

## 5. Heat usage

- 5.1 As discussed at paragraphs 2.37 to 2.40, Ms O’Hagan contacted the Department several times between August 2013 and March 2015 to inform Officials about issues of heat wastage by applicants and users of the NI Scheme. In her emails on 12 May 2014 and 9 June 2014, Ms O’Hagan advised that,

*“... [W]hat we are seeing on the ground in Northern Ireland is that buildings are using more energy than before because it pays them to do so. The flat rate means that there is no incentive at all to be efficient so the heat in buildings in all year round with the windows open everywhere. When we had spoken, you did not believe that people would do this, but please believe me that it’s happening with almost everyone that we approach. It’s making it impossible for us to sell energy efficiency equipment to these buildings, even when that’s exactly what should be happening ....”*

### Meeting with Ms O’Hagan in October 2013

- 5.2 On 26 August 2013, Ms O’Hagan sent two emails to Minister Foster; one directly to the Minister and one to the Departmental mailbox. In both emails, Ms O’Hagan introduced herself and her company, which she states in both emails has, *“developed innovative energy efficient heating controls called heatboss.”* Ms O’Hagan requested a meeting with Minister Foster so that she may, *“hear about what we do and for us to ask some advice on how we align energy efficiency we deliver with the sustainability delivered by RHI.”*

- 5.3 We note that the content of both emails sent by Ms O’Hagan is the same, except for an additional paragraph in the email sent directly to Minister Foster, which states,

*“Given the benefits of RHI we find that many of our potential customers are no longer worried about becoming more efficient, because they are now more sustainable. I firmly believe that the two should go hand in hand and would like to be part of making that happen.”*

- 5.4 On the same day, Minister Foster forwarded the email to Glynis Aiken (her Private Secretary). On 5 September 2013, Minister Foster sends a letter to Ms O’Hagan stating,

*“Unfortunately, due to diary commitments, I am unable to meet with yourself to discuss how your product might align with the Northern Ireland Renewable Heat Incentive. However, my Head of Energy Division, Fiona Hepper is content to arrange a meeting with yourself and members of her Renewable Heat team if you would find this helpful.”*

- 5.5 On 8 October 2013, a meeting took place between Ms O’Hagan, Ms Hepper, Mr Hutchinson and another Department Official believed to be Ms McCutcheon. The proposed agenda for this meeting was provided by Ms O’Hagan in advance. It is contained within an email from Ms O’Hagan to Ms Hepper’s Personal Secretary on 4 October 2013. It sets out the following discussion points,

- *“Overview of heatboss and its impact on the energy efficiency of commercial buildings;*
- *Discussion on the impact of [the NI Scheme] on energy efficiency levels;*
- *Discussion on the potential opportunities to align [the NI Scheme] and energy efficiency measures;*
- *Discussion on the potential for future incentives for energy efficiency measures in commercial and public buildings.”*

5.6 When asked about the meeting on 8 October 2013 with Ms O’Hagan, Ms Hepper recalled,

*“A meeting was set up and it was only in recent discussions that it triggered this meeting [with Ms O’Hagan in October 2013] had happened, so I don’t remember, I couldn’t put a face to the name to be candid with you. But she came in, she was talking to us about a particular product that she was trying to bring to the market if, I recall correctly, it was heatboss. She talked to us about the [NI] scheme, her understanding of it and that she had some anecdotal evidence that, as she was trying to sell her product, people weren’t particularly interested in her product and she had patched this together as to why. She didn’t have strong evidence at the time and she did characterise it as anecdotal. Which is all fine. We talked her through what we were doing, the consultation wasn’t finished, we talked her through what the consultation was aiming to achieve, what phase 2 was about and the issues we were putting in around cost control and potential for review of tariffs etc. so we talked her all through that.”*

5.7 Mr Hutchinson did recollect this meeting,

*“... [Ms Hepper], [Ms McCutcheon] and myself would have met with her [Ms O’Hagan] and at that meeting she talked about her energy efficiency products and talked ... anecdotally [about what] she is hearing, she can’t sell her products ... because people are trying to use more heat than ... they need to ...”*

5.8 Mr Hutchinson did also inform us that,

*“... [T]he issue that she raised in autumn 2013 was nothing we had heard ... so it was of interest absolutely and we thought right, we’ll keep an eye on it you know in terms of monitoring and analysis of it but, at that stage, we were probably still thinking of a review in 2014 where we could do a more formal analysis of the tariffs and how they were being paid out.”*

5.9 After the meeting on 8 October 2013, Mr Hutchinson emailed Ms O’Hagan on the same day to thank her for coming to meet with them that morning. Mr Hutchinson also attached the Consultation Paper and provided the email address of a Departmental Official in DFP advising that this might be a useful starting point to communicate to them about a new energy efficiency product that could, *“significantly reduce heating costs.”*

5.10 Ms Hepper said that following the meeting,

*“... [T]he information, albeit anecdotal, that she gave us at that point was logged and was banked and that would be the very sort of information that we would have been pulled through to the review in 2014 as a level of evidence of what does that mean in terms of factoring in potential changes, refinements, refreshments of the [NI] Scheme.”*

5.11 Ms Hepper was then asked, *“So when you say logged or banked – what do you mean by that?”* Ms Hepper replied,

*“Well, what I am saying is, we didn’t ignore what she was saying. She was somebody who’d come in with information and that would have been recorded somewhere on the system and it would have been – I would have hoped – utilised in the review, the forthcoming review.”*

5.12 This was probed further with Ms Hepper in order to understand, *“How it was recorded and therefore what actions was taken [after the meeting]?”* Ms Hepper said that,

*“... [W]hat I’m saying is as Head of Directorate, I don’t know if somebody went down and logged the email onto the system, I assume they did, but what we did was we banked the information that was given and that would have been used in any review ...”*

5.13 When asked, *“How would recording or banking the email on TRIM ... [be] flagged ... to have been part of the review?”* Ms Hepper said,

*“Because you gathered your information from what comes out at the consultation, you gathered your information from how the [NI] Scheme was progressing from it started in 2012, through all ... information ... from Ofgem and that would have been your pool of information that you ... started to use for your review.”*

5.14 Mr Hutchinson was asked, after the meeting with Ms O’Hagan, *“How did you react to ... [what Ms O’Hagan] ... was coming and saying, [which was] ... there is a potential problem here, where the NI Scheme is designed in such a way that it is encouraging people to waste heat and, as a result of it, they are able to make a profit?”* Mr Hutchinson advised that,

