



Northern Ireland  
Assembly

Public Accounts Committee

# OFFICIAL REPORT (Hansard)

Inquiry into the Non-domestic  
Renewable Heat Incentive Scheme:  
Department of Finance

30 November 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 Trevor Clarke  
Mr Gordon Dunne  
Mr Alex Easton  
Ms Michelle Gildernew  
Mr Declan Kearney  
Ms Carla Lockhart

**Witnesses:**

Ms Alison Caldwell	Department of Finance
Ms Emer Morelli	Department of Finance
Mr David Sterling	Department of Finance
Mr Kieran Donnelly	Northern Ireland Audit Office

**The Chairperson (Mr Swann):** I welcome David Sterling, permanent secretary and accounting officer for the Department of Finance, and Emer Morelli, head of supply division in the Department of Finance. Folks, you are very welcome. David, I believe that you want to make an opening statement.

**Mr David Sterling (Department of Finance):** Yes, very briefly, Chair. Good afternoon and thank you for inviting us along. I am joined by Emer Morelli, who is a grade 5 in charge of supply division in our public spending directorate. I would like to say a few words about the fact that I will be wearing two hats today. You originally asked me to come along to answer questions about my time as accounting officer in the Department of Enterprise, Trade and Investment (DETI) from October 2009 until my transfer to the Department of Finance and Personnel (DFP) on 1 July 2014. However, you have now advised that you will be asking questions about my role as permanent secretary in DFP, now the Department of Finance. Emer will assist me in relation to those questions.

In dealing with questions about my former role, there are a couple of factors that I need to explain before I take your questions. First, I am conscious that, unlike with many other PAC meetings that I have attended, there has not been a sort of detailed cradle-to-grave investigation of the issue by the Audit Office with an agreed report between the Comptroller and Auditor General (C&AG) and the accounting officer. Secondly, I think that it is a matter of record that certain matters are the subject of an ongoing and parallel fact-finding review that has been commissioned by Andrew McCormick in his role as the current Department for the Economy accounting officer. Obviously, it would not be appropriate for me to discuss the issues that are currently being addressed in that review or that may be addressed in the extension to that review.

Therefore, in answering your questions today, I will rely primarily on three forms of evidence in my role as DETI accounting officer: first, my memory of what occurred in that period; secondly, papers that have been provided to me by DFE, including submissions and other material that I would have seen during the time I was there; and, obviously, thirdly, the official Hansard report of the Committee's previous evidence sessions. For the reasons that I have described, I have obviously not been able to speak to the people whom I worked with on this issue. I thought it would be useful to clarify that at the start.

**The Chairperson (Mr Swann):** OK, David. That is useful. That would be our understanding from the start. We have been at this now for a considerable period because of our interest in it. I would be cautious about your "cradle to grave" comment concerning the accounting officer and the Northern Ireland Audit Office. That report is there, and we started our inquiry on the basis of it.

**Mr Sterling:** I accept that, but I meant that normally there would have been a value for money inquiry that would have looked at issues, perhaps over a longer period. I am not in any way decrying the work that has been done; it is slightly different.

**Mr Clarke:** We need more clarity around that. I picked up on what David said as well. I have been on the PAC for a considerable time, and, while in monetary value this may be the biggest issue, I picked up, maybe, a criticism of the Comptroller and Auditor General. I would not want to be associated with that, because this inquiry is no different to any other inquiry. It is a cradle-to-grave inquiry, from start to finish. This one may have a higher value, and it may seem that it is getting more coverage. The first one that I sat on was the inquiry into agency staff for the police, which was quite complex and took a considerable time to get an agreed position on. Maybe David could say more about that, because I am a wee bit uncomfortable.

**Mr Sterling:** There was certainly no suggestion of any criticism at all of the C&AG in all this. I would not want to make a big issue of this at all. It is just simply that normally, as a witness, I would be attending on the basis of a value-for-money audit or a special investigation. This was on the back of a review of the accounts, so it is in a slightly different context, that is all. It does not in any way affect what I am going to say today and I am not making any comment on the role of the C&AG or the quality of his report at all.

**Mr Clarke:** Just for the record, maybe it is a good job it is not a value-for-money report that we are doing. I think we can all clearly demonstrate that this is not value for money.

**The Chairperson (Mr Swann):** Thank you for that clarification on those couple of points, David. Will you clarify for the Committee what your role was in the non-domestic renewable heat incentive (RHI) scheme from its inception?

**Mr Sterling:** Yes, certainly. I will be honest: if you had asked me for my recollections of the scheme when I left the Department at the beginning of July 2014, they would have been that this was a scheme that was not really working. It was not terribly visible on my radar. It was a scheme that, in my recollection at the time, was underperforming. We had been granted a four-year budget of £25 million at that stage for the renewable heat incentive, and we had surrendered £10 million. Ultimately, £15 million was to be surrendered, and there was some criticism that this was expenditure and spending power that was lost in Northern Ireland. My recollections were that this was a scheme that was mirroring one that had been introduced in Great Britain. It was part of our overall drive, through the 2010 strategic energy framework, to address issues of sustainability. We had made very good progress with the pursuit of renewable electricity, and renewable heat was secondary to the primary goal of pursuing renewable electricity. However, we were behind on our commitment, which was to have 4% renewable heat by 2015 and 10% by 2020. My recollection is that the scheme differed from the GB scheme because our counterfactual was domestic heating oil — kerosene — rather than natural gas. As kerosene was more expensive than natural gas, my recollection is that our incentive was less generous than GB's.

That was my recollection of the scheme at the time. I was not closely involved in the development of the scheme, but I am here today to answer questions as to why things turned out as they did. I am happy to answer questions in that regard.

**The Chairperson (Mr Swann):** 'Managing Public Money' states that accounting officers are expected to take personal responsibility for having good project and programme management techniques in

place and to be able to show value for money. Do you think that you met your responsibilities in this case, given what you have just said?

**Mr Sterling:** No. That is a very fair question given the extent of the budgetary pressure that we now face.

At the time, I felt that I had fulfilled my obligations to put a sound, internal control and governance system in place for this. Again, the key factors — the key controls, if you like — were that we were adopting a scheme that had been operating in GB, albeit with adaptations that I will come to. We engaged Cambridge Economic Policy Associates (CEPA), who are internationally respected consultants with a strong track record in this type of work, to advise us on the design of the scheme. They were here last week giving evidence. We consulted twice on the scheme proposals before setting an incentive package. We put in place a casework committee, which is a very strong governance mechanism, and I would certainly have had confidence in those who were on that casework committee to scrutinise the business case rigorously and thoroughly. The business case was subsequently approved by DFP, and we engaged Ofgem to manage and monitor the operation of the scheme. I regarded that control framework as sound.

On your point about project management, we did not mandate the projects in controlled environments (PRINCE) methodology for all projects in DETI or, indeed, in any Department, but it is good practice. Certainly, PRINCE was used in the Department at that time on other energy projects such as Gas to the West, some telecoms projects and, indeed, in my time there as senior responsible officer (SRO) for a couple of projects. We used it in the arrangements for the G8 summit in 2013. There is a reasonable question to be asked as to whether we should have applied PRINCE methodology to this project and, with hindsight, I have to accept that it probably should have been. It would have reduced risk had we done so.

**The Chairperson (Mr Swann):** You talked about the PRINCE methodology. Did you appoint an SRO?

**Mr Sterling:** No, there would not have been a formal SRO within the accepted definitions of the PRINCE methodology.

**The Chairperson (Mr Swann):** But, you did not accept PRINCE for this. Is that what you are saying?

**Mr Sterling:** No. PRINCE was not applied to the management of the non-domestic RHI project.

**The Chairperson (Mr Swann):** Did you appoint an SRO, or is that —

**Mr Sterling:** No, I did not. I did not appoint an SRO.

**The Chairperson (Mr Swann):** Can I ask why? We are talking about a scheme which, at that stage, was worth £25 million. In your own words, you were worried about the £15 million that was possibly being sent back. Why was there not a senior responsible officer for —

**Mr Sterling:** There would still have been somebody responsible for the project in the line management structure. That would occur for any project, whether you were using PRINCE methodology. An SRO is a term that you would use if you were applying the PRINCE methodology and, in this particular case, we did not.

**The Chairperson (Mr Swann):** Why did you not use the PRINCE methodology in this?

**Mr Sterling:** It would not have been a decision of mine. The decision on whether it would have been appropriate to apply a formal PRINCE methodology would have been taken in the energy division. I am not conscious of what considerations were applied to it at the time.

**The Chairperson (Mr Swann):** Even as the permanent secretary or accounting officer, it would not have been something that you would have —

**Mr Sterling:** No. As I mentioned earlier, there would be quite a number of projects in all Departments that would not have a full PRINCE methodology attached to them.

**The Chairperson (Mr Swann):** You mentioned the concern about the £15 million being handed back and not being spent in the Northern Ireland economy. Did that start the panic in the Department: in other words, let us get this spent, let us push this?

**Mr Sterling:** No, I would not describe it as panic. My recollection is that, in the light of the slow uptake, there were moves to publicise the scheme more during 2013. My recollection of the time when I left the Department is that there was no panic associated with the scheme, one way or the other. There was a great range of other energy issues that would have been higher on my radar at that particular time.

**The Chairperson (Mr Swann):** The business case for the project at that time would have been, how much? Do you remember what it was?

**Mr Sterling:** I am sorry, in what sense?

**The Chairperson (Mr Swann):** Had the scheme gone to its full completion, what was it going to be worth to the Northern Ireland economy or what was the cost?

**Mr Sterling:** I do not recall exactly what the estimate in the business case of the total cost was. My focus, my awareness at the time, was in and around £25 million had been allocated for the first four years.

**The Chairperson (Mr Swann):** As regards where we sit now, there are estimations of £1.18 billion. Do you agree that this is an unprecedented level of mismanagement of public funds? It is probably the worst that we have seen since devolution.

**Mr Sterling:** We are facing a shortfall in funding of £20 million a year. Twenty million pounds is a major loss but, when you multiply it by 20, you end up with a very big number; so, in that regard, I agree that it is unprecedented.

