yes, but there are multiple non-compliances on one site.

Dr Ward: Yes, to confirm, there were multiple non-compliances on one site.

The Chairperson (Mr Swann): But 11 sites had non-compliances on them.

Dr Ward: It was up to 11 sites that had non-compliances. I will —

The Chairperson (Mr Swann): And you only inspected 12 that year.

Dr Ward: Yes.

The Chairperson (Mr Swann): Did you flag that up with the Department?

Dr Ward: We did have discussions with the Department about the nature of the non-compliances identified and the themes that were identified.

The Chairperson (Mr Swann): Did you flag up that, of 12 sites inspected, 11 had non-compliances? That is the majority of sites you inspected. Of the 12 sites, you found one that was within the ethos of the scheme and was compliant.

Dr Ward: Again, to confirm, not all of those sites eventually resulted in a material impact on payments. For example, as part of the normal arrangements, the expectation was that Ofgem would act on the basis of non-compliance findings and raise those as appropriate, but, yes, we did discuss the findings and the level of non-compliance with the Department. A full summary of audit findings was not shared formally with the Department until November 2015.

Mr Clarke: Sorry, did I pick that up right? Did you say "not formally"?

The Chairperson (Mr Swann): It was not shared with the Department until November 2015. I take it that you work in financial years when you say 2014-15.

Dr Ward: Yes.

The Chairperson (Mr Swann): So that audit completes, Ofgem inspects 12 sites, finds 11 of them in breach —

Mr Poulton: Sorry, just on the numbers, 11 sites were inspected. I do not think we know how many sites the non-compliances related to.

The Chairperson (Mr Swann): Sorry, Edmund is just after telling us, Chris. What is it? What information has Ofgem got down there? Can you share it with us or not?

Mr Poulton: According to my list, in 2014-15, we did 11 site audits.

The Chairperson (Mr Swann): Sorry, Edmund told us that it was 12.

Dr Ward: It was 11 post-accreditation site audits and one pre-accreditation site audit. Twelve audits were conducted. Again, apologies to the Committee if that has been confusing with mentioning all the numbers. I take responsibility for that. What I do not have here is the breakdown of the individual site-level non-compliances. We obviously have that information available, because we have taken actions —

The Chairperson (Mr Swann): And you did not think that it would be beneficial to have that today?

Dr Ward: In terms of the observations and non-compliances, we summarised the impact and potential impacts on payments. That is the summary that we have prepared.

The Chairperson (Mr Swann): We have a lot of questions here, gentlemen — apologies, Jane, I know that you have not had the opportunity to contribute much at this stage. Gentlemen, to be quite honest, your evidence to us is more confusing and you have raised more questions that you have answered. I thought that, by bringing Ofgem here, we would bring some light and clarity to the process and the scheme, but we are not getting that. The information that is coming forward is poor. You said that you had rehearsed for this. I would hate to see you here if you had not; I really would.

You talk of financial implications. Have those been enforced?

Dr Ward: Yes. We have —

The Chairperson (Mr Swann): Is the Department aware of that?

Dr Ward: Yes.

The Chairperson (Mr Swann): When was it made aware?

Dr Ward: In the 2014-15 audit programme, audits were conducted towards the end of 2015. As you would expect, sanctions and compliance actions take time to go through due process, and that is why we did not share the findings with the Department until later in 2015-16. I recognise your concerns about not having that fully documented here and am happy to commit to sharing that with the Committee.

The Chairperson (Mr Swann): Alex touched on your level of inspection. From what I am led to believe and what my documentation tells me, your level of inspections is based on Barnett equivalence, which is at 3%. Is that 3% of applications or 3% of funding? There seems to be an implication at the bottom of the table that it was the cost of inspection that was set at 3%, rather than 3% of applications.

Mr Poulton: The formula is used to do 3% of funding, and then an amount of money within that was allocated to audit.

The Chairperson (Mr Swann): So, is it that 3% of the moneys are payable in Northern Ireland and you then work out your cost per audit? Is it not 3% of the applications?

Mr Poulton: No, it is not that 3% of the applications are audited.

The Chairperson (Mr Swann): The figures that we have — I am taking them at hand, because Alex repeated the 57 a number of times — 2013-14, five; 2014-15, 12; 2015-16, 14; and then an increase in 2016-17 because of the increase in applications. That is about 2.6% of the entire applications. Do you think that that is an acceptable level of audit?

Mr Poulton: It is a small number of targeted audits. We have taken independent advice this year about, as well as doing targeted audits, taking a sampled approach to audits. With the work that PwC did on site visits, that is substantially higher this year, but historically it has been informed by —

The Chairperson (Mr Swann): We are fully aware of the level of the PwC audit, and I think that we will compare Ofgem's level of audit against that of PwC and its findings. I am concerned about the lack of what you have found, or your inability to tell us what you found when you were on site.

Mr McMullan: I am being respectful when I say this, but I honestly think that you need Northern Ireland training yourselves. What you have told us is bordering on taking us for granted. Without looking at that chart — I think that that is confusing you — what is the set down percentage of inspections on applications? On every grant here, there is a percentage. On agriculture, is it 5% mandatory site visits. How many have you got down there? What is your mandatory figure for visiting sites?

Dr Ward: So —

Mr McMullan: It is a clear question. Without going into a whole load of words, have you got a figure?

Dr Ward: Historically, our rate has been based on 3%, in line with the general approach to Barnett.

Mr McMullan: Have you covered 3% of all your site visits?

Dr Ward: Given the spike —

Mr McMullan: Do not look at that, just look at me. Have you covered your 3%? Yes or no?

Dr Ward: Not as of now, but by the end of this financial year —

Mr McMullan: Forget about this financial year. I am talking about since you took this over. When did you take this scheme over?

Dr Ward: We have been administrating the scheme since it was launched in November 2012.

Mr McMullan: So you have not put into operation a specific percentage of mandatory site visits? Out of all the people who you have said were — for want of a better word — caught here, or in some way being investigated, how many of them are totally out of the scheme?

Dr Ward: There are some ongoing investigations, but of those which have concluded —

Mr McMullan: How many are out of the scheme?

Dr Ward: Zero.

Mr McMullan: Zero are out of the scheme, and we are still looking at some that are in the scheme. Out of those that were caught — I say "caught", but I am not using that in a very bad way; I use it in our way — how many of them were allowed to fix their application to carry on?

Dr Ward: Of those identified from the audits?

Mr McMullan: Yes.

Dr Ward: Where non-compliances have been identified, in all cases we will have suspended —

Mr McMullan: I did not ask you that; I asked you the number.

Dr Ward: So the —

Mr McMullan: You are back to that graph again. That is the one that is doing you harm. How many actually were allowed to carry on, number-wise?

Dr Ward: We look at every case on its merits. A fraction of those go through a formal sanctions process —

Mr McMullan: I know all of that. How many? Can you tell me?

Dr Ward: I can tell you that, out of the ones that we have looked at, they have either had payment suspended, there are ongoing investigations, or they have rectified whatever —

Mr McMullan: How many are suspended?

Dr Ward: There are —

Mr McMullan: This is like pulling hen's teeth. How many are suspended? You should know. When you came here today to this Committee, that is a basic question you could have been asked. How many are suspended from your scheme?

Dr Ward: The number of rejected applications is 12. The number of applications which did not continue is —

The Chairperson (Mr Swann): No, no, sorry, Edmund, you are trying to go around the question. Oliver is trying to find out how many of the people that you audited are now suspended from the scheme. How many people have Ofgem removed after the audit?

Mr Easton: Out of the 57.

The Chairperson (Mr Swann): Out of the 57.

Mr McMullan: Out of the 57.

Dr Ward: Again, my answer to that is zero.

Mr McMullan: None?

Dr Ward: None.

Mr McMullan: So we still have everybody in the scheme.

Dr Ward: Yes.

Mr McMullan: How many are we seriously looking at? You talked about serious cases could be investigated further.

Dr Ward: There are three ongoing cases of suspected fraud or potential fraud.

Mr McMullan: When were they caught?

Dr Ward: Sorry?

Mr McMullan: When were they caught?

The Chairperson (Mr Swann): What year were they inspected?

Mr McMullan: What year were they caught?

Dr Ward: The three open cases are all from the 2016-17 financial year. There are none before 2016.

Mr McMullan: There are none before. Everybody was upfront before 2016-17? Is that correct?

Dr Ward: Yes, that is correct.

Mr McMullan: With all of that rush of applications — it took nine months to do each application — how did you ever manage to get them through the system to get us here today?

Dr Ward: Seven to nine months was the average time to process some applications. Some of those came through more quickly and some more slowly. In line with our operational approach, we have looked at those applications in parallel, as you would expect —

Mr McMullan: Where is your team that you sent over to investigate these applications from? Where does your site visiting team come from?

Dr Ward: The auditors that go onto sites are a third-party contractor which went through an open procurement process —

Mr McMullan: Who were they? Who was your third-party contractor?

Dr Ward: That is a matter of public record. It is Ricardo Energy and Environment.

Mr McMullan: Where are they from?

Dr Ward: They are an international agency.

Mr McMullan: Where are they based?

Dr Ward: They have offices in the UK. Their energy and environment division does not have an office in Northern Ireland. The inspectors —

Mr McMullan: So you hired them from England and sent them over here.

Dr Ward: They came from Glasgow — from Scottish and English offices.

Mr McMullan: Were they all trained for this?

Dr Ward: Yes. They use a template that is specific to the Northern Ireland scheme. They have had specific training on the requirements of the Northern Ireland scheme and the regulations.

Mr McMullan: Good. Were they in from the start in 2013?

Dr Ward: They have been in place since 2013-14.

Mr McMullan: And they caught nobody until 2016.

Dr Ward: They have identified non-compliances. Once they go out on site they produce a report of non-compliance, and then it is for Ofgem to review that report. Once we are satisfied that it is an accurate representation of the position on the ground, we then, on a case-by-case basis, apply sanctions in line with the regulations. Again, there are sanctions and our duty is to apply sanctions where those are appropriate. In some cases, that means suspending payments, and in some cases —

Mr McMullan: I have one last question, Chair. What year was the big rush of applications?

Dr Ward: It was 2015-16.

Mr McMullan: So everything was OK with that rush; it was just 2016-17.

Dr Ward: Sorry?

Mr McMullan: What was caught in 2015-16?

The Chairperson (Mr Swann): Oliver, that rush would have taken to 2016-17 to get on the ground.

Mr McMullan: OK, thank you.

The Chairperson (Mr Swann): Is the Department aware of the three cases that you are investigating for suspected or potential fraud?

Dr Ward: The normal approach to —

The Chairperson (Mr Swann): Is the Department aware of those, Edmund?

Dr Ward: It is aware that there some open investigations but it is not aware of the details of those investigations.

The Chairperson (Mr Swann): Is it aware of the number?

Dr Ward: It is aware of the number, yes.

The Chairperson (Mr Swann): OK, thank you.

Mr Kearney: Having established that you brought in a third-party contractor to carry out the inspections, how did you then qualify or indemnify the ability of the third-party contractor to carry out the inspections?

Dr Ward: They were procured through a public sector framework arrangement. We had a number of tenders, which were assessed based on —

Mr Kearney: By your organisation?

Dr Ward: — expertise. Yes. The contractor was appointed having met the requirements.

Mr Kearney: You said earlier that the audit inspection process and the number of visits were set down and agreed by the Department and yourselves.

Dr Ward: Annually, as part of agreeing funding, we agreed how many audits that would be. That was the approach to date. Until 2015-16, that was 3% of the GB audits, in line with the Barnett formula.

Mr Kearney: So because you have not carried out your threshold of 3% — because you said that — who is at fault, you or the Department?