*“... [I]t went back to... we will continue to do what we were doing in terms of monitoring payments, monitoring uptake, monitoring capacity, monitoring those things and trying to assess ... based on our assumptions, our payments ... a range that we think is acceptable.<sup>37</sup> At the same time ... as [Ms O’Hagan] was saying that to us [about heat wastage], [we] were getting 5 or 10 calls a day saying, I’d love to go ahead with this [the NI Scheme] but it’s not affordable ... there was a balance of opinions obviously out there, so it was important that if anything was done it was based on evidence and that’s why we were probably still, I don’t know maybe at that stage, we were still thinking there’s going to be a review early in 2014, I don’t recall.”*

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<sup>37</sup> As noted at paragraph 4.58, we have not seen any evidence to substantiate the level of monitoring actually performed by Mr Hutchinson at this time and therefore we cannot conclude on whether it was in fact adequate

- 5.15 Later, when questioned if he actively went and looked for evidence of the matters that Ms O’Hagan was raising with the Department, Mr Hutchinson said, *“I don’t know what we did following the meeting.”* Mr Hutchinson reiterated that Ms O’Hagan’s concerns, *“... wouldn’t have been dismissed.”* However, according to Mr Hutchinson, this was balanced with the fact that, *“... uptake [of the NI Scheme] is still low and payments are still within budget level and things like that, and we were probably still thinking well we’re going to review it in 6 months anyway.”*
- 5.16 Mr Hutchinson was asked if a specific request was put to Ofgem relating to the issues that Ms O’Hagan had raised during the meeting. Mr Hutchinson’s response was, *“I don’t know.”* However, he did refer to, *“[A]n ongoing sort of discussion with Ofgem, the data sharing, post codes and I think it was [the different types of] sector we were keen to see,”* but he wasn’t sure if this arose after the meeting or not.
- 5.17 When asked if the matters raised by Ms O’Hagan were first of all considered to be whistleblowing or identifying a potential issue and subsequently, were they escalated, Mr Hutchinson said that, *“... [I]t wasn’t a whistleblower type of conversation in my mind ... it was, I’m trying to sell this product and there’s been some instances when I’m doing this ....”*
- 5.18 The Department’s whistleblowing policy dated 23 July 2012 provides its staff with guidance on how to raise a concern and providing reassurances to staff that it is *“safe and acceptable to speak up.”* We note however that the policy does not provide a definition of a whistleblower nor does it address the options available to staff should they receive a suspected whistleblowing allegation from an individual outside the Department.
- 5.19 Mr Hutchinson also said that it would not have been his role to escalate the matters raised by Ms O’Hagan. He said that if it had been escalated, it would have been done by more senior staff.
- 5.20 In his second interview, Mr Hutchinson stated that,
- “my recollection of that meeting [the Ms O’Hagan meeting on 8 October 2013] was ... very anecdotal, it wasn’t the main thrust of the meeting at all. She was in talking about her product which was an energy efficiency product and she started talking about ... the links between energy efficiency and RHI ... The Ms O’Hagan meeting in autumn 2013 in my mind was not someone coming in as a whistleblower revealing a great fundamental mistake. It was her updating us on a product that she was selling and how it might have linked to the RHI and anecdotal information, one or two people she was in contact with and that was that.”*
- 5.21 Ms McCutcheon did not recall the meeting with Ms O’Hagan. When it was put to her that it had been suggested that she was in attendance at this meeting, Ms McCutcheon did accept that, *“I could well have been, there was a lot of meetings.”* Ms McCutcheon also confirmed that she did not remember the content of any such meeting.
- 5.22 Ms McCutcheon was asked if, *“That issue ... for example, the usage of the scheme, that people were basically wasting heat in order to generate a payment, so the ... issue that Ms O’Hagan raised, would*

*that have been an issue that you would have been aware of even outside of that meeting?”* Ms McCutcheon confirmed,

*“No, I didn’t hear that expressed concern but from my conversations with [Mr Hutchinson] and from the word go, from the work the Consultants did, there were assumptions and you know, we needed to be aware that those assumptions may not continue the whole way through so yes, the answer is that would have been on my radar because it is an assumption built into the very beginning.”*

## Email from Ms O’Hagan in May 2014

5.23 Mr Hutchinson confirmed that he was still in his post in the Department on 12 May 2014 when Ms O’Hagan sent an email directly to him. This email raised a number of important issues. First, Ms O’Hagan queried,

*“... [I]f there would be a time when NI’s RHI payments would align with the rest of the UK’s (i.e. offer a tiered approach to funding whereby the first 1314 peak load hours is funded at the higher amount (7.6p/kWh) and the remainder at a lower amount (1.9p/kWh) to encourage the building owners/operator to be more efficient in their usage).”*

5.24 Ms O’Hagan also referred to her meeting with Department Officials in October 2013 and reiterated the example of heat wastage that she had provided,

*“As I’d said then, what we are seeing on the ground in Northern Ireland is that buildings are using more energy than before because it pays them to do so. The flat rate means that there is no incentive at all to be efficient so the heat in buildings in all year round with the windows open everywhere. When we had spoken, you did not believe that people would do this, but please believe me that it’s happening with almost everyone that we approach.”*

5.25 Ms O’Hagan also wrote,

*“We’ve been told by a well-established biomass company here to remove the saving details on our product’s literature because their clients were no longer interested in making any savings. I think you’d agree that there is something inherently wrong with that approach to funding and it’s going to put companies like ours out of business.”*

5.26 We have not been provided with any response that was sent to Ms O’Hagan following receipt of this email. Mr Hutchinson could not confirm to us that he did respond to her. Instead he said, *“I am assuming I have responded to her. I would like to think I responded to her, but that may not have been.”*

5.27 In the Handover Document prepared by Mr Hutchinson in May 2014, reference is made to the risk of excessive payments due to over use. This was a direct reference to the matters raised by Ms O’Hagan in her email of 12 May 2014.

- 5.28 In the Handover Document, there is a reference to this email as being relevant to the point that, “... [A]pplicants could over-use technologies for financial gain” and suggested tiered tariffs as a solution (which is discussed in more detail at paragraph 5.81 et seq. below).
- 5.29 When asked if he flagged this email with Mr Mills, Mr Hutchinson told us, “... *I don’t think I would have done ... I think I probably viewed it, well, this is for the incoming team now ....*” When asked if he could recall the first time he became aware of Ms O’Hagan and her communications with the Department, Mr Mills told us that,

*“Well that would be I guess today [the day of the interview]... I have to say I don’t recall this ... or it coming to my attention, the name is not familiar to me, but, to be honest there could well be a piece of paper with me cc’d into or something like that which was copied to me I don’t know, but I don’t recall it.*”

- 5.30 Mr Mills also told us that he would not have particularly expected the email of 12 May 2014 to be brought to his attention.
- 5.31 **Mr Thomson was asked in interview if he was aware of Ms O’Hagan having** made contact with the Department to discuss the NI Scheme; in response he told us,