I was struck by Mark Cockburn's comments last week. I do not think that we, in the Department of Finance or the Department for the Economy, accept that that has to be the outcome; quite the reverse. I think that everything needs to be done to reduce the budgetary pressure going forward. Obviously, there is a limit to what we can say about how that might be done. I think that that has to be the top priority. We have to stop the exposure to the block. I am acutely conscious, with my Department of Finance hat on, of the very many pressures facing the Executive at the moment. We have to do all we can to reduce this.

**Mr Easton:** Thank you for your presentation so far. In March 2012, it was proposed by the RHI casework committee that there would be a periodic review of the RHI scheme. The first was scheduled for 2014.

*"The NI RHI will have scheduled reviews built into the scheme to allow DETI to ensure that the scheme remains fit for purpose and value for money ... The scope of these reviews will include analysis of tariffs (either to be reduced or increased), the appropriateness of technologies..."*

and so on. Why did that not happen?

**Mr Sterling:** I cannot satisfactorily answer that. I regard the absence of a major review as being critical in all this. Again, I was struck by Mark Cockburn's evidence last week. He said that, no matter how well you design an incentivising tariff mechanism, you have to be constantly alert to the market reaction to it. You have to be alive to the way in which people might seek to exploit it or "game it", to use the language. For that reason, you need regular reviews; and it is quite clear that the absence of a review has been a major contributory factor to the problem we face today.

It is clear that, in 2014, there were discussions in the Department. The intention seems to have been that a review would be conducted, first, 18 months after the operation of the scheme or to take account of the first 18 months of it. I have seen a submission suggesting that the intention, later in 2014, was to review the operation of the scheme after two years of usage. However, that did not materialise.

**Mr Easton:** So, if I hear what you are saying, the review should have happened in 2014 and, for some reason, it did not. You had skipped off to another Department at that stage, but you had read that they were maybe going to have it another two years later? Is that what you are saying?

**Mr Sterling:** No. The submissions that I have seen recently suggest that the Minister was advised that the intention in May 2014 was to conduct a review that would take account of the first 18 months' usage. Subsequently, in the autumn, further advice suggested that the review would look at the first two years' usage of the scheme. To put that in context, when I left the Department at the beginning of July, there had been around 216 applications to the scheme. I think that a certain number of those had been accredited. There had been a low uptake.

**Mr Easton:** Which is why you thought that it was a failure.

**Mr Sterling:** Yes. I am not going to jump to any conclusions as to why the review was not done when it should have been. Questions around that will be addressed in the fact-finding review, so there is a limit to what I can say about that.

**Mr Easton:** Should that review have happened or been started before you went?

**Mr Sterling:** The business case indicated that the first review should have taken place in January 2014.

**Mr Easton:** And you went in July.

**Mr Sterling:** I went in July.

**Mr Easton:** Why did you not make sure that it happened?

**Mr Sterling:** It is not a particularly good excuse, but, to be honest with you, I was not conscious at the time of the need to do the review in January 2014.

**Mr Easton:** Are we allowed to ask who would have been?

**The Chairperson (Mr Swann):** Probably not; we cannot ask for names.

**Mr Easton:** Would somebody below you have known? Is that fair? Should they have known?

**Mr Sterling:** The business case indicated that a review would be done. It was recognised, I think, in the casework committee.

**Ms Emer Morelli (Department of Finance):** Yes, and in the supporting information, under the regulations, that the review would be done. It is important to note that there was a delay in the regulations —

**Mr Sterling:** Yes. The business case was originally completed in the spring of 2012 — I think it was approved in April 2012 — but the scheme did not become operational until November 2012, so there was a delay of five or six months. I imagine that somebody could say that it would not have been appropriate to do the review in January 2014 —

**Mr Easton:** Because of the delay?

**Mr Sterling:** Because of the slippage in the introduction of the scheme. In January 2012, I think that there had been only 99 applications for the scheme. Having said that, it is conjecture; I have not been able to speak to any of those involved to establish clearly why the review did not take place.

**Mr Easton:** So, in conjecture, it may have been the case that somebody in charge of that project and team made the decision not to go ahead with the review because of the delay but never came to you to say yes or no.

**Mr Sterling:** I will be honest with you: to the best of my recollection, I was not conscious that there was a review to be done in January 2014.

**Mr Easton:** But there would have been others who were.

**Mr Sterling:** Indeed.

**The Chairperson (Mr Swann):** David, you said that the Minister was advised that a review would take place in May. So, the Minister was aware that there should have been a review.

**Mr Sterling:** No. The Minister was advised that a review would be done in May 2014. Subsequent advice, in the autumn of 2014 — I think that it was in October — said that a review would be done later with regard to the first 24 months' usage of the scheme.

**The Chairperson (Mr Swann):** If someone made the Minister aware, why did they not make you aware?

**Mr Sterling:** I was aware at that stage because I was copied into those submissions. What I am saying is that I have no recollection of being aware, in January 2014, that a review needed to be done at that stage.

**The Chairperson (Mr Swann):** But it came on to your radar in May 2014.

**Mr Sterling:** I was copied into the submissions, so I would have to say that I was aware of it. I cannot recall whether it was something that registered or rang any alarm bells with me.

**Mr Clarke:** David, does the Minister micromanage every scheme?

**Mr Sterling:** No. Not at all.

**Mr Clarke:** Why would someone copy the Minister and you into something regarding a review if the Minister was not having to micromanage the Department?

**Mr Sterling:** I am sorry; I should explain. The purpose of the two submissions I have mentioned was to update the Minister on progress with the renewable heat incentive; that was for the domestic and non-domestic schemes. Obviously, at that stage, we still had not put the domestic scheme in place. From memory, it became operational in December 2014. These were submissions which were alerting the Minister on progress, and it is normal practice in the Department to alert the Minister on progress on significant initiatives.

**Mr Clarke:** I have of a couple of other things, Chairman, around what David has said. In response to Alex, you talked about the Department being on constant alert. Then you did use conjecture as to whether it was appropriate — it is conjecture because you do not know whether it was appropriate for carrying out a review or otherwise. At the start of your evidence to Alex, you talked about the newness of the scheme and the slow uptake, and you were quick to defend because before you left the Department there were only 216 applications, which probably implies that all this happened after you left.

**Mr Sterling:** I am not seeking, in any way, either in answer to that question or any other question, to duck any personal responsibility.

**Mr Clarke:** In some of your responses, it does seem as though you are trying to pass the blame to someone else.

**Mr Sterling:** I want to be very clear, and thank you for pointing that out, because I had not intended my answer to sound like that.

**Mr Clarke:** A few of your answers are sounding like that, because we are pulling the Minister into something about micromanaging, and that is how it looks. You are suggesting that there were 216 applications, which is a small number, before you left the Department. Ultimately, the review should have taken place before you left the Department. In your submission today, you said that there was a

slow uptake. Let us say that there had been a continuously slow uptake and, if we go back to the value-for-money argument, the Comptroller and Auditor General would also have been critical if money was set aside, the programme was not successful, and money was returned. Why, with only 216 at your date of departure, did the review not take place to find out why the scheme was not working effectively at that time?

**Mr Sterling:** Again, that is a very reasonable question and I do not have a satisfactory answer as to why the review did not take place. I was aware that there had been a slow uptake of the scheme. At the time, the response to that was to advertise the scheme more heavily than had taken place.

**Mr Clarke:** You were aware of the slow uptake and, in your armoury, and what should have been taking place anyhow, was a review. Given that we could have been in a different scenario, which might have been a safer one than the one we are in today, that we could not have spent the money, why did the review not take place to find out why the scheme at that time was not successful?

**Mr Sterling:** As I explained before, I cannot satisfactorily answer why the review did not take place during the time I was there.

**Mr Clarke:** Can you see the problem? By your own admission, the scheme was not taking off particularly well, you had an opportunity to review it, and someone in your Department, for which you were the accounting officer at the time, failed to do it, did not do it — whatever excuse we want to use for that — and it did not happen. Can you see why this is flagging up an issue to me in your Department under your leadership at that time? There was an issue with this scheme. There was an opportunity to review it and you failed to review it, and then it runs out of control.

**Mr Sterling:** I accept that a review did not take place in my time. I accept that the business case quite clearly said that a review would take place in early 2014. I cannot satisfactorily explain why it did not take place. Questions about that are being addressed in the fact-finding review. Going back to your introductory point, I stress that I am not trying to pass the buck to others. I will accept full responsibility for any failings that happened during my time, and I am absolutely clear about that.

**Mr Clarke:** Fair enough.

**Mr Kearney:** David, thanks for repeating that assurance, because I formed exactly the same conclusion as Trevor.

**Mr Sterling:** To the Committee, I am sorry because I had no intention —

**Mr Kearney:** Let me finish my point. It sounded to me in your opening remarks and then in response to the Chair's questions and to some of Alex's questions that we were beginning to get a pattern that it was nothing to do with you. I am just letting you know that that is not just one member's perception, interpretation or conclusion; it is the opinion of at least one other.

David, do you consider a review to be an important or a systemic element of any proper internal control system?

**Mr Sterling:** Absolutely.

**Mr Kearney:** No or yes?

**Mr Sterling:** Yes.

**Mr Kearney:** You said earlier that you felt that you had fulfilled your responsibility to install proper internal controls and then you outlined the architecture of that. How does the failure to explain why you did not direct for a review square with your belief that you had in fact proper internal controls in place?

**Mr Sterling:** I did not explain myself clearly enough earlier on. I was trying to explain what I felt about the scheme when I left in 2014. Obviously now, with the benefit of the C&AG's report and all of the analysis that has been done to date, I accept fully that mistakes were made. I accept fully that the



design of the tariff should have had tiering in it. Again, I note Mark Cockburn's comments last week that he regrets that he had not recommended that tiering be introduced.

**Mr Kearney:** He also denied that it was a big deal. Do you share that view?

**Mr Sterling:** No, I would not deny that it was a big deal. I think that it is very significant, and I have to say that, if you are looking for two critical factors that have given rise to the budgetary loss, one is the initial tariff design and two is the failure to do reviews. When I was talking earlier about my responsibility, as I said, I was trying to describe how I felt at the time about the control system that had been put in place. What I did not properly explain is that it is now clear that the control system may have looked good but the application of the control system was deficient. Otherwise, how would you explain what has happened? I take responsibility for that.