Dr Ward: The consequence of the unprecedented spike in applications is that, by the end of this year, we expect to be at or close to that 3%. As it stands now, we are below that —

Mr Kearney: No, no, no; back up. Did you meet the 3% threshold of visits from the beginning of the scheme on a year-on-year basis?

Mr Poulton: In 2013-14, it was 4.2%. It was 2.8% in —

Mr Kearney: Is that the following year?

Mr Poulton: The following year, 2014-15. We did request additional funding in 2014-15 but were made aware that there was not additional money to do further site audits. That was part of one of our meetings in 2014. In 2015-16, the rates did drop, and that is because of the lag of processing those applications.

Mr Kearney: What do you mean by dropped? You did much less than 3%, and much less than even 2.8%.

Mr Poulton: In 2015-16, yes, absolutely. The applications came in a spike in September, October and November.

Mr Kearney: How many visits did you carry out? Rather than telling me that it dropped, what was the percentage of visits carried out?

Mr Poulton: There were 14 visits in 2015-16.

Mr Kearney: What was the percentage?

Mr Poulton: It was 0.89%.

Mr Kearney: That is less than 1%.

Mr Poulton: Yes.

Mr Kearney: Well less than 1%.

Mr Poulton: Yes.

Mr Kearney: That is why you were giving me the figures, rather than the percentage: because it was 2.2% less than the set threshold for visits.

Mr Poulton: It was, yes.

Mr Kearney: That is why you gave me the number of visits rather than answered my question about percentages. That is the question that I asked you: did you meet your percentage threshold?

Mr Poulton: We did not meet the threshold in 2015-16, no.

Mr Kearney: You did not. That is OK. I have a friend who has just got a new oil-burning boiler installed for heating their house. It is done through a scheme that exists through the Housing Executive. They get a rebate. First, they had to get a plumber qualified under the scheme to install the boiler, OK? That is the first thing. The second thing that they had to do was to get the qualified plumber to bring in another assessor to indemnify the work that the plumber carried out. The assessor had to be acceptable under the scheme. Thirdly, building control came out to assess all of the work and to sign off on the installation of the boiler to ensure that it was entirely compliant and that all of the paperwork submitted by the boiler man and then by the assessor of the boiler man's work was entirely compliant and in order. That was to get about £400 back in relation to the installation of a domestic oil boiler. My question, then, is this: having brought in your third-party contractor to carry out site inspection visits, was the level and the nature of the inspection adequate and proportionate to the type of scheme that you were expected to oversee?

Dr Ward: Our experience is that the detail of audit reports and the level of expertise that those auditors carry out means that, yes, we have been able to identify non-compliances with the regulations. Again, it is important to note —

Mr Kearney: You can only do that if you carry out your threshold of visits. You have not been doing that.

Mr Poulton: I think that, in 2015-16, due to the rush towards the end of the year to mobilise that number of site visits in January and February — to get them done in that year — the 2016-17 year was very much front-loaded, with, I think, 26 audits done very much at the start of that year to cover what had come through towards the end of the previous year.

Mr Kearney: Go back to my question. I think that it is good if we stick to the questions, and then we get the answers to the questions. Was the nature of the inspections commissioned by you adequate to the job?

Mr Poulton: Yes, in order to assess the inspections in line with the regulations.

Mr Kearney: Adequate and proportionate to ensure value for money? Bear in mind the little story that I told you about my friend.

Mr Dunne: What about the risk?

Dr Ward: As context —

Mr Kearney: On that point, Edmund, can you also consider Gordon's point? Particularly going right back to 2012 and 2013, in your feasibility study, you flagged risk. Have the inspections been proportionate and adequate to guarantee best value for public money?

Dr Ward: I am satisfied that the individual audits carried out are sufficient to identify non-compliances. On the number of audits conducted, a decision had been made about the audit profile to give us a scale on it. If the cost of conducting an audit is a cost to the taxpayer of around £1,000, whereas the overall administration cost for us associated with the number of applications coming in for desk-based checks, historically, has been of the order of £100 to £500, depending on the number of applications, there is clearly a trade-off there on where it is appropriate to do risk-based audits.

The number of audits that have been conducted to date, given the low levels of non-compliance that were found on what we accept was a low absolute number of audits, was sufficient that, in subsequent years, we did not increase the rate of audits. Given the increasing volume now, we are actively in discussion with the Department about what the appropriate audit volume, risk and sampling regime will be for this year and onwards and, again, for the remainder of the 20-year scheme.

Mr Clarke: Following on from that, who made the decision? Following on from Declan's point, when you brought in the services of another company, who made the decision that it was acceptable for it to do less than 1% of the checks? Is that a decision that it made, or is it a decision that your organisation made?

Mr Poulton: I do not think that we are saying that it is acceptable to do less than —

Mr Clarke: No, sorry; I go back to what Declan said: if we stick to the questions, we will get on better here. We have established now that there was less than 1% done, when you needed to do 3%. Did the company that procured the contract from you decide to do less than 1%, or did you offer that it could do less than 1%?

Mr Poulton: We deployed the company to do the audits, so the number done was via us. We gave it the sites to —

Mr Clarke: So the responsibility lies upon you. You talked about the flaws in the process, but you created more flaws. I take you way back to two hours ago when, in response to Robbie, you said that you had concerns about the cost-control measures, but someone in your organisation made a

conscious decision, "Yes, there are cost-control problems, but we will audit less than 1%, even though we should be doing at least 3%".

Dr Ward: The Department was responsible for funding us, and we deployed the number of audits in line with that funding. The focus of those audits was to identify non-compliances on particular sites and to identify any themes or trends. It was not intended to assess the policy, the design or the presence or absence of cost-control mechanisms.

Mr Clarke: I picked up something different from what Chris said in response to Declan. He gave the cost comparison of the £1,000 per inspection to do a real audit and the £500 for a desktop check. I am just wondering: was this purely a commercial decision by Ofgem to make more money by doing desk audits, because it was getting paid to do that, as opposed to paying an external company £1,000 to do external and meaningful audits?

Dr Ward: No.

Mr Clarke: You can understand why some of us would think like that; you are not covered in glory here today.

Dr Ward: To confirm, the chain of events was that we agreed with the Department the amount of funding for the following year. That would include a number of audits, based on a percentage, and we would then procure that number of audits in line with —

Mr Clarke: When you agreed the funding, was it agreed that you would reduce the 3% to 1%, given that it was done on the funding model, as opposed to what your obligation was?

Mr Poulton: No, but there was an amount agreed, based on what, at that stage, the amount of applications was considered to be.

Mr Clarke: I am not worried so much about the applications at the moment; I am more interested in the audits. You brought in an external company to do the audit process, and you had negotiations with the Department about the funding and about how you go year-on-year. Was there a conversation between you and the Department about reducing it from 3% to, as we have heard, less than 1%? Was there a conscious decision made by either you or the Department to reduce the amount of funding for that purpose?

Dr Ward: The funding for 2015-16 was agreed in advance of 2015-16. At that stage, the expected volume of applications was much lower, and, therefore, the funding was based on that expected volume of applications. We then saw the spike. We engaged with the Department and agreed a change request. We had an additional sum of money specifically to conduct a small number of further audits in 2015-16. Those were then conducted. That is why we conducted eight audits in March of 2015-16 and some more in 2016-17.

Mr Clarke: On the less than 1%, we seem to be concentrating on one year. Chris, you could make this a lot easier for us all if you give us the breakdown in percentage terms of each year that you have done a full audit. What percentage was actually carried out?

Dr Ward: To be clear, in 2013-14 it was 4.2%; in 2014-15 it was 2.8%; in 2015-16 it was 0.89%; and, based on our current agreement with the Department for 2016-17, we expect it to be not less than 2.4%, but that may be varied versus the findings from PwC.

Mr Clarke: That is interesting. We are in the middle of this inquiry, and you have mentioned negotiations with the Department. Given this whole debacle, why on earth are you still talking about only 2.4%? In response to the Chair, you talked about 57 non-compliances. Given that there is a reasonably high level of non-compliance, why are you not going back to speak to the Department about increasing the number of inspections?

Mr Poulton: In parallel, the other site inspections have been done. The business-as-usual percentage is to reach 3%. On top of that underlying threshold, there are obviously other activities going on to do site inspections. This number has very much been around reaching the 3% or as close

to the 3% threshold as funding is available, but there is obviously other work ongoing to look at other sites with a different partner.

Mr Clarke: Chris, if you negotiated with your employer and were offered a 3% pay rise, would you settle for 0.89%?

Mr Poulton: No.

Mr Clarke: Your negotiations with the Department were for 3%, and you settle for less than 1%. None of us around the table would settle for a 0.89% pay increase if we had agreed 3%. Would you, in Ofgem, be any different?

Mr Poulton: Because of the applications coming through in 2015-16, there was not enough time to deploy audits to get to 3% in that year. At the beginning of 2016-17, there are more audits to look back historically at the applications received during that time.

Ms Lockhart: It just gets better and better. I am going to go back to eligibility criteria. There is obviously a lot of concern around the eligibility criteria, particularly that it seems to be weak and open to interpretation. That goes back to the eligibility criteria versus your controls and mechanisms and your ability to strike people off this scheme. Would you say that there is a direct correlation? What is your summary of the eligibility criteria and how that has impacted on the application process?

Dr Ward: A number of the eligibility criteria in the regulations relate to the type of technologies and equipment, and I think that those are clear. There are then eligibilities in relation to the uses of heat, and, again, those uses are quite clearly defined. They are quite broad, and there are relatively few exclusions from those eligible uses of heat. There is then a blanket provision that says that heat must not be used predominantly for the purpose of increasing support payments. Those are the primary bits of regulations that are relevant to our administration at a high level. Those are clear. There is a separate question around the extent to which that matches a policy intent or desire, but, to be clear, our role is to administer the scheme in line with the regulations as they are written. To that end, we look at installations on a case-by-case basis and take decisions. The regulations are clear.

Ms Lockhart: The draft PwC report found that the terms "useful", "usable" and "predominant purpose", which you have used today, were not defined. It found that the term "eligible purpose" was only defined as:

"a purpose that is not an ineligible purpose".

Do you agree that those terms are open to abuse?

Dr Ward: I agree that they are broad terms and therefore do not rule out many of the types of behaviour that have been identified in the PwC report.

Ms Lockhart: When you had sight of the eligibility criteria and recognised that they were very broad, did you raise the fact that they would make the scheme very difficult to administer?

Dr Ward: I draw a distinction. Our role, as administrator, is to be sure that our duty is clear so that we know, for example, whether we should approve or reject an application. From the regulations, as drafted, it is clear cut as to whether an application is eligible or not. Whether that matches the current or previous policy intent of the Department is a separate question, but it is ultimately one for the Department.

Ms Lockhart: Is that eligibility criteria the same as that used in Great Britain?

Dr Ward: There are many parallels between the eligibility criteria here and those in the GB regulations. The key aspect of scheme being heat use for space heating, buildings, and the process is equivalent to the process GB. The increase in payments is equivalent to that in the GB regulations.

Ms Lockhart: If the eligibility criteria are quite similar and there are a lot of parallels, as you state, is there the potential for abuse in Great Britain? Are we looking at a similar situation there?

Dr Ward: Some of the examples of behaviours that may or may not be in line with policy intent are common across the Great Britain and Northern Ireland RHI schemes. Again, to draw a distinction, in many cases that does not mean that there is non-compliance. We are administering both schemes in line with the regulations, but there are some examples of behaviours that have been supported by the regulations. Some of those behaviours are common to both the GB and the Northern Ireland schemes.