*“It doesn’t ring a bell ... Fiona [Hepper] met with lots of people and [had] lots of meetings ... Did she mention it to me? She may have done. But again it wasn’t a bell ringing thing. It’s quite possible she ... sauntered in on a Monday morning and said ‘by the way I met last week with somebody who was complaining about the RHI scheme’ and we move on ... I can’t sit here and say Fiona surely mentioned it to me, but I didn’t meet the lady and I wasn’t aware of it. I don’t think the Minister told me about it.*”

- 5.32 **In interview Mr Thomson questioned whether Ms O’Hagan should be treated as a whistleblower, or an individual with a vested interest in the renewable energy industry;** he told us,

*“... did they [Departmental Officials] think this is just vested interest, because the number of people who would come into the Department and ring up and then you realise actually because they are selling you something, or [wanting] something ... was this proper whistleblowing, or not? ... I suppose I am surmising, if this is somebody whose job it is to promote a scheme and it wasn’t taking off as well ...”*

## Handover Document

- 5.33 As referenced at paragraph 2.36, a **Handover Document** entitled ‘Renewable Heat Branch’ has been provided to us. No author is named on the document but during interview, Mr Hutchinson said that, “... *I am guessing by the reading of [the first page that] Joanne has started [the Handover Document] because I am referred to ... on the first page, I don’t think I [would have] referred to myself ... like that...*”

*And I'm guessing Joanne probably started this in early April and then I have populated it before I've gone."*

5.34 Included in the Handover Document is a list of *'Immediate actions (by end August 2014)'* ("the List") under 5 key headings below:

- *'Securing approvals for the launch of the Domestic [Scheme];*
- *'Launch of Domestic [Scheme];*
- *'Ofgem administration';*
- *'Review of current [NI] Scheme'; and*
- *'Non-domestic Phase 2 policy'.*

5.35 The first two headings in the List refer to the Domestic Scheme. The final three headings in the List relate to the NI Scheme.

5.36 The fourth bullet point in the List relating to *'Review of current [NI] Scheme'* contains two action points,

- *"Review of biomass tariffs under 100kW"; and*
- *"Consideration of tiered tariffs to prevent excessive payments."*

5.37 Later in the Handover Document, there is a section entitled, *'Current/emerging issues'* which has a subsection regarding *'Tariffs'*. Mr Hutchinson writes,

*"It is becoming apparent that the payments made to installations are higher than would have been expected under the CEPA modelling. Ofgem (Edmund Ward) has advised (on 13.5.14) that the experience in GB and NI has shown that many installations have had a higher demand (time of operation) than had been assumed in the tariff calculations; this is especially true of certain sectors. As the demand is higher than what has been assumed the tariffs can become over-generous. This issue would need to be considered as a matter of urgency. The email from [Ms O'Hagan] (DT1/14/0088268) [a TRIM reference] is also relevant to this point, where applicants could over-use technologies for financial gain. Again CEPA advised in their 2011 analysis that this wouldn't be the case. The solution would be to "tier" tariffs, where a certain tariff is provided for the first 15/20% of use and then another lower tariff provided for the rest of the heat use. This is used in GB tariffs. Certainly this should be considered for biomass under 100kW as a matter of urgency. This has been discussed briefly with Edmund Ward and he advised that Ofgem would be able to implement without too many changes to existing systems."*

5.38 Mr Hutchinson told us in interview that the Handover Document was,

*"[P]repared for the incoming team ... as not a first day brief but ... this is ... background, these are the key documents that you might want to read up on and ... if you need actions to be done by the end of August, this is a list of actions."*

5.39 When asked if he was aware of the Handover Document, Mr Mills said that, *“I think I was aware of its existence. I think I was aware of [Mr Hutchinson] doing it.”* But Mr Mills could not recall if Mr Hutchinson gave him a copy of the document. Mr Mills was also unable to recollect if Mr Hutchinson discussed the document with him before he left. He did say that he probably had a conversation with Mr Hutchinson along the lines of, *“... [Y]ou will do a Handover [Document] won’t you, you won’t go before you’ve done that.”*

5.40 In relation to the ‘advice’ given by Edmund Ward from Ofgem on 13 May 2014 which is referenced in the Handover Document, Mr Hutchinson told us,

*“... [the Ms O’Hagan] email [dated 12 May 2014] which she’s obviously emailed me then the Monday before I’ve left, and said look this is still happening, and then a conversation that I’ve had with Edmund Ward who worked in Ofgem, who is a technical ... person in Ofgem. I don’t know if one thing led to another ... my recollection would be this, ‘Edmund I’m leaving on Friday, thanks very much, cheerio’ kind of conversation and these are the new people coming in and you’ll want to touch base with them ... but ... my Handover [Document] records at that stage that he mentions to me ... an experience that was happening in GB ... I don’t know if he said GB and Northern Ireland or GB and could be happening in Northern Ireland or what his wording is, I think I’ve said GB and Northern Ireland [in my Handover Document], ... that demand was higher than the tariff assumptions both across the board in GB and Northern Ireland and I think ... at that stage he was maybe saying in certain sectors possibly more than others ....”*

5.41 Mr Hutchinson’s recollection of this conversation with Mr Ward was confirmed, in large part, to us by Mr Ward himself (see paragraph 5.63 et seq. for further details); Mr Ward did not, however, reference how, or by who, the conversation was initiated.

5.42 Ms McCay confirmed to us in interview that she did receive the Handover Document. She told us that she was informed that she had been successful in her application to the ‘acting up’ Grade 7 role in Renewable Heat Branch two days before Mr Hutchinson left the Department. Ms McCay told us that she did not have much time with Mr Hutchinson in terms of a handover before he left.

5.43 When asked if there was a specific direction from Mr Hutchinson in terms of what she should prioritise from the List, pointing to the List, Ms McCay said,

*“Well [Mr Hutchinson] had said when you work down [the List] you’ll probably get to around here in the six weeks, you probably won’t get much more than that done. So I took that, you know rightly or wrongly I took this as this is the order of preference.”*

5.44 During interview, Ms McCay referenced where she got to on the List, pointing to the bullet entitled, ‘*Ofgem administration,*’ and the sub point, “*Agreement on Carbon Trust loan issues,*” where we note her handwritten notes on the Handover Document end.

5.45 When asked if she recalled any conversations with Ofgem around actual heat usage by accredited installations and the fact usage was actually more than the assumptions underpinning the tariffs, Ms McCay advised that,

*“Really, my only dealings with them [Ofgem] were on getting information for AQs [Answers for Questions submitted to the Northern Ireland Assembly], the carbon trust loan issue and a little bit of data sharing ... I spoke to Edmund a couple of times but [my dealings were mainly with] a lady there called Nadia ... I think it was around the carbon trust loan issue because they had halted the payments, halted the accreditations, not payments.”*

5.46 It seems that the issue of heat wastage identified by Ms O’Hagan and Ofgem that is recorded in the Handover Document was not considered by Ms McCay while she worked in the Renewable Heat Branch.