**Mr Kearney:** How do you believe it was defective?

**Mr Sterling:** In two regards. First, the initial tariff design would have, I think, mitigated some of the problems that we faced had it had tiering introduced at the start, but, significantly, the review did not take place. The other significant factor is that warning signs that were flagged up by Ofgem and by the whistle-blower were not taken account of. Those things together, I think, in large part are what has contributed to the problem that we face today. As I said, it will be for others to determine the extent of my personal responsibility, but, today, I want to give the facts as I understand them now and as I recalled them at the time.

**Mr Kearney:** I have one more question on the casework committee. You said that a strong governance committee was in place, involving the Department, Ofgem and CEPA, all of that constituting a strong governance framework. Do you stand over that?

**Mr Sterling:** As I said, at the time, I felt that that was a sound set of governance arrangements. I accept now, on the basis of what we know now, that it clearly was not sufficient and that the application of the controls — the way in which they operated — was not sufficient.

**Mr Kearney:** Do you know that there were no minuted meetings up until November 2015?

**Mr Sterling:** Between?

**Mr Kearney:** From the beginning of the scheme until November 2015.

**The Chairperson (Mr Swann):** Between Ofgem and the Department.

**Mr Sterling:** Sorry, yes, I knew that from Ofgem's evidence.

**Mr Kearney:** Did you know that at the time?

**Mr Sterling:** No.

**Mr Kearney:** Is that normal? Would you have encouraged or sponsored that practice in the Department?

**Mr Sterling:** No, it is good practice to minute meetings.

**Mr Kearney:** I would have thought so, too. The data-sharing protocol was proposed by Ofgem not by the Department. Were you aware that it had to be proposed by Ofgem in order to give some type of structure to communications —

**Mr Sterling:** No, I was not aware of that.

**Mr Easton:** I put this scenario to you. You were leaving in July 2014, and the review was meant to be in January 2014. It was delayed by five months. Is there a possibility that, as a result of the fact that you were moving on, you took your eye off the ball, left it to your predecessor and that it drifted along because of the two months' difference?

**Mr Sterling:** No. As I say, I was not alert to the significance of the review that was needed of the non-domestic renewable heat initiative. Perhaps, with hindsight, I should have been more sensitised to that, but I was not. Nobody was ringing alarm bells to me, other than in regard to the slow take-up of the scheme. With hindsight, I accept that there were warning signs. I have referred to Ofgem's comments and the whistle-blower. Those issues should have been reacted to.

**Mr Easton:** Were you aware of those warning signs?

**Mr Sterling:** No, I was not.

**Mr Easton:** Someone at a lower level was.

**Mr Sterling:** I think that is a matter of record.

**Mr Easton:** They did not see fit to tell you.

**Mr Sterling:** To the best of my knowledge, I was not apprised of them.

**Mr Easton:** You are absolutely sure.

**Mr Sterling:** To the best of my knowledge. The issues were not flagged up in the assurance statements that were prepared in the Department on a six-monthly basis. They were not flagged up in the Department's corporate risk register. These issues were not apparent. They were not brought to my attention in the way that I normally would have expected with major risks.

**Mr Easton:** No one had a quiet word with you or gave you a phone call.

**Mr Sterling:** If somebody were to say, "I bumped into David Sterling in a corridor and said that there was a problem with such and such", it may have happened. However, I have to say that, honestly, I have no recollection of such a thing.

**Mr Easton:** We know about the periodic reviews that did not happen. There was the option to hold emergency reviews if the need arose. Why did that not happen?

**Mr Sterling:** Sorry, the option to?

**Mr Easton:** To have emergency reviews. Did you ever feel the need for an emergency review?

**Mr Sterling:** My general point was that the absence of any review was clearly a weakness that has contributed to the problem we face today.

**Mr Easton:** But you did not feel the need for one because of the low uptake and because nobody was highlighting it to you.

**Mr Sterling:** Nobody had raised any issues that suggested to me that I needed to say, "You need to do an emergency review now".

**Mr Easton:** A monitoring committee was to be established in respect of the budget, and the Department was to receive monthly reports from Ofgem. Did that happen?

**Mr Sterling:** As far as I am aware, the Department's energy division received regular reports from Ofgem. I am not sure whether it got one every month, but there were regular reports.

**Mr Easton:** Did they establish a monitoring committee?

**Mr Sterling:** I am not sure whether there was a properly constituted monitoring committee as such. That is not to say that there was not, but I was not aware that there was such a thing.

**Mr Easton:** Where did we read that there was meant to be a monitoring committee?

**The Chairperson (Mr Swann):** It is in the DETI casework correspondence from 2012.

**Mr Easton:** OK. You do not know whether there was meant to be a monitoring committee at all.

**Mr Sterling:** It was one of the requirements —

**Mr Easton:** But you do not know.

**Mr Sterling:** No, I do not.

**Mr Easton:** You would have left it to whomever was in charge of the section to get the committee in place, which did not seem to happen, as far as you know.

**Mr Sterling:** I would have left the director of a division to deal with an issue like that.

**Mr Easton:** So, if no monitoring committee was set up, do you think that might have added to the fact that you did not know about these things cropping up?

**Mr Sterling:** I am not sure if that would have been a significant factor. My assumption was that the regular reports from Ofgem would have been scrutinised, whether it was by a formally constituted committee or a group of people, I just was not aware.

**Mr Easton:** Did they receive monthly reports from Ofgem?

**Mr Sterling:** I do not know, sorry. My understanding is that regular reports were submitted. I am not sure if they got one every month.

**Mr Easton:** OK. Did you get monthly reports?

**Mr Sterling:** No, I did not.

**Mr Easton:** Did you get any reports?

**Mr Sterling:** No. I was aware of the budgetary issue through the normal financial reporting arrangements in the Department. I knew that there was underspend, and I was copied into the submissions that reported on the progress of the scheme.

**Mr Easton:** So, as you were in charge, do you not find it astonishing that, in such a major scheme, you do not seem from your evidence to have got any reports or updates? It was just about the finances. I find it incredible that you did not seem to get any updates for such a major scheme. It is astonishing, and, if you did not, no one higher up, such as the Minister, for example, got them either.

**Mr Sterling:** With hindsight, I accept that it is surprising that I did not get regular updates. Having said that, in the Department, we were dealing with a lot of issues. In an energy division, in particular, there were a lot of issues around. At the time, one of the primary concerns that I had on the energy front at the time was the level of energy tariffs. We were in a particularly volatile period. In 2013, we were due to get a 17.8% increase in Power NI's domestic electricity tariffs. Gas prices in Belfast went up 8.7%, and NIE price control had been referred to the Competition Commission. There were difficult stakeholder relationships between bodies in the energy field. In December 2012, we successfully got Northern Ireland excluded from the carbon price floor, which helped to save Northern Ireland consumers about 3% on their tariff bills. We were working hard on gaining state aid approval for the gas to the west project, which was a particular priority for us. We had ongoing issues with the North/South interconnector. The absence of the North/South interconnector is costing consumers about £20 million in tariffs. The Moyle interconnector was only working on a 50% basis. We had major concerns from the non-domestic energy sector, particularly large electricity users, and there was a review going on of industrial and commercial tariffs. We were also working on an Energy Bill. So what I am saying is that the non-domestic renewable heat initiative needs to be seen in the context of those other issues. All those other issues were higher on my radar than the RHI. I am happy to accept that, with hindsight, I may have got my priorities wrong, but that was the way that I saw it at the time and that was the way that it was being presented to me.

**Mr Easton:** You are saying basically that you had a lot more issues that you thought were more important at that time. I am sure that you got reports and updates on those, but you did not on this one. That is what we are concentrating on.

**Mr Sterling:** Absolutely. I am not trying to absolve myself of any responsibility for this; I am saying that, at the time, the issues that I have described are issues that I was much more actively involved in than the RHI.

**Mr Kearney:** In previous evidence that was given to us, David, it was helpfully described that possibly as many people as eight to 10 people in your Department had a helicopter view of the scheme. People in energy division and above energy division were closely monitoring the scheme and its operation. Are you saying that, of the eight to 10 middle-ranking and senior members of staff who had that helicopter view, none were talking to you about the non-domestic RHI scheme?

**Mr Sterling:** I need to be careful that I do not get into individual levels but —

**Mr Kearney:** We will not.

**Mr Sterling:** The key structure was me, as head of the Department, and, at that time, I had two deputy secretaries directly reporting to me. One was responsible for policy group, and one was responsible for finance and corporate services. Energy division fell within the policy group. There was a director in charge of energy division at grade-5 level, so the key line to me was that relationship. Beneath the director, there were those who were working on the project. Without getting into personalities or details or anything, let us just talk generally. A project like RHI would probably be developed by a grade 7 and a deputy principal. I am not sure that there was a line of eight people, but the team would report to the grade 5, who would report to the grade 3, who reported to me. That, in a general sense, is how this type of project would be managed.

**Mr Kearney:** You are missing my point completely. If that number of personnel had a helicopter view of the scheme, I find it inconceivable that one of them was not reporting on the scheme to the boss of the Department. You speak about your reporting line from policy group through to you: was that reporting line working?

**Mr Sterling:** I thought that the reporting line was working well.

**Mr Kearney:** Except you did not know anything about the scheme, it was not on your radar and you were not in a position to clarify how it evolved from inception. You were unaware that no minutes were being taken and unaware that the robust control system was not, in fact, talking to itself.

**Mr Sterling:** To the best of my knowledge, nobody was flagging it up to me that there were any major problems with the non-domestic RHI other than the slow uptake of the scheme.

**Mr Kearney:** I appreciate that completely. I will finish on this, Chair. I can get the idea that you did not know. Whether or not you should have known is a different question, but I get that you are saying that you did not know. I do not get why your reporting line was not working, and I would like you to comment on that.

**Mr Sterling:** Those questions can only be answered through the fact-finding review that is being put in place. If I were to answer that, I would be drawn into commenting on the conduct of officials who are already answering questions in the fact-finding review.

**Mr Kearney:** I disagree entirely, but I will leave it at that.

**Mr Sterling:** I am trying to think whether there is any other way that I can help you on that.

**Mr Kearney:** I disagree with what you just said. I am happy to move on.

**Mr Dunne:** Apologies for being late. David, it is good to see you again. On a point of clarification, is "PRINCE" the proper term for the methodology?