Ms Lockhart: Was there any tie-up between yourselves, working on the Northern Ireland side of things, and those who are working on the scheme in the Great Britain. Was there crossover of people and information sharing? Obviously, I do not mean confidential information, but was there any information sharing that led you to think, "There is something different or something not quite right here." Did any of that take place?

Dr Ward: Absolutely. We have shared the themes of our findings on the Great Britain scheme and the Northern Ireland scheme to come up with the overall themes of UK RHI administration. Those are themes that we have shared with the Department in Great Britain and the Department in Northern Ireland. So, yes, that information has been shared.

Ms Lockhart: Yet, we seem to be in a situation where the Government are set to lose an extortionate amount of money. To my mind, your information sharing did not work.

Dr Ward: Again, I emphasise the awareness of, for example, cost controls and degression. That was a matter of public record and was in the public domain from the Departments in GB and NI. Those Departments have taken different approaches to those issues, but they are policy decisions for those separate Departments. We have supported administration in line with the regulations for each of those schemes.

The Chairperson (Mr Swann): If an application for a scheme that is primarily used to heat a house but also has a small sideline, heating an outbuilding or office, for example — is that valid in Ofgem's view?

Dr Ward: Again, it depends on the circumstances. To give a high-level view, multiple domestic premises are supported on the scheme. So, for example, if there is more than one premises in a mini-district heating scheme, then it is supported under the scheme; if it was a single domestic property, that is not supported under the non-domestic scheme, although it may have been eligible under the domestic scheme.

The Chairperson (Mr Swann): And if there is an outbuilding or office being heated as well?

Dr Ward: If they were regarded as separate premises, it would meet the requirement of being more than one premises; therefore, it would be in line with current regulations.

The Chairperson (Mr Swann): What percentage of the non-domestic renewable heat incentive can be used for a house and an office, then?

Dr Ward: Again, there is a provision in our regulations. If the purpose of heating one or more of premises was predominantly for the purpose of increasing payments, then that is something that we could *[Inaudible.]* compliance on —

The Chairperson (Mr Swann): I am not talking about increasing payments —

Dr Ward: As for eligibility, if they are separate premises, there is no defined proportion or percentage to be applied —

The Chairperson (Mr Swann): So, 95% of your renewable heat incentive could be used to heat the house?

Dr Ward: That is the position under the current regulations and guidance.

The Chairperson (Mr Swann): How about 99%?

Dr Ward: Again, if there were legitimate uses and it did not fall foul of predominantly increasing payments. That is how the regulations are structured.

The Chairperson (Mr Swann): Are there any occasions where suspicious changes in usage were identified to you?

Mr Poulton: With the periodic data submissions, there are a number of thresholds for analysis in the system that looks at changes in heating patterns. In around 50% of circumstances, they are manually reviewed, and if those changes require further investigation, sometimes the form for submission will trigger a questionnaire asking for an explanation of the change in usage. Otherwise, the team may request photographs of meter readings or further information about why the change in usage has occurred. The thresholds for analysis are managed in the system.

The Chairperson (Mr Swann): You mentioned meter readings, Chris. Meter readings trigger the payments; who takes the meter readings?

Mr Poulton: Meter readings are logged by the owner of the installation, based on the thresholds that were applied in the system for each application. If they deviate from a certain level, they are flagged for further information. It may result in a site audit, or a request for further information from the applicant and a suspension of payments, if need be, until it is resolved.

The Chairperson (Mr Swann): So, if someone applied to the scheme and they ran their boiler for 24 hours a day, seven days each week, then as long as their meter readings were consistent in showing that, Ofgem would process the payment?

Mr Poulton: If the application was consistent with that being a correct use of the boiler, then yes. The payments would trigger based on their being within that threshold for a valid meter reading, which is based on the information from the application process.

The Chairperson (Mr Swann): We are going round in circles with this. What percentage of meter readings are verified by a third party?

Mr Poulton: We do not verify meter readings on site unless a site audit is triggered from the meter-reading thresholds being triggered. Otherwise, it is an exercise to gather more information from the applicant to justify those meter readings.

The Chairperson (Mr Swann): So somebody could run this system for 20 years just by submitting meter readings to you, and you would never verify if the burner was actually turned on?

Mr Poulton: That is possible, unless a site order is triggered through variations in those readings. Correct: there is no on-site meter-reading process.

The Chairperson (Mr Swann): So, when you talked earlier of the meter-reading processing team, it is based solely in an office where?

Mr Poulton: It is a team in Glasgow that receives the meter readings. It is looking at the thresholds and the usage and making sure that is consistent with the application, requesting further evidence and manually reviewing those where required.

The Chairperson (Mr Swann): OK but nobody goes on site to verify a meter.

Mr Poulton: No.

The Chairperson (Mr Swann): So, somebody could clock or force meters in the same way as we get cars clocked, and as long as they can send a figure across to Ofgem, nobody will ever catch on?

Mr Poulton: That should be picked up by people deviating from thresholds based on the application and verified later.

The Chairperson (Mr Swann): That comes back to my first point: if you say you are going to use your burner 24/7, as long as you keep processing a meter reading that is equivalent to running a burner for 24 hours, seven days a week, Ofgem will never flag it as being unusual.

Mr Poulton: Correct: if it does not breach the thresholds.

Dr Ward: It is worth noting that we are in discussions with the Department about appropriate strategies for that going forward. We are not complacent in administering meter-reading data. I note that the PwC findings did not identify issues of potential meter-reading discrepancies. However, as I say, we are engaging with the Department on how that might be addressed going forward.

The Chairperson (Mr Swann): They have not found any discrepancies at the moment.

Dr Ward: Yes.

The Chairperson (Mr Swann): With regard to the meter readings themselves and processing that payment, when it comes to 24/7 burning, are any assumptions or adjustments made for seasonality in using burners?

Dr Ward: Yes. Again, we have a range of —

The Chairperson (Mr Swann): Unless the applicant tells you, because Ofgem —

Dr Ward: We have a range of checks. We would avoid discussing all of the details of those checks in a public session, but, for example, there are checks that we do that are not based on just the previous period but might be based on an equivalent period in a previous year, so that we are taking account of factors such as seasonality. So, yes, that is taken account of in our system-generated checks, and over 50% of submissions this year had a manual review.

The Chairperson (Mr Swann): Again, that is looking at data against data, not against the application. If I am heating an office block or car showroom for 24 hours, seven days a week, no matter the outside temperature, it is not going to be flagged by Ofgem's systems in any way.

Dr Ward: Again, there are specific triggers where usage is high. For installations that are generating at a high burn rate —

The Chairperson (Mr Swann): But what if I have already told you it is going to be high?

Dr Ward: — we would seek evidence and explanation of why that was high. If we were satisfied with the explanation —

The Chairperson (Mr Swann): Sorry, Edmund, but if my initial application to you said it was going to be high 365 days a year, you are not going to query that.

Dr Ward: In many cases, we would still be querying that every quarter. An explanation would be requested alongside those meter readings.

The Chairperson (Mr Swann): I send in a meter reading and say that it was cold and that is why I put the heating on.

Dr Ward: We would review each of those on a case-by-case basis.

The Chairperson (Mr Swann): And the follow-up would be what?

Dr Ward: Potentially further evidence. Potentially photos of the meters to validate the usage as being correct.

Mr Clarke: The last point that Edmund made I found interesting. Obviously, there is the other renewable energy from solar panels. In response to the Chairman, you talked about photographs of

the meters. Why is that not just custom and practice, given that they use that with the other technology?

Dr Ward: A range of levels of evidence that we request —

Mr Clarke: No, sorry, I feel we are going to go away off on a wee tangent, here, Edmund. Let me phrase this slightly differently. The Chairman has a suspicious mind about car dealers. I used to be a car dealer, and I never clocked a car. There were people out there who clocked cars.

The Chairperson (Mr Swann): I never mentioned you, Trevor.

Mr Clarke: No, I am only joking now. We are using new meters now for solar panels. I was never lucky enough to get one of those wood ones; I wish I had now, but anyway. I have one of these solar ones, where I have to take a picture of it twice a year that shows the digital reading, the serial number and everything else. That would have prevented the problem that the Chairman is talking about; that is, taking the word of someone.

Given that that scheme has been out for some time, why are you not administering this scheme in the same way?

Dr Ward: We are discussing with the Department how we might look at meter readings —

Mr Clarke: Sorry, I am saying to you clearly that the other scheme has been out for a considerable time. The attractiveness of it has changed somewhat as well in terms of what we get paid, in terms of ROCs, but there is a big rush for that so that people get locked in. The whole scheme has fallen because there are no safeguards. The safeguard in that scheme is that you must take a picture of your meter that shows clearly, on an LCD unit, the units that you have used and the serial number of your meter, and you must supply it to the person making the payment. I am asking you clearly, Edmund, why was that not part of this scheme?

Dr Ward: There are administrative costs associated with doing that, such as making changes to IT systems or processing —

Mr Clarke: There are also administrative savings. We have learned today that you cannot get to even 3% of the people with boilers to look at meters to make sure that you have been supplied with the correct readings. Would you not have suggested that the savings would have outweighed the costs?

Dr Ward: We have not conducted a full cost-benefit analysis of that, but, as I said, we are talking to the Department at the moment about options.

Mr Clarke: I do not think that you have conducted very much.

The Chairperson (Mr Swann): I talked about changes in usage. Is it possible to trade burners?

Dr Ward: There are provisions in the regulations to move or relocate boilers or for somebody to transfer ownership of a boiler. Somebody can sell a boiler, or, if they move from one commercial premises to another, they can move the boiler or sell it to the person moving into the property.

The Chairperson (Mr Swann): The application and payment goes with the boiler.

Dr Ward: Yes, payments are made to the owner of the boiler.

The Chairperson (Mr Swann): Yes, but if I sell mine —

Dr Ward: If you were to sell the boiler to somebody else, we would stop making payments to you and make them to the person to whom you sold the boiler, as long as they —

The Chairperson (Mr Swann): Does the person who bought the boiler off me have to reapply?

Dr Ward: We would go through a change-of-ownership procedure. We would make sure that they understood what the scheme requirements were and get evidence from them. It would not be a full

fresh application; it would be transferring the contract from you to them. That is in line with what is set out in the regulations.

The Chairperson (Mr Swann): It is done solely on paper. Are there no follow-up checks? Nobody comes to look at it?

Dr Ward: It would not typically involve somebody going on site.

Mr McMullan: On the boilers, there is a thing called accreditation. What is that?

Dr Ward: Accreditation is the process that we define: an application is made, and we process all the information then make a decision on whether to accredit onto the scheme. That, in lay terms, is when the contract starts.

Mr McMullan: Accredite the boiler?

Dr Ward: Yes.

Mr McMullan: On what standard?

Dr Ward: Whether it meets all the requirements in the regulations.

Mr McMullan: Does any one person have the contract to supply the boilers?

Dr Ward: There are no requirements in the —

Mr McMullan: No. I will start again. Does any one person have the contract to supply the boilers?

Dr Ward: No. There are lots of suppliers of boilers on the scheme.

Mr McMullan: Did anybody get the job of supplying the boilers in that scheme?

Dr Ward: Any owner of a boiler, whoever they bought it from and whoever the installer was, can apply to the scheme.

Mr McMullan: Did any boiler supplier complain about somebody else supplying boilers?

Dr Ward: I do not recall any concerns being raised by boiler installers with regard to others.

Mr McMullan: You do not recall anything at all.

Dr Ward: No.

Mr McMullan: OK.

The Chairperson (Mr Swann): OK.

Mr McMullan: Right. And —

The Chairperson (Mr Swann): Briefly.