5.47 In relation to the handover from her to Mr Hughes and Mr Wightman, Ms McCay told us that,

*“I kind of probably did leave them to it and here’s your Handover [Document], adios I don’t want to deal with it anymore, I’ve got my own work to do and I’m in here if you’ve any questions. I did, hand this [the Handover Document] over and [said] here’s where I’ve got to, the rest is over to you.”*

5.48 When asked about the handover he received, Mr Hughes explained that the Handover Document, “... [W]as really the only documentation that was handed to me by way of actual handover.”

5.49 Mr Hughes advised that he would have had a conversation about the document with Ms McCay but, “... [W]e wouldn’t have sat there and gone through it line by line or anything like that.” He also told us that as both Officials worked in the same office, if he had any queries, it was possible to, “*have a chat round things.*”

5.50 Mr Hughes was asked if he had any conversations with Mr Hutchinson or whether the handover was only with Ms McCay. Mr Hughes described a conversation with Mr Hutchinson,

*“... [O]ne day, maybe a few weeks, maybe a month after I came, but it was to do with ... the Domestic [Scheme] legislation with a few queries about what was going on there ... but no other communication, no other feedback. The document that I mentioned [the Handover Document] was the only piece of paper I ever saw.”*

5.51 Mr Hughes referred to the section of the Handover Document entitled ‘*Immediate actions*’ as being what he, “*would have been focussed on and really the main, primary driver at that time would have been the getting the Domestic Scheme up and running ...*”

5.52 We directed Mr Hughes to the references in the Handover Document to potential heat wastage, in particular where it is recorded that Ms O’Hagan and Ofgem were raising the issue that usage is much higher than they would anticipate. He was asked if these issues were, “... *ignored, was it identified, was it forgotten about?*” Mr Hughes responded, “*No, I think it just wasn’t prioritised ... because at that time,*

*the [NI] Scheme was not performing, you know we had very, very small numbers.”* The time which Mr Hughes refers to is unclear, nevertheless the risk of the NI Scheme being abused by applicants does not seem to have been recognised as significant.

5.53 Mr Hughes recalled reading the Handover Document on day one when he joined the Department and he **did reference that Ms O’Hagan’s name was mentioned in it. However, he said that,**

*“... [A]t that time it would have meant very little to me and her name hadn’t come up again until March ’15 so I would have had no reason to think; hang on I know that [name] from somewhere ...”*

5.54 **When Ms O’Hagan’s name arose again in March 2015, Mr Wightman said that, “... no alarm bells went off in my mind about Ms O’Hagan in terms of that this is an ongoing issue.”**

## Ofgem

5.55 The NI Scheme is administered by Ofgem on behalf of the Department. The Final Administration Arrangements were signed by the Department and Ofgem on 21 December 2012 (“The Ofgem Agreement”). The Ofgem Agreement states that Ofgem will *“carry out the Conferred Functions and the Ancillary Activities ...”* The Ofgem Agreement defines the Conferred Functions, as, *“all functions other than the Retained Functions”* which are retained by DETI. These include (amongst others):

- Payment of periodic support payments to participants, in accordance with the tariffs set by the Department;
- Recouping overpayments, where a participant has received a periodic support payment which **exceeds that participant’s entitlement or has received a periodic support payment whilst failing to comply with an ongoing obligation;**
- The right to review any prospective, current or former participant; and
- **Publication of guidance and specified information on the Department’s website.**

5.56 The Ofgem Agreement defines the Ancillary Activities as, *“the activities that GEMA [Ofgem] considers are necessary or desirable for the Conferred Functions to be carried out properly.”*

5.57 The Ofgem Agreement states that Ofgem will notify the Department immediately in writing if any financial irregularity in the NI Scheme is suspected, along with the steps taken in response. We note that **for the purposes of the agreement ‘financial irregularity’ relates to any fraud, theft (or other impropriety),** or use of funds for purposes other than that approved.

5.58 The Ofgem Feasibility Study sets out the proposed resourcing requirements that Ofgem would need in order to undertake the administration of the NI Scheme<sup>38</sup>. We note that this was attached to the NI Scheme business case submitted to DFP on 21 March 2012. The Ofgem Feasibility Study states that

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<sup>38</sup> We have only seen evidence of a draft feasibility study in the documentation provided to us.

Ofgem was responsible for producing reports such as payment forecasting, accreditation reports and an extract report of statistical data for research and reporting. We note that no reference to the production of such reports was included in the subsequent Ofgem Agreement.

- 5.59 We also note that the Feasibility study indicated that the joint Department-Ofgem Administrator Board created during the development stage of the NI Scheme would continue, in order to monitor NI Scheme operations, costs, uptake, technologies and capacities of installations. We have not seen any evidence of the DETI-Ofgem Administrator Board having been set up at any stage of the NI Scheme.
- 5.60 The Ofgem Feasibility Study stated that the Department would be responsible for enforcing the NI Scheme, however, Ofgem would use its administrator position to provide the Department with the relevant information to make a decision on any particular installation. We note that Ofgem provided the Department with weekly data reports, detailing the flow rate, efficiency and average weekly hours of usage of each accredited participant.
- 5.61 In the Handover Document, Mr Hutchinson refers to a conversation with Mr Ward from Ofgem on 13 May 2014; the conversation is included in detail in paragraph 5.37 above.
- 5.62 In his first interview Mr Hutchinson told us that in relation to the conversation with Mr Ward in May 2014,

*“I think the conversation ... has probably ... come up because [Edmund Ward] has been working on the GB scheme and he said, oh this [higher demand (time of operation) than had been assumed in the tariff calculations] is actually happening in GB as well and I think may be in certain sectors and this is what you will need to look at and then I said, ‘oh right well, maybe it would be a tier tariff would be the [solution], and he said, yeah, that would be an easy fix.”*

- 5.63 In his second interview, Mr Hutchinson was asked, *“In terms of that conversation with Edmund was it you who lifted the phone to him ... [or was it] Edmund phoning you to make you aware of this issue?”* Mr Hutchinson stated,

*“I don’t think so. I think it followed on [from] the Ms O’Hagan email ... I think probably my primary reason for phoning him was, ‘I’m leaving on Friday so this is who you’ll want to speak to’ ... my recollection is that it’s me [who phoned him] ... and I think then he says ‘oh yes this is what I’ve seen in GB.”*