**Mr Sterling:** Yes.

**Mr Dunne:** Is that a project management process or procedure?

**Mr Sterling:** It is a project in a controlled environment (PRINCE).

**Mr Dunne:** Is it my understanding that that was not in place for this project.

**Mr Sterling:** That is correct.

**Mr Dunne:** That is what we were told. Andrew implied that, unfortunately, there was no project management process or procedure in place for the scheme, and he felt that that was missing. Was there a project manager — I do not want to know the name of the person — in DETI who was responsible for the scheme?

**Mr Sterling:** There would have been somebody responsible for the project management of the scheme. Certainly, I recall Mark Cockburn last week saying that he was dealing with somebody who, in his view, was clearly the project manager for the scheme.

**Mr Dunne:** So the project manager had overall responsibility for the workings of the scheme and was responsible to you, finally? Is that fair?

**Mr Sterling:** That is fair, yes; through the line that I described.

**Mr Dunne:** Is it also fair to assume that, because of the lack of project management procedures, there was a lack of management review and systematic review, as well as a lack of team responsibility for the whole project, because of the failure to implement the proper procedures? Is that a fair assumption?

**Mr Sterling:** I do not know exactly how the project was being managed at the time.

**Mr Dunne:** But you were ultimately responsible for it. Is that fair?

**Mr Sterling:** Yes, as head of the Department, I am ultimately responsible for what goes on in the Department.

**Mr Dunne:** For all of it, really, but obviously not Ofgem. On the Ofgem issue, I take it that you or the project manager were ultimately responsible for the project as well.

**Mr Sterling:** I suppose, as accounting officer for the Department, I am responsible for putting in place sound systems of control. If those sound systems of control are not operating as they should —

**Mr Dunne:** They are there to be effective and efficient and to protect everyone.

**Mr Sterling:** That is correct, and they are there to safeguard public expenditure.

**Mr Dunne:** Unfortunately, they were not in place.

**Mr Sterling:** I have made the point before —

**Mr Clarke:** Chairman, I think that we are possibly straying into an area that affects them a wee bit, because we are trying to apportion blame.

**Mr Dunne:** We are talking about the processes and procedures, but we have established that they were not in place.

**Mr Sterling:** Yes. I have said before that I will take responsibility for any failings that are down to me in all this, but it is not for me to make a judgement on that responsibility. My role here is to provide the Committee with evidence, and that is what I seek to do.

**Mr Dunne:** Right, we will move on. An overview of risk management was outlined in a note of a meeting in March 2012 of the RHI casework committee. Nine risks were identified, including the risk

of an incorrect subsidy level being either too high or too low, which was to be managed through regular planned reviews of the subsidy levels. Are you satisfied that that risk was adequately managed?

**Mr Sterling:** No, and I have accepted already that one of the major contributory factors to the budgetary pressure that we face today is that the scheme was not reviewed.

**Mr Dunne:** OK. The risk of fraud and the risk of insufficient budget for the administration of future payments were also identified. How well were those risks managed?

**Mr Sterling:** Again, we were reliant at the time on Ofgem performing its role as managers of the operation of the scheme and as accreditors for the installations that applied to join the scheme. We have now had the benefit of the PwC report, which has raised some questions about the effectiveness of that and highlighted some issues in and around installations, and so on. There are definitely some issues to be addressed there. With hindsight, there probably should have been more effective scrutiny of the schemes.

**Mr Dunne:** There should have been. The risk of fraud was always a factor. You are a civil servant, so I assume that you and your Department would always be on the lookout for risk. An insufficient budget was always going to be a risk. Are you saying that it was up to Ofgem to manage those risks?

**Mr Sterling:** It was our agent in that regard. We looked to Ofgem to do that. It was reasonable to engage Ofgem, given that it was discharging a similar responsibility in Great Britain at the time.

**Mr Dunne:** Was there a clear statement of requirement for the task that Ofgem was given, including of risk?

**Mr Sterling:** There was. It was based broadly on the arrangements that applied in England, and we were essentially obtaining a similar service.

**Mr Dunne:** Was that appropriate, considering that they were different schemes?

**Mr Sterling:** Again, with hindsight, we have to address questions on whether the arrangement, whereby we got a population-based share — 3% — of the inspections that were occurring, was sufficient. I accept that, with hindsight, we might have looked at it differently.

**Mr Dunne:** Yes. In fact, had the PRINCE methodology been in place, I assume that you would have reviewed the feedback from Ofgem periodically and looked at the risk, and the evidence of risk. If the feedback from Ofgem had been monitored, would you not, in hindsight, have put in more resources to increase Ofgem's frequency of audit and review?

**Mr Sterling:** In hindsight, yes. I am sorry, but what was the first part of your question?

**Mr Dunne:** I was talking about the PRINCE methodology.

**Mr Sterling:** I am not sure that applying the PRINCE methodology would have made a significant difference. However, through the creation of an issues log, it might have flagged up matters such as the need to have the business case reappraised and the review conducted more clearly. I would still say that whether you are applying PRINCE or not, there should be what we would call a good BF system to identify issues.

**Mr Dunne:** What is a BF system? Is that "bring forward"?

**Mr Sterling:** Yes.

**Mr Dunne:** In other words, it is a management review. Would there not have been a frequent management review of the whole project by those with the senior responsibility? Would they not have sat down once a month and had a meeting to review how everything was going?

**Mr Sterling:** I expect that that would have been done, yes, for any project of that nature.

**Mr Dunne:** That is my point, though. This lacked project management. There would have been a team in there managing it, and if someone were on leave, the issues would have been covered by someone else. The whole thing would have gone forward with shared responsibility and shared accountability and been much more effective and efficient. Is that fair to say?

**Mr Sterling:** Yes. Again, it is worth pointing out that the voices of those who were involved in that way need to be heard. At the moment, those questions will be asked and those issues addressed through the fact-finding review.

**Mr Dunne:** I understand that the drive behind the renewable heat incentive scheme was to meet EU renewables targets. Is that fair? Was that one of the main reasons?

**Mr Sterling:** Yes. With the renewable heat incentive scheme, the desire was to contribute to the UK's overall target under the renewable energy directive. The target that was identified in the 2010 strategic energy framework was 10% of heat to be delivered through renewable sources by 2020, with an interim target of 4% by 2015. The initial focus was on the non-domestic side, but equally there was a recognition that about 50% of heat that is generated in Northern Ireland comes from domestic households, so there was a clear desire to have a domestic scheme as well.

**Mr Dunne:** Was there always that risk of the Department incurring infraction costs as a result of being unable to meet targets?

**Mr Sterling:** I am not sure. Non-compliance with an EU directive can lead to infraction costs, but that was not the major driver. The major driver was that the scheme was seen as being something that would contribute to the target but that, within that, would help to reduce our reliance on fossil fuels, thereby creating a more secure energy supply chain. It would help promote the use of renewable energy materials, such as biomass, and the other technologies that were to be supported through the RHI scheme. In the business case, the Department was also looking at the extent to which there might be some wider economic benefits through helping promote the renewables sector of the economy. All those were factors in the business case.

**The Chairperson (Mr Swann):** OK. Emer, you transferred across to the public spending directorate in the Department of Finance in October 2014. When did you become aware that there were problems with the RHI scheme?

**Ms Morelli:** The RHI scheme first came to my attention in June 2015, when we were advised by DETI that it had missed our requirement for approval of an addendum to the scheme.

**The Chairperson (Mr Swann):** You were informed by the Department?

**Ms Morelli:** Yes.

**The Chairperson (Mr Swann):** OK. I am conscious that you were present at a casework meeting on 21 October that referred to trigger points that were not implemented in 2013 and should have been included. Are you aware of what those trigger points were?

**The Chairperson (Mr Swann):** By way of background, a further business case came forward from DETI to improve the scheme over the period from April 2015 onwards. In the course of looking at that business case, it became apparent that DETI had consulted on cost controls on the non-domestic scheme in 2013. Included in those cost controls were various tiering trigger points and other methods of controlling spend.

**Ms Lockhart:** Thank you for coming before the Committee today. I have a couple of questions. David, you mentioned Mr Cockburn's evidence last week. You have obviously looked at the transcript in detail. He laid a lot of the blame at the Department's feet. I think that he is quoted as saying that it was a problem on the Department's part. I want to go back to something that he said about a consultation. Cambridge Economic Policy associates did an addendum to its overall consultation report in the first instance. There were 75 responses to that consultation, but they received only five of them. Can you explain why that was the case or who — not names — fronted that? Would you have been aware of that?

**Mr Sterling:** No, I cannot explain what happened there. I think that I am right in saying that the Committee has asked the Department for the Economy to provide some advice on that. I was not aware at the time that, when the work was being done post the consultation, the consultants had been given only five of the total number of consultation responses. I am not sure why that was, but, as I said, I think that I am right in saying that the Committee has asked for advice on that from the Economy Department.

**Ms Lockhart:** What are your comments on Mark Cockburn saying that it was the fault of the Department? I cannot remember his exact words, but he very much laid the blame at the feet of the Department.

**Mr Sterling:** I think that I flagged it up before that there were a number of contributory factors. I do not think that it is for me to pin the blame, but the contributory factors that I identified earlier include that, with hindsight, the tariff probably should have had tiering built into it, and Mark Cockburn expressed regret at that. I have already referred to the fact that there should have been regular reviews to test how the market was responding to the incentivisation mechanism, and I suppose that the follow-up on other such issues that were identified in the 2013 consultation should have been done. A third factor is the warning signs that came from Ofgem and the whistle-blower. Taking those things together, you get a sense of why we have ended up where we are.

**Ms Lockhart:** Am I right in saying that that all happened while you were in position?

**Mr Sterling:** Yes. If we unpack it, the tariff mechanism was agreed while I was in post. The tariff was designed in 2012. There was also clearly a need to conduct regular reviews. A review did not occur during my time, so I bear some responsibility for that. I presumably bear some responsibility for not causing the review to be conducted. I am not, for a second, attempting to apportion blame, but I argue that reviews should have been conducted after my time. I accept responsibility for reviews not occurring during my time. Alarms bells were rung by Ofgem while I was there, and the whistle-blower —

**Ms Lockhart:** Alarms were raised when you were there, but you were not aware of them.

**Mr Sterling:** No, I was not aware of them. To the best of my knowledge, nobody brought it to my attention.

**Ms Lockhart:** To the best of your knowledge, no one brought it to your attention.

**The Chairperson (Mr Swann):** Carla, Trevor is looking to get in.

**Mr Clarke:** I want to dig slightly deeper, David. On the 75 consultation responses, you are right. We have asked for the information and hope that we will be furnished with it. Was it custom and practice for the Department with other schemes, when you brought in Cambridge or some other consultants, to be selective about what was said to them?