Mr McMullan: You took the wind out of my sails.

Mr Dunne: Chair, am I doing 8?

The Chairperson (Mr Swann): Yes.

Mr Dunne: A number of these questions have been asked already, so I will not go over them. I want to summarise a few points. Was anyone from Ofgem resident in Northern Ireland, or were all the people based on the mainland?

Mr Poulton: No one from an administration team was resident in Northern Ireland.

Mr Dunne: Was that seen as a risk right from the start?

Mr Poulton: There was, I believe, some early discussion about whether it was appropriate to have someone based over here. It did not come to fruition from an administration perspective, because there were people on-site dealing with policy, and administration was carried out in Glasgow and London.

Mr Dunne: The administration was carried out in Glasgow and London.

Mr Poulton: Yes.

Mr Dunne: The actual inspections were carried out by a contractor. Was there any risk of a contractor having a conflict of interest? Is it possible that someone involved in the supply or installation of such appliances did the inspections on your behalf? Did you look at that risk?

Dr Ward: Yes. We went through a full tender process before appointing Ricardo Energy and Environment, which has been the auditor since 2013-14. As part of the process, it declared any conflicts of interests, but its role is such that it was not involved in installations at particular sites.

Mr Dunne: Are you satisfied that you verified that it is not or was not involved in installation work?

Dr Ward: I am aware that Ricardo notified us, on a very small number of occasions, of a potential conflict of interest with the Great Britain scheme — it also administers a related scheme to do with combined heat and power — so I am comfortable that the mechanisms are working and that we would hear from Ricardo if there was a potential conflict of interest.

Mr Dunne: You have not done verification, however, in relation to Northern Ireland. The contractor carrying out the inspection process could have a conflict of interest.

Mr Poulton: It has not advised us of any conflict, and we have not found any conflict where it has been an installer. I do not know how we could look at all its activities across Northern Ireland to check whether it had acted as an installer —

Mr Dunne: Have gone through any verification process? Have you sent documentation to complete, sign off and return, verifying that there is no conflict of interest?

Dr Ward: There are specific conflict of interests provisions in our contract with Ricardo.

Mr Dunne: They should be declared.

Mr Poulton: Yes.

Mr Dunne: You cannot, however, verify that.

You talk a lot about the work that PwC carried out, which was done after many concerns were raised. I am sure that you are aware of that. I am not going to get into non-compliance, but I understand that it found non-compliances in more than 50% of the inspections or audits that it carried out. What is your response to that?

Dr Ward: In over 50% of cases, PwC categorised installations as not meeting all of either the spirit of the scheme or the regulations. It has subcategorised those and referred to us any sites that were potentially non-compliant. We have reviewed all those installations. I will give you a sense of that: it identified 14 sites. Of those, five were already on hold; we were not making payments to those installations, either because we had not yet accredited them — they had not met our burden of proof — or because they had notified us of a change. PwC referred five cases to us where we have now

applied a sanction and put payments on hold while we investigate. We are not taking any action on four sites that it referred to us.

Mr Dunne: I understand that PwC carried out inspections on approximately 300 boilers and found issues in more than half of the installations.

Dr Ward: The ones I just described were —

Mr Dunne: That is 150 non-compliant or potentially non-compliant boilers. Of those 150, how many have you looked at? You mentioned 14.

Dr Ward: I just talked about 14 installations, which was one of the categories: category 4. In categories 2 and 3, there were 138 installations. PwC provided some priority details of those to us, and, on the basis of that, there are six sites where we have either held payments or are looking at further investigations.

Mr Dunne: What are categories 2 and 3? Is that category 2 and category 3 of non-compliances?

Dr Ward: To be clear: category 2 and category 3 are both categories that PwC found were compliant with the regulations but may not be compliant with the wider policy intentions or with energy efficiency requirements. Again, to be clear: under the current regulations, this is not an area in which we would expect to be able to act. That said, we take any information seriously. We looked at those investigations, which is why, on categories 2 and 3, we are conducting further investigations on six of those sites.

Mr Dunne: How many did you say were under categories 2 and 3?

Dr Ward: There were 138 installations.

Mr Dunne: Is it right that you found six that are still non-compliant?

Dr Ward: No. There are six that we have enough evidence on to investigate further. We have not concluded those investigations.

Mr Dunne: What about the other 132? Have you looked at them? Will you look at them? Have you looked at the findings?

Dr Ward: We have reviewed all the referrals, and, based on the findings, we do not think that there is any other action for us to take in line with the regulations as they stand.

Mr Dunne: There must be an issue here with standards. Who sets the standards? Are we working to PwC standards or to your standards? There seems to be a variation on standards. Does that need to be addressed?

Dr Ward: PwC identified four categories. Category 1 were cases of no concerns, and categories 2 and 3 were about eligibility not being in line with intent or additional evidence on energy efficiency. In both those cases, PwC set out that that is not likely to involve non-compliance. Category 4 were cases where it is clear that they may involve non-compliance. We have discussed this with PwC and with the Department.

Mr Dunne: I understand, but there is obviously a difference in standards. We will move on.

On the findings that were discussed earlier and on the small percentage, there was a high return of non-compliance. I suppose that there are different levels of non-compliance. You are trying to explain that, and you are right that there are different levels but, on the numbers that you looked at, surely the return was high. As a result of the high return, what actions did you take to flag it up with DETI? Did meetings take place? Did you fly over here and talk or did DETI come and meet you? Was there any ongoing consultation or discussion about how we should move forward? My reading of this is that, as has been drawn out by members across the Chamber, the levels of non-compliance in those looked at was very high. Between you and DETI, why did you not sit down and say, "We need to review this. We need to increase the number of inspections because of the risk"? Do you not grasp what the risk

is? The risk is about the probability of failure, and the probability of failure was high because of the number of non-compliances found in the small number of samples that you did. I feel that no one was really assessing or managing the risk on an ongoing basis and, as a result of what was found, the rate of inspections should have been increased accordingly. Do you agree with that?

Dr Ward: I accept that, in retrospect and in hindsight, we could have engaged more on that. Again, this specifically related to non-compliances with the regulations and does not address other wider questions about abuse or gaming, which are the other words that have been used. There were no non-compliances before 2013-14 —

Mr Dunne: There were no non-compliances in 2013-14 because, in 2013-14, you looked at none.

Dr Ward: We looked at five in 2013-14.

Mr Dunne: Five out of what? Five out of hundreds.

Dr Ward: Five out of 119 applications: 4.2%. Again, I accept the point that there was a lag between audits being conducted and getting the findings.

Mr Dunne: What is the ultimate point of doing a compliance audit? What is your understanding of why you do it?

Dr Ward: They are one part of our framework of controls to ensure compliance on individual cases. When we identify potential issues, or when potential risks are referred to us either from third parties or internally, one option is to go on-site to verify that. If we put a payment on hold, for example, we may go on-site to validate and make a decision whether to take it out.

Mr Dunne: What about the purpose of audit and verification to identify a risk, take appropriate action to address that risk and stop repetition and recurrence? Is there any evidence of that ever happening?

Dr Ward: There are examples of us taking actions on the basis of the findings from our audits. We have updated the independent metering report template, for example, so that, when subsequent applicants came on, we had more information up front. We made changes to the requests for metering information — changes were made up front — and the ongoing obligations on fuel records. There are examples of us identifying themes, and, operationally, we made changes to reflect that, whether internally or externally.

Mr Dunne: How did you implement those changes? Was it done in conjunction with DETI?

Dr Ward: When the changes were internal, they were done in line with our normal approach of business as usual. They are not necessarily done in conjunction with DETI. When there was an impact on guidance, we discussed it with DETI because it was DETI's responsibility to publish the guidance.

Mr Dunne: How often did you meet DETI?

Dr Ward: We had monthly teleconferences —

The Chairperson (Mr Swann): Gordon, that was covered in the first session. I am not sure whether you were here.

Mr Dunne: How often did you meet?

Dr Ward: We had monthly teleconferences. We also had meetings in Belfast, at a senior level or in person, at least twice a year and more frequently in recent times.

Ms Lockhart: Edmund, you were there from the start, and, Chris, you came in the middle of it. Who had overall management responsibility? Who does the buck stop with? Is it you, Edmund?

Dr Ward: There was a senior responsible owner of our administration of the Northern Ireland RHI.

Ms Lockhart: Is there someone above you, Edmund, and above you, Chris, overseeing this?

Mr Poulton: Prior to my arrival, there was a senior responsible owner, and I have taken over since then.

Ms Lockhart: Are you the senior responsible owner?

Mr Poulton: Yes.

Ms Lockhart: Did the person before you highlight any of these risks to you? You came into post in 2014 and are bound to have seen that you could drive a horse and cart through this type of stuff. As a senior responsible owner, would you not have thought that you would need to tighten the governance regulations around the matter?

Mr Poulton: Absolutely. One of the first things I did when I started was to initiate that first meeting in Belfast to talk about state aid. We talked about cost control and initiated the data-sharing protocol. We also kicked off the idea that we should be meeting more regularly, which meant that the monthly meetings came in. In hindsight, we should have — absolutely — made a better effort to start to minute those conversations, but, in my view, it created a more formal and better communication and a lot more interaction between the teams at all levels.

Ms Lockhart: Edmund has fielded most of the questions today, and I commend you for continuing to try to wade your way through it. You were in a senior position, Chris, and, to be quite honest, you took over in 2014, and you are not able to give us the answers.

Mr Poulton: A lot of the questions have focused on pre 2014 and my arrival.

Ms Lockhart: What did the handover consist of?

Mr Poulton: When I joined the organisation, my role was newly created, so I took a handover on what was going on in different areas. I spoke to the teams, and that initiated those initial discussions quite quickly to try to formalise —

Ms Lockhart: Was no one really in charge of it prior to you being there?

Mr Poulton: It is not that there was no one in charge. My role was newly created — it had not existed before — specifically to oversee the schemes. A previous structural change created my role.

The Chairperson (Mr Swann): Chris, what other schemes do you oversee?

Mr Poulton: Other schemes in Ofgem E-Serve include the domestic and non-domestic schemes in GB, the renewables obligation, elements of the feed-in tariff, ECO and the warm home discount.

Mr Kearney: Taking on board your point, Chris, that a large number of questions have focused on the period before your tenure, I remind you that you reported that the percentage of checks in 2015-16 was 0.89% and that, in 2016-17, it was 2.4%, so the decision, process or reduction by osmosis of checks actively happened under your watch.

Mr Poulton: As I said, I think that the 0.89% is related to the surge in applications. What we were deploying was suddenly a much smaller percentage than the number of applications, and we deployed a lot at the beginning of 2016-17.

Mr Kearney: I think that that contradicts your stated point that a lot of this predates your tenure. It brings me back to Carla's point about governance. There are flags all over the show, and you coming into post presumably recognised the flags, but, in actual fact, in that two-year period, there was a reduction rather than an escalation in checks.

Mr Poulton: On the reduction in checks in 2015-16, there was a change request to say that there had been a surge, so our checks were falling short of our percentage. We needed more money to go in and do these checks.

Mr Kearney: I will leave it at that.

Dr Ward: May I just clarify that we absolutely accept that the number of audits was low. The number of audits has increased year on year for every year that we have been administering the scheme, and we expect that to continue. That is not taking back any of the points that you have just made.

Mr Clarke: There has been much mention of the PwC report, Edmund, and the term "parasitic wood drying" where, basically, we are getting wood and burning it, drying more wood, putting it in and burning it. I do not know whether you are on record as saying it, but, in my notes, there is a record of you saying that it should not be grant funded. Am I right to attribute that to you?