- 5.64 We contacted Mr Ward from Ofgem in relation to the conversation with Mr Hutchinson. He confirmed to us that he had spoken with Mr Hutchinson on 13 May 2014. He told us that a portion of the conversation was devoted to discussing possible approaches to an issue relating to zero interest loans, however, he told us that they also discussed the possible introduction of tiering which was a subject being considered by Mr Hutchinson at the time. Specifically he recalled this discussion in the context of an increase in application volumes and the nature of the sizes of the boilers which were applying to the NI Scheme at that time. Mr Ward has provided us with copy emails (redacted for references to areas of policy in

development) that were sent to Mr Hutchinson following this conversation; one of the emails includes a case study provided, according to Mr Ward, to “*help with any policy considerations on (i) the longer-term approach to state aid/de minimis, and (ii) any considerations on tiered tariffs under the NI [Scheme].*”

- 5.65 Mr Ward also drew to our attention to two meetings held between Ofgem and Departmental Officials in Belfast, one on 16 April 2014 and a “*follow up*” meeting on 13 October 2014. He accepts that with the passage of time he may have conflated some of his detailed recollections of the “*two similar meetings,*” however, in essence he recalled that the context at that time was that the Department was considering options for possible policy changes to the NI Scheme and was keen to explore what had been seen (by Ofgem) to date.
- 5.66 He also told us that the conversation included reference to cost control mechanisms in place in GB; in this regard Mr Ward had made the point that any changes made in NI that replicated mechanisms currently in place in GB could be implemented cheaply and simply as the technology already existed.
- 5.67 Mr Ward referenced the meeting being an annual review/planning meeting with the Department and that John Mills, Stuart Wightman, Seamus Hughes and possibly one other were in attendance (which if this was the case would indicate that the meeting in question is more likely to have taken in place in October 2014; neither Mr Wightman or Mr Hughes were in post in April 2014).
- 5.68 We have identified minutes of a meeting that took place between Ofgem and Departmental Officials on 16 April 2014; we have not been able to identify any minutes from a meeting between Ofgem and Departmental Officials on 13 October 2014. Based on our review of the minutes of the meeting held on 16 April 2014 we note that this meeting was attended by Mr Mills, Ms McCutcheon and Mr Hutchinson along with three Ofgem representatives. We note that during this meeting the main discussion was on Phase 2 of the RHI Scheme, specifically the administration of the Domestic Scheme.
- 5.69 The only mention of the NI Scheme (non-domestic) was,

*“Peter [Hutchinson] outlined the non-domestic phase 2 elements. Explaining that the key issue would likely be tariffs for large biomass; combined heat and power; air source heat pumps; and deep geothermal. There would also need to be legislative changes regarding metering and the issue of grants / carbon trust loans. There may also be consequential legislative changes following the launch of the domestic RHI.”*

- 5.70 During interview, Mr Hutchinson was asked if he attended a meeting with Ofgem in April 2014. Mr Hutchinson said he thought he did. After thinking about this further, Mr Hutchinson said, “*I remember, yes there were two guys from Ofgem that came across [to Belfast and met with] myself, [Mr Mills] and Ms McCutcheon.*” Mr Hutchinson said that,

*“I think [the meeting] was to discuss all the outstanding issues that we had with Ofgem and sort the relationship we had with them and ... maybe things like data sharing and budgeting.*”

*Probably at that stage as well, we were still in two minds about how we would administer the [Domestic Scheme] ... we might have been thinking, should [the Department administer the Domestic Scheme], [should the Department] give it to Ofgem at some stage or should we do it in-house or ... in same way, we might have been thinking, should we take the [NI Scheme] off them [Ofgem] and try and deliver it in Northern Ireland or [with a] utility regulator or whatever.”*

5.71 Mr Hutchinson was asked, “**So you don’t recall the [NI] Scheme being discussed at that meeting?**” Mr Hutchinson said, “... *[I]t would have been but, I don’t think [it was discussed] in the way that Edmund [Ward] has portrayed it to me in May [2014].*”

5.72 Mr Mills was asked about his attendance at the meeting with Ofgem in either April or October 2014. Mr Mills said,

*“Well I recall one meeting with Ofgem. I recall that being mainly about the fees that we paid to Ofgem for administering the [NI] Scheme. [If] they’re clear that those issues were raised, I’m sorry they don’t ... ring a bell. I didn’t react to that and, in general, I accept that ... there was a failure to monitor that particular aspect of the [NI] Scheme [heat usage by beneficiaries] or rather that I failed to ensure that particular aspect of the [NI] Scheme was monitored. It may well have been that [Mr Hutchinson] ... would have, had he stayed on ... had the knowledge to make sure this was followed through ... but [it] could well be that I did meet them more than once ... Edmund [Ward] was over shortly before I left [in May 2016], but I would not have had regular meetings with Ofgem.”*

5.73 In an attempt to help jog Mr Mill’s memory, it was explained that, “**Ofgem has said actually, as part of those discussions with yourself and the team ... cost control was specifically mentioned and actually they had gone as far as to say look we’re already doing this for the GB scheme so actually it wouldn’t cost a huge amount of money to [implement that] for the NI Scheme because ... the technology is already there. Does that help?**” Mr Mills responded,

*“Well it depends, it depends what they’re talking about. At some point, I recall becoming aware that there had been degression changes in GB.”*

5.74 Mr Mills was reminded that degression had been implemented in GB in April 2013. He continued, “**That was in 2013. I was aware of that [degression being implemented in GB] ... [in the] second half of ‘14 or something like that and realised there was a lot of stuff that we hadn’t translated.**”

5.75 Mr Mills was also asked, “**So there wasn’t an annual meeting or anything during the [NI] Scheme?**” Mr Mills confirmed, “*There was not a formal arrangement in place for annual meetings. [Mr Wightman] introduced more regular meetings and there may have been more regular meetings at DP level, I can’t remember.*”

5.76 Mr Hughes was also asked about a meeting with Ofgem in October 2014. It was put to Mr Hughes that Mr Ward told us that at this meeting in October,

*“... [Mr Mills] was there, [Mr Wightman] was there and you were there and the particular issue about how these usage figures were actually different than would have been expected was raised with the Department and it flowed on to a conversation about ... cost control and how the systems that Ofgem had in place because of the [GB] scheme could very simply be rolled out into NI so if NI wanted to do it then that was possible. So do you recall a meeting of that at all?”*

5.77 Mr Hughes said that, *“I honestly don’t recall that, I can’t recall that discussion.”* Mr Hughes continues,

*“There would have been meetings and they [Ofgem] weren’t over that often with us but there were times when they [Ofgem] did come over and there would have been meetings, I do remember one meeting probably later than that I suspect, with Ofgem, with Chris Poulton and Gareth John ... [Mr Mills] and [Mr Wightman] and I [were] at that one as well but that was to do with change controls and stuff like that.”*