**Mr Sterling:** I have no personal experience of anything similar. I cannot recall being involved in another project in which we would have engaged consultants in that way and then asked them to review consultation responses. That is not to say that it did not happen, but I cannot recall anything like that.

**Mr Clarke:** I appreciate your honesty. Given that you did that — not you personally, but a Department — and were paying Cambridge a significant amount of money to do a significant piece of work, do you think that it would be acceptable, in the sense of what anybody would consider reasonable, to filter the information that you give them to come to an informed judgement in what they give you?

**Mr Sterling:** It certainly would not be appropriate to edit, censor or filter responses so that the consultants whom you had paid to give advice saw only a narrow section of opinion. As I said, I do not know what happened in this instance, and I do not want to get into speculation. Having said that, I am aware of some consultations in which you will find that, for example, you get a large number of responses that are essentially the same thing. Somebody who represents a particular interest may have created a letter that a large number of people will sign. You do not need to read all those, because they are identical. I have no idea whether that happened in this instance, but it could explain



why, in some cases, consultants might not get every consultation report. Some consultation responses can be quite long as well.

**Mr Clarke:** From listening to the gentleman last week, some of the ones that he got were the long ones. I am not trying to apportion blame, but you can understand, given the way in which the evidence was presented last week, why some of us would draw a conclusion that information was filtered, if Cambridge got only five responses out of 75 and no explanation of what the others were about.

**Mr Sterling:** I can understand why you have asked the question, yes.

**Mr Kearney:** David, briefly explain what is the process when a permanent secretary moves out of one Department and into another? Is it the established practice that you provide a handover note or report to your successor that gives a sense of the strengths and weaknesses in the overall departmental operation?

**Mr Sterling:** Yes, that is normal practice.

**Mr Kearney:** Is that done on the basis of consulting with all the relevant senior personnel with responsibility for oversight of all the departmental projects and schemes?

**Mr Sterling:** There is not an absolutely standard approach to this, because some permanent secretaries moving into a new Department might have different requirements from others. Some will specify how they want their briefing to be constructed. In general terms, what I would expect is all business areas to be required to identify key issues for the incoming permanent secretary. Those key issues would probably be subdivided into things for immediate attention, things that the new permanent secretary needs to know and things that can be read in slower time.

**Mr Kearney:** That is very helpful. Did the RHI scheme feature in the schematic that you have just outlined?

**Mr Sterling:** My recollection is that, when Andrew took over from me, we provided him with a comprehensive departmental first-day brief that identified issues. I have not seen it since I left the Department, so I do not know whether the RHI was flagged up in it or not, but I am sure that it is still available.

**The Chairperson (Mr Swann):** OK David, we will ask for that.

**Mr Kearney:** You do not know whether the RHI scheme was in that.

**Mr Sterling:** I simply do not recall whether it was or not.

**Mr Kearney:** Would you not have read that before it was given over to Andrew McCormick?

**Mr Sterling:** I would have done, but I am saying it is two and a half years ago, and I cannot remember whether the RHI scheme is in it or not. Bear in mind, a first-day brief like that can often be quite a thick document, as you will be identifying a range of issues across the Department and in the Department's arm's-length bodies.

**Mr Kearney:** Therefore, I could make a supposition from that that the RHI scheme did not feature in the report, or it at least did not feature in the report with any concerns about it being flagged up. Bear in mind previous submissions to the Committee, when we heard that junior — much more junior — members of staff were identifying warning signs and, in the process of moving at much more junior levels in the Department, were flagging up their concerns in handover notes that they were supplying to their replacements.

**Mr Sterling:** I honestly do not know. I am not even going to conjecture as to whether it would have been or not.

**Mr Kearney:** That is OK. That is fine.

**Mr Sterling:** There should be a copy of it available.

**Ms Lockhart:** From memory, there was a consultation launched in 2013. I remember seeing the foreword, which very specifically talked about tiering. To my knowledge, the results of the consultation never went anywhere, and the recommendations were not brought forward. Why was that the case? Was that during this period?

**Mr Sterling:** The consultation was conducted during 2013, and a consultation response was not produced. Again, Andrew referred to this. He said that he did not have a satisfactory explanation of why it was never finished. I do not have one either. Issues and questions around that will be addressed by the fact-finding review. It was relied on —

**Ms Morelli:** — to bring forth the adjustments made on 18 November 2015.

**Ms Lockhart:** The results of that were relied on for the adjustments in November 2015.

**Mr Sterling:** Yes.

**Ms Lockhart:** Those responses sat from 2013 to 2015 on a shelf somewhere and were implemented only in 2015? Or am I wrong? I am new to all this, so I am finding my way here, too.

**Mr Sterling:** As I said, I do not know exactly what happened. I can say that there was not a formal consultation response published in my time.

**Ms Lockhart:** Would that be normal practice? Do a lot of consultations go out for which there is no —

**Mr Sterling:** No. That would be unusual. Normally, people who have responded to a consultation press for a consultation response. Various interest groups would be keen to see what the outcome was.

**Ms Lockhart:** Yes. That is a wee bit mind-boggling. There were numerous letters from the Minister in your equivalent Department in GB in 2013 and 2014 setting out the introduction of degression and tariff reviews to ensure affordability. The idea of a cost cap, which would limit the number of new applicants if the budget were at risk, was also referred to in those letters. The letters would have crossed your desk, I assume. I am just wondering why you did not look for similar cost controls to be introduced in Northern Ireland.

**Mr Sterling:** This is the same point that I addressed about the consultation response. The consultation had looked at a range of cost-management measures. Again, I do not have a satisfactory explanation for why that was not progressed at the time.

**Ms Lockhart:** OK. At any of your meetings with your equivalent grade in the then Department of Energy and Climate Change (DECC), did the RHI scheme come up for discussion? In particular, were the issues of tiering, degression and budget ever discussed?

**Mr Sterling:** I did not have any discussions with anybody in DECC about the RHI scheme, but there were discussions at the energy division level with DECC on it. I do not have the detail. I do not recall the nature of those discussions. However, I was aware that there were pretty regular discussions between the Department's energy division and DECC on a whole range of energy issues, so engagement was regular.

**Ms Lockhart:** Did engagement not happen at your level? There was no —

**Mr Sterling:** Not on the RHI scheme.

**Ms Lockhart:** I am not even sure whether the term "permanent secretary" is used in England. Do you have an equivalent over there?

**Mr Sterling:** Yes. Here I am called a "permanent secretary", but I am a grade below a permanent secretary in a Whitehall Department. Technically, I am a grade 2, which is a director-general, in those terms.

**Ms Lockhart:** Would you ever have any sort of comings and goings with your equivalent?

**Mr Sterling:** You would, on specific issues, but, as I say, the RHI scheme was not one of them.

**Ms Lockhart:** I find that really difficult to comprehend, because of the magnitude of the scheme and because of the experiences of GB in and around tiering. I find it really hard to comprehend that there was absolutely no mention of the RHI scheme in any conversation that you had at your level, because of your Department's level of responsibility for it. In your mind, was it not that big a scheme?

**Mr Sterling:** That would not be unusual. Discussions about schemes like that tend to be conducted at lower levels in the organisation. For example, in a different context, in our relationship with the Treasury, the vast majority of discussions on the regular stuff occur at grade 5, grade 7 level. We are quite small in Whitehall terms, so you find that the engagement tends to be at lower levels.

**Ms Lockhart:** Yes, we are quite small, and I just cannot understand how something like this was not picked up, given the size that we are and the direction of travel that it was going in. I really struggle with that.

Trevor will take the next question.

**The Chairperson (Mr Swann):** David, yes, we are quite small, but when you put the bill of £1.18 billion onto this scheme, it starts to put it into perspective at a Whitehall level.

**Mr Sterling:** Absolutely. I suppose you need to bear it in mind as well that energy policy is devolved. The more difficult discussions with DECC would have occurred on other policy areas, where policy is maybe developed with a focus on what is good for England, or parts of England, and where perhaps it has not sufficiently recognised the implications for Northern Ireland. It would be in and around those issues where policies that it is implementing can have implications for us. I mentioned the carbon price floor, which was an example of a policy that was developed at Whitehall level but did not appreciate — it did not understand the implications that that would have for us here. There was an enormous amount of work that went on between DETI and the Department of Finance and Personnel at the time to get a derogation from that so that we were exempt from the carbon price floor. That occupied a lot of time at senior official level. RHI did not.

**Mr Clarke:** David, the C&AG's report says that DETI officials, as far back as May 2011, recognised that the Treasury position regarding the budget treatment was not the standard annually managed expenditure (AME), and therefore controls had to be in place to limit that expenditure. The need for that was highlighted by one of the grade 7s back in 2011, and they escalated the risk, but we have heard in previous sessions that nothing was done about this. Do you ever recall being made aware of that significant risk?

**Mr Sterling:** No, I was not aware of that at the time.

**Mr Clarke:** This is what makes it difficult, because there is an awful lot going on within the Department that you are not aware of. I suppose it is leaving some of us drawing blanks here in the sense that you are the accounting officer. This had financial consequences even in relation to that. It was limiting your expenditure but you, as the accounting officer, were not aware.

**Mr Sterling:** I was not. To the best of my knowledge, I was not involved in any discussions in 2011 about the implications of this. My recollection of the time is that we had a budget of £25 million over the four years. I recall that it was annually managed expenditure, but that there was a risk-sharing mechanism attached to that. I was not involved in any particular discussions in and around that.

**Mr Clarke:** We move to January 2014, and a letter from DETI's corresponding GB Department confirmed that the Northern Ireland allocation of AME would be a fixed amount, based on a 3% share of the GB budget. However, still nothing was done to manage the budget. I suppose you could be excused for not recalling that from 2011, but it has now been escalated. Your counterparts in GB have flagged this up. Why was there still nothing done?