Dr Ward: There are points in the regulations —

Mr Clarke: I am sorry; my mistake. It was not you. There are too many doctors on this list that I am reading from. I will ask my question in a different way. I will take us a slight step back. Did you or your organisation have any say on what should be eligible or ineligible for the scheme?

Dr Ward: No. Our role here is to administer in line with the regulations. We discussed ways in which we could administer. There are a number of ways in which the scheme can be administered but not the purpose of what would be supported — for example, we would not expect to make a view or a judgement on policy decisions.

Mr Clarke: I will take us back three hours to when we talked about you or someone in the organisation flagging up the weaknesses in the system. Did anyone flag that up as an area of weakness, whereby you can burn wood to dry wood, to burn wood to dry wood?

Mr Poulton: I have not personally flagged that up as an issue.

Mr Clarke: To be fair, Chris, you were not there at the very start. I am happy to apportion blame to you when you started in 2014, but I am looking at Edmund on this one, to be honest. Let me put it in a different way: this scheme, similar to the UK model, was designed, you looked at it, and you were going to administer it. I have to say that there were good intentions with the scheme, but none of us around the table would accept that it was designed to cut down trees to burn them to dry more trees to burn them just to create a payment or subsidy. In plain English, did you see that as a weakness when you were asked to administer the scheme?

Dr Ward: No. I think that there is enough in the regulations about the predominant purpose being to increase payments that, when it is clear-cut and somebody was heating only to make payments — Sorry, let me rephrase that.

Mr Clarke: I know where you are going.

Dr Ward: Regulation 34(p) about the predominant purpose of increasing payments is enough for us to take action if somebody is heating wood only to put it back in the boiler. We have rejected applications on that basis in the Northern Ireland scheme.

Mr Clarke: You have rejected applications. As of today, are you aware, through your compliance checks, of anyone carrying out that practice?

Dr Ward: We are not paying anybody when we are aware that that is happening. We have a number of applications that have not been approved, and, as I mentioned, a number of ongoing compliance cases where we have suspended payments while we investigate that practice. If we were aware of any installation where the only purpose was to burn the wood back in the boiler, we would take action.

Mr Clarke: Edmund, where has PwC got that evidence from? It has clearly referenced in its report that that practice is taking place. Chris, we are back to compliance and non-compliance, checks and non-checks and the fact that you have so few checks. When on earth will Ofgem catch up with PwC?

It seems to have a body of evidence that suggests that it is common practice among many people in the scheme. Am I possibly reading it wrong, Chair?

The Chairperson (Mr Swann): No, I think that PwC has gone down the line of parasitic wood burning to an extent.

Mr Clarke: If PwC can see that there is an issue, why are you not aware of it?

Mr Poulton: We are aware of an issue, and, as Edmund said, we have declined people based on that —

Mr Clarke: No, Chris; sorry. We are not talking about declining people; they will not cost Northern Ireland plc any money. The PwC report referred to "parasitic wood drying". I am not sure whether it referenced how many were involved in that, but there is certainly a reference to that activity. What has your organisation done even to correspond with PwC to find out where those are?

Many of us have been scratching our heads for weeks about how we can draw back and whether there are any ways for money to be saved. It is interesting that Edmund has said that, in his opinion, that practice should not be allowed, is not allowed and would be non-compliant, yet PwC has said that, at the time of its report, it was common practice.

Dr Ward: It is important to distinguish between situations in which one boiler is providing heat for a commercial purpose, which may be drying woodchip. That woodchip may subsequently be sold and used in another installation that is supported under the RHI. To be clear: that is not an example of parasitic wood use. There are a number of examples like that that PwC has categorised as being potentially non-compliant —

Mr Clarke: So you aware of what PwC has —

Dr Ward: We are aware of a number of investigations of non-compliance.

Mr Clarke: What is the position of those boilers today?

Dr Ward: Again, if there is a genuine commercial use of heating woodchip and that is used elsewhere, that does not fall outside the regulations, and we would continue to pay people in those situations. The specific case that I mentioned in which we have taken action is one in which the only purpose of drying woodchip was to feed the boiler that was drying the woodchip.

Mr Clarke: In essence, that is what is happening anyway. If you burn wood to dry woodchip and take it from another use, in effect, that is all the boiler is being used for, because it is being taken to be burned again.

Dr Ward: That is an example of some of the findings in category 2 and category 3 in the PwC report. Those are issues that we have previously discussed with the Department. We are aware that that is in place, but that is a policy decision around regulations and guidance.

Mr Clarke: Oliver McMullan asked a question about people being put out of the scheme. It strikes me that anything goes, and you can do what you want because you cannot be expelled from the scheme.

The Chairperson (Mr Swann): It seems more and more like that as we go on.

Mr Kearney: To bookend Trevor's last comment, it almost seems as if there is an inbuilt facility in the scheme for gaming the system. You acknowledge that that facility exists, and, because it falls within the regulations, nobody is doing anything about it, raising it as a flag, suggesting that there needs to be an intervention or holding anybody to account. That is an observation that I am sharing with you for the record.

Let us start with the data-sharing protocol and the minutes that began to be taken from 2014 after you came into post, Chris. Did Ofgem or any of the three of you withhold any information from the Department at any stage?

Mr Poulton: We would not share specific information of fraud investigations. There was not a process of withholding documentation when things were requested; they were shared. The data-sharing protocol allowed us to share more personal information, which broadened the amount of information that could be shared and requested.

Mr Kearney: For clarification: what information did you not share?

Mr Poulton: The details of fraud investigations were not shared, but, as Edmund said, things that we were looking at were shared. Until the individual data-sharing protocol was completed, the themes of audit reports were shared but not necessarily specific audit reports because they held personal data. The non-personal data on the installations was all shared. Once the data-sharing protocol was in place that allowed personal data to be shared, nothing was hidden other than the fraud investigation piece.

Mr Kearney: OK, so only information that related to potential fraud or ongoing fraud investigations was withheld.

Mr Poulton: Yes.

Dr Ward: Again, to be clear, it was not that we specifically withheld it. To my recollection and awareness and from the preparation, we were not specifically asked for the details of those cases.

Mr Kearney: Sorry, you spoke a wee bit too fast for me there. What were you saying about the preparation for the hearing? Just back up and tell me what you said again, please.

Dr Ward: What I said was that, based on my recollection and the preparation that we did for this hearing, I am not aware that we were ever asked for details of those fraud cases. To be clear: we did not withhold any information. It is just that we would not routinely have provided —

Mr Kearney: Let me put it to you another way. The C&AG's report and internal documentation from the Department referred to difficulties in obtaining information from Ofgem, apparently due to data protection concerns from you.

Mr Poulton: I think that that would have been resolved by the data-sharing protocol that we initiated in April 2014.

Mr Kearney: OK. You contend then that that observation from the Comptroller and Auditor General needs to be confined to the period prior to 2014.

Mr Poulton: Prior to the data-sharing protocol, there was personal data —

Mr Kearney: Just so that we are all clear and the C&AG and his team are clear, there would have been no information-sharing difficulties after 2014, subsequent to your data-sharing protocol.

Mr Poulton: Correct.

Mr Kearney: OK. Lastly, can you quantify that amount of information for us and relate it directly to your ongoing investigations? How did it impact on your decision-making process, bearing in mind that we do not appear to have had anybody disqualified from the scheme?

Mr Poulton: Sorry, can you clarify?

Mr Kearney: Can you quantify for us the amount of information, therefore, related to fraud that you were unable to share?

Mr Poulton: In terms of fraud investigations, sorry, I just need to find the right — does anyone else have them to hand?

Ms Pierce: We have investigated nine cases, of which three remain under investigation.

Dr Ward: We have had nine referrals. The initial stage of investigating one of those is an initial investigation phase. If that proceeds to a suspected fraud case, there are certain additional steps that we take internally with evidence gathering. Of those five cases that moved to that stage, three are ongoing, and the two other cases have been closed. We do not routinely share details prior to an outcome.

Mr Kearney: Have the two that have been closed been closed without further action?

Dr Ward: Both of those two cases were closed with no further action. One case was closed following an audit, and the other was closed following additional information received.

Mr Kearney: Finally, finally, how is the extant fraud investigation taken forward? If there is to be a prosecution for fraud, what way is that set up?

Dr Ward: We engage with the appropriate authorities. Typically, that is local police and Action Fraud. We have regular engagement with Action Fraud, and we go through due process to make sure that the evidence that we have collected is shared with the appropriate authorities. Across our administration of schemes, we have taken cases through that have been referred and which have led to prosecution on the GB scheme, for example, but not on the Northern Ireland scheme to date. There are ongoing investigations.

Mr Kearney: Have you had any communication with the PSNI to date on any of these inquiries?

Dr Ward: As you will appreciate, to avoid prejudicing legal investigations, I am very restrained in what I am prepared to commit to —

Mr Kearney: I am not asking for specifics.

Dr Ward: In general, we have had engagement with the PSNI.

Ms Lockhart: On the back of the point about information sharing, you mentioned earlier the weekly reports that were sent to Northern Ireland. Can you outline what was included in those weekly reports? Maybe you have done and I have missed it.

Dr Ward: There is a full list. I will not read out the full list, but I will give you a sense of the type. It included the capacity of installations; the average hours of operation that would be expected on a weekly basis for those installations; the technology type; the date of accreditation or the date of application; the application status, which means whether it had been submitted, was in review, had been approved or had been rejected; the tariff band and the current tariff rate that was applicable to that application; and whether it was a microgeneration certification scheme (MCS) accredited installation.

Ms Lockhart: There is quite a bit there. It would probably be useful if you supplied that to us.

Dr Ward: That was provided weekly from June 2013.

Ms Lockhart: From June 2013, so this was prior to you, Chris. That was already in place. Did you get any feedback from Northern Ireland that more information was wanted around any particular aspects of those weekly reports, or was that weekly report just a tick-box exercise to allow you to move onto the next thing? I am trying to get a grasp of how the reports were utilised.

Dr Ward: Sometimes, the findings or the data that was in those would come up in our monthly teleconferences, for example. We also provided a monthly data dump to provide a view on finances and how much money we would be spending on the Department's behalf monthly. Again, that was to provide clarification that there were no misunderstandings. Going back to the weekly data dump — the weekly data extract — there would be some discussions but it was not something that would have been routinely discussed on a weekly or even monthly basis.

Ms Lockhart: Would someone in your organisation have been responsible for taking an overall look at those weekly reports and flagging up anything in them that was irregular, a little untoward or worrying in the scheme?

Dr Ward: The mechanism for that would be our monthly internal governance mechanism —

Ms Lockhart: Yes, I appreciate that, but the problem is that we do not have the minutes of those meetings.

Dr Ward: I am sorry; just to be clear, it is the Ofgem internal governance arrangements. We have talked about the omissions around Ofgem and the Department's minuted meetings. We have had an operational delivery performance reporting management information pack. That is where the issues with deployment data around technologies etc would have been documented and discussed.

Ms Lockhart: So, you would have done that on a monthly internal basis in Ofgem.

Dr Ward: Yes.

Ms Lockhart: Would that information have been recorded? Would that have been minuted?

Dr Ward: Those were minuted meetings and —

Ms Lockhart: Would that have formed the basis of what you would have discussed with Northern Ireland?

Dr Ward: Yes.

Ms Lockhart: It might be quite useful to get those minutes as well because, obviously, they are quite important for the overall investigation. Surely on a weekly basis, if you were sending information it would have automatically red-flagged some of this stuff that was going through.

Mr Clarke: Maybe I missed it, but I want to ask about some of the work we have seen in relation to boiler sizes. Has someone covered that today and I missed it?

The Chairperson (Mr Swann): No, we have not touched it.