5.78 Mr Hughes sought clarification that the meeting being referred to was in October 2014. It was confirmed that, *“It was October, he [Edmund Ward] was saying it was part of [the] annual reviews with budget planning, exercise that they [Ofgem] would have done.”* Mr Hughes said, *“Unless it was the meeting I’m thinking of but I don’t recall the conversation.”*

5.79 During interview, Mr Wightman mentioned a first meeting with Ofgem in October/November 2014,

*“I can’t remember the exact date but I remember we had Ofgem over for the first time, it was like a ‘meet and greet’, it was probably October/November time in 2014. There was a piece of work that was done leading up to that [meeting] which was to agree a revised way of calculating their [Ofgem’s] admin costs for us and also there was another piece of work with Ofgem which related to the sharing of information which had been an issue ... prior to myself joining the Department.”*

5.80 Later during interview, Mr Wightman was asked if he specifically recalled a conversation at that meeting in relation to actual usage being different than what was included in the NI Scheme assumptions and therefore a need to consider introducing cost control measures, similar to that in GB. Mr Wightman said,

*“I can’t remember ... Edmund [Ward] saying that specifically. Unfortunately, I don’t think there was a record of that meeting. And ... I’m not going to say that he didn’t say it. Certainly the fact that he said it in May [2014] and [in] subsequent conversations [about the heat wastage issue], it certainly wasn’t mentioned on a 1-2-1 with myself when I had conversations with Ofgem but that’s probably because there was issues around the carbon trust loan issue ... If it was said on the fringe of that meeting, it certainly wasn’t part of a formal discussion, it might have been said in passing, which is quite different to saying ‘listen ... this is something we need to work together on urgently’. The fact that they could implement it with their systems is one thing ... it’s getting the Ministerial approval for it ... these things can take 6 months to a year for it to happen so again back to the AME/DEL point [it] depends how quickly ... it can maybe happen but [back] ... to that meeting I can’t dispute, did he say something? Did he raise it or not? But, I would imagine it would have been on the fringe of the meeting, it wouldn’t have been highlighted as a top*

*priority item. I remember raising the issues ... in passing [that] there [were] anecdotal claims that people were heating empty sheds ... and this was quite recent, that's probably quite [a] recent conversation but again, there's been ample opportunities for Ofgem to say well you know your usage etc. would have shown ... [a higher demand time of operation]."*

## Tiered Tariffs

- 5.81 As discussed at paragraph 5.33 in the Handover Document, Mr Hutchinson suggests the solution to the issue of over-generous tariffs and heat wastage would be to 'tier' tariffs.
- 5.82 According to Mr Hughes, there were discussions around a tiered tariff from early 2015. Mr Hughes said that the decision on tiered tariffs was not confirmed until a week or two before the submission went to the Minister in July 2015 for approval to amend the NI Scheme on this basis.
- 5.83 Mr Wightman said that in March 2015, the Department was already in the mind-set that there was a need to do tariff changes and the Department was looking at the concept of tiered tariffs. Mr Wightman also said that the main driver for proposing cost controls, primarily tiered tariffs, was because of budgetary reasons, not concerns of potential abuse of the NI Scheme leading to heat wastage, in that applications numbers were starting to rise steeply and there were concerns that there would not be enough budget to meet this demand.
- 5.84 However, tiering was not implemented until November 2015 when the subsequent rise in application numbers and the over generous tariff levels created a crisis point.

## Email from Ms O'Hagan in June 2014

- 5.85 A further email, sent to the Department by Ms O'Hagan on 9 June 2014, contains very similar detail to that included in her email of 12 May 2014. As Ms Hepper had left Energy Division by this stage, it was Ms McCay who responded to Ms O'Hagan on 11 June 2014. In her response, Ms McCay reports,

*"I am now looking after Renewable Heat and we intend to review elements of the [NI Scheme], including tariffs within the next few months. I'm sorry I can't tell you anything more definitive than that at the moment, but I wanted to let you know that the issues you have raised are on our radar."*

- 5.86 In relation to her reply to Ms O'Hagan, Ms McCay said, *"And I have to be honest it was probably a holding response."* As we now know, a review of the NI Scheme did not take place and the issue of tariffs was not addressed until 2015. Ms McCay said that, *"I had Trimmed my email response to [Ms O'Hagan] in the same TRIM folder that Peter had mentioned in [the Handover Document] ...."* This appears to be the only action that Ms McCay took after responding to Ms O'Hagan in June 2014.

- 5.87 It also does not appear that this issue was escalated to Director-level or higher within the Department. As set out at paragraph 5.29 above, Mr Mills said that he first became aware of Ms O’Hagan on the day of his interview.
- 5.88 Ms McCay handed over her responsibilities to Mr Hughes and Mr Wightman. It does not appear that Ms McCay specifically mentioned the correspondence from Ms O’Hagan. The Handover Document prepared by Mr Hutchinson, which both Mr Hughes and Mr Wightman received did explicitly mention Ms O’Hagan, her concerns and the need to review the tariff levels relating to sub 100KW boilers.

### ***Email from Ms O’Hagan in March 2015***

- 5.89 Ms O’Hagan sent further email correspondence to the Department in March 2015. In that email, Ms O’Hagan again stressed that,

*“... [T]he tariffs need to include a motivation to save here, as is the case in the RHI tariffs across the water. For example, I had spoken to a company that installed a biomass boiler for a local company recently and they told me that their client would get a payback in 2 years (with the RHI payments) if he kept the heat on 24/7 vs over 3 years if he kept the heat on the hours that it was needed (8 hrs a day, 5 days a week). In anyone’s eyes this is completely wrong and motivates further waste.”*

- 5.90 Ms McCay had left the Renewable Heat Branch at the beginning of July 2014. Ms McCay could not recall having any specific conversations about this email. She did say that she thought with emails such as this one,

*“... I had forwarded it onto Seamus and ... I emailed her back to say I no longer work in the area. Seamus will take it forward, his number is, you know it happened several times, different people, not just her.”*

- 5.91 Therefore, Mr Hughes responded to Ms O’Hagan on 12 March 2015.