**Mr Sterling:** Do you want to pick up on the —

**Ms Morelli:** Yes. In that period, the scheme was still in underspend, so the £25 million over the four years was set as the allocation, but —

**Mr Clarke:** Sorry, Emer. It may have been in underspend, but it was flagged up in 2011 and 2014 by your counterparts in GB in terms of the share of the budget you would be allocated because of the risk. Whether you were in underspend or overspend, why were risks not controlled at that time?

**Ms Morelli:** Across that period, the consultation had been launched with the intention, as it laid out, that cost controls would be brought in.

**Mr Clarke:** So you take —

**Ms Morelli:** It is important to stress that we had a defined budget over the four-year period of £25 million. That represented underspending against the population share at that time. That agreement, when it got to 2014-15, effectively stopped, and we then entered another period. To step on a little bit, DFP at the time required the scheme to come back for reapproval because of budget uncertainty; the budget had been confirmed for only that four-year period. Hence, from 1 April 2015, we required a reapproval of the scheme.

**Mr Clarke:** So you are saying that an equivalent Department in GB alerted your Department in relation to the 3% share of the GB budget, which, in a sense, was flagging up a risk, but you did not think that it was worth trying to put some control mechanisms in place even in January. I think —

**Ms Morelli:** Sorry, I am speaking on behalf of the Department of Finance.

**Mr Clarke:** Sorry; it is to you, then, David —

**Ms Morelli:** There was a consultation.

**Mr Sterling:** January in which year?

**Mr Clarke:** January 2014.

**Mr Sterling:** Again, at that time —

**Mr Clarke:** You were getting ready to go.

**Mr Sterling:** In fairness —

**Mr Clarke:** You were getting the bags packed and the office cleared.

**Mr Sterling:** I did not know that I was going in January 2014, so —

**Mr Clarke:** This is serious. To a degree, I will give you the benefit of the doubt for 2011. In January 2014, you heard from your counterparts in GB that there was an issue here. It was bad enough internally in 2011. Your counterparts in GB flagged up another issue in 2014, but it seems that still nothing was done.

**Mr Sterling:** At that stage, there was very low take-up of the scheme. We were actually surrendering funds. There was no — as I said, with hindsight, there were the first indications that the scheme might be being used in ways that went beyond the scheme's intention, but, as I said, those were not being picked up. The preoccupation at that time was with the fact that we were underspending and surrendering money. As I said, the response to that was to advertise and promote the scheme. It is for all those reasons that perhaps concerns that are clearly apparent now were not as apparent at that stage.

**Mr Clarke:** OK.

**Mr Sterling:** One postscript to that: it was a fairly unusual arrangement whereby a Department outside the Department of Finance was negotiating with another Department outside the Treasury on funding arrangements. There is a clear lesson here —

**Mr Clarke:** You might have been better stopping a few minutes ago. If it was unusual, it should have drawn your attention even more to it. If it was usual practice, it would have been unlikely for you to see it. You would have been better stopping without adding that part. Now that has been flagged up as being unusual practice, why did you not see it?

**Mr Sterling:** I realise that I dug a hole for myself there. Nonetheless, it is an important point that you make. I acknowledge that, again, with the benefit of hindsight, we should have paid more attention to that. However, as I said, probably because the scheme was underspending, attention was not drawn to it in the way that perhaps it should have been. My key point is that a lesson to be learnt from this is that, if any funding arrangements outside the normal Treasury/Department of Finance regime emerge, we really need to make sure that those are properly understood and managed.

**Mr Clarke:** I suggest that there is another lesson as well. Three years prior to someone outside this region flagging it, when someone internally flags an issue of risk, it should not be dismissed and should be looked at. A grade 7 flagged up the risk back in 2011. That should not have been cast aside; something should have been done then. So I think there is something else, Chairman. We should not dismiss someone when they flag a risk in the Department. There should have been a paper trail to prove that something was done about it.

**Ms Lockhart:** May I make one wee point there? You said that it was a different way of doing things. Were you aware that this was happening, or was that happening and you did you not know that you had someone in your Department liaising or negotiating, as you said?

**Mr Sterling:** I do not have any recollection that my attention was drawn to the uniqueness of this at the time. My recollection is that we had a budget of £25 million. Although it was annually managed expenditure, it was not free money. I was aware that there needed to be controls on this, but that is probably as much as I can recall knowing at the time.

**Ms Lockhart:** It shocks me again that you as the senior person could look at something so unique, as you said — something that is not really utilised in our government — and not think, "I need to get my head around this".

**Mr Sterling:** I have huge sympathy for the Committee, because you probably are thinking, "How did he not know what was going on?".

**The Chairperson (Mr Swann):** A fair point.

**Mr Sterling:** I understand that. I do not want to get into what people in the Department were doing, but at a senior level you are dealing with a huge range of issues all the time. It is a very fast-moving environment. I would love to be on top of the detail of every scheme and project, but I cannot be. As I say, it is difficult to explain in isolation just how this could have happened, and that is why I look forward to the Committee's conclusions on all this.

**Ms Lockhart:** In some ways, I do have sympathy for you. I understand that when you are in that senior role you depend on others around you to keep you informed. However, this is £1.9 billion at the end of the day. I have said this before, but we have people struggling to heat their homes. We have elderly folks living in absolute poverty who are not able to heat their homes, yet we have blown £1.9 billion into the ether.

**Mr Sterling:** I accept all that. As I said earlier, I am acutely conscious of the impact of the £20 million-a-year pressure that we are going to have to deal with over 20 years. I firmly believe that we can reduce that, and working on that has to be a priority for both me and Andrew. We really do need to make sure that is not the case, but I accept your point.

**Ms Lockhart:** One last question, and I asked this of Andrew. Are you not absolutely furious that you were not made aware of this?

**Mr Sterling:** The voices of the people who were working on the project have to be heard. I have not been able to speak to them. They have to be able to give their side of the story. I will reserve judgement until after that. What I will say — I have thought about this carefully — is that energy division is a tough place to work. I talked about some of the issues that have to be dealt with. There are an awful lot of good people in energy division who have worked very hard and done some very good things. There are some things that need to be explained, but I certainly will be giving the benefit of the doubt to those people until all of this has been gone through. Any of us, including myself, who are culpable in any way for this will have to be addressed in due course. However, I think it is worth mentioning that energy being a devolved matter is difficult for us. I remember being told in 2010 that the Department of Energy and Climate Change had about 800 people in the Department. We had fewer than 30, and we had to provide advice and develop schemes on all the range of issues that DECC was dealing with. It is hugely difficult. I feel personally for those people who were involved and the issues that they had to deal with.

**The Chairperson (Mr Swann):** David, coming back to the unusual scheme where somebody in DETI, at that stage, was negotiating with Treasury, you were permanent secretary at that time. You are now permanent secretary of Finance. How would you react if you found out that someone in the Department of the Economy was currently working with the Treasury on another funding scheme?

**Mr Sterling:** I would be surprised if there was a funding arrangement going on that we were not aware of. One of the things that we need to look at is whether we need to give some advice to Departments on this issue. I do not think we are aware of any other arrangements like this.

**The Chairperson (Mr Swann):** To be fair, you were not aware of this one either.

**Mr Sterling:** I was in DETI at the time. I was aware of the nature of the relationship; I was not aware of the detail of it. I think that that is the point I was making.

**The Chairperson (Mr Swann):** Emer, you were in Finance at that stage.

**Ms Morelli:** From October 2014.

**The Chairperson (Mr Swann):** Were you aware of that relationship?

**Ms Morelli:** No. Obviously, I looked back on it to prepare for my appearance today. The arrangement at the time seemed to be that this was a UK-wide scheme, and each devolved area had a contribution to make to a UK target. AME was provided. AME, by its nature, is flexible; it responds to demand, up and down, and is designed to mitigate risk on devolved projects.

**The Chairperson (Mr Swann):** We have seen the correspondence in which this was designated AME, but it was not to be treated as AME.

**Ms Morelli:** It would be unusual for AME to have a cap on it. This scheme, I suppose, by its nature and the requirement to meet the UK-wide target, seems to have been the policy decision behind putting the cap on it. I think it is important to say that DETI, as I understand it, engaged with DECC, and DECC engaged with Treasury. I have no sense that DETI was directly engaging with Treasury from a Northern Ireland perspective. The Department of Finance also engages with Treasury on AME returns and levels of spend, and that continued throughout this period. So I think it is important to say that, while the arrangement was between DETI and DECC, and there was DECC's arrangement into HMT, we also were engaged.

**The Chairperson (Mr Swann):** So there were two conversations going on about the same scheme.

**Ms Morelli:** I think it is important. I do not think that at any stage DETI engaged directly with HMT on this issue.

**The Chairperson (Mr Swann):** You said something earlier about that period in which there was not approval. I am looking at the casework notes from 21 October. You were at that meeting. Can you recall what reasons were given as to why that approval was not put in place and why it was allowed to expire?

**Ms Morelli:** My understanding was that DETI just had not recognised it as a requirement in April 2015. It came to light in June 2015 that it had expired, and we engaged then, urgently, with DETI to bring it back in and get an addendum to the business case.

**The Chairperson (Mr Swann):** And that would not have been registered on a risk register anywhere within either of the two Departments.

**Ms Morelli:** The Department of Finance would not have registered it. Once we issue an approval, that approval goes to the Department that is responsible, and it falls within its governance and management arrangements to take note.

**Mr Kearney:** In a previous hearing, evidence was submitted on the operation of the scheme from within the Department. I and others commented on it. What was actually offered by way of explanation came in the form of design flaws, misunderstandings, assumptions, weaknesses and thoughtlessness. That is how it was characterised. I am conscious that you were in the Department from the beginning of the scheme, for two years until July 2014, and then your successor took post, and Andrew was there from July 2014 until this scheme imploded. I am a bit disappointed with how this evidence session has gone, if I am honest. I do not say this in any way to be offensive but just to be very frank with you. You seem to have worked with two parameters: one, you do not know, and, secondly, there is a fact-finding exercise in play, and therefore you are fettered in your ability to analyse the situation or give us a view in relation to what has gone wrong. I just offer that as an observation in the hope — perhaps the vain hope — that, for the rest of the session, we might get a bit more guidance from you in relation to the difficulties that have arisen and that were clearly in place from the very get-go. Again, to repeat something that I said earlier, I just find it so inconceivable that eight to 10 people had a helicopter view of this particular scheme within the structure. You had a robust governance control system in place. PwC said that, in its opinion, the controls put in place over the NIE scheme were not sufficiently robust and, therefore, not fit for purpose. And yet you have no comment to make in relation to any of these matters. I just find that very disappointing.