Mr Clarke: We are going through the application process, and someone needs 250 kW, but they buy themselves three boilers instead of one. Did your organisation have any commentary around that area?

Dr Ward: Yes. We have seen that —

Mr Clarke: No, no, I am sorry; we have all seen it at this stage, Edmund. In terms of the application process, if I needed 250 kW and I applied for three boilers so that I get the higher payment, was there any issue for your organisation? Was there no possibility at that stage that you could have said that I was not eligible for that — that I needed 250 kW, so you could get me a 250 kW boiler rather than me buying two at 99 kW and one at 52 kW?

Dr Ward: The regulations are clear that if those boilers are providing heat on the same heating system in lay terms, we should therefore treat them as a 250 kW boiler, but if they are on separate heating systems we would treat them as separate installations. The regulations are clear on that, and that is the basis on which we have administered.

Mr Clarke: If I am right about what you are saying, someone who would do that would only be eligible for the lower payment.

Dr Ward: I will give you two examples. If somebody installed three 90 kW boilers on the same heating system, that would be regarded under the RHI as one boiler with a capacity of 270 kW, and they would get a tariff based on that size. If somebody else took three 90 kW boilers and installed them on three separate heating circuits, they would be treated as three separate applications. We would receive three separate applications, we would identify that they were on the same site, and we would do some specific directed checks on that to be sure that they were separate boilers on separate heating —

Mr Clarke: Are you serious?

Dr Ward: On that basis —

The Chairperson (Mr Swann): One boiler heating upstairs and the other one heating downstairs.

Dr Ward: — in line with the regulations that would be three separate —

Mr Clarke: Did you flag that as an issue at the time?

Dr Ward: That is something that we have been aware of since the start.

Mr Clarke: Is that happening on the mainland?

Dr Ward: Yes.

Mr Clarke: And that is still going on on the mainland. The same abuse of the system.

Dr Ward: That practice is common to GB and Northern Ireland.

Mr Clarke: Given that you had experience of it in GB, did you flag that up to the Department as an issue when the Northern Ireland scheme started — not you personally, but your organisation?

Dr Ward: My understanding is that the Department would have been aware of that.

Mr Clarke: How would it have been aware of that?

Dr Ward: It would have been based on the experience from the GB scheme.

Mr Kearney: To go back to Trevor's question: did you raise it? Do not tell us what the Department would or would not have known. Did you raise the flag? Did you communicate that point to the Department or not? Yes or no?

Dr Ward: I am not aware that we communicated that point specifically or that we have a documented record of that. However —

Mr Clarke: So, given —

The Chairperson (Mr Swann): Hang on, Trevor. However, Edmund.

Dr Ward: However, in terms of the feasibility study that we were conducting and the detailed discussions that we were having on deployment, it is possible that that was discussed, but I cannot confirm that.

Mr Clarke: So, it is only a possible discussion. Why would you assume that the Northern Ireland Department was aware of that, given that it was busy with its own little region over here, and you, given that you were supposed to be managing the scheme, were aware that it was happening elsewhere? Why did you not flag that up? Why did you assume that someone should know?

Dr Ward: Again, to clarify, when the Northern Ireland scheme was being devised in the first place, there was not much early experience from the GB scheme.

Mr Clarke: That is contradictory to what you said a few moments ago.

Dr Ward: That is why I am, hopefully, clarifying. To be clear, the GB scheme was in operation from November 2011. That is the same time at which we were conducting a feasibility study —

Mr Clarke: So, when did you first know that it became an issue in GB?

Dr Ward: I do not have a definitive view here —

Mr Clarke: Well, you can give us a documented copy of that when you find it.

Dr Ward: Yes, we will come back to you on that point.

Mr Clarke: Whether you like it or not, Edmund, you were, to a degree, misleading in your evidence in terms of saying that it would have been aware of that. Now, when we have pushed this, you have made it clear that you were not even aware of it. You were managing the scheme in GB. You are putting evidence on record today that shows that you assumed that DETI should have been aware of it even though you were managing the GB scheme and you were not aware of it.

The Chairperson (Mr Swann): We will get the documentation to clarify.

Mr McMullan: Did you ever hear the old saying "skeletons in the cupboard"? This is dinosaurs in the roof space. What we have heard today and this evening from you is absolutely mind-blowing. You knew that there was a deviation of the scheme going on: you could have had three boilers at the bottom end of the shed and one at the top with two different systems operating, and you could have claimed for funding for both, and you did not raise a red flag about that at all. I have listened carefully all afternoon, as the other members have done. We have been very patient. Not once did I hear the words, "red flag raised". Not once did you say that you raised concerns. Not once did you say that anybody spoke to you about a concern.

Let us go back to 2014. Did you have any conversations with DETI in 2014?

Dr Ward: For example, in —

Mr McMullan: God, do not give examples again.

Dr Ward: Specifically, in 2014, in meetings with the Department, we discussed —

Mr McMullan: Who with? Who with?

Dr Ward: — cost controls —

Mr McMullan: Who with? Who with? Who with?

The Chairperson (Mr Swann): Oliver, we cannot go into names —

Mr McMullan: Sorry. What did you discuss? Can I ask you that?

Dr Ward: To summarise key areas from that meeting, we discussed in April the fact that take-up was low and that the Department was considering measures to increase uptake of the scheme —

Mr McMullan: Hold on. Can I just stop you there? What measures were discussed about trying to get the uptake?

Dr Ward: The Department had previously conducted advertising and was potentially flagging changes to support levels or tariffs or increasing awareness of the scheme. That is a summary of —

Mr McMullan: You were aware of that at that time, which was in April. What was discussed in May 2014?

Dr Ward: On 13 May 2014, I had a discussion, which was followed up with an email on 14 May, about state aid and de minimis measures. We also talked about the practice of boilers being operated 24/7, the likely income from those and possible approaches to introducing tiering. I followed that up in an email the following day on those subjects, with an example of a boiler of a particular size operating at a high —

Mr McMullan: Did you, in the May discussion, talk about changing the scheme to make it more attractive in order to have the uptake of the scheme increased?

Dr Ward: That was raised by the Department as an area that was under discussion. Our role there was to confirm that we would be happy to support and it would be useful for us to know what changes might be coming.

Mr McMullan: What were you happy to do? What was agreed should be done to get the uptake increased?

Dr Ward: As part of that discussion, we talked about different mechanisms for tiered tariffs and degression, different mechanisms by which tariffs might be changed and, in the context of that, we talked about where it would be readily possible for Ofgem to make administrative changes to support change and where there would be higher costs.

Mr McMullan: Can I just ask you what you are reading? You have not turned that page. Anyway, I will come back to you on that. At that meeting, did you discuss the fact that they would have to change something to get the uptake? What was happening was not successful here, and you were told about that. You were warned that people were heating empty sheds.

Dr Ward: The discussion was around take-up —

Mr McMullan: You were told about empty sheds with the windows open being heated.

Dr Ward: I did not say empty sheds being heated was mentioned in that meeting. The discussions specifically around that time were around the sizes of boilers and boilers being operated potentially 24/7. It was not necessarily that they were —

Mr McMullan: I put it to you that you were told about empty sheds being heated and windows lying open; and you were told about the difference between the systems here and in GB. It was not working in GB either, because of the advertising. It was impossible to get the uptake for it on de minimis aid.

Did DETI ever override a decision of yours?

Dr Ward: Yes.

Mr McMullan: How many times?

Dr Ward: Once.

Mr McMullan: Why was that?

Dr Ward: We had discussions with the Department at the point that we first rejected an application in receipt of the Carbon Trust zero-interest loan. We entered into discussions with the Department, and the Department took the decision to make those assessments of de minimis loans by itself.

Mr McMullan: For how many schemes?

Dr Ward: And from that stage, we deferred those decisions to the Department. I do not have here the precise number of schemes, but it is a number over 10.

Mr McMullan: There was a red flag there, but it did not seem to worry you, and you carried on with the whole scheme.

Dr Ward: To be clear, that was an area where, between us and the Department, we discussed an issue and made a formal change to the administrative arrangements to reflect the division of duties between us and the Department and then we both continued to administer in line with those revised arrangements.

Mr McMullan: Were you totally satisfied that you satisfied de minimis aid? Were you happy with it?

Dr Ward: I am satisfied that we had not taken a decision on state aid.

Mr McMullan: I did not ask you that. Was it satisfactorily cleared up for the whole scheme?

Dr Ward: I cannot talk on behalf of the Department. Again, just to clarify, the role that we had in administering the scheme after we made that change to the arrangements was that the function of making a decision on state aid was the responsibility of the Department and not that of Ofgem.

Mr McMullan: And that is the way it —

The Chairperson (Mr Swann): Edmund, was it Ofgem's call prior to that?

Dr Ward: Yes it was, and that is the basis on which we rejected an application.

The Chairperson (Mr Swann): The Department then took back the ability to judge on de minimis applications.

Dr Ward: That is correct.

The Chairperson (Mr Swann): Would that have been normal in the GB scheme?

Dr Ward: The regulations on grants and state aid are different for the NI and GB schemes. No, in the GB scheme we take decisions on the basis of GB regulations, which are different.

The Chairperson (Mr Swann): The direction to Ofgem that the Department was taking back responsibility for judging de minimis applications was made by whom? Was it in writing?

Dr Ward: That was a formal change to the arrangements. That was done in writing; signed changes were made to the arrangements.

The Chairperson (Mr Swann): On what date?

Dr Ward: The date of the signed arrangement changes was 1 December — apologies. We changed the arrangements on 1 December 2015, but I will have to confirm separately whether that was the specific change put in place.

The Chairperson (Mr Swann): OK.

Mr McMullan: I put it to you that it could have been 2013. Is that possible?

Dr Ward: No, because we had discussions about state aid during 2014. I do not have the exact date in front of me. My recollection is that the date is in the order of 2015 or later.

The Chairperson (Mr Swann): You can provide that in writing.

Mr McMullan: OK, we can come back on that. At what stage did the Department hand over control to you?

Dr Ward: We agreed arrangements from the onset of the scheme, from 1 November 2012.

Mr McMullan: You had control then.

Dr Ward: The functions were divided between us, yes. We had control over our functions from 2012.

Mr McMullan: Total control.

Dr Ward: The arrangements set out the functions in the regulations that were retained by the Department and the powers that were conferred on us.

Mr McMullan: You were feeding back to the Department all the information from the checks and balances you were doing. It had all the information that you had.

Dr Ward: The Department is responsible. The Department was provided with the information that we talked about on a weekly and monthly basis and ad hoc information as required and in line with the defined arrangements.

Mr McMullan: Hold on. What do you mean by "ad hoc information"?

Dr Ward: A variety of informal discussions; for example, email correspondence between us and the Department.

Mr McMullan: Informal. Who has overall responsibility?

Dr Ward: The Department has overall responsibility for the scheme.

Mr McMullan: We know that there was wrongdoing in some of the applications heat-wise. It is very clear — there is no way of getting round it — that if you do not adhere to the programme then you are out.

Mr Poulton: We are responsible for administering the regulations and for whether someone is accredited to the scheme.

Mr McMullan: You then have the responsibility if something is not done right. Do you take responsibility?

Mr Poulton: Yes.

Mr McMullan: Are you happy that your teams, that were inspecting these buildings, premises or whatever, did what they are supposed to do?

Dr Ward: We are satisfied that what we have done is in line with the regulations. So, yes, we are satisfied.

Mr McMullan: There you go again with these regulations. You are a devil for regulations. Did you ever check up on any of these cases? Did anybody, in the North of Ireland, ever check up on them?

Mr Poulton: In terms of site audits?