- 5.92 When asked if he linked this email with the reference to Ms O’Hagan and the issue of heat wastage in the Handover Document, Mr Hughes said,

*“No, I honestly didn’t link it with the Handover [Document] ... I did not, in fact, I didn’t realise she was actually mentioned in the Handover [Document] until [very] recently ... I mean at that time you would have had a lot of enquiries about various things coming in ... so ... the name didn’t mean anything to me.”*

- 5.93 Mr Hughes was also asked the question, *“And what about the specific issue that [Ms O’Hagan] was raising in her email ... around ... heat wastage ... I mean what struck you about that, did it resonate with you?”* Mr Hughes replied, *“It didn’t, to be honest ... and the [email] that went back up to [Ms O’Hagan] at that time ... was ... the [approach] that we were taking in relation to Phase 2 ...”*

5.94 In relation to when Mr Wightman became aware of the name Ms O'Hagan, Mr Wightman said, *[O]nly from recently the name means anything to me to be perfectly honest,*" but, he went on to say,

*"I remember the issue, I remember the email that came in in March 15 ... I don't remember it being March 15 necessarily but I do remember a discussion ... [about] an energy efficiency company ... struggling to get some of these companies to take the products ... it was familiar let's just say [but] I wouldn't have known the name necessarily."*

5.95 Mr Wightman did say that in March 2015, the Department was already thinking of the need to introduce tiered tariffs. Mr Wightman said, *"... [W]e were, you know, in March [2015] ... in that position that we had started to think we need to do tariffs here and tiered tariffs the same as GB."*

5.96 However, the reply which Mr Hughes sent to Ms O'Hagan said the opposite,

*"With regard to tiered funding, whilst this is not being proposed as a specific issue under the review it may be introduced at a later date as a budgetary control measure."*

5.97 When it was put to Mr Wightman that Mr Hughes' response to Ms O'Hagan in March 2015 contradicts the suggestion that the Department was looking at tiered tariffs at this time, Mr Wightman said this was because there was,

*"... [A] tip off point there ... we would never tell anybody that ... because of the nature of the scheme and the demand led aspect of it ... we obviously hadn't put anything past the Minister at this stage, we hadn't got the approvals to do [it], it took us to July to get ... the submission up...  
39"*

5.98 During interview, Mr Mills also mentioned similar reasons for Mr Hughes reply to Ms O'Hagan's email in March 2015. He said,

*"By this time [March 2015], I see Seamus's last reply and by that time, we probably were thinking about doing tiered tariffs anyway ... but we wouldn't have had by that stage Ministerial approval for making that change so in communications with the outside world we' would not have said ... 'Don't worry, we're now going to make this change.' And Seamus's reply looks like ... a general reply ... internally we may have been further on than Seamus' email reveals ..."*

5.99 When Mr Stewart was made aware that the justification of 'tipping off' had been suggested as the reason for advising Ms O'Hagan that tiered funding was not being proposed in March 2015, Mr Stewart thought this was,

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<sup>39</sup> A detailed review of the submission issued to the Minister on 8 July and other relevant paperwork in relation to proposed changes to the NI Scheme is included at paragraph 4.167 above.

*“... [L]udicrous ... I’m astonished at that suggestion being made because it defies logic, because of the reason given. If the reason given was, you don’t want to reveal your hand on something because someone could get a commercial advantage on it, but you think it’s OK to tell lies on foot of which someone will make commercial decisions and possibly lose money and who will then come back and say; ‘well you know when I heard there were going to be no tariff controls, I immediately went out and bought every 99KW boiler I could find on the face of the planet and got ready to install them and then you introduce these controls and I’m now out a load of money because people won’t buy them’, is ludicrous.”*

5.100 It is also evident as discussed in Section 6 below that at the time of Mr Hughes’ response to Ms O’Hagan in March 2015, he had been in contact with other third parties in the industry, informing them of proposed changes<sup>40</sup> to the NI Scheme. The argument therefore that informing Ms O’Hagan of proposed changes would act as a tip off appears inconsistent with other communications with the industry at the time.

5.101 Contradictory to what Mr Wightman said that cost control was in the mind-set of the Department in March 2015, Mr Stewart advised that, *“I don’t think there was any particular focus on tariff changes at that point [on 12 March 2015] ... At that point [March 2015] certainly my perception of it, was it was still as I said earlier an issue requiring budget clarification.”*

5.102 The issues of tariff changes, according to Mr Stewart, came to the fore,

*“... round about July time, a little bit earlier than that when, and this is later than it should have been, it’s when we ... came to the view in the Department that, never mind the budget clarification, even when we get budget clarification, we can see from the rising pattern of demand that it’s not going to be enough, we’re going to have to do something, so that was the point when that kicked in. That would have been somewhere between March and July, can’t say [when] exactly.”*

5.103 This would seem to correlate with Mr Hughes’ account of discussions about cost control. When asked about his reply to Ms O’Hagan’s email dated 11 March 2015, first, Mr Hughes told us that,

*“... [A]t that point [in March 2015], we were looking at the cost control model that we had in the Phase 2 Consultation Paper which was really an application queuing type of approach as opposed to a tiered tariff.”*

5.104 However, later on, when Mr Hughes was asked if he could recall when discussions about tiered tariffs were beginning to happen, his response was,

*“We would have been having discussions around the tier tariff from early ’15, probably really because once we got the Domestic Scheme launched then the focus was very clearly back onto the*

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<sup>40</sup> We do not know if Mr Hughes was informing these third parties of the detail of the proposed changes at this time, or simply that changes would be made. We have not seen any evidence that reference was made specifically by Mr Hughes to tiered tariffs at this time.

*[NI Scheme] and phase 2 of that and ... certainly at that time we would have been thinking around all of the issues in the phase 2 consultation, and we'd have been looking at the cost control model that was in there in terms of the application queueing system and looking at other ways of doing that as well ... rather than going down that way and ultimately that's what happened because we did end up going down a totally different avenue, we brought the tier tariff in and [a] cap from November '15."*

5.105 It does appear that in March 2015, according to Mr Hughes, the focus of the discussion on cost controls for the NI Scheme was those referred to in the Consultation Paper (a simpler form of degression) rather than tiered tariffs.

5.106 When we asked what evidence there would be that tiered tariffs were on the Department's agenda, Mr Wightman states,

*"We wouldn't have specifically been reacting [to the projected usage figures in the monitoring reports from Ofgem] because as I say, what paper trail would be there in March and it was probably just the budgetary stuff, I'm trying to think was there any mention ... there ... wouldn't be [a] specific ... paper trail, I would have to go back and check in terms of ... our thinking at the time, but there would be nothing to suggest that we have reacted [to the projected usage figures in the monitoring reports from Ofgem] ..."*

5.107 Although Ms O'Hagan responded to Mr Hughes' email later on the same day, re-iterating the concerns she had previously expressed, no reply was sent to this. Mr Hughes confirmed when asked that *"we didn't"* do anything with Ms O'Hagan's email. Mr Hughes also said that he didn't, *"recall it [the specific issue Ms O'Hagan was raising] being put onto the Risk Register."*