**Mr Sterling:** I am sorry to hear that. I will try and address that. In regard to the fact-finding review, Andrew explained the purpose of that to the Committee, and obviously I have been briefed on it as well. When I have referred to the fact-finding review, it has been when I have been asked to address why those who were involved in the project team or developing the scheme did or did not do certain things. I think that I explained at the start that I have not been able to speak to those people, so I am having to rely on my memory at the time, and I am also having to be careful that I do not say anything that suggests that I have reached a judgement about their behaviour, conduct or performance, which I do not think would be appropriate for me. But I have said that, if there were failings on my part, I am perfectly happy to be amenable for those. I have flagged up and accepted that errors occurred. Things occurred on my watch. I have referred to the design of the tariff, the absence of a review and the fact that warning flags raised by Ofgem and the whistle-blower were not appropriately dealt with. On your point about why I did not know, I am being honest. Unless there are things that occurred that I have forgotten about, genuinely I was not aware, or made aware, of those things at the time, or if anybody did make me aware of them, it did not register with me. I am sorry that I cannot be more honest, but that is the way that it has been.

**The Chairperson (Mr Swann):** David, is there a normal standard procedure in the Department for handling whistle-blowers?

**Mr Sterling:** Yes, there is guidance on dealing with whistle-blowers. It goes back to 2009 and was updated in recent times.

**The Chairperson (Mr Swann):** Why was it not followed?

**Mr Sterling:** Again, I do not have a satisfactory answer to why that did not happen in this particular case.

**The Chairperson (Mr Swann):** Could there be other occasions when it has not been followed?

**Mr Sterling:** I recall that I appeared before this Committee to deal with the Bytel inquiry, and I acknowledged that a whistle-blower at that time had not been handled appropriately.

**The Chairperson (Mr Swann):** Why were lessons not learned?

**Mr Sterling:** This is not a particularly good excuse, but the whistle-blower initially made contact with the Department in, I think, autumn 2013 and followed up in May 2014. We did not have the benefit of the Bytel report from this Committee until, I think, 2015. As I say, I would not throw that out as an excuse as to why the whistle-blower was not dealt with appropriately. Again, I am sorry that I have to reference the fact-finding review, but the handling of that issue is, as you know, being dealt with in the fact-finding review.

**Ms Gildernew:** Look back to the beginning of the scheme. There was a four-year budget of £25 million, and it was not raising any hairs or setting off any alarm bells. The Treasury was picking up the cost of it. The Treasury required, in April 2015, a reapproval of the scheme, and that then triggered —

**Mr Sterling:** The Department of Finance required reapproval.

**Ms Gildernew:** OK. On the basis of your knowledge, where was the reapproval of the scheme? Where was the incentive to get that reapproval?

**Mr Sterling:** That was a condition of the original business case approval by the Department of Finance and Personnel at the time. The initial approval granted in April 2012 was only for three years.

**Ms Gildernew:** OK. Can we get sight of the official business case, or have we already got that?

**Mr Sterling:** I think that you have the business case.

**Ms Gildernew:** OK. The scheme was supposed to, or designed to, mirror the scheme in Britain.

**Mr Sterling:** Tailored to adjust for our circumstances here, yes.

**Ms Gildernew:** And officials in DETI were aware that they tiered the scheme across the water.

**Mr Sterling:** Yes.

**Ms Gildernew:** OK. Presumably they understood why the scheme was being tiered.

**Mr Sterling:** Yes, they would have done. They would have the benefit of the consultancy support from Cambridge Economic Policy Associates as well.

**Ms Gildernew:** Why do you think the decision was taken not to tier the scheme here? Who took it? Without getting into names — I am not looking to individualise this — why was that element of the scheme not included as part of our scheme?

**Mr Sterling:** The scheme design was addressed in the business case, which was considered by the casework committee and subsequently approved by the Department of Finance and Personnel. The tariff mechanism was approved in that sense. Why was tiering not introduced? Again, I go back to Mark Cockburn's evidence last week, where he expressed regret that they did not look more carefully at that and did not propose or recommend that it be introduced into the scheme. The conclusion reached at the time clearly was that tiering was not necessary in our circumstances.

**Ms Gildernew:** Was that because of the low take-up?

**Mr Sterling:** This would have been before that. This was in the design of the scheme. With the tariff, we were trying to incentivise people to change behaviours. We were incentivising people to move away from a reliance on fossil fuels and towards use of renewable heat sources — in this case, biomass. In constructing the tariff, you needed to provide people with an incentive to make the initial capital investment, which could be several tens of thousands of pounds. There are issues in and around the inconvenience of changing and moving over and, at about that time, biomass was not as readily available as it is today. There were a lot of issues that needed to be addressed to create a tariff that was considered sufficient to encourage people to move away from heating oil.

**Ms Gildernew:** We support the object of the scheme. I, too, want to see people changing behaviours and moving away from fossil fuels and into renewables. We do not have any difficulty with that. The difficulty is around how the scheme was designed. I am looking at a table on page 12 of the report by



the Comptroller and Auditor General and, just using a back-of-an-envelope calculation, there were 564 applications in about 29 months and about 359 in the next six months. Then, between October and November 2015, there were almost a thousand applications. What happened then, David, to cause the spike? You mentioned before about the scheme being marketed or advertised, but what was the driver for the increase in applications at that time?

**Mr Sterling:** I think that it has been accepted in previous evidence sessions that the main reason for the spike was that the Department said in September that it intended to introduce a new tariff that would include tiering and an overall cap, and there had to be a two-month period to alert people to it. Clearly, there was a rush of people applying to take advantage of the old tariff before the new one came in on 18 November 2015.

**Ms Gildernew:** How was it advertised? How did word get out? Was it in the press or online? Do you know how people got to hear about the scheme or why?

**Mr Sterling:** Not exactly.

**Ms Morelli:** You would have to ask the Department for the Economy, but an SL1 went to the ETI Committee in September as well.

**Ms Gildernew:** You mentioned the consultants, and we heard from them last week. One of the questions that we are keen to hear an answer to is how many hours there were. I know that you would need a right budget to pay for consultants, and they made the point that London-based consultants do not come cheap. Do you know how many hours they worked on this scheme?

**Mr Sterling:** I do not know that off the top of my head, although I am sure that it could be found out.

**Ms Gildernew:** OK. It seems very strange to me that the whistle-blower came forward in October 2013 and said that there was an issue that could be subject to abuse, yet the scheme was still open and taking applications two years later without a cap. There is talk that the tiering and the cap were introduced, and that was in November, so it was two years after a member of the public said that there could have been a problem. It seems an awfully long time. I accept that you were gone in July 2014, but we are trying to get our heads round all the areas where problems could have been addressed.

Whether inadvertent or not, there was a litany of mistakes: the lack of minutes of the original discussions between Ofgem and the Department, and the lack of regular reviews, but the low inspection rate is what I cannot get my head round. People were not going out to inspect whether the scheme was fit for purpose and whether it was doing what it was supposed to be doing. Given that a whistle-blower said in 2013 that there was an opportunity for the scheme to be abused, you can understand why the Committee is trying to get to the bottom of whether it was a cock-up or a conspiracy. Was there some level of acceptance that the scheme could be taken advantage of and that people were cute enough to do that? You are now faced with the task of cleaning it up. You are now in the Department of Finance, and you talked about the £20 million per year of cover that will be needed for the next 20 years. I know that I have thrown an awful lot of questions at you, but are you now taking legal advice on how to mitigate it and stop that expense to the public purse?

**Mr Sterling:** I will pick up those points. First, I think that Andrew has reported that his Department is looking at ways of reducing the forward commitments, and we will support the Department in whatever way we can in that. I made the point earlier that reducing the risk of future loss has to be a priority now. Secondly, on the level of Ofgem inspections, I think that I have already acknowledged that, with hindsight, we required a more robust inspection regime. Part of the explanation for that may be that, in the original design of the scheme, I think that the expectation was that a typical user would be in the service sector, using a small boiler for 15% of the time in, if you like, an office environment. Clearly, there had not been enough sensitivity analysis done on the tariff design to identify that it would be attractive to those operating in other sectors. We have seen a very high take-up in, for example, the poultry sector. The PwC report has looked at that, and it said that it was being used widely in the poultry sector in way that is compliant with the scheme. However, that was not envisaged at the time. I think that that points to something that I accepted earlier, which is that there should have been more sensitivity analysis and that there should have been regular reviews. I think that regular reviews are necessary to detect changes in the market and behaviours of those who are interested in the scheme so that you can move quickly and flexibly to adjust the tariff as market conditions change. I accept those points. I might have missed one or two of your questions.

**Ms Gildernew:** I asked so many that I may have missed them too. Is there a pattern of mistakes or oversight on the development of this scheme that strikes you as unusual?

**Mr Sterling:** You used the term "cock-up or conspiracy". I will leave others to judge that based on the evidence. All I can say is that the Audit Office reports suggested at that time that there was no prima facie evidence of fraud. The PwC report highlighted some instances that would require further investigation. I do not think that I can go much beyond that on the basis of the evidence that I have.

**Mr Clarke:** One of your comments in response was helpful because I think that the poultry sector has had a very negative reporting about how it has used the scheme, and I think that it was helpful that you identified how the poultry sector was exonerated, in a sense. Maybe you did not go as far as that.

I am interested in the other point that you made just before that about the service sector using it 15% of the time. A couple of things about that strike me. It may have been the anticipation that the service sector would use it 15% of the time, but many in that sector were using it 100% of the time, and there were no control measures to prevent that. The other thing that strikes me, David, from having a conversation with someone at the weekend, is that this was nearly a retrospective process. There was no investigation of the requirement: you put the boiler in, and you applied retrospectively, yet there was no system in place to prevent that. I find interesting your comment to Michelle about the service sector using it 15% of the time, given that there was no control mechanism to prevent 100% usage in either. Why was that?