Mr McMullan: Yes, anything at all. Did you ever say, "We will do a spot check on this one or that one"?

Mr Poulton: We did not have a spot-checking regime, other than the audit regime that was in place, to visit sites.

Mr McMullan: Was the Department happy enough with your audit regime?

Mr Poulton: Yes. The audit regime was signed in our agreements for funding and arrangements.

Mr McMullan: OK. We talked about the change request. When was that done?

Mr Poulton: When the spike of applications had come in, in 2015, there was a change request for additional money to do audits, because our audit level had dropped in relation to the proportion of applications that year.

Mr McMullan: How much extra did you get for that?

Mr Poulton: We have a copy of it here.

Dr Ward: I am finding that paperwork. It was discussed and agreed with the Department in November and December of 2015, and the final version was issued on 12 February. It amounted to £36,000 for additional processing.

Mr McMullan: Sorry?

Dr Ward: It was £36,000 for additional operational costs for processing applications and £7,000 to support additional site audits, which were the audits that we could programme into the remainder of 2015-16.

Mr McMullan: Extra audits.

Dr Ward: Yes, extra audits. Then there was £5,000 for the additional costs that we expected for processing the additional spike, including consideration of legal implications, for example.

Mr McMullan: What legal implications is that?

Dr Ward: Specifically, around the surge in applications, the change in the date of the change in regulation, the impact of assessing —

Mr McMullan: What legal implications did you see?

Dr Ward: For example, there is a cost when we take compliance actions. We have a duty to do that equitably and fairly. We need to duly consider the regulations. We have legal advisers, as part of E-Serve's administration, to support that. In total, the combination of those three sums was £48,000.

Mr Poulton: The legal element was anticipated. I will just read the following:

"DETI are anticipating further scheme changes before April and have set aside £5,000 in anticipation of further legal costs that Ofgem may incur in the deployment of these changes."

Mr McMullan: What would it be for?

The Chairperson (Mr Swann): Oliver, are you going somewhere here?

Mr McMullan: Yes, I am. Stay with me.

The Chairperson (Mr Swann): Right.

Mr McMullan: What could that legal cost be for?

Mr Poulton: I will presume that, at that stage, it was to do with the potential closing of the scheme. I will defer to colleagues on that.

Dr Ward: At the time that we were drafting that change request, we were discussing with the Department that there were potential changes to the scheme and that there would —

Mr McMullan: There was a rush of applications, and then money was put in to close the scheme, potentially.

Mr Poulton: There was money to deal with the legal element of closing the scheme but also to deal with the rush.

Mr McMullan: Potentially to close the scheme. You have said that yourself. Why would that be? Why would you potentially close it all of a sudden like that?

Dr Ward: The Department might close it to prevent a cost overrun, for example, which I think —

Mr McMullan: Did the Department say to close it?

Ms Lockhart: It was the Department that decided to close it.

Mr Poulton: It would not be our decision to close it.

Mr McMullan: No, I did not say that. Whose decision was it?

Ms Alison Caldwell (Department of Finance): That is for the Department.

The Chairperson (Mr Swann): The Treasury Officer of Accounts has come in. That is more for the Department, Oliver, than Ofgem.

Mr McMullan: Yes. Was the Department involved in that and paid you that money because it said, "We may look at closing this"?

Mr Clarke: Chairman —

The Chairperson (Mr Swann): Oliver, I need you to get to where you are going very quickly.

Mr McMullan: It is not me who needs to hurry up. Can you tell me whether I am right in surmising that, from the payment that you got — the £48,000 — is £5,000 in there because the Department said, "We may think about closing this scheme"?

Dr Ward: There were discussions with the Department that there might be further changes in legislation. Potentially closing the scheme would have been one of those options.

Mr McMullan: Right. What date was that?

Dr Ward: That change request was issued on 12 February 2016. By the time that it was issued, it was —

Mr McMullan: Thank you.

The Chairperson (Mr Swann): Alison, do you know what the money was earmarked for?

Ms Caldwell: Sorry, Chair. I missed the discussion.

The Chairperson (Mr Swann): The £48,000 that Oliver was talking about for legal fees.

Ms Caldwell: No, I do not have that information.

The Chairperson (Mr Swann): You do not know. That is all right.

OK, folks. Thank you very much for your time and answers. I am just curious, Jane. You are head of policy and communications for the RHI. In that role, and I know that you have been there only since 2014 —

Ms Pierce: September 2015. I arrived just as the spike in applications was happening.

The Chairperson (Mr Swann): From a communications point of view — I do not know whether that is public or internal communications — how do you view the scheme?

Ms Pierce: I am head of policy and comms for the GB and NI schemes. Our responsibilities in that role are slightly different for each scheme. For the GB scheme, I am responsible for communicating with participants and applicants to help them understand the scheme rules and how to remain eligible. For the Northern Ireland scheme, we are not responsible for communications, so my responsibility relates to policy. As I arrived, we were working closely with DETI officials in preparation for the introduction of the cap and tiering, which came into place in November. I and my operational other half were talking very closely throughout that period, as we could see the number of applications growing. We had a very close relationship over that. Then, obviously, we worked closely together on the implementation of the scheme's suspension in February.

The Chairperson (Mr Swann): In the GB scheme, you are responsible for interaction with applicants.

Ms Pierce: We communicate with applicants through a number of things, such as guidance documents on our website and direct quarterly newsletters.

The Chairperson (Mr Swann): Who performs that function for the Northern Ireland scheme?

Ms Pierce: It is the Department's responsibility.

The Chairperson (Mr Swann): Have you any input as partners?

Ms Pierce: Yes. We are partners, so we work with the Department to develop the guidance documents, which are quite voluminous tomes and are designed to put some bones on the regulations to help people understand what they need to do to get on the scheme and remain compliant. We provided drafts of that guidance for the Department to consider. Responsibility for publishing that guidance is a matter for the Department.

The Chairperson (Mr Swann): Has the Department published any guidance?

Ms Pierce: It has published volumes 1 and 2. The first of those is about eligibility to and applying for the scheme and the second volume is about ongoing compliance. Both are available on the Department's website.

The Chairperson (Mr Swann): Edmund or even Chris, I want to go back to state aid and de minimis measures. The Department takes that responsibility back on 1 December 2015. Chris, you were in place by then: how did you feel about that?

Mr Poulton: There was the high-level discussion in April 2014 around state aid issues. It was a very high level discussion, I was aware, but there was some concern around —

The Chairperson (Mr Swann): Sorry, you say "high level". Whom are you talking to?

Mr Poulton: We met the Department at all levels. It was operational colleagues and me and Senior Civil Service (SCS) colleagues in the Department. State aid was one of the discussion points. After that, it was up to operational colleagues — those who deal with the arrangements — to implement the change.

The Chairperson (Mr Swann): If it was being discussed at all those levels, were you being put under pressure regarding state aid and de minimis measures?

Mr Poulton: It was not a minuted meeting, but, in hindsight, I do not remember feeling under any pressure to make changes at that stage or being pressurised by the Department, but I was not dealing with those issues on the ground in the team. I could not say whether people felt pressured in their decision-making on that, but the administrative arrangements were changed following that discussion.

The Chairperson (Mr Swann): To go back to your application form that Trevor mentioned earlier, are there any references in it to de minimis state aid funding duplications?

Dr Ward: There are questions on declaring whether any sources of grant or public funding have supported the cost of the installation, so yes.

The Chairperson (Mr Swann): Who judges that question?

Dr Ward: Under the current arrangements, that information is passed to the Department, and the Department makes a decision on that.

The Chairperson (Mr Swann): For that one question on every application?

Dr Ward: For that one question, where evidence is provided that a grant has been received. If the answer to that question is, "Yes, a grant has been received", and it is a state aid grant, that information goes over to the Department, and the Department makes a decision on the de minimis criteria.

The Chairperson (Mr Swann): How many of those have you passed over since 1 December?

Dr Ward: Over 10. I am happy to provide the full —

The Chairperson (Mr Swann): And the response coming back?

Dr Ward: In most of, if not all, those cases the threshold has not been exceeded, and therefore the application has been accredited on to the scheme.

The Chairperson (Mr Swann): Is that a decision that you would have made if it had been retained by Ofgem?

Dr Ward: We would satisfy ourselves of all other aspects of eligibility. The Department would have taken the responsibility for the decision on de minimis state aid funding. There is a process that we follow, with the Department formally making a decision and sending us a document. We then make sure that it is part of the records for each case.

The Chairperson (Mr Swann): How do you acknowledge that in your risk register? Surely the Department taking that one question away from your control increases Ofgem's liability.

Dr Ward: Again, ultimately, the responsibility for these decisions is the Department's. The responsibility for the risk register for the scheme overall lies with the Department's risk register. Our risk register focuses on administrative and operational aspects that we have within our control. That specific question on de minimis state aid is not an action that we are taking. Therefore, it would not feature on our risk register.

The Chairperson (Mr Swann): If an application came in, the Department was taking the risk, or, I suppose, negating your risk, by taking on the responsibility. Is that why it is not on your risk register?

Dr Ward: That would be a way of expressing it, yes. It was the Department's responsibility. We were not taking a decision on that, so it was not a risk that we —

The Chairperson (Mr Swann): OK. Who is ultimately responsible for excluding somebody from the scheme?

Dr Ward: Again, ultimately, it is the Department. On a day-to-day basis, we would process a rejection or deal with an initial appeal if there were one. If there were a secondary appeal, that would go to the Department. Therefore, the Department is ultimately the decision maker in any of the cases.

The Chairperson (Mr Swann): For the initial exclusion, who makes the decision that someone's application is not compliant?

Dr Ward: That is a decision that Ofgem would take, so we have —

The Chairperson (Mr Swann): That is solely within your remit.

Dr Ward: Yes.

The Chairperson (Mr Swann): With the exclusion of the de minimis measures, because you have no control over that aspect any more.

Dr Ward: Yes.

Mr Dunne: Chair, can we clarify the date when the de minimis issue was taken back? You talked about the high-level discussion in April 2014. When was it taken back, please?

Mr Poulton: We will clarify that date, because we had a number of changes.

The Chairperson (Mr Swann): Gordon, there was a date around 1 December 2015.

Mr Clarke: Chairman, why did it take from early 2014 to late 2015?

Mr Poulton: We need to verify this, because we had a number of change requests and a number of administrative arrangement changes. We will provide that detail.

The Chairperson (Mr Swann): I will ask you a personal question: do you think that you should be here today?

Mr Poulton: Yes, I think that it is important that we come here and explain our role. I apologise if we look underprepared. We tried to prepare thoroughly and did a lot of work, probably in the wrong areas, to answer many of your questions, but, yes, we should be here, because we are ultimately part of the overall scheme, as administrators of some of that scheme. We should be here to answer questions.

The Chairperson (Mr Swann): At a cost of £1.549 million to date, what is your financial obligation to Northern Ireland plc, as it was referred to earlier? Do you feel that you provide value for money?

Mr Poulton: Based on comparisons on the —

The Chairperson (Mr Swann): Having sat here today, Chris.

Mr Poulton: I think that we have done a lot of work to accredit, approve and site-audit applications, to process work and to provide IT systems. That work is probably in proportion to the funding that we have received.

The Chairperson (Mr Swann): That is all back-room functionality rather than on-the-ground inspection.

Mr Poulton: Yes, a lot of that is the team and the people in the team who process the accreditations.

The Chairperson (Mr Swann): From what we have seen through this scheme, that has fallen apart on the ground. You may have the perfect system in the background, but this scheme has fallen completely apart on the ground.

Mr Clarke: Chairman, you asked a straight question, and I want to ask a similarly straight question. Do you believe that any blame should be apportioned to Ofgem for the failure of the scheme?