5.108 When asked what was the trigger for realising that the number of applications was increasing, Mr Hughes recalled,

*"... [W]e would have [been getting], at that stage weekly application reports from Ofgem and we would have been keeping an eye on the number of applications that came in weekly and from about ... maybe April / May of '15 it [became clear] that the [application] numbers were going up ... and around that same time then we had the issue with the money, the clarification of it, was it AME money, was it gone, so all of that fed into the mix and ... it became clear that we [were] having budgetary issues and needed to do something about it."*

5.109 Mr Wightman did not dispute that,

*"... [O]ur main driver for ... coming forward with the cost control earlier in the year was budgetary ... It wouldn't have been [Ms O'Hagan's] email that led to the tariff changes ..."*

- 5.110 Mr Wightman confirmed that they did not treat Ms O’Hagan as a whistleblower at that time. He also said that, “... *I might have raised it with Ofgem, but I don’t recall that I did. But no I didn’t react because we were already looking at cost control and it was in our mind-set.*”
- 5.111 From the documentation provided and interviews conducted with Department Officials, there appears to have been no recognition of the significance of the **heat wastage issue that Ms O’Hagan was raising in March 2015** and the need to implement some mechanism to address it. No contact seems to have been **made with Ofgem to verify or corroborate the claims that Ms O’Hagan was making.**
- 5.112 As noted in paragraph 5.108 Ofgem was responsible for providing weekly reports to the Department, detailing the flow rate, efficiency and average weekly hours of operation of each accredited participant.
- 5.113 Table 4 below summarises the proportion of accredited installations that were operating 168 hours per week (operating 24 hours, seven days a week) in March 2015:

Table 4 - Summary of participants running boilers 168 hours per week in March 2015

Week commencing	Number of ‘live’ accreditations	Number of participants with average weekly hours of 168	Percentage of participants with average weekly hours of 168 (%)
1 March 2015	322	41	12.35%
8 March 2015	322	41	12.35%
15 March 2015	322	41	12.35%
22 March 2015	349	41	11.75%
Total	1,315	164	12.47%

- 5.114 We note from Table 4 that over 12% of accredited installations appeared to be running 24 hours per day, seven days a week, based on the information provided by Ofgem to the Department.
- 5.115 Mr Wightman told us that the information around actual usage figures, or operation, was, “*my Branch’s information*” and “*we could have looked at information if we’d wanted ...*”
- 5.116 Mr Mills was asked about the actual usage of accredited installations, specifically those that were reported to be running 24 hours a day. Mr Mills said that,

*“Yes that would have not been an issue that I would have thought about or had looked at much before ... about June ‘15 when the value for money of the scheme was questioned.”*

- 5.117 While the usage issue was not escalated to Mr Mills, it does appear that he was made aware of the increase in application numbers,

*“I’m not aware of receiving a regular report on that [usage] but I would have been certainly familiar with the increase in applications that would have made its way to me.”*

5.118 Mr Stewart told us he first became aware of Ms O’Hagan a couple of weeks ago, “[W]hen it was picked up ... in the margins of ... preparing for PAC ... and more things were coming out of the woodwork ... I wasn’t even aware of the engagement [from Ms O’Hagan] before that.”

## Summary of facts

- 5.119 We were told in interview that issues in relation to heat wastage, albeit anecdotally, were raised with the Department **from as early as October 2013 with Ms O’Hagan meeting a number of Department Officials.**
- 5.120 While there is no evidence that the issue of potential heat wastage was dismissed by those in post at the time, there is equally no evidence of action having been taken at that time to investigate the claims made **by Ms O’Hagan.**
- 5.121 **There was uncertainty amongst Departmental Officials as to whether Ms O’Hagan was indeed a whistleblower, or rather an individual with a vested interest in the renewable heat market.**
- 5.122 There did however at that time (October 2013) appear to be a genuine intention within Energy Division to review the NI Scheme and to introduce cost control measures in line with those included in the Consultation Paper in July 2013.
- 5.123 Ms **O’Hagan’s email** of May 2014 appears to have been taken more seriously, indeed, together with the related conversation with Mr Ward from Ofgem, the issue of potential heat waste was flagged as both **“urgent”** and for **“immediate action”** by Mr Hutchinson days before he moved on from his post in May 2014 with a suggested solution of tiered tariffs.
- 5.124 **Ms O’Hagan did contact the Department again in June 2014 to raise the same issue of heat wastage;** we understand that nothing was done with this information.
- 5.125 The potential significance of the **issues raised by Ms O’Hagan** does not appear to have been picked up by any of the replacement staff who joined the Renewable Heat Branch during the period May to August 2014, perhaps because of perceived underperformance of the NI Scheme (based on monitoring of application numbers, and related budget spend, only) and also their stated focus on bringing forward the Domestic Scheme. In addition, the then Grade 5 responsible for the Renewable Heat Branch, Mr Mills, has stated that he was unaware of the matters **being raised made by Ms O’Hagan.**
- 5.126 Ofgem has indicated that in October 2014 discussions had been had with the Department about the introduction of cost control measures linked to actual scheme behaviours evidenced in GB and in Northern Ireland. It does not appear that this information was acted upon by either Mr Mills, Mr Wightman or Mr Hughes who were said to be at the meeting.

- 5.127 In addition, application data available from early in the NI Scheme highlighted proposed usage figures well in excess of the assumptions in the Model. This does not appear to have been recognised. Data relating to the operation of NI Scheme, including *‘Average hours of operation each week’* was provided to the Renewable Heat Branch by Ofgem. We have been provided with a monitoring report from as early as August 2013 which highlights that, based on application data, the average hours of operation each week was significantly greater than the assumptions underpinning the Model designed by CEPA and AEAT to estimate NI Scheme tariffs.
- 5.128 In March **2015 Ms O’Hagan contacted the Department again with anecdotal evidence of installations** operating 24 hours per day, seven days a week in order to maximise benefits available from the NI Scheme. Data provided to the Department by Ofgem confirmed that in March 2015 alone, over 12% of accredited installations were running in or around 24 hours per day, seven days a week. This data appears to not have been reviewed against any usage assumptions underpinning the Model.
- 5.129 Cost controls were not considered until at least March 2015, and then initially it would appear only in the context of managing budgetary concerns relating to the number of applications as opposed to any risk of the NI Scheme being abused. It was not until November 2015 that tiered tariffs were finally introduced.
- 5.130 **We note that Mr Hughes responded to Ms O’Hagan’s March 2015 email stating that, “With regard to tiered funding, whilst this is not being proposed as a specific issue under the review it may be introduced at a later date as a budgetary control measure.”** Mr Wightman stated that this was to avoid tipping off the market to the proposed changes. It appears however that at this time, both Mr Hughes and Mr Wightman were engaged in conversations with third parties in the market, informing them of proposed changes to be introduced to the NI Scheme in Autumn 2015 (see Section 6 for further details).