**Mr Sterling:** The design of the scheme was that you could, essentially, purchase under the scheme and then apply for accreditation. I am not sure that, if we were doing it again, we would do it that way.

**Mr Clarke:** That is probably the right answer.

**Mr Sterling:** Sorry, what was the second part of your question?

**Mr Clarke:** Why was no mechanism in place to prevent 100% usage? There were people who put in boilers and made applications retrospectively. There were no checks and balances to see what their energy requirement was.

**Mr Sterling:** Again, I would have to accept that that, with hindsight, is a deficiency in the scheme. It is something that should have been detected with good monitoring of the system, and it emphasises the importance of conducting reviews to test how people are using the scheme and taking advantage of the incentivisation mechanisms.

**Mr Clarke:** Your honesty is useful, but many of us around a table have had experience in rural development schemes. Sometimes, we think that we were critical of rural development schemes. In that context, if you have started something you cannot apply. Why did you not set out that applicants should make the case first, and then their eligibility would be decided on? It seems to have been that everyone was eligible: just apply and you get a blank cheque.

**Mr Sterling:** Again, we transplanted in large part a scheme that was developed in England.

**Mr Clarke:** You did not transplant it all; you left the good parts in England and did not replicate them in Northern Ireland.

**Mr Sterling:** I would have to accept now that we should have tailored the arrangements here better. I have acknowledged that throughout the afternoon.

**The Chairperson (Mr Swann):** David, I want to ask about the transplant of the two schemes. As you said before, energy is a devolved matter. We had the option of a capital scheme. Why was that so easily ruled out?

**Mr Sterling:** I think that the conclusion was that, in simple terms, a tariff-based mechanism would incentivise the behaviours that we were looking for more effectively than a grant-based system. Emer looked at the business case in detail.

**Ms Morelli:** The key benefit of the incentivisation, and the payment of the tariff over the 20-year period, was to sustain the technology and to incentivise people to move to renewables. At that time, biomass and the renewable technologies were not common in Northern Ireland and we were starting from a much lower base than the rest of the UK, according to the business case. This seemed to be the most appropriate way and, indeed, that was the way that the UK-wide scheme was developed. The EU directive targets, as well, were over a set period. If you had gone for a capital scheme with upfront payment, you could not be assured that that would be the technology used over that period. That was a risk in that model. Again, both were considered in detail and we took the consultants' advice.

**The Chairperson (Mr Swann):** We have been given a minute of a DETI casework meeting on 9 March 2012. Under the "Options" section, it states:

*"The RHI option, whilst requiring complex administration arrangements, can be delivered at a fraction of the cost through building on existing systems already in place for the GB RHI"*

and

*"administration costs are much more affordable in comparison to the Challenge Fund option",*

which is basically the capital scheme. What is your assessment of that analysis, with the benefit of hindsight?

**Mr Sterling:** Before Emer speaks, with hindsight, I wish that we had introduced the capital-based scheme. However, that is with the benefit of hindsight. The issue of why did we not tailor something more specifically or build something from scratch goes to the point that I made earlier about the challenge facing us when it comes to energy policy. We have a relatively small resource in energy division, with a lot of obligations and commitments, and that is a factor that affects our ability to do some things as well. We have to be realistic about that.

**Mr Kearney:** Following on from those questions and answers, David, in relation to the badly tailored scheme, we take as a given that it had design flaws. And with the benefit of hindsight and of having read all the Hansard reports of previous hearings and looking at the evidence brought forward by others to the PAC, in your view, with retrospect, has that left the scheme open to structured commercial exploitation?

**Mr Sterling:** Yes. A combination of the weaknesses that I described, acknowledged and accepted before has left the system open to being "gamed", to use the term. There is no question of that.

**Mr Kearney:** We all accept that there is a likelihood that it has been gamed. I am asking you something different. Have the circumstances in which the system has been gamed as a result of design flaws been driven by the structured commercial exploitation of those design flaws?

**Mr Sterling:** Oh, I see. Are you asking whether the system was designed in such a way that it could be commercially exploited?

**Mr Kearney:** No, I am not asking you that. On the basis of how the system has been designed, is it possible, on the basis of your knowledge and insight, with the benefit of hindsight and having examined all the evidence, that this scheme has been subject to aggressive commercial exploitation for commercial gain, advantage and profit?

**Mr Sterling:** That is something that needs to be looked at, although I do not have evidence of that happening. The only evidence that I can rely on is the PwC report.

**Mr Dunne:** David, you made reference to your staffing levels and, indirectly, your workload and so on and so forth. As someone who was on the ETI Committee for some years, I know that the energy division had a big workload. What was done from your side to address those issues? Did you push for additional staff and ask for more resources? Did vacancies lie empty? What has been done to address those issues?

**Mr Sterling:** I was conscious that the energy division was under pressure; it was, as I said, a division that had a lot of very difficult challenges and complex issues.

**Mr Dunne:** There is no doubt about that.

**Mr Sterling:** However, many other areas of the Department were the same, such as those that dealt with telecoms, tourism policy, economic development policy, etc. The raw facts are that in March 2010 the total number of staff in the Department was 493, but when I left in June 2014 it was 469. So, across the Department, numbers had reduced by 5%. In the same period, the number in the energy division increased from 29 to 38, so we had managed to get a 31% increase in the staff number. That shows the priority that was given at the time to the range of issues that were being addressed in the division.

**Mr Dunne:** So there were no long-term vacancies in the division.

**Mr Sterling:** I do not recall the exact disposition of the team at the time, but I was conscious that it needed prioritisation. A decision to skew resources towards energy division, given the pressures that it faced, would have been taken at board level in the Department.

**Mr Dunne:** So it had an uplift from 29 to 38.

**Mr Sterling:** Yes.

**Mr Dunne:** So, would it be fair to say that it had adequate resources to deal with the workload or were they still stretched?

**Mr Sterling:** They were probably still stretched. You can never have enough resources; it would always be nice to have more. However, within the overall resource framework that we had, we sought to address the pressures in energy division at a time when overall numbers in the Department were decreasing.

**Mr Dunne:** The issue was addressed, then. Would it be fair to say that?

**Mr Sterling:** I will leave it to others to say whether it was addressed satisfactorily.

**Mr Dunne:** You made the point about the workload on a number of occasions. I concur that there was a heavy workload; a lot of stuff came through at that time. You mentioned the issues, and there is no question that they were big issues, but is it fair to keep saying, "We didn't really have the resources to deal with everything as fully, effectively and efficiently as we should have."?

**Mr Sterling:** What I tried to do with the senior team was balance the resources in the Department in an optimal way. If you had asked me, "Could you do with a few more people?", my answer would have been yes, but I could say that for a lot of areas.

**Mr McCrossan:** Thank you, David and Emer. I have listened throughout your contribution, and I agree with some of the remarks made by Declan and Trevor. You seem to have gone round in circles on some of the questions posed to you. It has been an extremely long day, but I am sure that we are not going to get much further in terms of any of the questions. The figures are clear. You have said that you hope or are sure — I am trying to remember your exact words — that you can minimise the cost to the block grant.

**Mr Sterling:** I did not say that I was sure that I could do it.

**Mr McCrossan:** You said on three separate occasions, David, so I am sure that you have a plan or something. You said it with confidence on three separate occasions. First, what financial modelling has been done to meet the overall costs and what parts of the public sector will be hit most as a consequence of the overarching cost of £350 million, say, in the next 20 years and, more importantly, the £140 million in this mandate?

**Mr Sterling:** First, the point that I was making was that the Department for the Economy is looking for ways to minimise the commitment, and we will provide whatever support we can. I made the point at the start — I think that Andrew made it before — that, for legal reasons, there is a limit to what we can say on how we might go about that. On the forward commitment, I think that Andrew's assessment was that over the 20-year lifetime of the scheme, the unfunded commitment — the pressure, if you like

— would be in the region of £405 million. That will depend on a number of things, including future take-up of the scheme in England, given that we do not know what the budget will be beyond the spending review period. We have firm allocations to 2019-2020. We in the Department are working with Ministers to agree a budget for next year and for the two years beyond. I am acutely aware that the £20 million a year pressure is something that we will have to address in that budget. That is a real and present challenge.

**Ms Morelli:** We are working very closely with DFE colleagues to ascertain what actions can be taken to minimise the spend. We are relying on the findings of the PwC report and on any other actions that can be taken. We will continue to liaise with PwC on that.

**Mr McCrossan:** Am I right in saying that there is no clear plan to mitigate the cost or the impact on the block grant?

**Mr Sterling:** Things are being worked on.

**Mr McCrossan:** It is all ifs and buts and "whataboutery".

**Mr Sterling:** Things are being worked on. I really cannot say any more than that.

**The Chairperson (Mr Swann):** David, you said that you had read the previous Hansard transcripts. Issues of state aid and de minimis were raised. When did the EU Commission give the green light for the scheme?

**Mr Sterling:** It was in October or November 2012. I do not have the exact date in front of me.

**The Chairperson (Mr Swann):** Given that the payments are much higher now than they were at the outset, have you revisited the scheme's compliance with state-aid rules?

**Mr Sterling:** It is something that the Department for the Economy is looking at.

**The Chairperson (Mr Swann):** So we could have a problem in connection with those as well.

**Mr Sterling:** I do not know. The issue is being looked at.

**The Chairperson (Mr Swann):** Is that Economy or Finance?

**Mr Sterling:** That is for Economy to lead.

**The Chairperson (Mr Swann):** You were very quick there.

**Ms Morelli:** Economy will lead, but Finance is requiring them to do so.

**The Chairperson (Mr Swann):** Finance is asking Economy to do that: I am glad that someone is getting on top of that.

There is a minute here from a casework meeting on 21 October 2015. Paragraph 3 states:

*"the main change in the legislation relates to the change introducing a tiered tariff and annual cap on the hours."*

Has that change taken place in legislation?

**Ms Morelli:** Yes, it was introduced on 18 November 2015.

**The Chairperson (Mr Swann):** It has been through all the stages. I am aware, David, that this is no longer your remit as accounting officer, so we appreciate your taking the time to contribute today. Emer, thank you very much for your contribution as well.