Mr Poulton: The overall scheme is owned by the Department. There are things that we would admit to having fallen short on — absolutely — such as our minuting of meetings and how we have formally done things. Informally, we shared a huge amount of information, had discussions and raised risks. That is not well-documented. I think that we have fallen short there. We have done a lot of the processes that were conferred on us and the administrative arrangements to a good level, but I admit that, administratively, we have not documented things particularly well, whether those had a material impact or not. Yes, there are areas in which we should improve. Part of running an operational function is to try to improve continuously what we are working on. We have made amendments to processes based on audit findings and made amendments to ways of working based on what we have seen on-site and what we have learnt.

Mr Clarke: Chris, all that stuff about making changes is applaudable, but, ultimately, you have been commissioned to do a piece of work. Edmund, you brought experience from another model. You did not share that experience with Northern Ireland, and we are in a mess. That is why I asked whether you want to put your hands up to be apportioned part of the blame for the mess that we are in.

Mr Poulton: I think that we have raised issues about the scheme.

Mr Clarke: Undocumented, of course.

Mr Poulton: Yes, I fully admit that they should have been documented.

Mr Clarke: We do not know whether you did or did not. We are taking you at face value on that. That is the problem here, Chairman. It is at face value. Unfortunately, that is not the way in which to conduct a scheme. As an organisation, you were well paid to do that. You had negotiations about finance. You got what you wanted. That is no way in which to conduct a scheme of this scale, and it has left Northern Ireland exposed. If you have not picked it up, I am clearly apportioning a degree of blame, not all the blame, to Ofgem, because of how it administered the scheme.

Mr McMullan: I forgot to ask you this earlier. On the tariff calculations, what sectors came in with the biggest demand? Where was there more demand than you thought there would have been?

Dr Ward: We saw more from the poultry sector and mushroom farms. Those are probably the two areas that, for me personally, were above the levels that I might have expected in advance of beginning to administer the scheme.

Mr McMullan: Could that not have been changed there and then?

Dr Ward: Sorry?

Mr McMullan: Could the scheme not have been changed when you saw that at the time? Again, that was a red flag.

Mr Poulton: The surge in applications, the idea of cost control and the idea of what the cost could be of those boilers running 24/7 was known and had been raised. Elements of that had been consulted on.

Mr McMullan: Were you, at that time, warned about or advised on people using technology to gain more out from the scheme than they should do?

Mr Poulton: Through the surge in applications, there was a view that we were reporting daily on what we were seeing. We were trying to understand what was coming through, but —

Mr McMullan: No. Were you warned by anybody? Did anybody else raise a flag that there was something wrong?

Mr Poulton: There were whistle-blower allegations that came in. The concerns that people raised are documented in the PwC report.

The Chairperson (Mr Swann): Whistle-blowers to you?

Mr Poulton: I do not know whether they came directly to us or were passed on to us.

Mr McMullan: Did they whistle-blow to you or were you told this?

Mr Poulton: They can come directly to us.

Mr McMullan: No, not "can". Did they come to you, or did they go elsewhere and you were then party to a conversation?

Mr Poulton: On the whistle-blower allegations, I would need to check where they came into and how they were then raised with us to investigate.

Mr McMullan: You do not know whether they came to you.

Mr Poulton: We will know whether they came to us directly or not, or whether they came via the Department or another means.

The Chairperson (Mr Swann): Sorry, Chris, but you are in charge of this and do not know whether there have been whistle-blowers.

Mr Poulton: I know that concerns were raised that where whistle-blower concerns. They were raised, and we obviously received them. I cannot recall at the moment whether they came directly to us, via our fraud team; whether they came through a different process, such as someone phoning our operational line; or whether they were unspecific allegations that were then handed to us to look at. I will need to check how they were received.

Mr McMullan: They never came to you in the form of an email.

Dr Ward: To summarise, on the nine referrals that we have received on the scheme to date, which I discussed previously but am happy to talk through again for clarity, four referrals were not progressed, and those were all in the calendar year of 2016. There are five cases in which we have investigated suspected fraud. Two cases were not taken further — both were on the basis of an internal referral, not a third party — and three are ongoing investigations.

Mr McMullan: Did the whistle-blower go directly to you? You must know that. That is a very serious thing to land on your desk, and it is something that you would not forget.

Dr Ward: Of the referrals not progressed, there were three in 2016 — this calendar year — referred to us.

Mr McMullan: Sorry —

Dr Ward: Apologies, I will now answer the question directly. Those cases were referred by a third party, not the owner of the equipment. They were referred not by an internal referral but by a third party.

Mr McMullan: A whistle-blower.

Dr Ward: "Whistle-blower" is a particular term, but, yes, by a third party.

Mr McMullan: In 2016.

Dr Ward: During 2016.

Mr McMullan: Did anything come to you in 2014?

Dr Ward: There were two in 2014. Both of those were the ones that I mentioned, which were internal.

Mr McMullan: Where did they come from?

Dr Ward: Those were internal referrals. They were based on the internal team raising a flag and saying, "This potentially requires further investigation".

Mr McMullan: In 2014?

Dr Ward: In 2014, yes.

Mr McMullan: A flag was raised in 2014 to say that there was a problem that was not acted on. You were told that. Did you carry out an investigation into the possibilities from that warning?

Dr Ward: Yes, in both cases, based on the internal referral, we commenced a suspected fraud case. In one of the cases, we conducted an audit. In the other case, we requested further evidence. Ultimately, both cases did not pass the test of being ones that we would have referred further to a third party. Therefore, in both cases, no further investigations were undertaken, and no compliance activities were carried out.

Mr McMullan: That is fine. The whistle-blower only came to you one time, in 2016, and you were not made aware of anything in an email in 2014.

Dr Ward: That is correct.

Mr McMullan: You were not made aware in an email or in any discussion of the possibilities of the scheme being abused.

Dr Ward: I think that it is —

Mr McMullan: I am not talking about the two cases that you had in 2014. Were you warned at any other time that the scheme could be abused because of the high tariffs?

Dr Ward: I think that it is a matter of public record that the Department had consulted on cost controls and that those had not been introduced.

Mr McMullan: In 2014?

Dr Ward: The consultation closed in 2013, so, by 2014, it was on the record that there were no cost controls in place, and we did not have specific referrals against —

Mr McMullan: You carried on from that date at the end of the consultation, which showed up gaps in the programme.

Dr Ward: Again, to be clear, that was the Department's consultation.

The Chairperson (Mr Swann): Oliver, that is policy. That is the Department's responsibility, not that of Ofgem.

Mr McMullan: But it is very important, because here it is saying — I am not disagreeing with it — "We will carry on with the scheme, knowing that there is a problem". That is the problem.

The Chairperson (Mr Swann): If the Department is intending to carry on with it as policy, that is —

Mr McMullan: That is the problem. There was a problem there, and it carried on with it, even though it was flagged up as a problem, and now we are running into this debt.

Mr Clarke: We broach that with the Department.

The Chairperson (Mr Swann): Yes.

Mr Kearney: I find it really extraordinary, Chris, that you could not answer the question put about there being a whistle-blower. We had to go through a very torturous process with Edmund to get answers to that. I want to ask you a very direct question: were you advised before you came here today not to make an opening statement? Were you advised? Was it discussed? Was there a decision taken in your organisation not to make a statement? Did you liaise with any other agency, any other body or anyone else about the merit of making an opening statement or not?

Mr Poulton: I did not know whether it was right for me to make an opening statement. I asked, "What would be appropriate for me to say?", and the idea was just to say a few lines about what our roles were and, importantly, when we started — our position as it relates to the scheme.

Ms Caldwell: Chair, on that, that was on the behalf of the Department of Finance. We were giving the witnesses here a general understanding of the PAC process, and that was my advice to Chris and his team.

The Chairperson (Mr Swann): That is your role, Alison.

Ms Caldwell: That is my role. My role is to help the Committee by preparing witnesses for what they can expect here in the general run of things.

Mr Kearney: In retrospect, do you think that it would have been a better use of all our time had you made a statement at the outset?

Mr Poulton: I think that, if I had made a statement, it would have just clarified the elements of the scheme that Ofgem is responsible for and provided a general view of the scheme and the activities that we undertake. I think that we have covered that in other questions. I would not have planned to say anything else in a statement. Having not appeared here, I was not aware of what was practicable and what was acceptable or not. I appreciate, from previous sessions, that people have made longer opening statements.

Mr Kearney: You are conversant with the scheme and what happened here.

Mr Poulton: Yes.

Mr Kearney: You are? OK.

I have one final question. If Ofgem had done things differently from the outset of the project — with communications; with systems; with communication with the Department; had it been more effective at flagging up issues; and had it shown greater agility during this scheme from 2013 onwards — do you accept that we might have had a different result and that this catastrophe could have been avoided?

Mr Poulton: With our formal interactions and the formal raising of issues, yes. Issues were raised and communicated as we went along when they were identified, but the administration of keeping minutes and other such areas to show the activities that we say that we undertook at the time to raise concerns is an area in which we have responsibility.

Mr Kearney: Could we have avoided the scenario that is now the subject of a public inquiry?

Mr Poulton: If the view is that tariff control, the lowering of tariffs and the differential between fuel costs and the tariff is the key driver, it was very clear that it was the driver that we raised. There had been a public consultation, so it was known about as early as 2013. It is very difficult for me to think about whether a different outcome would have come from us suggesting different things, or if we had been more forceful in our views or written an official letter about our concerns. It is very difficult to tell, given that there was a public consultation that looked at the issue.

Mr Dunne: I have just one question. Prior to today, have any of you appeared before a Committee at the Assembly?

Mr Poulton: No.

Mr Dunne: OK, thanks very much.

Mr McMullan: Was this a case of having to spend the money in comparison with the English model?

The Chairperson (Mr Swann): That is a question for the Department.

Mr McMullan: I know. It may be, but at this time of the evening. Was there a rush to spend this money in comparison with the English model? When we did it at the start, 3% was taken from expenditure there.

Mr Poulton: For administration costs?

Mr McMullan: Yes.

Mr Poulton: No, because we charged for what we used. There was no set fee, and we benefited from any underspend. It was a presumed cost based on the administration, so there was not any profit motive or anything like that in us charging a higher fee than required to run the scheme. There were a number of fixed costs, as well as variable costs, with the number of audits and the number of accreditations that resulted in change requests.

Mr McMullan: Has anything changed in the English scheme as a result of this one?

Mr Poulton: I believe that there have been 11 changes to regulations on sustainability, for example, and other changes on tariffs, support for different technologies —

Mr McMullan: Who changed it?

Mr Poulton: It was the responsibility of the Department of Energy and Climate Change.

The Chairperson (Mr Swann): The Department, Oliver.

Mr Poulton: Ultimately, it is the Department that changes the regulations.

Mr McMullan: How much did the swapping of information from here to there help that?

The Chairperson (Mr Swann): That is again a question for the Department again, Oliver.

Folks, I thank you for your time and forbearance here today. I will be frank with you: my impression of Ofgem has plummeted today, and my confidence in it as an organisation has definitely been shaken by what I hear about how you have managed the scheme to date. The answers that I heard today have made me question my belief in your competence as an organisation. Carla's prompt was about Ofgem:

"Making a positive difference for energy consumers."

That is what it says on your website, but, under this scheme, you have not done yourselves any good whatever. We have been sitting here for nearly four and a half hours, in which time you have raised more questions than you have answered.

Thank you for your time, but I can let you know on behalf of the Committee that we will come back to you. If we need to call you back again, we will. Chris, Edmund and Jane, thank you very much.